

## **Title II Equitable Services Frequently Asked Questions**

### **May a school district reimburse a nonpublic school for materials it has purchased or services it has procured to implement a Title II program?**

No. Only the school district may obligate and expend federal funds on behalf of nonpublic school students and educators. Therefore, the district must purchase materials or procure services for the nonpublic school students and educators.

However, a school district may use federal funds to reimburse an individual nonpublic school teacher, principal, or another school leader for professional development the public school district has preapproved and that meets the reasonable and necessary cost requirements ([2 CFR section 200](#)).

### **May a school district use funds to provide stipends to nonpublic school educators, principals, and other school leaders?**

Yes. As with any other costs, the use of funds for stipends must be allowable under Title II use of funds for nonpublic schools, and they must be reasonable and necessary. If a professional development event is conducted after-school or in the summer, a teacher can receive a stipend to compensate for participation outside regular employment hours. In addition, salaries for nonpublic school educators must be available and paid to nonpublic school educators on the same basis as public school educators. However, the stipends cannot be paid to the nonpublic school or be for the benefit of the nonpublic school; they must be paid to the nonpublic teacher directly.

### **May Title II funds be used to pay for a nonpublic school educator's attendance at a professional conference?**

To be an allowable activity under Title II, including nonpublic school participants, attendance at a professional conference must meet specific requirements:

1. The activity must be an allowable Title II activity and meet the definition of professional development ([Sections 2103\(b\)\(3\)](#) and [8101\(42\)](#)).
2. The activity must serve to meet the needs of the nonpublic school educator(s) as identified through the consultation process ([Section 8501\(c\)](#)).
3. The activity must be supplemental and may not supplant the professional development that the nonpublic school would otherwise provide absent the Title II services ([34 CFR § 299.8\(a\)](#)).
4. The activity must be a reasonable and necessary expense ([2 CFR § 200.403\(a\)](#)).
5. The services must be secular, neutral, and nonideological ([Section 8501\(a\)\(2\)](#)).

Professional Development: Under Title II, a school district may "provide high quality, personalized professional development that is evidence-based, to the extent the state (in consultation with the public school district in the state) has determined that evidence is reasonably available for

educators, instructional leadership teams, principals, or other school leaders, focuses on improving teaching and student learning and achievement." Professional development services and programs must meet the definition of "professional development" in [Section 8101\(42\)](#), which requires that the activity is both (1) part of the strategies for providing educators with the knowledge and skills necessary to enable students to succeed in a well-rounded education; and (2) "sustained (not stand-alone, 1-day, or short-term workshops), intensive, collaborative, job-embedded, data-driven, and classroom-focused.

Because many conferences are short-term or stand-alone, they may only meet this definition as an allowable expenditure under Section 2103(b)(3) with further integration as part of a comprehensive plan for professional development for the educator. However, through consultation with a school district, a nonpublic school official can demonstrate that attendance at a short-term conference is part of a sustained and comprehensive professional development plan for the teacher that meets these Title II requirements, including the statutory definition of professional development, that a school district may use Title II funds for costs associated with a nonpublic school educators' participation in the conference. Furthermore, depending on the conference content, participation may be allowable under other specifically-defined activities in Title II, which do not need to meet the definition of professional development under [Section 8101\(42\)](#). For example, [Sections 2103\(b\)\(3\)\(H\), \(J\), \(K\), and \(L\)](#) allow training for selecting and implementing formative and classroom-based assessments, identifying gifted and talented students, supporting instructional services provided by effective school library programs, and preventing and recognizing child sexual abuse.

### **Can nonpublic schools use Title II funds to pay for college courses?**

Yes, but there are a few restrictions. The college course content must be an allowable use of Title II funds under the authorizing statute, [Section 2103 \(b\)\(3\)](#), and the course content must meet the specific needs of students enrolled in a nonpublic school and not the school itself. It is not allowable to use Title II funds to meet the needs of a nonpublic school or the general needs of the students enrolled in the nonpublic school. In some instances, however, a program or activity that primarily benefits a nonpublic school's students (because it addresses the specific, rather than general, needs of the students) will also help the school, as allowed by [34 CFR section 76.658](#). For example, the college course "Development and Assessment of Individuals with Severe Disabilities" would be allowable; however, the college course "Financial Reporting and Managerial Control" as part of a Business Administration degree is unacceptable.

In addition, using Title II funds for college courses is at the school district's discretion. Suppose the school district does not allow its educators, principals, and other school leaders to use Title II funds to pay for college courses. In that case, the district is not obligated to allow nonpublic schools to use Title II funds for college courses. If the school district permits educators, principals, and other school leaders to attend college courses funded by Title II, the district must allow nonpublic schools to do the same.

