



**Office of Education Improvement
& Innovation**

**District Guidelines for
SES Implementation**
August 2010 Revision

1. Contracting with Approved Providers

Providers are responsible for contracting with each district selected in the application that is required to provide Supplemental Educational Services (SES). Districts should be able to begin contracting with every SES Provider identified on their district list immediately after the Provider receives State approval.

2. Parental Notification

The **Local Education Agency** (LEA) is required by legislation to annually notify parents of the **opportunity for SES** and the option of School Choice/Transfer. The Michigan Department of Education (MDE) imposes an additional requirement that parental notification must take place multiple times, using multiple methods, in the languages represented in the LEA. **The LEA is defined as local boards of education, including public school districts and public school academies, intermediate school districts, and regional educational service agencies.**

Review of Parental Notification letters - LEAs are required to annually submit template parental notification letters for MDE review. This review typically takes place in June through early August. The MDE sends reminders of the parental notification requirement and review process for the template letters each summer. Questions regarding the submission and approval of the SES and School Choice/Transfer parental notification letters should be directed to MDE-SSOS@michigan.gov.

Amount of Service - The LEA should consider not printing the hourly rate for Providers and, instead, provide parents with the estimated hours of service they can expect from each Provider. The estimated maximum number of hours of service can be determined by dividing the LEA's per student allocation by the Provider's hourly rate.

Additional Methods of Notification - The LEA should consider the student population being served, and the community, in order to ascertain additional methods of parental notification. These methods might include: radio announcements, public access television, posters within the buildings, Provider fairs, parent-teacher conferences, parent meetings, referrals through the Child Study Team, including the information in enrollment packets, etc.

Return of Enrollment Materials - Parents should have a minimum of thirty days to return enrollment materials related to School Choice or SES or the ongoing opportunity to enroll students in SES.

3. Parent Selection of Providers

Promotion of Providers – The LEA is responsible for ensuring that the SES selection process is parent-driven and does not utilize bias or coercion in order to promote specific Providers. Teachers and administrators may provide information to parents, but the information should be inclusive of all Providers. A teacher can not exclusively recommend or promote a single Provider – especially one for which they

are employed. Teachers, who are dually employed by an LEA and a Provider and receive questions from a parent or student, must direct parent questions to the SES building coordinator, another teacher, or an administrator in order to avoid the perception of a conflict of interest.

Completion of Applications – Building representatives should not complete any portion of a parent application for SES, especially the Provider selection component. Incomplete applications should be forwarded to the LEA SES coordinator who is responsible for contacting individual parents to ensure the selection process is parent-driven.

Provider Fairs – A Provider fair is one method that may be utilized for parental notification and selection of SES. If the LEA conducts a Provider fair, the LEA must ensure that:

- All Providers are given equitable opportunity to attend the fair; and
- The fair is in a location and time that is convenient for parents.

In addition, it is the LEA's responsibility to regulate fairs so that parents have time to gather information about all Providers. LEAs should restrict behaviors that are unethical or inappropriate such as:

- Distribution of "sign-on incentives" to parents and/or students;
- **Advertisement of incentives by word-of-mouth or in written materials; and**
- Providers who greet parents at the door and obtain a selection before a parent has had time to view and understand all of the available options.

Parent Questionnaire – An LEA may also want to provide parents with a list of questions to ask Providers (Appendix A).

Selection Options – An LEA should include space on the SES application for parents to select at least a first, second and third choice of Providers. If the parent is only allowed to select one Provider, and that Provider's minimum is not met or they default on their contract, contacting parents for an alternative choice can greatly stall the selection process.

Parent Outreach Strategies –

- Leave information about each Provider at eligible schools for parents to review when they visit the school. Many Providers have brochures and promotional materials that can be left at school sites for parents to read.
- Provide information about Providers to parents in school newsletters.
- Ask Providers to give the LEA stamped envelopes containing information about the program to be mailed by the LEA to parents of eligible students. Before doing so, the LEA could let the Provider know *how many* students are eligible, but not the names.
- Include a parental consent line on the SES application form, so that parents can provide consent to share information with Providers at the same time that they express their interest in receiving services

4. LEA Enrollment Policy and Procedures

LEAs should have clearly stated policies and procedures for SES enrollment. The MDE recommends that the LEA's enrollment policies indicate the parameters for enrollment, including, but not limited to: appropriate venues for recruiting/enrollment (e.g. Provider fairs, school open houses, other school events); and appropriate starting dates for Providers to recruit/enroll students (e.g., beginning of school, after the first open house or Provider fair, other district-defined date).

IMPORTANT: Changes to the Title I regulations (October, 2008) now require LEAs to offer two separate and distinct enrollment periods for SES. The regulations do not stipulate when the enrollment periods are. The MDE suggests that LEAs continue with the traditional "back to school" (September/October) enrollment period as the first window, and offer the second enrollment window in January or February. LEAs are also encouraged to offer a rolling enrollment process for SES. However, doing so requires a great deal of forethought and planning to ensure this is logistically possible.

