

Equitable Services for Nonpublic (Private) Schools

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Title IX, Part E

Uniform Provisions

Subpart 1—Private Schools

- Equitable Services for Eligible Nonpublic School Students, Teachers, and Other Educational Personnel



Title IX, Part E, Subpart 1 Covers the Following Programs

- Title I, Part C: Education of Migratory Children
- Title II, Part A: Teacher and Principal Training and Recruiting Fund
- Title II, Part B: Mathematics and Science Partnerships
- Title III, Part A: English Language Acquisition
- Title IV, Part B: 21st Century Community Learning Centers



Title I, Part A

- Requires equitable participation of nonpublic school students, teachers, other educational personnel, and families
- Separate equitable participation provisions, **not** covered by Title IX, Part E, Subpart I



Consultation

- Communication and discussions between LEAs and private school officials
 - Key issues that are relevant to equitable participation of eligible nonpublic school students, teachers, and other educational personnel in ESEA (Elementary and Secondary Education Act) programs
 - Establishes positive and productive working relationships
 - Makes planning effective
 - Serves to ensure that services provided meet the needs of eligible students



Who is Responsible for Initiating the Consultation Process?

- The LEA is responsible for consulting with officials of nonpublic schools located within its boundaries



Who Serves as the Nonpublic School Official Representing the Nonpublic School in the Consultation Process?

- Most often, the nonpublic school principal serves as the official representative of the students and teachers in the school. However, a principal may designate another individual to be his/her representative in the consultation process. A group of nonpublic school officials may also be represented by one private school official or a central office administrator. In this case, that individual should inform in writing the LEA superintendent that he/she will serve as the designated representative for such schools and provide a list of the nonpublic schools that he/she represents.



How Does an LEA Identify Which Nonpublic Schools are Located Within its Boundaries?

- NDE provides this information to the LEAs



When Does the Consultation Between Public and Nonpublic School Officials Occur?

- **Before** the LEA makes any decision (such as ordering materials or hiring staff) that affects the opportunities of nonpublic school children, teachers, and other educational personnel
- NDE Nonpublic Consultation Forms are due May 1st for the following school year



What Should be Discussed During the Consultation Process?

- How the children's needs will be identified;
- What services will be offered;
- How, where, and by whom the services will be provided;
- How the services will be assessed and how the results of the assessment will be used to improve the services;
- The size and scope of the equitable services to be provided;
- How and when the agency, consortium, or entity will make decisions about the service delivery.



Can the LEA Just Send a Letter to the Nonpublic School?

- No! Simply sending a letter to nonpublic school officials is **NOT** adequate consultation.



Does an Offer of Services from an LEA to the Nonpublic School Meet the Consultation Requirement?

- No. The LEA needs to provide an opportunity for timely and meaningful consultation.
- Only after discussing issues relating to the provision of services, identifying needs, and receiving input from the nonpublic school officials, does and LEA make its final decisions with respect to the services and benefits that will be provided.



May an LEA Request Relevant Documentation in Order to Participate in Programs?

- LEAs may request documentation, as needed, from nonpublic school officials that enables the LEA to identify students who are eligible for specific programs (e.g. Title III).
- The request for documentation should note create a barrier for services.

How Often Should the Consultation Occur?

- Annually, at a minimum
- Ongoing conversations create better relationships
- Consultation should be timely and meaningful

