

**WHY AREN'T NEW YORK CITY YESHIVAS
RECEIVING THEIR FAIR SHARE
OF NCLB FUNDS & SERVICES
AND WHAT CAN BE DONE
TO REMEDY THIS INEQUITY?**

**A Preliminary Report Prepared by the
Sephardic Community Federation**

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Main Findings

- 1. Overall Finding:** According to New York State Education Department (NYSED) data, there were 79,486 students enrolled in Yeshiva Schools in New York City for academic year 2005-2006. The No Child Left Behind (NCLB) Act of 2001 requires that all funds get distributed in an equitable dollar per pupil eligibility formula for public and private schools. Five years since the law was passed, there is substantial evidence to show that students in the New York City Yeshiva School system have not benefited from this legislation.
- 2. Yeshiva poverty level children generate tens of millions NCLB Title One dollars for New York City.** Every poverty level child attending a New York City Yeshiva is generating \$1,992 for the New York City Title One program (whether the funds by are used by Yeshivas or not) on an annual basis. In the South Williamsburg Chassidic community alone, 56% of all people live in households with incomes below the Federal Poverty Level.
- 3. Number of NYC Yeshiva School Title One students that generate Title 1 funds is more than three times larger than current New York City Department of Education (NYC-DOE) figure.** According to the NYC-DOE, for all Brooklyn private schools, there were only 13,155 students that generated Title One funded instruction for the 2005-06 school year. Using the No Child Left Behind (NCLB) eligibility formula, and data supplied by the New York State Education Department (NYSED), and the NYC-DOE, there are in fact an estimated 30,000 students in Brooklyn Yeshivas alone that generate Title One funding (this does not include other NYC private and parochial schools). The 30,000 student figure is based on using a conservative methodology for interpreting the data. The actual number is projected to be significantly higher.
- 4. Brooklyn Yeshiva school students should be receiving at least \$44,000,000 in Title One funded services.** The New York City Department of Education spent \$1,484 per Title One eligible student in the borough of Brooklyn in 2005-06 (the same rate was used for public and private school students). If the conservative estimate of 30,000 Brooklyn Yeshiva students that meet the poverty and residence criteria for Title One eligibility received the dollar per student rate of \$1,484, there would be a total of \$44,000,000 available per year for Brooklyn Yeshivas to use for Title One services.
- 5. Very few Brooklyn Yeshiva students currently benefit from NCLB Title One Programs.** Based on a phone survey with local school administrators, only a handful of Yeshivas are presently using any sort of Title One funded NYC-DOE teachers for their remedial help with their Title One eligible students. Many had tried but found the process too cumbersome. Most Yeshiva Title One eligible students do not receive any Title One funded help.

- 6. The Federal NCLB Legislation requires that the NYC-DOE work closely with all private schools to ensure that all NCLB programs are well utilized by all eligible private school students and their parents.** The US Department of Education has prepared very specific instructions for local education agencies to follow regarding implementing this provision. The clear legislative intent was to give all private schools an opportunity to work closely with local educational agencies so that all eligible private school students receive NCLB services.

- 7. Since 2001, there has been a 45% increase in Title One funds.** For FY 07, the national NCLB Title One Program allocated \$12.7 billion for students in high-poverty schools. While the Title One program has been greatly expanded, Yeshiva students have not benefited.

- 8. Title One services do not have to be provided by teachers employed by the NYC-DOE.** NCLB regulations encourage local school agencies to contract out the provision of Title One services for students attending private schools to third party vendors. These third party vendors can be individuals, for profit and not for profit organizations. Other cities including Dallas, Miami (Dade County), Memphis, Chicago and Milwaukee, contract out their Title One services through a competitive RFP system to organizations specializing in remedial education. New Jersey has a statewide system that allows local school districts to contract out Title One services to private and parochial schools (PL 192, 193).

- 9. To ensure that all private school students in need receive Title One services, private schools are encouraged to collaborate.** The NCLB program offers private schools several options for ensuring that their students benefit from the funds. If several schools want to pool their Title One funds together, they can make one program and use multiple sites.

- 10. Title II Part A Teaching Training and Recruitment.** Title II Part A funds the cost of teacher training and professional development. The NYC-DOE received \$127,878,000 in 2005-06 in Title II Part A funds. Based on the NCLB funding formula for Title II Part A, using a conservative estimate, if the NYC-DOE is spending all of its funds on professional development, then \$7,077,000 should be available to New York City Yeshivas for these same services. Similar to the public school system, the Title II Part A funds can be used to increase the quality of classroom instruction and improve student learning outcomes in Yeshivas.

Section A.

Problem Statement:

In 2001, Congress passed and the President signed into law the No Child Left Behind (NCLB) Act. Included in the NCLB Act was a requirement for an increase in the participation of private and parochial schools in the disbursement of funds. The NCLB Act requires that local education agencies (such as the NYC-DOE) conduct meaningful discussions with all private schools to ensure their participation in the allocation of funds and benefits to their students. Over the past several years, the Sephardic Community Federation (“SCF”) has inquired with local yeshiva principals about using the Title One funds. In almost every case, the principal stated that they were unable to participate in the NYC-DOE Title One program. Schools were forced to seek funding for professional teacher development from private sources even though there is public funding available for this purpose through Title II Part A.

SCF decided to undertake a systematic investigation into the NCLB program and how it is administered in New York City. The investigation focused on the following:

- *How many Yeshivas and students are currently receiving and benefiting from NCLB Title One funds and other NCLB programs?*
- *Are Yeshivas receiving NCLB funds in an equitable proportion (dollar per student) to the number of eligible students enrolled in their schools?*
- *What factors are preventing NCLB eligible Yeshiva students from receiving NCLB services?*
- *What are the student eligibility formulas used to allocate funds through the NCLB Act of 2001 to states and localities?*
- *How much does the NYC-DOE receive annually in NCLB funds? How many of the NCLB Federal dollars are generated by the Yeshiva population?*
- *What are the formulas used by the NYC-DOE to allocate NCLB funds to public and private schools?*
- *How many New York City Yeshiva students meet the NCLB eligibility requirements?*
- *How are other states and cities working with private and parochial schools to ensure maximum participation in the NCLB program?*
- *Are there worthwhile programs in other parts of the country that should be looked at for replication by the NYC-DOE?*

