



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

May 17, 2023

### **Summary Response to Comments on *Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA), as Amended by the Every Student Succeeds Act: Providing Equitable Services to Eligible Private School Children, Teachers, and Families – Updated Non-Regulatory Guidance (May 17, 2023)***

On November 10, 2022, the U.S. Department of Education (Department) published for public comment draft revisions to the document titled *Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended by the Every Students Succeeds Act: Providing Equitable Services to Eligible Private School Children, Teachers, and Families – Updated Non-Regulatory Guidance (October 7, 2019)* (Title I Equitable Services Updated NRG). Six organizations submitted comments for the Department to consider. The comments primarily suggested greater clarity around determining a representative sample of students when using comparable poverty data from a survey as a method to calculate a local educational agency's (LEA's) proportional share for equitable services.

In response to the comments, the Department made the following additions to the draft revisions under question B-11 of the Title I Equitable Services Updated NRG:

- A description regarding how an LEA, if it conducts a survey, may presume that it has obtained a representative sample.
- Clarification that, when using a survey of private school children to obtain poverty data comparable to those used for public school students, the only information necessary for an LEA to collect from such a survey is—
  - (1) verification of residence in a participating Title I public school attendance area;
  - (2) grade level and age of each child; and
  - (3) *household* income.

If an LEA conducts a survey and concludes that it has obtained a representative sample (the LEA and private school officials may presume that a representative sample was obtained), it must then extrapolate full results from the data, consistent with 34 C.F.R. § 200.64(a)(3)(i)(B)(2). The extrapolation requirement in this regulation is not new; it dates to December 2, 2002. The revisions in the Title I Equitable Services Updated NRG merely reflect the long-standing Title I regulations.

Finally, the Department notes that its interpretation of ESEA section 1117(b)(1)(F) (i.e., that the LEA must consult on the allowable measures of poverty in ESEA section 1117(c)(1) and 34 C.F.R. § 200.64(a)(3)(i)) in no way suggests that the use of a survey to collect comparable data is inappropriate. Rather, it recognizes that private schools may have available sources of poverty data, such as E-Rate data, that would be comparable to the source an LEA uses to count public school children (e.g., FRPL) and that an LEA cannot conclude that a survey is the best source of

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poverty data without at least consulting with appropriate private school officials about what other sources may exist.

The Department greatly appreciates the public's comments on the draft revisions to the Title I Equitable Services Updated NRG and trusts that the revisions to this guidance, used in conjunction with the Title I statute and applicable regulations, will assist both public and private school officials involved with implementing the ESEA Title I equitable services provisions.