

Title I FAQ

With the start of the new year and the growth of the ESSA Title I program within our yeshivos, day schools, and mosdos, more students than ever are now or will be taking part in the Title I program. As a result, we have created this document to share with our schools to ensure our students are properly taking part in Title I. What follows is a detailed review of the purpose and provisions of the Title I program, including what schools can and cannot do with the funding. The guidance is organized in a question-and-answer format, to help you and your school navigate this program.

Please note: The guidance below is applicable generally to the Title I program and does not account for special considerations and exceptions that are in place due to Covid-19. While this information has been collected from various Title Guidance documents, the FAQ should not be deemed legal guidance. We advise all interested parties to consult their own legal counsel and the DOE for any questions related to the law. The Standing Committee does not provide legal counsel.

1. What is the Every Student Succeeds Act (ESSA)?

ESSA is a federally funded education program that includes an “equitable participation” clause for nonpublic schools. ESSA includes four sources of funding that require the equitable participation of private schools: Title I, Title II(a), Title III, and Title IV, each of which has different eligibility requirements and allowable uses.

2. What is Title I?

Title I is a federal program enacted to improve the academic achievement of the disadvantaged. Title I Funds are generated by students below the poverty level and used to improve the academic performance of under-achieving students living in poverty zones. Therefore, while an economically disadvantaged student generates funds, an academically disadvantaged student uses the funds. In short, a low-income student excelling in her studies can generate funds for her academically challenged peer, regardless of personal economic circumstances.

“Eligibility” henceforth refers to students eligible to generate funds. Eligibility to receive Title I services will be discussed further.

3. How does a school become eligible?

The school must have a student that resides in a district that is eligible.

District eligibility to participate in ‘Title I’ is determined primarily by the census poverty estimate. Only nonpublic students residing in a Title I district are entitled to an equitable participation in the program. However, a child residing in a more affluent district in which the public school does not participate would not participate in Title I, even if they would meet the eligibility requirements on their own.

4. What does Equitable Participation mean?

In simple terms, “Equitable Participation” means that a nonpublic school student must be offered the same services a public school would be offered. However, a district does not have to provide services to nonpublic school students that it does not provide to its own public-school

students. For example, a district may choose to only serve grades K-8 with Title I funds, “Equitable participation” in that district would necessarily include only students in Grades K-8.

5. How is Student Eligibility decided?

A student residing in a Title I-participating district must meet eligibility requirements on her own to generate Title I funds. Accurate determination of the number of nonpublic school students below the poverty line in a Title I district is key to the nonpublic schools receiving its fair share of funding. The method used to determine how many nonpublic school children are eligible must be agreed upon with the LEA during consultation. In New York City, the Standing Committee for Religious and Independent Schools (the Standing Committee) engages in consultation and negotiations with NYCDOE on behalf of its member schools to ensure the proper and most equitable method is used.

After consultation with private school officials occurs, an LEA has the final authority to decide which method it will use to calculate the number of nonpublic school children from low-income families.

6. What is Pooling?

Eligible nonpublic schools can ‘pool’ their money together to serve one specific nonpublic school or a group of nonpublic schools within that district. For example, should a yeshiva high school opt out of Title I, its share is divided up amongst the participating nonpublic schools. In New York City, the Standing Committee pools funds on behalf of its member schools, ensuring funds are used equitably and pragmatically.

7. How are students determined eligible for Title I services?

To be eligible for Title I services, a private school child must reside in a participating public-school attendance area and meet certain academic criteria. Certain children may be identified as eligible solely by virtue of their status: for example, homeless children, children who in the preceding two years had participated in Head Start Program etc. In short, student eligibility for Title I services for private school children is determined by (1) residence in a participating public school attendance area, and (2) educational need. Poverty is not a criterion.

8. What are the criteria for selecting private school children from preschool through grade 2?

Children from preschool through grade 2 are selected on the basis of such criteria as teacher judgment, interviews with parents, and developmentally appropriate measures.

9. How are the criteria determined for students above grade 2?

To the extent appropriate, the LEA must establish objective criteria to select private school children who are failing, or most at risk of failing, to meet high student academic achievement standards. The criteria may include, achievement tests; teacher referrals and recommendations based on objective, educationally related criteria; and grades. In NYC, standardized achievement tests are the primary method used in determining student eligibility. Since mentoring and counseling services are also available through Title I funds,

criteria for determining which students are eligible for these services is determined between the Standing Committee and NYCDOE during consultation.

10. When an eligible child resides in a participating Title I public school attendance area in one LEA and attends a private school in another LEA, which LEA is responsible for serving the child?