NCLB 2005-2006 Awards for New York City Public and Private Schools¹

NCLB Program	Description	Questions	Grant Dollars
Title I, Part A	Title I, Part A - Basic Program and Title I for academic at risk students	How many Yeshivas are using NYC-DOE teachers for their Title One eligible students? Third party vendors can provide a range of services that are not currently being offered from 3:00 to 6:00 PM.	\$789,248,920
Title II Part A	Teacher and Principal Training and Recruiting	How many private schools teachers are receiving professional training and development from the NYC-DOE?	\$127,878,941
Title II Part D	Enhancing Education Through Technology (Formula Funds Only)	How much funding did private schools receive? What formula was used?	\$14,748,579
Title III, Part A	Language Instruction for Limited English Proficient and Immigrant Students	For a significant number of Yeshiva students, English is not their first language. How many Yeshiva students are benefiting from this?	\$34,158,927
Title IV, Part A	Safe and Drug Free Schools and Communities	How much funding did private schools receive? What formula was used?	\$13,932,834
Title V, Part A	Innovative Programs	How much funding did private schools receive? What formula was used?	\$5,582,779
TOTAL			\$985,550,980

These funds originate with the United States Department of Education through the No Child Left Behind (NCLB) Act of 2001. The NCLB funds are awarded to the states based on various objective eligibility formulas. The New York State Education Department (NYSED) has some flexibility in interpreting the Federal guidelines for determining eligibility. NYSED gives out the funds to all New York State school districts and charter schools. Private school students are eligible to receive NCLB funds as per the same dollar per student eligibility formulas used for allocating the funds to public schools. The NCLB Act requires meaningful participation and dialogue between a local education agency (such as the NYC-DOE) and all private and parochial schools located in the district or that have students who reside in the district regarding the annual implementation of the NCLB program and funds. The Federal NCLB Act requires that all NCLB funds get equitably distributed for public and private school students.

Section B.

Documentation and Analysis of New York City Department of Education No Child Left Behind (NCLB) Title One Funding and Services

Overview of NCLB Title One Services

As the chart in Section A clearly shows, the bulk of NCLB funds are for Title One services. The NYC-DOE is currently spending an average of \$1,490 per student per year for its Title One program.² Title One funds for participating private school children include, but are not limited to, the following:

- Instructional services provided by public school employees or third-party contractors.
- Extended-day services.
- Family literacy programs.
- Counseling programs.
- Computer-assisted instruction (CAI).
- Home tutoring.
- Instruction using take-home computers.

In interviews with Yeshiva administrators, all stated that they would like to find a way to bring these much needed services to the underprivileged children in their schools.

1. NYC Yeshiva Students generate Federal Title One Dollars, however, most of these generated dollars are not being spent on Yeshiva Students.

The first issue in understanding how the Title One program works relates to how Title One funds are allocated from Washington to each state and locality (or local educational agency). A significant amount of Title One dollars that flow into the NYC-DOE are based on the enrollments of poor children attending yeshivas. If these students were not taken into the count, New York City would receive a significantly smaller allocation. The U.S. Department of Education formula is based almost completely on the number of children from families with incomes below the Federal poverty level. For New York City, its 2006 Title One allocation was based on a total of 392,436 children living in households below the Federal Poverty Level. Based on the NYC-DOE total

Title One allocation of \$836,485,847, this formula breaks down to \$1,992 per poverty level child. Every poverty level child attending a New York City Yeshiva is automatically generating \$1,992 for the New York City Title One program (whether the funds are used by Yeshiva schools or not). As an example, the neighborhoods of South Williamsburg (56%) and Boro Park (28%) have large numbers of people living in households with incomes below the Federal Poverty Level. The actual distribution of Title One dollars within New York City is based on a different formula using the Free Lunch Program of 130% of the Federal Poverty Level.³

2. NCLB Act of 2001 Title One Formula for determining Title One Dollars and Title One Eligibility for Private School Students

There are two separate parts that are used for allocating and providing Title One funded services to students attending private schools. The first is a formula for determining how much in Title One funded services a private school is eligible to receive. The first formula is based on the number of poverty students who attend the private school *and* reside in a public school Title One eligible area. This formula will determine how much in Title One funds a private school will be able to use to serve its students. The second part is based on the number of students attending a private school who reside in a Title One public school eligible zone area and are failing to meet accepted academic standards. It is important to point out that with the second part, a student who is not poor is still entitled to receive Title One services. There are two steps that all local education agencies must take in order to comply with the U.S. Department of Education NCLB Title One regulations for determining the amount of Title One funds a private school is eligible to receive.

Step 1: Determine the total number of private school children from low-income families in each Title One public school attendance or zone area.

Step 2. Multiply the number of the private school low-income children by the per pupil allocation (PPA) for each public school attendance area in which the private school children reside.

Example:

A Yeshiva has a total enrollment of 400 students. 200 of the Yeshiva students are low income as defined by 130% of the Federal Poverty Level. Of the 200 students, 150 students live in a Title One public school area zone. Based on the NYC-DOE 2005-06 Brooklyn rate of \$1,484, the Yeshiva is entitled to receive a total of \$222,600 in Title One services.

After a determination has been made for how much a private school is eligible to receive in Title One funded services, the actual Title One services can only be offered to students who reside in a Title One public school eligible neighborhood zone area and are failing to meet or are at risk of failing to meet recognized standards based on nationally approved achievement tests. A non-poverty level student who is at risk of failing and lives in a Title One eligible area can also receive Title One services.

3. Estimate of New York City Yeshiva School System Students who meet the education and poverty criteria for NCLB Title One Funding.

The NCLB eligibility formula described in Section 2 is based on objective and collectable data. The number of poverty students attending private and parochial schools is available to the NYC-DOE. Also, the Federal NCLB Act requires that the local education agency must make a serious effort to collect reliable data on private school poverty student enrollment (if necessary, including the use of a school by school survey instrument). The NYC-DOE has a computer database in which addresses can be fed in to see if there is a match with a Title One eligible neighborhood zone public school. The NYC-DOE has the existing capacity to provide accurate numbers. According to the NYC-DOE, for all of Brooklyn, including all private schools, there were only 13,155 students that generated Title One dollars in the 2005-06 school year.⁴

This number does not begin to match up with NYSED data for poverty level children attending New York City Yeshivas. The NYSED data shows that there are a total of 41,354 students in New York City Yeshivas who qualify for the Free Lunch Program (130% of the Federal Poverty Level) as January 2007. 97% of the students in this group attend Brooklyn Yeshiva schools.

