

## Private Non-Profit Schools

### *Requirements Under No Child Left Behind*



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## Agenda

- **History and Background**
- **Statutory Requirements and Guidance**
  - Guidance Documents
  - Requirements
  - Common Monitoring Findings & PNP Concerns



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## Agenda

- **Implementation Strategies**
  - Identification of PNPs
  - Consultation
  - Documentation
  - Equitable Services for Private Schools



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## Agenda

- **Accountability and Reporting**
  - Consolidated Application
  - Compliance Reports
  - PBMAS
- **Evaluation**
- **Resources**



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## History and Background



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## Court Cases

- **Aguilar v. Felton (1985)**
- **Agostini v. Felton (1997)**
- **Mitchell v. Helms (2000)**



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## Definition of Private Non-Profit Schools

Nonprofit, as applied to an agency, organization, or institution, means that it is owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity.



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## USDE Monitoring

- What does USDE Ensure?



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## Statutory Requirements and Guidance



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## Statutory Requirements

- The Elementary and Secondary Education Act (ESEA), as reauthorized by the *No Child Left Behind Act of 2001*, provides benefits to private school students and their families, teachers and other education personnel, including those in religiously affiliated schools.



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## Statutory Requirements

- Title IX, Part E—Uniform Provisions Subpart 1—Private Schools
  - Grants nine NCLB programs the authority to serve private non-profit schools
  - Non-Regulatory Guidance Document



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## Statutory Requirements

- Three NCLB programs contain equitable participation requirements, therefore not covered under Title IX requirements:
  - Title I, Part A (Basic Programs)
  - Title V, Part A (Innovative Programs)
  - Title V, Part D, Subpart 6 (Gifted/Talented)



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## Title I, Part A Requirement

- Provides supplemental educational services for eligible public and private school students to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State academic achievement standards and State academic assessments (PL 107-110, Sec. 1120[a])



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## Title I, Part A Requirement

- Aimed at helping public and private school children who live in participating public school attendance areas and are failing or most at risk of failing to meet the State's\* challenging student academic achievement standards.

\*Or other more appropriate standards for private school students.



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## Title I, Part A Requirement

- Public Law 107-110, Section 1120 (a) requires each participating LEA to provide eligible private school children, their teachers, and their families with Title I educational services or benefits that are equitable to those provided to eligible public school children, their teachers, and their families.



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## Title I, Part A Requirement

- Equitable – comparable in quality, scope, and opportunity for participation
- Allocation of funds:
  - NCLB Consolidated Application
  - Based on number of low-income students residing in LEA attendance area
  - If no funds generated, no services provided



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## Title I, Part A Requirement

- Low-income parents with private school children are included in the census poverty counts that generate Title I funds for the LEA.



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## LEA Responsibilities

- Consultation
- Equitable services
  - Allocating funds
  - Determining poverty of PNP students
  - Determining eligibility
  - Delivering instructional services
- Parental involvement
- Professional development
- Standards, assessment, program modification



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## LEA Responsibilities

- Consultation Q 113-120 Title I Guidance and Page 6 of USDE Non Regulatory Guidance
- Equitable services
  - Allocating funds
  - Determining poverty of PNP students
  - Determining eligibility
  - Delivering instructional services
- Parental involvement
- Professional development
- Standards, assessment, program modification



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## LEA Responsibilities: Consultation

- Suggested documentation of consultation:  
**Page 5 of the Documentation Guide**



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## LEA Responsibilities: Consultation

- Do Private School Officials have the right to complain?