The LEA in which a child resides is responsible for providing services to the child, but it may arrange to have services provided by the LEA in which the private school is located and reimburse that LEA for costs. This means that if you have students in your school that are not from NYC or the vice versa, you should reach out to the resident LEA about the presence of eligible students who reside outside the boundaries of the LEA in which the private school is located. For example, if your school is located in Nassau County but you have students who live in NYC, you should reach out to the NYCDOE and inform them of this.

11. How does the principle of supplement not supplant apply to equitable services under Title I?

With respect to equitable services, 34 C.F.R. § 200.66 states that Title I funds can only be used to provide services that supplement, and in no case supplant, the services that would be available to participating private school children in the absence of Title I. The regulations make clear that an LEA must use Title I funds to meet the identified educational needs of participating private school children and not to meet the needs of the private school or the general needs of children in the private school. In simple terms, the law mandates that services provided can only enhance, but not replace, the general education provided by a school.

12. What types of services are available for private school participants?

Services to improve the academic achievement for participating private school children may include, but are not limited to, the following:

- a. Instructional services provided by public school employees or third-party contractors;
- b. Expanded learning time, including before-and after-school programs;
- c. One-on-one tutoring;
- d. Summer school programs;
- e. Family literacy programs;
- f. Counseling programs;
- g. Mentoring programs;
- h. Computer-assisted instruction;
- i. Home tutoring;
- j. Instruction using take-home computers; and
- k. Any combination of the above.

In addition, teachers and families of participating private school students may participate, on an equitable basis, in services and activities provided with Title I funds.

13. May Title I services be provided in religiously affiliated private schools?

Yes. Title I instructional services may be provided in religiously affiliated private schools; however, an LEA must implement sufficient safeguards to ensure that its employees or contractors do not promote religion in the course of providing Title I services.

14. Are religious subjects allowed?

No. Title I services or other benefits, including materials and equipment, must be secular, neutral, and non-ideological (ESEA section 1117(a)(2)). Amongst other things, this means that an LEA may not introduce any religious matter into their teaching or become involved in the religious activities of the private school. However, an LEA may use space in a private school to provide equitable services without requiring the removal or alteration of religious icons, scriptures, or other symbols.

Furthermore, the control of funds and title to materials, equipment, and property purchased with Title I funds must be with the LEA, and the LEA must administer such funds, materials, equipment, and property.

15. What subjects are allowed?

In general, an LEA must focus services on helping to improve the academic achievement of eligible private school children who are most in need of those services which, in most cases, would mean providing services in reading/language arts, mathematics, and science. However, private school students are not subject to a State's academic standards. Note that the overriding purpose of Title I equitable services is to ensure that low-achieving students have the necessary skills to be successful in school. As such, services in other subjects, as long as they are secular, neutral, and non-ideological, are not prohibited; for example, where foreign language instruction is integral to a private school's academic program (e.g., a language immersion program), an LEA might integrate instruction in the foreign language as part of an overall strategy to improve academic achievement for eligible children.

16. May an LEA use federal funds to purchase textbooks for private school students' use in their regular classroom?

In general, federal funds may not be used to purchase textbooks for use by private school students in their regular classroom because materials, programs, and benefits purchased with federal funds must be supplemental and must not supplant what the private school would otherwise provide in the absence of federal funds.

17. May a Title I teacher use the same textbooks as those used by the private school students in their regular classroom?

Yes. A Title I teacher may use the same textbooks and materials as those used in the regular private school classroom so long as the textbooks and materials are secular, neutral, and non-ideological, and the instructional services supplement and do not replace the instructional program in the participants' regular classrooms.

18. May private school officials order or purchase materials and supplies needed for the Title I program and be reimbursed by an LEA?

No. Private school officials have no authority to obligate or receive Title I funds. The ESEA requires an LEA to maintain control of Title I funds, materials, equipment, and property. Thus, no Title I funds may be paid to a private school, even as reimbursement.

19. May private school officials arrange for Title I services and activities for staff who provide instruction to Title I participants and submit an invoice to the LEA for reimbursement?

No. Private school officials are not authorized to obligate or receive Title I funds.

20. May an LEA or a third-party contractor employ a private school teacher to provide Title I services to private school participants?

Yes, provided certain conditions are met. An LEA or third-party contractor may hire a private school teacher to provide Title I services only if the teacher is independent of the private school in the provision of Title I services. The private school teacher must be employed by the LEA or contractor for Title I purposes outside of the time he or she is employed by the private school, and the private school teacher must be under the direct supervision of the LEA or contractor with respect to all Title I activities.

Additional Notes:

1% of funds must be designated for 'parental involvement' (in the form of parenting courses for Title I students).

Services may be offered before, during and after school hours

Services may be offered during summer break

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