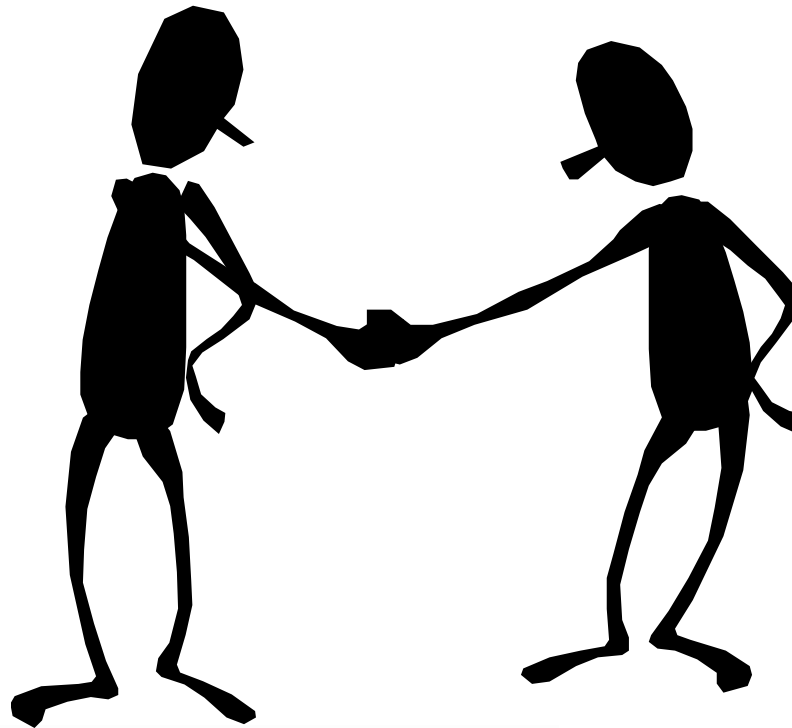
Can the LEA Prescribe the Services to be Offered?

- The LEA may relay the services that the public school district will be implementing, but **CANNOT** offer that as the only available services
 - The LEA may be focusing its Title II-A professional development in the area of math, but the nonpublic's Needs Assessment indicates they have a greater need in the area of Language Arts; the consultation should result in Federal funds being used to meet the needs for both



Is it Permissible to Share Professional Development Activities?

- Yes, if this is agreed to by both parties



Does a Nonpublic School Representative Have the Right to View the NCLB Consolidated Application?

- Yes. A copy of the application can provide nonpublic representatives with information that enhances consultation and helps them understand the scope of the program activities within the LEA and the equitable participation of the nonpublic school.
- The applications are considered public records

Are LEAs Required to Provide the Amount of Funds Available for Services for the Nonpublic ?

- LEAs must provide nonpublic officials with the amount of funding available for services for nonpublic school students and teachers.

Which Nonpublic School Students are Eligible to Receive Services?

- Some ESEA programs restrict eligibility to a particular group of students
 - Title III Limited English Proficient
 - Title III Immigrant Education



Is Residency a Factor that Must be Considered When Determining Eligibility to Receive Services?

- For programs (except Title I-A), students are eligible for services if they attend a nonpublic school located within the boundaries of the public school district
- For Title I-A, the funds for equitable services follow the students
 - If they reside in an eligible attendance center and have academic need, they are eligible for Title I services



How are Nonpublic Allocations Determined?

- Title I-A allocations are determined based on information entered on the Targeting Steps
- For 2014-15, Title II-A, allocation amounts will be calculated right on the application
- Title III allocations are determined on a per pupil amount

What About Administration Costs?

- The LEA is responsible for the costs of administering programs for nonpublic school students
- Administrative costs are reserved from a program's total allocation before the LEA determines allocations for services for both public and nonpublic



What Allowable Expenditures May an LEA Reserve off the Top of the Total Allocation?

- Administrative costs (some programs have limits on these costs)
- Indirect costs
- For Title I-A, some required reservations may be required
 - Parent Involvement (if current funds >\$50,000)
 - For districts identified for Needs Improvement or having schools identified for Needs Improvement,



Who is in Control of the Program Funds?

- The LEA must always maintain control of the programs funds, materials, and equipment purchased with Federal funds
- Only the LEA may obligate and expend Federal funds on behalf of nonpublic school students and teachers
- An LEA may use Federal funds to reimburse an individual for professional development that the **LEA has pre-approved** and that meets the reasonable and necessary cost principles of OMB Circular A-87
- NDE CANNOT pay a nonpublic school



Services are Generally Considered Equitable if the LEA

- Spends an equal amount of funds to serve public and nonpublic students; taking into account the educational needs
- Provides services that are equitable in comparison to those in the public school
- Addresses and assesses the specific needs and educational progress on a comparable basis
- Provides, in the aggregate, approximately the same amount of services to meet the needs for both public and nonpublic
- Provides equal opportunities to participate in program activities
- Provides reasonable promise for students to meet challenging academic standards
- Provides different services if needs are different



What Delivery Methods May an LEA Use to Provide Equitable Services?

