Frequently, school administrators ask ACSI staff whether Christian schools should participate in various federal government programs. Would such participation interfere with a school’s rights to follow its Christian mission?

As ACSI director of Legal/Legislative Issues, I discussed these concerns with Maureen Dowling, director of the Office of Non-Public Education (ONPE), a part of the U.S. Department of Education (DOE) in Washington DC. ONPE is the DOE’s liaison to the nonpublic school community, including faith-based, independent, and nonsectarian private schools and homeschools. ONPE gives the nonpublic school community a vehicle to communicate its interests, activities, needs, and requests to the DOE and advocates within the DOE for students, teachers, and families in nonpublic schools.

Maureen, thank you for being willing to discuss some of the issues regarding Christian schools and federal programs.

Thank you for contacting ONPE regarding U.S. DOE of Education programs available to students and teachers in private schools, including faith-based private schools such as those represented by ACSI. It is important to note that the DOE generally has no authority over private schools, and any regulation of such schools usually is done at the state and local levels. If a private school is a recipient of federal financial assistance from the DOE, however, that private school must comply with applicable requirements, including civil rights laws.... Although most private schools do not receive federal grant awards, ACSI school administrators nonetheless may be interested in a number of federal education programs and initiatives available to private school students, their teachers, and (in some cases) their families through local public school districts, which are the recipients of federal financial assistance.
There are a number of programs that may be of interest to ACSI administrators, two of which I would like to highlight. They are Title I, Part A—Improving Basic Programs Operated by Local Educational Agencies (LEAs) and Title II, Part A—Teacher and Principal Training and Recruiting Fund. Under both of these programs, LEAs (commonly referred to as local public school districts), are required to provide for the equitable participation of private school students and teachers. The Title I, Part A program provides supplemental instructional services to eligible private school students who are failing or most at risk of failing to meet high academic standards and provides professional development and parental involvement activities for these students’ teachers and parents, respectively. Under Title II, Part A private school teachers, principals, and other educational personnel may receive professional development in a number of areas, including improving and enhancing knowledge in the core academic subjects, effective instructional strategies, integrating technology, use of student data and assessments, leadership, and teaching students with different needs. Such professional development may take the form of a graduate course, a program offered by the LEA or a third-party provider, an online course, or some other professional-development option. Services and benefits provided to eligible private school students and teachers should be comparable to those provided to participating public school students and teachers.

Why should a private Christian school seek to access the No Child Left Behind Act (NCLB) programs?

There are a few reasons why Christian school administrators might consider having their teachers and students participate in programs authorized under the Elementary and Secondary Education Act of 1965 (ESEA), as reauthorized by NCLB.... Since [1965], hundreds of thousands of private school students and teachers have received a variety of benefits and services from such programs. The guiding principle behind the equitable-services provisions is based on the “child benefit” theory: services under the relevant programs are provided to benefit eligible children (as opposed to schools) who are entitled to the program services.

At a time when U.S. Secretary of Education Arne Duncan is challenging states, local educational agencies (LEAs), and schools to “do more with less,” it is beneficial for school administrators, including those who lead Christian schools, to be aware of the federal educational resources that are available to eligible students and their teachers. These federal education programs and services are provided at no financial cost to private schools.... The services provided are designed to meet the academic needs of the students and the professional-development needs of the teachers served. Thus, while these federal education programs and services cannot supplant what the private school would otherwise make available to its students and teachers, the services can supplement and enhance what the students and teachers generally receive.

What programs in ESEA would best benefit our students and teachers?

Under the ESEA, there are 12 major programs through which students enrolled in nonprofit, private elementary and secondary schools (including faith-based schools), their teachers, and (in some cases) their parents are eligible to receive equitable services. It is important to note, however, that not all of the programs are currently funded.

What first steps would you recommend that a private Christian school take to get involved in ESEA programs?

Since LEAs are responsible for implementing federal education programs for private school students and teachers, they are obligated to initiate timely and meaningful consultation about these programs with private school officials. However, private school officials may also contact the LEA directly (generally the public school district in which the private school is located) and ask to speak to the federal program director responsible for implementing equitable services for private school students and teachers in ESEA programs.
Private school officials who are familiar with federal education programs and initiatives can make informed choices about whether to participate in such programs. The ONPE website includes a number of resources, including [answers to] frequently asked questions (FAQs) that provide general information about federal education programs and initiatives for nonpublic schools. In addition, private school officials may want to read the DOE’s publication—The No Child Left Behind Act of 2001: Benefits to Private School Students and Teachers—that describes the ESEA programs available to private school students and teachers as well as the obligations of LEAs in implementing these programs.

What if my district never notifies me about consultation?

LEAs are required to consult with private school officials in a timely and meaningful way about the federal education programs available to their students and teachers. Further, this consultation is to take place before the LEA makes any decisions that will impact the participation of private school students and teachers in such programs. On an annual basis, LEAs should contact private school officials and inquire about their interest in program participation. However, if the LEA has not notified the private school, the private school administrator may contact the public school district where the private school is located and ask to speak with the federal program director responsible for administering the ESEA program(s) to discuss the participation of the students and teachers in that school.

Is it possible to have ESEA funds go to professional development provided by a Christian organization such as ACSI?