### **How should the district pay for attendance at a conference?**

The school district remains in control of the funds. The district may wish to reimburse the individual(s) or pay for the expenses directly. Note that the district cannot compensate a nonpublic school.

**May Title II funds be used to pay for a nonpublic school educator's attendance at a professional conference sponsored or conducted by a faith-based organization?**

Yes. A conference conducted by a religious organization often includes both secular and spiritual content. Suppose a religious organization offers an allowable professional conference. In that case, a school district may pay for only a teacher's participation in the conference's secular, neutral, and nonideological portion.

In determining the costs associated with a nonpublic teacher's participation in the conference, the school district would need to (1) determine what sessions are secular, neutral, and nonideological professional development; (2) have the teacher document participation in such program sessions in such a way that the school district can determine the percentage of overall time spent attending those sessions; and (3) apply that percentage against the overall cost of attending the conference. For professional development activities, whether in-person, virtually, or online, a school district might require the nonpublic school educator to provide titles and descriptions of the sessions the teacher expects to attend and some form of participation verification.

Example: A conference runs from 8 a.m. to 5 p.m. (with an hour for lunch). Suppose the teacher spends six hours of the eight hours of work time attending or participating in secular sessions that meet the Title II requirements above. In that case, the public school district could use Title II funds to pay 75% of the registration and travel costs since the teacher has spent 75% of the conference time attending or participating in secular activities.

**What equitable services may a district provide to nonpublic schools under Title II?**

A district may provide professional development activities for educators, principals, and other school leaders to address the specific needs of nonpublic school students. Any use of Title II funds for the benefit of nonpublic school participants must:

- Be an allowable local use of Title II funds under the authorizing statute.
- Meet the specific needs of students enrolled in a nonpublic school, not the school itself. Title II funds may not be used to meet the needs of a nonpublic school or the general needs of the students enrolled in the nonpublic school. In some instances, however, a program or activity that primarily benefits a nonpublic school's students (because it addresses the specific, rather than general, needs of the students) will also incidentally help the school.
- Ensure the district responsible for equitable services retains control of the funds used to provide such services.
- Be provided by either an employee of the district or through a contract by the district with an individual, association, agency, or organization that must be independent of the nonpublic school and any religious organization. All contracts must be under the supervision of the school district.

It is not allowable under Title II to use equitable services for class-size reduction in a nonpublic school. Contracts for nonpublic school educators and staff are inconsistent with the requirements in ESEA regarding public control of funds and the supervision and control of employees or contractors.

**Does the district transferring its funds from Title II into another allowable program (i.e., Titles I, IV, or V) impact the requirement to consult with nonpublic schools?**

Yes. Before transferring funds, the district must consult with nonpublic school officials about the district's decision to transfer Title II funds. The equitable services would then be provided under the allowability of the program to which the funds were transferred.

**Does the professional development program for nonpublic school educators have to be the same as that for public school educators?**

No. School districts must assess the needs of nonpublic school educators when designing their professional development programs. If the needs of nonpublic school educators differ from those of public school educators, the district should develop a separate program in consultation with nonpublic school representatives.

**May Title II funds be used to cover the expense of substitute teachers in nonpublic schools?**

No. The 2003 Title I Private School non-regulatory guidance D-6 states that Title I cannot pay for substitute educators. The same principle applies to Title II, Part A. It is not allowable to use equitable services for substitute teachers in a nonpublic school. Contracts for nonpublic school educators and staff are inconsistent with ESEA section 8501(d) requirements regarding public control of funds and the supervision and control of employees or contractors.

**May Title II funds be used to pay any portion of a nonpublic school educator's salary or benefits?**

No. While districts must set aside Title II funds for the equitable participation of public educators in professional development activities, it is not allowable to use Title IIA funds to pay or subsidize any portion of a nonpublic educator's salary or benefits.

**Can Title II funds be used to pay stipends to nonpublic school educators participating in a Title II professional development program?**

Yes. For example, suppose the professional development activity is conducted after school hours or in the summer. In that case, stipends may be paid to compensate teachers for work outside their regular hours. Stipends for nonpublic school educators must be available on the same basis as public school educators. Stipends must be paid directly to the nonpublic school educators, not the nonpublic school.

**Must the school district administer and retain control over Title IIA funds to serve nonpublic school educators?**

Yes. The school district must administer control over the funds and may not provide program funds directly to nonpublic schools. Before determining the funds for services to nonpublic school educators, a district could pay reasonable and necessary administrative costs for providing those services from Title II.