- Through an employee of the LEA
- Through a contract with a third-party provider, an individual, an education institution, or some other agency that...
 - In the provision of these services, is under the control and supervision of the LEA and is otherwise independent of the nonpublic school and any religious organization
- All services and benefits provided must be secular, neutral, and nonideological



May an LEA Hire and Pay Nonpublic School Teachers to Provide Federal Supplementary Services?

- Yes, if it is separate from their contract hours with the nonpublic school
- During the time they are employed by the LEA, the nonpublic teachers must be independent of the nonpublic schools and any religious organizations
- Must be under the LEA's direct supervision and control

NOTE: If an individual is paid with federal funds, Time and Effort Reporting is required.



Can Equitable Services be Provided Beyond the School Year and During the Summer?

- To the extent that nonpublic school officials have requested some services in the summer in order to better meet the needs of students and teachers, an LEA should consider accommodating such a request

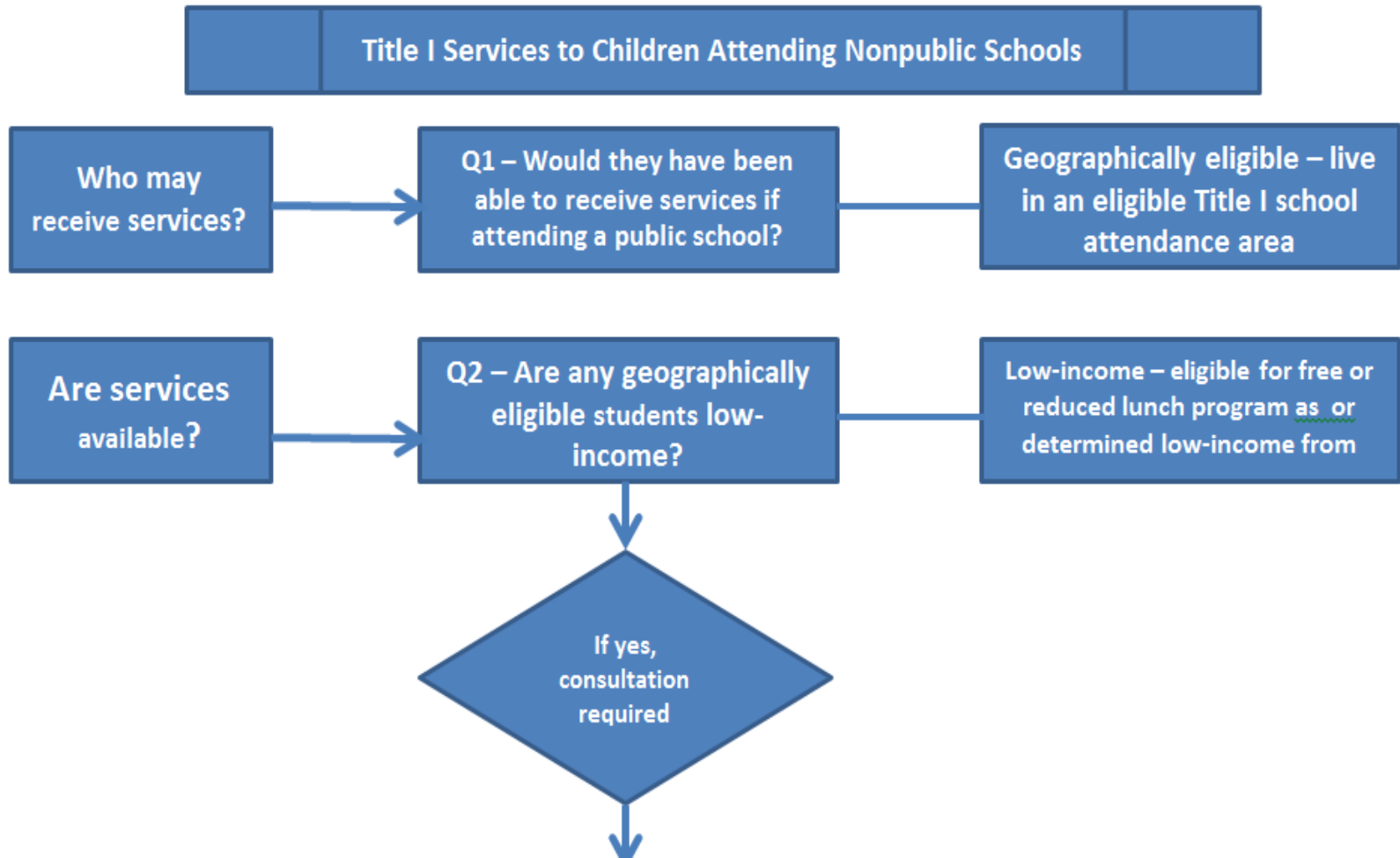
May an LEA Deny Certain Services Authorized by ESEA?