Yeshiva School Students Eligible for Free Lunch Program (January 2007)

Borough	Free Lunch Eligible
Brooklyn	40,035
Manhattan	88
Queens	1,088
Bronx	24
Staten Island	119
Total	41,354

Source: New York State Education Department Child Nutrition Management System January 2007⁵

Conservatively, an estimated 31,015 New York City Yeshiva students are eligible for Title One services.

If this number was factored into the NYC-DOE total Title One allocation, \$46,047,000 in Title 1 services would be available for Yeshiva students.

Methodology for estimate: According to data from NYSED Child Nutrition Management System, there are a total of 41,354 students in New York City Yeshivas who qualify for the Free Lunch Program (130% of the Federal Poverty Level). Of the 41,354 students, 97% attend Yeshivas in Brooklyn. Using figures from the NYC-DOE for the 2005-06 school year, 658,024 students met the poverty criteria (Free Lunch Eligible) for Title One Funding. Of that number, 86% attended Title One eligible schools. Using the 86% factor,

35,579 Yeshiva students would also be selected. Even if the percentage factor was dropped to a very conservative figure of 75%, there would still be more than 31,015 Yeshiva students eligible to receive Title One funded services. The actual number of Yeshiva students eligible for Title One services is higher. Given the fact that most NYC-DOE schools are Title One eligible schools, and that there is a very strong overlap of the location of the Yeshivas (see section 4 below) with many low income neighborhoods, most Yeshiva students would be counted as eligible to participate. Since NYC-DOE Title One dollar per student funding formula is done by borough, the dollar per student rate is provided by borough. Brooklyn: 40,035 Yeshiva eligible students x 75% = 30,026.

If the conservative estimate of 30,026 Title One eligible Brooklyn Yeshiva students received Title One funds based on the NYC-DOE Brooklyn dollar per student rate of \$1,484, a total of \$44,558,000 would be available per year for Brooklyn Yeshivas to help students improve their academic skills and support services.

4. Brooklyn Jewish neighborhoods are filled with NYC-DOE Title One Eligible Public Schools

The Title One eligibility formula for private schools requires that low income students attending a private school must reside in a public school Title One eligible area to be able to receive Title One instruction from the funds allocated to the private school. Even if half of private schools students are Title One eligible by the poverty definition, if none of them happen to live in a Title One public school zone area, none of these students can receive Title One services. Likewise, a student whose family income exceeds the NYC-DOE poverty definition of the Free Lunch Program (130% of the Federal Poverty Level), can still receive Title One instruction if the student resides in a public school Title One eligible zone. For the Yeshivas to receive Title One funded services, they must draw students from neighborhoods that are filled with Title One eligible public schools. As the NYC-DOE School District charts below show, almost all Yeshivas in Brooklyn neighborhoods are located in Title One public school zone area.

4a. Title One Eligible Public Schools and Brooklyn Jewish Neighborhoods

Title One Public Schools in Greater Boro Park Area

Public Schools in Greater Boro Park Area	DOE Title One Eligible	DOE- Non Title One Eligible
048	X	
227	X	
180		X
192	X	
160	X	
164	X	
131	X	
220	X	
223	X	

Title One Eligible Public Schools in Flatbush, Midwood (District 21)

Public Schools in Greater Flatbush-Midwood Area	Title One Eligible	Non Title One Eligible
238	X	
099	X	
121	X	
226	X	
199	X	
177	X	
228	X	
215	X	
153	X	
096	X	
095	X	

Title One Eligible Public Schools District 22 (Ocean to Nostrand Avenues)

Public Schools in Greater Flatbush-Midwood Area	Title One Eligible	Non Title One Eligible
255	X	
234	X	
381		X
197	X	
193	X	
240		X

Title One Eligible Public Schools in Williamsburg District 14

Public Schools in Williamsburg	Title One Eligible	Non Title One Eligible
016	X	
050	X	
071	X	
380	X	
157	X	
318	X	

Title One Eligible Public Schools in Crown Heights District 17

Public Schools in Crown Heights	Title One Eligible	Non Title One Eligible
167	X	
221	X	
161	X	

Of the 35 public school zones that cover the neighborhoods with large numbers of Yeshiva students, only 3 of these schools are not Title 1 eligible.

5. Analysis of NYC-DOE Title One Budget for FY 2005-2006.

For the 2005-2006 school year, NYC-DOE determined that only 13,155 private school students residing in Brooklyn are eligible for Title One funded services. This low figure is supposed to cover all private schools including the Catholic and Jewish parochial schools. A total of \$19.5 million was allocated in Title One funded services for these students. The NYC-DOE allocated a per student rate of \$1,482 for the 13,155 students. \$1,482 is the same dollar per student allocation that all Title One eligible public schools students received. The NYC-DOE allocates the Title One dollars to both public and private school eligible students as the same dollar per student rate (as required by law). In interviews with Yeshiva administrators, almost all of them stated that they presently do not use the NYC-DOE teachers to provide Title One services in their schools. The discrepancy is that only a small number of Title One eligible private school students are actually included in the count by the NYC-DOE.

6. Large discrepancy between NYC-DOE numbers and numbers estimated in this report must be addressed.

Request for NYC-DOE Information.

To complete this finding, the NYC-DOE should provide the actual number of Yeshivas and students that receive Title One funded services from the NYC-DOE and total Title One dollars spent on services in these Yeshivas.

7. How does academic eligibility criteria for Title One services factor in?

Once a child has been determined to generate Title 1 funded services, a school must conduct a separate survey of students based on academic need. This survey or assessment will determine the number of students who are eligible to receive Title 1 services. According to Federal guidelines, “to the extent appropriate, the LEA must select private school children who are failing, or most at risk of failing, to meet high student academic achievement standards.” High student academic achievement standards are defined by the Department of Education as passing the statewide test for reading comprehension and mathematics.⁶ The U.S. DOE also offers other educationally related criteria that an LEA may use to identify the at-risk private school children for Title I services: The criteria may include:

- Standardized achievement tests
- Teacher referrals and recommendations based on objective, educationally related criteria; and grades
- For grades k through 2, a teacher recommendation is sufficient.