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## LEA Responsibilities

- Consultation
- Equitable services
  - Allocating funds
  - Determining poverty of PNP students
  - Determining eligibility
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## LEA Responsibilities: Equitable Services

- **Allocating funds**
  - Allocate funds to public school attendance areas based on number of low-income families residing in each area
  - Reserve amount of these funds for PNP to provide equitable services



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## LEA Responsibilities: Equitable Services

- Funding is based on the number of low-income students attending the private non-profit school who reside within a participating LEA Title I, Part A school attendance area
- If no funds are generated, no services are provided



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### LEA Responsibilities: Equitable Services

- Per-pupil allocation x number of identified private school students residing in Title I attendance areas = Funds available for private school Title I program



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### LEA Responsibilities: Equitable Services

- Funds generated by private school students must be used for instructional services.
- Funds must supplement, not supplant.
- Students who generate the funds are not necessarily the students served.
- Private school funds may be pooled.



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### LEA Responsibilities: Equitable Services

Example of calculation of fair share:

- LEA Title I, Part A Allocation = \$100,000
- Participating public school children = 1,000
- Eligible private school children = 25
- Total = 1,025 students
- $\$100,000 / 1025 = \$97.56$  per student
- $\$97.56 \times 25 = \$2,439$  (fair share)



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### LEA Responsibilities

- Consultation
- Equitable services
  - Allocating funds
  - Determining poverty of PNP students
  - Determining eligibility
  - Delivering instructional services
- Parental involvement
- Professional development
- Standards, assessment, program modification



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### LEA Responsibilities: Equitable Services

- **Determining Poverty of PNP Students**
  - **Same measure** of poverty as public schools
  - Results of a **survey**, and allowing extrapolation from a representative sample of actual data



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### LEA Responsibilities: Equitable Services

- **Proportionality**, applying the low-income percentage of each participating public school attendance area to the number of private school children who reside in that school attendance area
- **Comparable data**, using an equated measure of low-income that can be correlated with the measure of low-income used to count public school students



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### LEA Responsibilities: Equitable Services

- Private schools are required to provide the LEA with poverty data on private school children
- The data source may be different as long as the income level for both sources is generally the same



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### LEA Responsibilities: Equitable Services

- PNP provides following information to the LEA:
  1. Address of each student (student name should not be required)
  2. Grade level of each student
  3. Size of the family
  4. Income level of the parents



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### LEA Responsibilities

- Consultation
- Equitable services
  - Allocating funds
  - Determining poverty of PNP students
  - Determining eligibility
  - Delivering instructional services
- Parental involvement
- Professional development
- Standards, assessment, program modification



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### LEA Responsibilities: Equitable Services

- **Determining eligibility**
  - Must reside in participating public school Title I attendance area AND are failing or most at risk of failing to meet high standards
  - Homeless, 2 preceding years in Head Start, Even Start, Early Reading First, Title I Preschool or Title I, Part C (Migrant Education)



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### LEA Responsibilities: Equitable Services

- Selected on the basis of multiple, educationally-related, developmentally-appropriate criteria
- It is the obligation of the LEA to identify eligible students, not the private non-profit school



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### LEA Responsibilities: Equitable Services

- District chooses children to be served from the list that the private school provides of eligible students (reside in LEA attendance zone)
- Is Poverty a criteria?



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## LEA Responsibilities: Equitable Services

### Student Funding Criteria

Student Must:  
Reside within a public  
school attendance area of a  
participating Title I campus

**AND**

Meet the low-income level  
used for determining low-  
income status of private  
school students.

**FUNDED**

### Student Eligibility Criteria

Student Must:  
Reside within a public school  
attendance area of a  
participating Title I campus

**AND**

Meet the educational  
eligibility criteria established  
and documented for audit  
purposes by the LEA

**SERVED**



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## LEA Responsibilities

- Consultation
- Equitable services
  - Allocating funds
  - Determining poverty of PNP students
  - Determining eligibility
  - Delivering instructional services
- Parental involvement
- Professional development
- Standards, assessment, program modification



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## LEA Responsibilities: Equitable Services

- Determining what Title I services are provided:
  - The LEA, in consultation with PNP officials, determines the appropriate services, based on the needs of the private school students.
  - The LEA is responsible for planning, designing & implementing the Title I program at the PNP