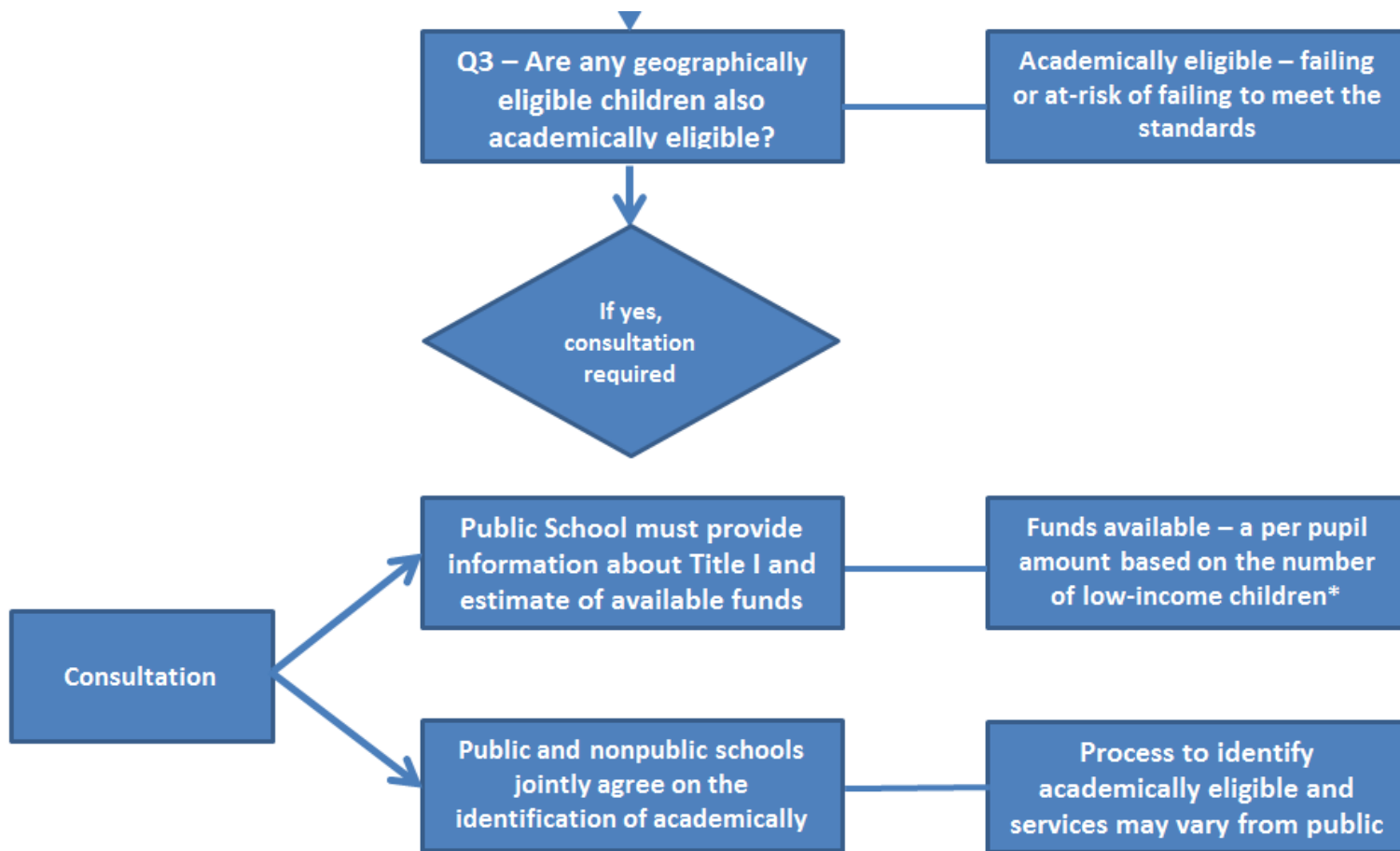
- An LEA may establish policies that, for reasons of effectiveness, quality, cost, or other relevant factors, favor certain kinds of services and programs that a particular program statute authorized and the meet the needs of nonpublic students and teachers
- An LEA may NOT establish a blanket rule that precludes certain services and programs that the statute otherwise authorizes and that meet the needs of the nonpublic school and teachers