What is the academic NYC-DOE eligibility criteria for Title One funded services?

8. A group of Yeshivas can pool their Title One funds together to offer the services at one site or as one program.

The Federal government encourages private schools with small numbers of Title One eligible students to pool their resources together for one strong program. If several schools wanted to create a program, at one location, this would be permissible. The transportation cost for a bus to take the students to the designated Title One program location would also be an eligible expense. A private school with only a few Title One eligible students may still participate in a pool based program. Students who meet the academic criteria for Title One services, but are not from low income families, would be eligible to receive these services. Even if

the private school does not generate any Title One dollars, a student who meets the academic criteria for Title One services would be allowed to attend the pooled services program.⁷

9. Title One services can be provided by NYC-DOE teachers or through a contract with a qualified third party vendor. Other cities are contracting out Title One services to private and parochial schools through third party vendors (for profit or not for profit organizations that provide quality remedial instruction).

Title One Services to private schools can be provided by either the NYC-DOE teaching staff or through third party vendors. The Federal Department of Education encourages private schools to work with third party vendors.⁸

B-51. Who provides the Title I services to private school participants?

Section 1120(d)(2) of the statute requires that Title I services be provided by either an employee of a public agency (LEA) or through a contract by the public agency (LEA) with an individual, association, agency, or organization. These employees, individuals, associations, agencies, or organizations must be independent of the private school and any religious organization in the provision of those services and such employment or contract must be under the control and supervision of the public agency (LEA).⁹

Other Cities are using Third Party Vendors: What are other States doing to comply with the Federal Mandate that States take necessary steps to ensure that private schools benefit from NCLB funds? Many LEA's contract out with third party vendors for Title One programs to private school students. The U.S. Department of Education's *Student Achievement and School Accountability Programs (SASA)* conducts audits of State NCLB programs. The audits show that many states use third party vendors for their Title One programs. The contracts with third-party providers include public and private agencies, organizations, and institutions. NCLB Title One Section 1120 Uniform Provisions states that in the provision of those services, the employee, person, association, agency, organization, or entity shall be independent of the private school and of any religious organization. The employment or contract shall be under the control and supervision of the LEA, consortium, or entity. The list of cities that are presently using third party vendors includes: Chicago, Miami (Dade County), Minneapolis, Milwaukee, Dallas and New Orleans.

- **Third Party Vendors are being selected through a competitive RFP process:** For example, in Milwaukee, the LEA conducted a competitive RFP for third party vendors. The Milwaukee Public Schools picked four vendors and gave private schools the opportunity to choose one of the four.¹⁰ There is an eight page report on the results of using the third party vendors in the private schools.¹¹
- **Supplemental Educational Services (SES):** A comparable model of using third party vendors is already in place in New York City. NYSED has an approved list of providers for services to Title One eligible schools that qualify as Schools in need of improvement (SINI). These services are offered during the after school hours. SES

are mostly community based organizations and private tutorial companies. There are SES providers currently in contract with the NYC-DOE to provide Title One services.

10. If a third party vendor provides Title One services to a private school, what kind of professional criteria must be used for hiring staff?

Section 1120(d)(2) of the statute requires that Title I services be provided by either an employee of a public agency (LEA) or through a contract by the public agency (LEA) with an individual, association, agency, or organization. LEA's that contract with third-party providers do not need to meet the same professional standards as teachers who are directly employed by the LEA. The highly qualified personnel requirements only apply to those teachers and paraprofessionals who are directly employed by the LEA.

11. Examples of third party vendors that provide Title One funded services in other cities for private schools.

Highly regarded and tested Title One funded programs are already operating in parochial schools across the country. Catapult Learning Services (www.catapultlearning.com) is a nationally recognized provider of Title One services to parochial schools; it operates throughout New Jersey and in many other states.

“Catapult Learning’s supplemental instruction programs are designed to improve student achievement among low-performing students. Our research-based programs are aligned to the National Reading Panel, the National Council of Teachers of Mathematics and state standards. Each instructional program integrates an effective combination of:

- Individualized assessment;
- Small groups with direct instruction;
- Guided and independent practice;
- Student motivation; and
- Parent involvement.

Through our multi-leveled **Intervention Framework**, Catapult Learning partners with schools and school districts to supplement, support, and reinforces the core instructional program of the school and provides direct intervention services for at-risk students.”

Catapult offers evidence that all components (including parent involvement and counseling) of the Title One program that were intended to benefit private schools can actually have successful outcomes. Catapult is an example of a national provider. There are many local organizations that act as third party contractors with school districts to provide Title One services to parochial schools. Catapult Learning provides Title One services to Yeshivas in Chicago and Milwaukee.

12. Title One funds can be used for education related services including student transportation and professional teacher development.

Title One funds can be spent on a diverse range of services to improve the quality of private school instruction. An example is providing stipends to teachers for professional training. According to the Department of Education:

“Title I funds may be used to pay stipends to private school teachers of Title I participants who participate in a Title I professional development program Title I funds may be used to pay for stipends for private school teachers, if reasonable and necessary. For example, if the professional development activity is conducted during after-school hours or in the summer, stipends may be needed to compensate teachers for their participation outside their regular employment hours. Stipends for private school teachers must be available on the same basis as those for public school teachers *and* the stipends must be paid directly to the private school teachers for their own use and not to the private school.”

13. Estimated NCLB funds currently being used by New York City Yeshivas.

This information would only be available through the NYC-DOE. Please see #6 above for request for information. From discussions with school administration officials at Yeshiva schools, that amount is negligible.

14. Why are Yeshivas unable to access Title One funds and programs?

Through informal discussions with Yeshiva principals, the following three main reasons were given for why Title One services are not offered:

- Most were not familiar with the NCLB Act of 2001 and the range of programs available to them. Nor did they know about the law requires close collaboration between the Department of Education and private schools.
- Those that were familiar tried using NYC-DOE teachers found it more trouble than it was worth.
- They want teachers who have cultural competency skills for working with a Yeshiva population. (Chassidic, Sephardic).