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## LEA Responsibilities: Equitable Services

- Services must be supplemental
- May NOT be just providing supplies and materials



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## LEA Responsibilities: Equitable Services

- **Delivering instructional services**
  - Discuss Types of Services



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## LEA Responsibilities: Equitable Services

- Teachers/paras delivering services at PNP must meet requirements of highly qualified

– LEA can contract with third-party provider to deliver services



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## LEA Responsibilities

- Consultation
- Equitable services
  - Allocating funds
  - Determining poverty of PNP students
  - Determining eligibility
  - Delivering instructional services
- Parental involvement
- Professional development
- Standards, assessment, program modification



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## LEA Responsibilities: Parent Involvement

- LEA reserves funds from the Title I allocation to carry out required parent involvement activities
  - If the LEA reserves funds off top of Title I allocation for Parental Involvement they must use proportionality to determine PI funds for PNP
  - Equitable services to parents
  - Planned/implemented after consultation



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## LEA Responsibilities: Parent Involvement

- Program must meet needs of parents of PNP students
- Activities must be planned in consultation with PNP officials
- Activities should assist PNP students' academic achievement



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## LEA Responsibilities

- Consultation
- Equitable services
  - Allocating funds
  - Determining poverty of PNP students
  - Determining eligibility
  - Delivering instructional services
- Parental involvement
- Professional development
- Standards, assessment, program modification



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## LEA Responsibilities: Professional Development

- If the LEA reserves funds off top of Title I allocation for professional development, they must offer equitable Professional Development to PNP; use the same method of proportion used for PI.



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## LEA Responsibilities: Professional Development

- LEA provides equitable services to PNP teachers from professional development set-aside
  - Equitable services to teachers
  - Planned/implemented after consultation



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## LEA Responsibilities

- Consultation
- Equitable services
  - Allocating funds
  - Determining poverty of PNP students
  - Determining eligibility
  - Delivering instructional services
- Parental involvement
- Professional development
- Standards, assessment, program modification



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## LEA Responsibilities: Standards, Assessment

- Use E of Non Regulatory Guidance to discuss Assessments



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## Statutory Reminders

- *The LEA must assure that services to private school may only benefit eligible children, their teacher, and their families, never the school itself.*
- *The LEA must be responsible for the design and implementation of PNP program. This responsibility cannot be delegated to the PNP.*



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## Statutory Reminders

- *Private school teachers may provide the Title I services, as long as:*
  - *the LEA remains in control of the program and;*
  - *The teacher meets highly qualified standards and;*
  - *The services are provided outside the teachers contract with the PNP*
- *The LEA must conduct an annual assessment of private school services.*



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## Statutory Reminders

- *The LEA must identify students for Title I services. This is not the responsibility of the PNP.*
- *The LEA must consider the views of PNP in providing services through third-party contractors.*



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## Statutory Reminders

- *The LEA cannot provide just one kind of service. Multiple types of services should be offered to meet student needs.*
- *The LEA must consult with PNP before ANY decision is made.*



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## Implementation Strategies



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## Implementation Strategies

Identification of PNPs  
Consultation  
Documentation



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## Identification of PNP in LEA Boundaries

- The LEA has the obligation to contact on an annual basis, appropriate officials from private non-profit schools to determine whether such schools desire to participate in NCLB programs.



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## Identification of PNP in LEA Boundaries

- Strategies for locating PNPs
  - Newspaper ads
  - Letters
  - Web sites
  - Telephone book listings
  - TEA Directory
  - Home School/PTA
  - Other?



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## Identification of PNP in LEA Boundaries

- Once a PNP school agrees on behalf of its students to participate, the enrollment of those students is considered in the calculation of relative enrollment for the LEA for the following year.