In the provision of ESEA equitable services, including Title II, Part A professional development for private school teachers, services must be secular, neutral, and nonideological, and the provider of the service must be independent of the private school and of any religious organization. That being said, the DOE has published Title II, Part A guidance regarding the equitable participation of private school teachers and has included the following question and answer that relates to your inquiry:

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. (U.S. Department of Education 2006, 51)


The big question from private schools regarding government programs is, What strings are attached?

When a private school’s students or teachers participate in these ESEA programs, the private school itself does not receive ESEA funds and thus is not considered to be a recipient of federal financial assistance. As a result, certain requirements that apply to such recipients do not apply to private schools by virtue of their students or teachers receiving equitable services. LEAs administer programs on behalf of the private school participants and remain in control of the funds. As such, LEAs are considered recipients of federal financial assistance and must meet the applicable statutory and regulatory requirements. This includes ensuring that federal education programs are implemented in a nondiscriminatory manner. Further, LEAs have final decision-making authority related to the implementation of these programs for private school
students and teachers as well as to the expenditure of funds. While the private school official will need to make herself or himself available to consult with the LEA during the design and development of the program and will most likely need to provide some information to the LEA regarding participation, the responsibility for implementing ESEA programs for private school students and teachers lies with the LEA.

Tom: What if the school district says to our private Christian school, “You are a religious organization; therefore you cannot be involved in ESEA programs because of the separation of church and state”?

Maureen: Unless otherwise prohibited by state law, LEAs are obligated by law to ensure the equitable participation of students and teachers in private schools, including those in faith-based schools, in ESEA and other federal education programs. Thus, such a comment by a local federal education program director would be inaccurate. Private school officials may direct the public school official to the ONPE website, which contains a number of documents, resources, and guidance that explain the LEA’s obligations in providing for the equitable participation of private school students and teachers in federal education programs. If the response from the LEA is not satisfactory, private school officials may also contact their state department of education and ask to speak to the federal program director responsible for administering the ESEA program(s) in which the administrator would like his or her students and teachers to participate. Private school officials also have the right to file a formal complaint with the state if they are concerned that equitable participation is not occurring as intended by law.

Tom: Does participation in ESEA remove a school’s rights to hire according to its religious mission or to accept only students of faith?

Maureen: A private school whose students and teachers participate in ESEA and other federal education programs is not required to alter its religious mission, nor is it required to change its faith-based admissions policies. Federal law does not prohibit private religious schools from discriminating on the basis of religion in the admission of students. Furthermore, a private school’s admission policy of accepting only students of faith would not preclude its students from receiving benefits and services under federal education programs. LEAs must ensure that there is no discriminatory conduct that would deny or limit the ability of a private school’s students or teachers to access or participate in the federal program in a manner that would violate the federal civil rights laws enforced by the DOE. The DOE does not enforce any civil rights laws that prohibit discrimination based on religion.

Tom: What else would it be beneficial for our readers to know about ONPE and ESEA programs?

Maureen: Although the focus of this interview has been ESEA programs and equitable services to private school students and teachers, it is worth noting that there are a number of other federal education programs and DOE initiatives that are available to students and teachers in private schools, including faith-based private schools.

For example, under the Individuals with Disabilities Education Act (IDEA), state educational agencies (SEAs) and LEAs must ensure the equitable participation of children with disabilities enrolled by their parents in private schools in programs assisted by or carried out under the equitable services provisions of that statute. For additional information about IDEA and the equitable participation of parentally placed private school children with disabilities, visit the ONPE website.

Also, the Blue Ribbon Schools Program offers schools, including private schools, the opportunity to be officially recognized by the DOE as a school that has made significant progress in closing the achievement gap or whose students perform in the top 10 percent of the nation’s schools in both reading and math.

For the first time this year, private school teachers are also eligible to participate in the Teaching
I recently spoke with a school administrator who really wanted her school board to understand that it was OK to be involved in federal programs. She called me, and I directed her to Maureen Dowling. Here is the response from that administrator:

Two years of [our school] rejecting IDEA and Title II, Part A funds was quite discouraging for me, because I was being told by other Christian school administrators, our local education agency (LEA), and ACSI that we were entitled to these funds. Our school board, however, had been responsibly reluctant to accept these funds due to a 17-year commitment to never accept “federal funds.” Each time I inquired of the experts, I was told that accepting IDEA and Title II, A funds is not equal to accepting federal funds, but I was not able to confidently present to my board that we were not an exception to the rule.

It was imperative that I find a way to concretely inform my board why federal funds that were being given to our LEA and then distributed to us did not equate to us being recipients of federal funds. On the evening of April 10, I was provided with contact information for Maureen Dowling…. The following morning, Maureen optimistically replied to my e-mail and promptly began her own investigation.

Within a couple of weeks, Maureen had set me up with a phone conference that included two other individuals from her department and two attorneys from the Office of Civil Rights who knew our particular situation. On May 10, due to Maureen’s expedient professionalism and well-informed approach, my board was able to confidently accept my informed request to begin accepting these annual funds. It is true—we are not considered direct recipients of federal funds when those funds are dispersed through our LEA!

Schools can find more information on federal programs, including additional letters from Maureen Dowling that will help in their quest to use these programs, at the ACSI website under Government Programs & Funding at www.acsi.org/kwllrefarticles.

Reference