15. Parochial schools do not have to remove religious symbols from a room that is being used for Title One instruction.

Some Yeshiva school administrators have expressed a concern regarding religious symbols (such as a mezuzah) in a classroom. The NCLB Title One guidelines allow for religious symbols to remain in the classroom.

B-46. Must an LEA require the removal of religious symbols in private school classrooms in which Title I services are provided?

No, the Department of Education believes that the constitutionality of Title I instructional services provided in a private school will depend on consideration of the program's safeguards viewed as a whole, not of any one factor, such as whether or not there are religious symbols in the space used for that instruction. The Department does believe, however, that a valid program must contain safeguards to ensure that public employees do not promote religion in the course of carrying out their Title I duties.¹²

16. The NCLB Act of 2001 requires that the NYC-DOE have a meaningful consultation with all private schools regarding how each private school can participate in Title One services.

The NCLB Act of 2001 contains detailed language requiring a local education agency (in this case the NYC-DOE), to conduct meaningful discussions with private schools on how NCLB can be best used. In smaller school districts, this requirement means one to one consultations with each private school. In a school system as large as New York City's, with its vast private and parochial education system, the NYC-DOE is allowed to meet with "appropriate private school officials who represent a group of private schools." However, the NYC-DOE is also encouraged to hold group meetings where individual schools can send a representative. The consultation is supposed to take place at the beginning of the school year. According to Section 9501 of the NCLB Act of 2001, the consultation must address the following issues:

- (A) how the children's needs will be identified;
- (B) what services will be offered;
- (C) how, where, and by whom the services will be provided;
- (D) how the services will be assessed and how the results of the assessment will be used to improve those services;
- (E) the size and scope of the equitable services to be provided to the eligible private school children, teachers, and other educational personnel and the amount of funds available for those services; and

(F) how and when the agency, consortium, or entity will make decisions about the delivery of services, including a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third-party providers.

17. The NYC-DOE and NYSED do not offer ANY public information literature on Title One Services for Private School Administrators or Parents of Children Attending Private Schools

One reason why very few NCLB Title One dollars are being spent in Yeshivas is because there is very little public information provided by either the NYSED or the NYC-DOE. The NYSED has one webpage devoted to information for private schools. The webpage does not have any information on how private schools can benefit or access NCLB funds. While New York City has the largest private school enrollment of any city in the country, it doesn't offer informational literature for parents of private and parochial school children. The following materials were found on the NYC-DOE website regarding NCLB programs for public schools and parents of children attending public schools:

- 19 page document: 2004-2005 NCLB Title I Parent Involvement Guidelines
- 4 pages. NCLB Purchasing and contracting guidelines
- 17 pages. Supplemental Educational Services power point presentation for SES providers.

A quick Internet search found that the states of California, Maryland and Massachusetts had detailed brochures and manuals for the parents of private school students and private school administrative staff on how NCLB funds can be accessed. Milwaukee Public Schools has a webpage devoted to providing information to private schools on how they can access NCLB programs http://www2.milwaukee.k12.wi.us/title_i/Web_Pages/non-public.html Every program is fully explained and all forms are posted on the webpage. The U.S. Department of Education has prepared a 29 page power point presentation on how private schools can benefit from the NCLB Act of 2001.

Section C.

Other NCLB Funded Programs

1) Overview of Title II to Title V, NCLB Funding and Programs:

While Title One Part A is by far the largest of the NCLB programs, there are seven others that have varying degrees of significance for Yeshivas. The picture is similar to Title One, the students are eligible, but

Federal government eligibility formulas are not being followed by the NYC-DOE. The NCLB Act was intended to give funding to private schools on an equal funding formula basis as public school children. For all other NCLB Programs (non-Title One), the NYC-DOE received a total of \$196,302,000 in 2005-06. According to information from the NYSED, of that figure, a total of \$13.7 million or 8.4% was recommended for allocation to be spent for New York City private schools.¹³

NCLB Program	Description	Private School Eligibility	Grant Dollars
Title II Part A	Teacher and Principal Training and Recruiting distributed through formula grants.	Private and parochial school teachers are entitled to receive a wide range of professional development activities from NYC-DOE funded programs. Private schools are entitled to these funds on an equitable basis with public schools.	127,878,941
Title II Part D	Enhancing Education Through Technology (Formula Funds Only). Provides funds for innovative uses of technology. 50% is awarded through formula grants and 50% through a competitive RFP system to high need districts.	NYSED recommended that NYC Private Schools receive 20% of Title II Part D funds.	14,748,579
Title III, Part A	Language Instruction for Limited English Proficient and Immigrant Students	For a significant number of Yeshiva students, English is not their first language. These students are benefiting from this.	34,158,927
Title IV, Part A	Title IV, Part A – Safe and Drug Free Schools and Communities.	Formula grant. NYSED recommended that NYC private Schools receive 8.5% of Title IV Part A funds.	13,932,834
Title IV, Part B	21 st Century Community Learning Centers Funds are for after school youth development programs. Targeted to schools serving low income children.	Distributed through a competitive RFP system.	
Title V, Part A	Title V, Part A - Innovative Programs. 85% of funds are distributed in by a formula grant.	NYSED recommended that NYC private schools receive 20% of Title V Part A funds.	5,582,779
TOTAL			196,302,060

Despite the fact that private school enrollment makes up 20% of the total number of students enrolled in New York City schools who are eligible to receive NCLB funds, they are only receiving 8.4% of the funding. All NCLB funds are required by Federal law to be allocated on an equitable per student per dollar basis.

- | | | |
|---|-----------|---------------|
| Total private school enrollment | 250,818 | 20% |
| Total FY 2005 DOE schools enrollment..... | 1,007,200 | 80% |
| Total | 1,258,018 | ¹⁴ |

2) Title II Part A: Teacher and Principal Training and Recruiting. Consultation is required between the NYC-DOE and Private Schools.