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## Identification of PNP in LEA Boundaries

- PNP must provide LEA with proof of non-profit status
- 3 ways the PNP can show non-profit status:
  1. Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under Section 501(c)(3) of the Internal Revenue Code;

*(Continued next slide)*



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## Identification of PNP in LEA Boundaries

2. A statement from a State taxing body or the State Attorney General certifying that the organization is nonprofit;
  - The organization is a nonprofit organization operating within the State; or
  - No part of its net earnings may lawfully benefit any private shareholder or individual
3. A certified copy of the applicants certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant.

\*34 CFR 75.51 How to prove non-profit status



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## Implementation Strategies

Identification of PNPs  
Consultation  
Documentation



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## Consultation

- **Annual Consultation must take place prior to the SAS application submission**
  - Timely and meaningful consultation between appropriate public and private school officials
  - Design and implement a program that will provide equitable services to meet the needs of eligible private school students and/or teachers
  - LEA cannot make final plans until they have a Consultation meeting with PNP
- **Continue consultation throughout the implementation and assessment of activities**



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## Consultation

- Sample consultation timeline (USDE)
- Consultation topics (sample framework)
  - How needs identified
  - Services to be delivered
  - How and where services provided
  - Who provides services
  - How services assessed
  - What assessments used



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## Consultation

- PNP officials should be informed and agree to limitations:
  - Use of equipment
  - Use of materials



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## Consultation

- LEA should obtain from the PNP a written assurance:
  - Equipment and materials will be used only for the following purposes:
    - Secular, neutral, non-ideological services
    - Equipment and materials remain the property of LEA
    - Equipment and materials must be supplemental



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## Consultation

- The LEA orders the equipment and materials, pays for them, and “loans” them to the private school for the duration of the project.
- The LEA must ensure that the PNP is using materials and equipment for the approved purposes of the federal program.



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## Consultation

- The LEA must remove equipment or supplies from PNP when no longer needed for their approved purpose.
- The LEA maintains any computers, equipment, library books, or other capitalized items on their inventory and show the location of the items at the private school.



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## Consultation

- The LEA must ensure that services in a PNP supplement, not supplant services that would otherwise be provided by the PNP.
- NCLB Consolidated Application
- PNP Compliance Report



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## Consultation Issues

- Issues identified by PNPs:
  - Decisions made w/out PNP input
  - Short notice of consultation meetings
  - PNPs not receiving professional development and parent involvement



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## Consultation Issues

- State not collecting affirmation
- Lack of LEA observation of services
- Services starting late (January)
- LEA not involved in student selection
- LEA equipment in PNP not properly labeled
- LEA not evaluating services



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## Consultation Issues

- Suggested responsibilities of PNPs (However, PNPs are not required to assist LEA with these issues):
  - Be available for consultation
  - Make suggestions about programs
  - Provide dedicated space



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## Implementation Strategies

Identification of PNPs  
Consultation  
Documentation



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## Documentation

*Maintaining Accurate  
Comprehensive  
Documentation is a Vital  
Part of Compliance*



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## Documentation

- Evidence that PNPs were informed regarding availability of services
  - One or more methods
- Needs of PNPs reflected in LEA needs assessment
- Invitations regarding input



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## Documentation

- Evidence of coordination of NCLB programs
- Records of complaints and resolution
- Number of participating PNPs
- Number of participating PNP students



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## Documentation

- Number of PNP students enrolled
- Number of low income PNP students
- Program participation by PNPs
- Dates of consultation
- Methods of consultation



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## Documentation

- Sign-in sheets, agendas, and minutes of consultation meetings
- Types of services provided
- Program documentation
  - Assessment instruments
  - Summaries



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## Accountability & Reporting



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## PNP as Part of the Consolidated Application



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## PNP as Part of the Consolidated Application

- **Title I, Part A – PS3101**
  - Participation
  - Date of Consultation
  - Written affirmation
  - Planned activities
- **Title V, Part A, Innovative Programs – PS3108**
  - Planned expenditures
  - Participation
  - Date of Consultation



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## PNP as Part of the Consolidated Application