Title I-A Services for Identified Nonpublic Students

- Supplementary instruction by public school teachers or through a third-party contractor to students who are educationally disadvantaged and failing or most at risk of failing to meet high academic standards and who live in Title I participating public school attendance areas

Nonpublic Flow Chart





*When nonpublic school funds are pooled, the allocation is based on the number of academically eligible students.

Section 1120(c) of NCLB provides other options for determining the low-income status of nonpublic school students.

NOTE: GMS allows nonpublic free and reduced lunch counts to be taken on the same day as public schools. This date can be anytime between January 1 and July 1.



Title I-A Services (Cont.)

- Direct instruction for identified, eligible student(s)
- Professional development for teacher(s) working directly with identified, eligible student(s)
- Summer school participation
 - May be included in public summer school

Title I-C: Migrant Education

- Migrant Education provides financial assistance to improve education for migrant children
- The agency that operates the local Migrant Education Program (MEP) project must provide services or other benefits on an equitable basis to eligible children who are enrolled in private schools, and to their teachers and other educational personnel.



- To meet this requirement, the agency must consult with private school officials before making any decision that affects the opportunities of eligible private school children to participate in a MEP project. Consultation must cover all phases of the design and development of the MEP project.
- Children who attend a nonpublic school are eligible to receive MEP services if they:
 - 1) meet the statutory and regulatory definition of a migrant child;
 - 2) meet the priority for services criteria in section 1304(d); and
 - 3) have special educational needs identified through the State’s comprehensive needs assessment and service delivery plan.



Title II-A Services

- Professional development for improving knowledge in core academic subjects and effective instructional teaching strategies; and
- Training in:
 - Effectively integrating technology;
 - Teaching students with different needs, disabilities, and limited English proficiency;
 - Methods of improving student behavior, identifying early interventions, and involving parents;
 - Leadership development and management; and
 - Use of data and assessments to improve instruction and student outcomes.