In the 2005-06 school year, the NYC-DOE received \$127,878,941 from the NYSED for the Title II Part A program. As the chart clearly shows, it is by far the largest of the other NCLB programs. These funds are available to all schools from kindergarten to grade 12. According to Federal NCLB regulations¹⁵, the NYC-DOE is required to consult with appropriate private school officials during the design, development, and implementation of the professional development program on such issues as (actual NCLB publication language):

- how the needs of children and teachers 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 those services;
- the size and scope of the equitable services;
- the amount of funds available for those services; and
- how and when the LEA will make decisions about the delivery of services.

“Consultation on the delivery of services must also include a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third-party providers.”¹⁶

G-20. Must an LEA contact the officials of all private schools every year, even when there have been no recent indications of a desire to participate in the *Title II, Part A* program?

Yes. The LEA is required to contact appropriate officials of all private schools within the boundaries of the school district *annually* to determine if they want their teachers to participate in the *Title II, Part A* program, regardless of whether or not those officials have recently indicated any interest in program participation.¹⁷

3. Eligible activities under the Title II Part A program for private school teachers and other educational personnel.

Title II Part A funds offer public and private school teachers an opportunity to improve their classroom teaching skills. For example, teacher training activities to be carried out for both public and private school personnel must be based on a review of scientifically based research and must be expected to improve student academic achievement. Professional development activities may include:

- Improving the knowledge of teachers, principals, and other educational personnel in one or more of the core academic subjects and in effective instructional teaching strategies, methods, and skills;

- Training in effectively integrating technology into curricula and instruction;
- Training in how to teach students with different needs, including students with disabilities or limited English proficiency, and gifted and talented students;
- Training in methods of improving student behavior, identifying early and appropriate interventions, and involving parents more effectively in their children's education;
- Leadership development and management training to improve the quality of principals and superintendents; and
- Training in the use of data and assessments to improve instruction and student outcomes.¹⁸

4. Analysis of the Title II Part A funding formula. Request for NYC-DOE information.

The NCLB Act of 2001 requires that all Title II Part A funds that are spent on professional development related activities must be distributed in an equitable way between the LEA's public and private school students. There are two parts to the funding formula for Title II Part A. Below is a discussion of the two parts and how much funds should be allocated to New York City Yeshivas.

1) 77% of Title II Part A funds: the first part of the funding formula is based on two Federal Department of Education programs that were lumped together into the NCLB Act of 2001 (Eisenhower Professional Development and Class Reduction Program). While Title II Part A includes both programs, the NCLB requires that the LEA continue to spend at least what it spent prior to 2001 for professional development (hold harmless rule). The NCLB Act requires that the NYC-DOE allocate the Title Part A funds it receives from the NYSED according to an equitable dollar per student formula.

(B) Subject to subparagraph (A), the share of the local educational agency's subgrant under part A of title II that is used for professional development and subject to a determination of equitable expenditures under subsection (a)(4) shall not be less than the aggregate share of that agency's awards that were used for professional development for fiscal year 2001 under section 2203(1)(B) (as such section was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001) and section 306 of the Department of Education Appropriations Act, 2001.

In the last year of these two Federal programs, New York State received a total of \$175,609,000. With the passage of the NCLB Act of 2001, the Title II Part A program budget for New York State increased to \$228,000,000 for each year. Consequently, 77% of Title II Part A funds must be allocated on a total student count and 23% must be allocated according to a 20% general student population and 80% poverty student count.

Formula: \$127,878,941 (Total NYC Title Two Part A allocation for 2005-06) x 77% (as per NCLB guidelines) = \$98,466,000.

\$98,466,000 x 19% (Total NYC private school enrollment is 19% of total general student enrollment) = \$18,708,000.

New York City Yeshiva School Enrollment is 79,486 or 31% of the total private school enrollment. \$18,708,000 x 31% = \$5,799,000.

2) 23% of funds: Since the passage of the NCLB Act of 2001, there has been an increase of \$53,145,000 in Title II Part A to New York State. The NYSED requires that LEA's allocate these new funds according to the following three factor formula: 20% general student population, 40% poverty (below Federal Poverty Level) and 40% concentrated poverty formula. This second funding formula should have helped Yeshivas with large numbers of children in poverty.

Formula 2: \$127,878,941 x 23% = \$29,412,000.

\$29,412,000. x 20% = \$5,882,431. x 6% = \$352,945.

\$29,412,000. x 40% = \$12,787,800.

\$29,412,000. x 40% = \$12,787,800.

Only an estimate can be offered here. Since there are large concentrations of family poverty in Boro Park and Williamsburg, a conservative estimate of 5% will be used. Using the 5% factor, an additional \$1,278,000 would be available to Yeshivas. Using a conservative estimate, if the NYC-DOE is spending all of its funds on professional development, then \$7,077,000 should be available to New York City Yeshivas.

Equitable share is based on professional development activities only: The NYC-DOE is required to spend Title II Part A funds on an equitable basis only for those dollars that it spends on professional development. Until the actual figure for professional development is provided by the NYC-DOE, it is not possible to fully determine the amount of funds that Yeshivas are entitled to receive.

5. How are Title II Part A funds presently distributed by the NYC-DOE to Yeshivas?

How many Yeshivas are presently participating in the professional training and development services offered through the NYC-DOE? If there are Yeshivas that are not participating, what are the reasons? Could the NYC-DOE use the money on training that would be relevant to the needs of Yeshivas? To answer these and other questions, the dollar figure for total amount of Title II Part A funds available to the New York City Yeshivas is needed.

6. NCLB Guidelines offer strong incentives for the participation of private school teachers in training opportunities.

Below is language directly excerpted from a U.S. Department of Education guidance publication “Improving Teacher Quality State Grants ESEA Title II Part A October 5, 2006” encouraging private schools to use these funds to cover the costs of teachers attending training conferences.

G-12. May Title II, Part A funds be used to pay for a private school teacher’s attendance at a professional conference sponsored or conducted by a faith-based organization?

Yes. To the extent that the conference is part of a sustained and comprehensive secular professional development plan for the teacher, then *Title II, Part A* funds may be expended to pay for the portion of the costs of the conference that, as determined by the LEA, represent the secular professional development in which the teacher participated. In this case, the LEA would pay or reimburse the teacher for attendance at the conference.

G-13. May funds be used to pay stipends to private school teachers participating in a Title II, Part A professional development program?