It is critically important that LEAs disseminate clear guidelines on SES Provider access to school buildings for the purposes of recruitment and enrollment. SES Provider access to individual buildings during the school day must be limited to Provider fairs or other LEA-sponsored/approved events specifically aimed at parent outreach and subsequent enrollment in services. At no time should any Provider be in the school building without the knowledge or consent of the building administrator.

LEAs must use caution not to create or promote any situation which may be construed as fostering an inappropriate relationship with or granting an exclusive privilege to any SES Provider.

5. Community Partnerships

The MDE recommends that each LEA develop community partnerships that will support outreach efforts for SES. Faith-based organizations, community organizations, businesses and assistance centers can distribute SES information to eligible students. **In addition, an LEA may elect to hold a Provider fair or disseminate information related to SES enrollment at a local organization such as a YMCA or local shopping center.**

6. Building Access and Selecting Providers to Serve in a School Building

LEAs should encourage Providers to serve students within the school buildings required to provide SES. Title I regulations (October 2008) require LEAs to offer building access to SES Providers on the same basis as any other outside entity that uses school facilities outside the normal school day.

In the event the LEA does not have enough space to accommodate all Providers, selection of the Providers who will serve in a school building should occur prior to parent enrollment. Selection of Providers must be without bias and may not give preference to certain Providers including an LEA's own program or a Provider that

has maintained a long-standing relationship with the LEA. (See number seven for information related to building use fees.)

One such method for determining a Provider who will serve in the building is a random selection drawing or "lottery". **The random selection drawing process should ensure equitable access to all Providers who are interested in serving in school buildings.**

7. Building Use Fees

Building use fees may be imposed on Providers who have access to buildings to provide SES. These fees should be similar to those imposed on other for-profit **or non-profit** agencies/entities that are allowed access to LEA facilities. The LEA should have a building use policy citing charges and apply it consistently to SES Providers and other entities.

The LEA may impose building use fees that cover costs generated by an SES program, but may not impose costs that produce significant financial gain to the LEA.

In addition, it is not appropriate for an LEA to supplant costs originally incurred by the LEA to Providers. For example, if a building is already utilizing security for other evening programs, it would not be appropriate to attribute the entire cost to an SES Provider. It may be appropriate, however, to attribute a fraction of the cost to a Provider.

8. Dual Employment of Instructional Staff

Non-regulatory Federal guidance (Section C-12) clearly states that "... individual or groups of teachers who work in a school or an LEA...may be hired by any State-approved Provider to serve as a tutor in its program."

Per the SES Code of Ethics (Appendix C), school personnel may be hired for instructional purposes only. District personnel hired for instructional purposes shall not recruit students to a Provider's program, engage in marketing activities on behalf of a Provider, distribute or collect enrollment forms, or otherwise promote or encourage students to enroll in a Provider's program. SES Providers shall not employ any district employees who currently serve in the capacity of Principal, Assistant Principal, Building SES Coordinator, or District SES Coordinator, nor may they employ any individuals, including teachers, parents or community leaders, who have any decision-making authority over a school district or school site. The sole exception shall be in school districts that are considered rural and where there are few Providers. In such cases, the LEA employee must avoid conflicts of interest.

In addition, the LEA is responsible for ensuring that the SES selection process is parent-driven and does not utilize bias or coercion in order to promote specific Providers. Teachers and administrators may provide information to parents, but the information should be inclusive of all

Providers. A teacher must not exclusively recommend or promote a single Provider – especially one for which they are employed. Teachers, who are dually employed by an LEA and a Provider and receive questions from a parent or student, should direct parent questions to the SES building coordinator, another teacher or an administrator in order to avoid the perception of a conflict of interest.

9. Student Attendance Sheet Verification

LEAs may require that a parent sign attendance sheets in order to verify student attendance. LEAs should consider, however, allowing students to sign attendance sheets, on-site monitoring or another attendance verification method in order to prevent undue burden to a Provider.

LEAs may require attendance sheets that are submitted without parent signatures to include additional assurances such as notarization, identification of multiple methods used in an attempt to obtain the signatures, signed affidavit of authenticity, etc. An LEA should also consider spot-checking attendance sheets with parents or, if possible, school building representatives for authenticity.

10. Gender-Specific Tutoring Programs

LEAs who choose to enter into an agreement with a Provider offering a gender-specific program incur all responsibilities required by a Federally-funded gender-specific program. Before entering into such an agreement, the MDE strongly recommends the LEA carefully consider the guidance contained in The Federal Register (*34 CFR Part 106: Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance; Final Rule*) which can be found at <http://www.ed.gov/policy/rights/reg/ocr/edlite-34cfr106.html>.