- Participation and Date of Consultation:
  - Title I, Part C, Migrant - PS3103
  - Title II, Part A, TPTR- PS3104
  - Title II, Part D, Technology – PS3105
  - Title III, Part A, LEP – PS3106
  - Title III, Part A, Immigrant – PS3106
  - Title IV, Part A, SDFSC – PS3107



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## PNP as Part of Performance-Based Monitoring Analysis System (PBMAS)



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## PNP as Part of PBMAS

- PBMAS
  - Student performance, program effectiveness indicators
    - Bilingual; Career and Technology; NCLB; Special Education
  - Compliance indicators for NCLB
  - Interventions for performance concerns, non-compliance



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### PNP as Part of PBMAS: NCLB General Requirements

- Representative of any ***participating*** PNP **required** on intervention team
  - PER, FDA and a CIP
- Representative of any ***participating*** PNP **desired** participant in Public Meeting



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### PNP as Part of PBMAS: NCLB Initial Compliance Review

- ICR conducted by TEA to determine initial compliance status
- Out of compliance on ICR = NCLB interventions
- PBMAS Indicators:
  - ICR # 20, 21, 36,37,46,50,56,60,69,71,84



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### PNP as Part of PBMAS: NCLB Initial Compliance Review

- ICR 20-T1A, 36-T1C,46-TIIA,50-TIID,56-TIIIA, 69-TVA
- Was the LEA's consultation with participating private nonprofit school officials regarding the development and implementation of the Title I, Part A program timely and meaningful? Did it occur before the LEA made any decision that affected the opportunities of eligible private school children, teachers, and other educational personnel to participate in the program, and continue throughout the implementation and assessment of program activities?



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### PNP as Part of PBMAS: NCLB Initial Compliance Review

- ICR 21-TIA, 37-TIC,
- Did the LEA academically assess [Title I, Part A – Title I, Part C] services provided to participating private schools as agreed upon during consultation, and were these results used to improve services to private schools?



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### PNP as Part of PBMAS: NCLB Compliance Review

- LEA gathers information to determine compliance status and address identified issues in Initial Compliance Analysis Plan.



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### PNP as Part of PBMAS: NCLB Initial Compliance Review

- ICR 84
- Did the LEA submit PNP affirmations for the number of participating PNP reported on the NCLB Consolidated Application for Federal Funding?



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## PNP as Part of PBMAS: NCLB Other Interventions

- **Focused Data Analysis:**
  - PNP representative required participant on analysis team
- **Public Meeting:**
  - PNP representative desired participant during meeting



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## PNP as Part of PBMAS: NCLB Other Interventions

- **Continuous Improvement Plan:**
  - PNP representative required participant on planning team



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## NCLB Affirmation of Consultation with Private Nonprofit School Officials

- Complete one affirmation per participating Private Nonprofit School
- If not PNP participating form does not need to be submitted
- Submissions were due 9/30
- Mailed to TEA



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## NCLB Affirmation of Consultation with Private Nonprofit School Officials

- SSA – each participating PNP that receives services through an LEA who is a member of a SSA must have an affirmation completed and submitted to the Agency.
- The SSA Written Agreement determines whether the member LEA OR the fiscal agent is responsible for submitting form to TEA



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## NCLB Affirmation of Consultation with Private Nonprofit School Officials

- Affirmation of Consultation with PNP School Officials
- 5 pages
- Title I, Part A; Title I, Part A ARRA; Title I, Part C; Title II, Part A; Title II, Part D; Title III, Part A LEP; Title III, Part A Immigrant; Title IV, Part A; and Title V, Part A



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## Evaluation



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## Evaluation

- Required for all programs funded by LEA
- Sample evaluation form



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## Resources



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## Resources

- Internet sites
- USDE resources
- TEA resources
- ESC web sites, resources and staff contacts
- TEA NCLB web page and resources



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## Region 2 ESC Contacts

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