Yes. *Title II, Part A* funds may be used to pay for stipends for private school teachers, as reasonable and necessary. For example, if the professional development activity is conducted during after-school hours or in the summer, stipends may be needed to compensate teachers for their participation outside their regular employment hours. Stipends for private school teachers must be available on the same basis as those for public school teachers *and* the stipends must be paid directly to the private school teachers for their own use, and not to the private school.

7. Other NCLB Programs:

NCLB Program	Description	Private School Funding Distribution	Grant Dollars
Title II Part D	Enhancing Education Through Technology (Formula Funds Only). Provides funds for innovative uses of technology. 50% is awarded through formula grants and 50% through a competitive RFP system to high need districts.	NYSED recommended that NYC Private Schools receive 20% of Title II Part D funds.	14,748,579
Title III, Part A	Language Instruction for Limited English Proficient and Immigrant Students	For a significant number of Yeshiva students, English is not their first language. These students are benefiting from this.	34,158,927
Title IV, Part A	Title IV, Part A – Safe and Drug Free Schools and Communities.	Distributed as a formula grant. NYSED recommended that NYC private Schools receive 8.5% of Title IV Part A funds.	13,932,834
Title IV, Part B	21 st Century Community Learning Centers. Funds are used for after school youth development programs. Targeted to schools serving low income children.	Distributed through a competitive RFP system. Currently, \$90 million is distributed annually to grantees.	competitive RFP
Title V, Part A	Title V, Part A - Innovative Programs. 85% of funds are distributed in by a formula grant.	NYSED recommended that NYC private schools receive 20% of Title V Part A funds.	5,582,779
Total			68,423,119

The following NCLB programs and the funding amounts documented above should also be looked at to determine if they are being equitably distributed to New York City Yeshivas.¹⁹

- **Title II Part D. Enhancing Education through technology**
- **Title III Part A. English Language Acquisition, Language Enhancement and Academic Achievement for students with Limited English Proficiency,**
- **Title IV Part A. Safe and Drug Free Schools**
- **Title V Part A. Innovative Programs**

Section E:

Requests/Recommendations:

We are requesting that the Deputy Mayor for Education work with the Sephardic Community Federation and the United Jewish Organizations of Williamsburg to restructure the NYC-DOE's NCLB program so that the more than 30,000 NCLB eligible students in New York City Yeshivas receive the programs and services they are entitled to by law working off the framework contained in this report. Specifically, the NYC-DOE should follow the precedent of other large cities and contract out the provision of NCLB services to qualified third party vendors. These vendors will be able to offer scheduling flexibility and cultural competence and sensitivity that Yeshivas need. Finally, the Deputy Mayor for Education should direct the NYC-DOE to provide the information requested in this report in an expeditious manner.

Endnotes

¹ New York State Education Department 2005-06 NCLB allocations
www.emsc.nysed.gov/funding/cladcep/0506/nonpuballocs0506.htm

² Preliminary FY 2005-02006 Title One Data by County. New York City Department of Education

³ Preliminary FY 2005-02006 Title One Data by County. New York City Department of Education and
www.emsc.nysed.gov/titlei/childcount0607.htm

⁴ New York City Department of Education Preliminary FY 2005-2006 Title One Data by County Distribution by Public and Non-Public Schools

⁵ New York State Education Department Child Nutrition Management System January 2007 Comparison of Free/Reduced Lunch Eligibles to Enrollment

⁶ US Dept. of Education Title 1 Services to Eligible Private School Children Oct. 2003. page. 18

⁷ US Dept. of Education Title 1 Services to Eligible Private School Children Oct. 2003. page. 16

⁸ US Dept. of Education Title 1 Services to Eligible Private School Children Oct. 2003. page. 24

⁹ US Dept. of Education Title 1 Services to Eligible Private School Children Oct. 2003. page. 24

¹⁰ May 2004 Milwaukee Non-public School Title I Service Provider Selections/Assignments. Milwaukee Public Schools.

¹¹ Milwaukee Public Schools Evaluation of 2003-2004 School Year Title One A services to Eligible City of Milwaukee Resident Students Attending Non-public schools

¹² US Dept. of Education Title 1 Services to Eligible Private School Children Oct. 2003. Page 23.

¹³ New York State Education Department

¹⁴ New York State Education Department NCLB Private school Enrollment for 2005-2006 School Year and New York City Department of Education Preliminary FY 2005-2006 Title One Data by County Distribution by Public and Non-Public Schools

¹⁵ US Department of Education. *Improving Teacher Quality State Grants ESEA Title II Part A* October 5, 2006. Language excerpted directly from this publication.

¹⁶ US Department of Education. *Improving Teacher Quality State Grants ESEA Title II Part A* October 5, 2006. Language excerpted directly from this publication. Page 47.

¹⁷ US Department of Education *Improving Teacher Quality State Grants ESEA Title II Part A* October 5, 2006. Language excerpted directly from this publication. Page 53.

¹⁸ US Department of Education. *Improving Teacher Quality State Grants ESEA Title II Part A* October 5, 2006. Language excerpted directly from this publication. Page 50.

¹⁹ **New York State Education Department website:** “In order to assist school districts in meeting the equal expenditure requirement, the Department calculates sub-allocations for Title II, Part A; Title II, Part D; Title IV, Part A; and Title V, Part A for nonpublic schools. These figures are for advisory purposes only, and they are nonbinding. All nonpublic schools and special act school districts known to the Department's Basic Education Data System (BEDS) are included. However, there are a number of nonpublic schools that are not known to the Department, and their exclusion from our list of nonpublic school suballocations does not relieve school districts of their responsibilities to consult with those schools and to meet the equal expenditure requirement”.

Reference Source Materials

1. No Child Left Behind Act of 2001. SEC. 1120. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

(c) A LOCATION FOR EQUITABLE SERVICE TO PRIVATE SCHOOL STUDENTS-

(1) CALCULATION- A local educational agency shall have the final authority, consistent with this section, to calculate the number of children, ages 5 through 17, who are from low-income families and attend private schools by —

(A) using the same measure of low income used to count public school children;

(B) using the results of a survey that, to the extent possible, protects the identity of families of private school students, and allowing such survey results to be extrapolated if complete actual data are unavailable;

(C) applying the low-income percentage of each participating public school attendance area, determined pursuant to this section, to the number of private school children who reside in that school attendance area; or

(D) using an equated measure of low income correlated with the measure of low income used to count public school children.