11. Definition of Eligible Students

Eligible students are identified by two criteria: (1) students must be attending a Title I school that is in its third year (Phase 2) of improvement or greater and (2) students must be eligible for free or reduced lunch. LEAs should carefully consider the methods they use to determine which students are eligible in order that the numbers reported to the LEA are as accurate as possible.

Note: To reiterate, students attending the Title I school in Adequate Yearly Progress (AYP) Phase 2 or higher qualify for SES if they are eligible for free or reduced lunch; whether or not the student actually receives free or reduced lunch does not affect his or her qualification to receive SES.

Eligibility for SES is not determined by academic achievement. SES must be offered to all students that meet the two criteria above (attending a Title I school in AYP Phase 2 or higher and in low income status) regardless of achievement level. LEAs may not add an additional criterion of low academic achievement.

The only instance where academic achievement affects SES enrollment is when more eligible students have applied for SES than can be served with the 20% set-aside (demand exceeds funding). **This determination may not be made until all eligible students have been offered the opportunity to enroll in services.** In such an instance, the LEA then must prioritize by greatest academic need. Students who demonstrate the greatest academic need must be provided services first.

12. Ethics and Assurances

Beginning with academic year 2007-08, all approved SES Providers in the State of Michigan are subject to a Code of Ethics (Appendix C) and a set of Assurances (Appendix B). These materials are intended to serve in the best interest of students and relieve some of the administrative burden of SES for LEAs. It is essential that LEAs read and understand both documents. Providers who are found through the formal complaint process, monitoring or evaluation process, to be in violation of the ethics or assurances may incur consequences up to and including removal from the approved list.

13. Contract Disputes between Providers and LEAs

The MDE maintains the responsibility for ensuring that the LEA does not include onerous clauses in contracts with Providers. If the MDE reviews a contract and determines that it is legitimate and appropriate, and a Provider refuses to sign the contract or does not follow the requirements of the contract, the LEA can submit a request to MDE to not allow that Provider to service the LEA that academic year. If the Provider has already signed a contract and is not following it, the LEA should make a written request to MDE that the Provider is suspended from providing services within the LEA for one (1) academic year.

When the LEA enters into a contract dispute with a Provider, and would like to exercise the option to not allow a Provider to service the LEA or suspend a Provider, the LEA must:

- Provide the MDE written notification of the intent to not allow a Provider to service an LEA or suspend a Provider;
- Afford the MDE the opportunity to review the contract;
- Identify, for the MDE, the specific contract violation and all attempts made to rectify the situation.

The MDE will then review the contract to ensure that the contract under consideration is reasonable and issue a determination to the LEA. The MDE's decisions are final.

14. Complaint Resolution

Complaints received by the LEA should first be investigated and resolved at the LEA level. The LEA should have a process for investigating and tracking complaints related to SES. Complaints received by the MDE that involve LEA employees may be referred to the LEA for preliminary investigation.

If a parent or Provider files a formal complaint with the MDE alleging a violation of LEA guidelines, non-regulatory guidance or Federal legislation by an LEA employee or Provider, and it has not been investigated at the LEA level, the MDE will forward a request for inquiry to the LEA.

The request for inquiry will include a copy of the formal complaint as submitted to the MDE and a request for the LEA to investigate the allegations and submit a status update to the MDE within thirty (30) calendar days.

An LEA may also file a complaint against an approved Provider. The LEA should include all pertinent information in the written complaint, including a summary of any investigative or reconciliatory actions up to the date of the complaint. All decisions made by MDE are final. There is no appeal process.

15. SES Tutor Qualifications

Currently, the MDE has determined that SES tutors must have earned a minimum of a high school diploma. Providers are responsible for providing exemplary supervision and professional development to all tutors. The LEA may not require Providers to hire instructors that are “highly qualified” using the definition found in the *No Child Left Behind Act of 2001* (NCLB).

16. Preschool

Title I, Part A funding is intended to serve students in grades K-12. Since SES and School Choice funds are set-aside from Title I, Part A, preschool students are not eligible for SES.

17. Site Visits/Observations

Ideally, an LEA would conduct **at least one formal site visit annually** for each Provider with which they have an executed contract. While on-site, the LEA should monitor the following program components:

- Adherence to the SES contract: student/teacher ratio, instructional materials, staff qualifications, etc.
- Student attendance
- Adherence to individual student goals
- Environmental safety

The MDE should be immediately notified if a site visit produces evidence of a violation of the contract or applicable Federal, State and local health, safety, and civil rights laws. **Copies of any information related to each formal or informal site visits must be provided to the MDE.**

A sample site visit form can be found in Appendix D.