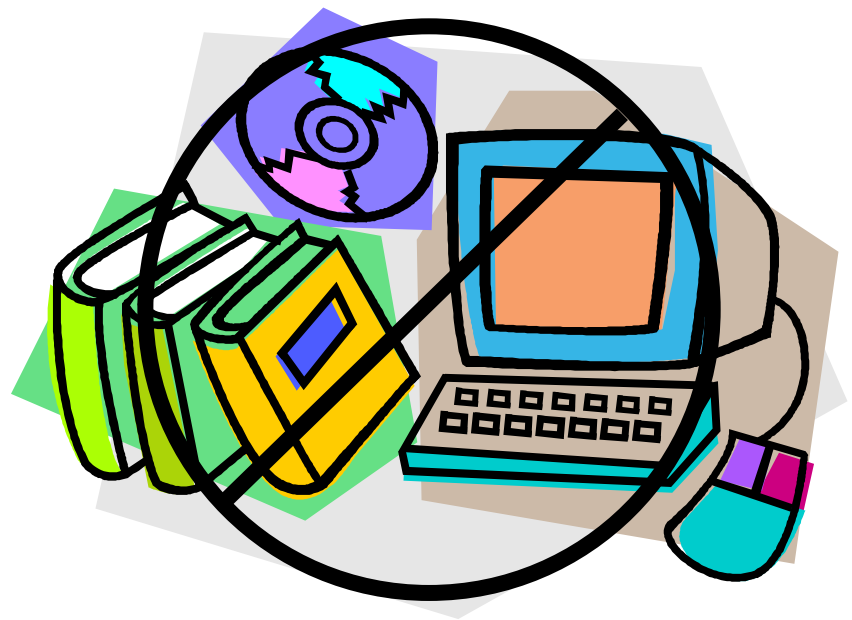
NOTE: LEAs may use Title II-A funds for a variety of teacher-quality activities that may or may not include professional development. **However, services for nonpublic school teachers must be for professional development.**

- May Title II-A funds be used to pay for professional development for nonpublic school principals and superintendents?
 - Yes. Section 2123(a)(6) specifically permits an LEA to use Title II-A funds to carry out “professional development activities designed to improve the quality of principals and superintendents, including the development and support of academies to help talented aspiring or current principals and superintendents become outstanding managers and educational leaders.”

- May Title II-A funds be used to purchase equipment and materials?
 - Allowable uses include:
 - DVDs that are part of an allowable professional development program and that serve to reinforce the professional development provided
 - Reference books that are part of the provided professional development (services)
 - However, if they are intended to be part of a general professional development library and are not part of the professional development itself, they would not be an allowable expenditure

NON-ALLOWABLE Title II-A Expenditures

- Text books
- Purchase of technology, including computers, laptops and iPads



Title III Services

- Language instruction for Limited English Proficient (LEP) and Immigrant students
- Provides funds for helping LEP students attain English proficiency and meet the same challenging academic standards required of all students



Title III Services Continued

- LEP and Immigrant students attending nonpublic schools within the boundaries of the public district are to be included in the counts on the consultation form
 - The LEP and Immigrant student counts are used for determining Title III allocations
- Typically allocations for these programs are minimal
 - Professional development for teachers working with identified students is a popular activity

21st Century Community Learning Centers

- The 21st CCLC program provides before-and after-school services to children and their families that include academic enrichment activities, particularly for students who attend low-performing schools, to help them meet State and local student performance standards in core academic subjects



It is recommended that 21st CCLC grantees develop a procedure to:

- 1) determine the number of eligible non-public school students who may participate (e.g., 10% of the students residing within the geographic boundaries of the eligible school building attend a non-public school, therefore up to 10% of the participants in the 21st CCLC program may be non-public school students), and
- 2) set a cut-off date for holding spaces for non-public school students. Any unfilled spaces remaining after the deadline may be filled with public school students so the program can reach its intended capacity.



For Additional Information...

- *Title IX, Part E Uniform Provisions, Subpart I— Private Schools Non-Regulatory Guidance*
 - www2.ed.gov/policy/elsec/guid/equitableserguidance.doc
- *Title I Services to Eligible Private School Children*
 - www2.ed.gov/programs/titleiparta/psguidance.doc
- *Ensuring Equitable Services to Private School Children*
 - www2.ed.gov/programs/titleiparta/ps/titleitoolkit.pdf



- *Private School Participation in Title III Programs*
 - www2.ed.gov/about/offices/list/oii/nonpublic/title3-factsheet.html
- *Private School Participation in Federal Programs Under the No Child Left Behind Act and Individuals with Disabilities Education Act: Private School and Public School District Perspectives*
 - <http://www2.ed.gov/rschstat/eval/choice/private/report.pdf>

- Contact the NDE program consultant or the ESEA/NCLB consultant for your district
 - first.last@nebraska.gov