2. US Dept. of Education *Title 1 Services to Eligible Private School Children* Oct. 2003.

B-23. Are private school children from low-income families automatically eligible for Title I services? No. 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. Source: US Dept. of Education Title I Services to Eligible Private School Children Oct. 2003.

B-24. How are the criteria determined? In consultation with private school officials, an LEA must establish multiple, educationally related, objective criteria to determine which private school children are eligible for Title I services, and, within the eligible group, which children will be served. To the extent appropriate, the LEA must select private school children who are failing, or most at risk of failing, to meet high student academic achievement standards. Source: US Dept. of Education Title I Services to Eligible Private School Children Oct. 2003.

B-25. What are some of the educationally related criteria that an LEA may use to identify the at-risk private school children for Title I services?

The criteria may include - -

- Achievement tests;
- Teacher referrals and recommendations based on objective, educationally related criteria; and
- Grades

B-51. Who provides the Title I services to private school participants?

Section 1120(d)(2) of the statute requires that Title I services be provided by either an employee of a public agency (LEA) or through a contract by the public agency (LEA) with an individual, association, agency, or organization. These employees, individuals, associations, agencies, or organizations must be independent of the private school and any religious organization in the provision of those services and such employment or contract must be under the control and supervision of the public agency (LEA). Source: US Dept. of Education Title I Services to Eligible Private School Children Oct. 2003.

B-53. After consultation with the appropriate private school officials, may an LEA employ a third-party contractor to provide Title I services to private school participants?

Yes. An LEA may provide Title I services directly or indirectly through contracts with public and private agencies, organizations, and institutions so long as those entities are independent of the private school and of any religious organization in the provision of those services. The services may be provided in a private school under the same conditions, and subject to the same limitations, as if the LEA provided the services. Source: US Dept. of Education Title I Services to Eligible Private School Children Oct. 2003.

B-63. Who is responsible for providing transportation for private school children from the private school to another site to be served by the Title I program?

If private school children eligible to receive equitable Title I services need to be transported from their private school to another site, the LEA, as the provider of equitable services, has the responsibility of providing that transportation. It is not the responsibility of the private school officials or the participants' parents to provide the necessary transportation. The cost of such transportation is an administrative cost and should not be charged to the instructional funds allocated for private school children.

C-2. How does an LEA provide equitable services for parents of private school students participating in the Title I program?

An LEA must provide equitable services to parents of private school participants from the funds set aside for this purpose. Activities for the parents of private school participants must be planned and implemented after meaningful consultation with private school officials and parents. Activities that LEAs can provide parents that will assist private school students in achieving high academic standards include a written agreement between the LEA and parents of private school participants regarding the responsibilities of the LEA and parents in the Title I program, parent meetings, communication between the Title I teachers and parents on students' academic progress, parent-teacher conferences, and parent education.

EXAMPLES OF PARENT INVOLVEMENT ACTIVITIES:

One LEA encourages and enhances parental involvement through hands-on workshops and individual meetings to provide parents with strategies and techniques for improving their children's learning. For example, a joint compact between the Title I teachers and the parents of participating students outlines their shared responsibilities for improved student achievement under Title I using books and tapes in a read-aloud program. In addition, parents use a variety of teacher-made and commercially prepared activity kits, resource books, and guides to enhance their involvement in their children's education. Progress reports are distributed to parents twice a year, and a parent representative from each private school community is invited to the District-wide Private School Steering Committee to share ideas and recommendations regarding services to be implemented for private school participants, their teachers, and their families.

During the consultation process, the LEA, private school officials and parents discuss a number of options for parental involvement in the Title I program, including parent meetings, parent compacts, parent-teacher conferences, parent training activities, and reasonable access to Title I staff. After considering the needs of the private school parents and the views of the private school officials and parents, the LEA conducts an annual meeting with parents, initiates written compacts between the LEA and parents outlining their shared responsibilities in the Title I program and provides workshops for parents on how to work at home with their children in reading and math. The LEA also provides parents of each private school participant an individual student report on the performance of that participant on the State assessment or on an appropriate alternative assessment and informs parents about how their children are achieving in the Title I program through monthly reports to parents.

D-5. May Title I funds be used to pay stipends to private school teachers of Title I participants who participate in a Title I professional development program?

Yes. Title I funds may be used to pay for stipends for private school teachers, if reasonable and necessary. For example, if the professional development activity is conducted during after-school hours or in the summer, stipends may be needed to compensate teachers for their participation outside their regular employment hours. Stipends for private school teachers must be available on the same basis as those for public school teachers *and* the stipends must be paid directly to the private school teachers for their own use and not to the private school.

Examples of LEA-Third Party Vendor Agreements

1. Miami Dade County

Non-Public Schools

Program Description

The *No Child Left Behind Act of 2001* (NCLB) allows for the Local Educational Agency (LEA) to provide supplementary instructional services, to Title I eligible students that attend non-public schools, directly or through contracts with public and private agencies, organizations, and institutions. The United States Supreme Court has confirmed that local school districts are required to provide Title I funded instructional services to eligible students who attend religiously-affiliated non-public schools.

As a result of conferences between representatives of Miami-Dade County Public Schools (M-DCPS), Title I Administration, and representatives of participating non-public schools, it was mutually agreed that Title I instructional services should be provided by a Third-Party Contractor(s) who will provide all equipment, materials and supplies, as well as professional development and parental involvement activities necessary in order to deliver remedial basic skills instruction to students failing or at-risk of failing, as required under Title I regulations.

Requirements for Implementation

Eligibility for Title I funding is based upon the number of students from low-income families who attend non-public schools. The District utilizes the "*Proportionality*" method for collecting poverty data on private school children. M-DCPS applies the low-income percentage of each participating public school attendance area to the number of private school children who reside in that attendance area.

The services to non-public schools must supplement the regular school program by providing for intensive tutorial services to students residing in the attendance boundary of a public school implementing the Title I program and who are academically needy. The intensive tutorial services focus on reading, writing and mathematics using direct instruction, supplemental materials, and technology-based programs.

Locations

Selected private school sites

Budgetary Implications

The Title I Non-Public Schools' Component is funded through the District Title I budget.