18. Specific Achievement Goals

The LEA is required "...to develop, in consultation with parents (and the Provider chosen by the parents), a statement of specific achievement goals for the student, how the student's progress will be measured, and a timetable for improving achievement..." LEA representatives should use student assessment data to provide a selection of individualized student learning goals for parents and Providers. The parent, LEA and Provider then should select a specific number of learning goals for each student, which can be **reasonably accomplished in the projected amount of** service hours.

While a Provider is responsible for collaborating with the district and parents, NCLB stipulates the LEA holds final responsibility for developing specific achievement goals. The LEA should not require the Provider to meet with parents or students prior to entering into an executed contract (**see number 19**).

In the event the parent cannot be contacted to participate in developing specific achievement goals, LEAs may not use the lack of a parent signature on that document as grounds to deny SES to any child whose parents have otherwise requested services nor may the LEA use this as grounds to deny payment to the SES Provider for services rendered. This policy is detailed in the MDE communication of December 15, 2008, which addresses the Federal Letter of Clarification Dated August 20, 2008.

Specific Achievement Goals for students who have special needs should consider the content of each student's Individualized Education Program (IEP). If there is not an approved Provider who can meet a specific student's learning needs as identified in the IEP, a district representative may be able to provide services.

19. Student Assessment

The LEA should not require the Provider to assess students prior to entering into an executed contract. After the contract has been executed, the LEA should expect each Provider to, at minimum, pre- and post-test students in order to demonstrate academic growth on the specific individual learning goals. All student assessments may be billed at the hourly rate per student agreed upon in the contract. The LEA is responsible for ensuring that each Provider places emphasis on instructional time, rather than an inordinate number of assessment hours.

20. 20% Set-Aside – Unspent Title I Funds

Per NCLB, LEAs are required to set-aside an amount up to 20% of their district Title I allocation to pay for School Choice/Transfer (Transportation Costs) and SES. The LEA is expected to use the full 20% set-aside for these purposes. However, circumstances may occur that prevent the full expenditure of these funds. In order to reallocate the unspent Title I funds that were set-aside, the LEA must be able to demonstrate that notification was provided to parents multiple times, using multiple methods and in the languages represented by the parent population.

The parental notifications should occur over a number of months and the LEA must offer at least two separate and distinct enrollment windows.

An LEA may request a reallocation of Title I funds from the 20% set-aside in writing to the Office of School Improvement. The request should include the following information:

- Documentation and evidence of the multiple attempts, methods and languages used to notify parents of their options
- Evidence of community partnerships that assisted with the notification process
- The total amount of the allocation that has been/will be spent for School Choice/Transfer (Transportation Costs)
- The total amount of the allocation that has been/will be spent for SES
- The total amount of the allocation that will be reallocated
- The total amount in reserve to accommodate eventualities, ex., a student is referred to SES through the Child Study Team in January
- The intended use(s) of the reallocated set-aside amount

Note: the reallocated amount should be used for a similar program; for example, small group tutoring by qualified LEA personnel. **The program may be conducted during the school day, and if the school is Title I Schoolwide, be offered to all students who fit specific academic eligibility criteria.**

In addition, every participating student is expected to receive SES until their individual allocation is exhausted. LEAs should not end SES services due to school calendar limitations.

21. SES Implementation Timeline

Ideally, SES will begin as early in the year as possible. A recommended calendar for SES implementation is as follows:

July	<ul style="list-style-type: none"> • Initiate contracts with Providers
August	<ul style="list-style-type: none"> • Continue contracting with Providers • Begin notifying parents and assigning students
September	<ul style="list-style-type: none"> • Continue contracting with Providers • Continue notifying parents and assigning students • Begin developing specific achievement goals and parent meetings
October	<ul style="list-style-type: none"> • Continue contracting with Providers • Continue notifying parents and assigning students • Continue developing specific achievement goals and parent meetings
November	<ul style="list-style-type: none"> • Continue notifying parents and assigning students • Continue developing specific achievement goals and parent meetings • Begin service delivery
December	<ul style="list-style-type: none"> • Continue developing specific achievement goals and parent meetings • Continue service delivery
January	<ul style="list-style-type: none"> • Continue service delivery • Provide student service data to MDE • Apply for 20% set-aside reallocation based on participation
February	<ul style="list-style-type: none"> • Continue service delivery • Continue to provide student service data to MDE
March	<ul style="list-style-type: none"> • Continue service delivery • Continue to provide student service data to MDE
April	<ul style="list-style-type: none"> • End service delivery for most students • Evaluate program delivery • Continue to provide student service data to MDE
May	<ul style="list-style-type: none"> • End service delivery for all students (unless extending SES through the summer) • Evaluate program delivery
June	<ul style="list-style-type: none"> • Your month of rest, unless your district is extending SES through the summer

22. Billing/Invoices

The MDE recommends that LEAs include prescriptive contract language detailing the timelines and procedures for the submission of attendance and invoice documents.

It is better to have frequent invoices rather than receiving a five or six figure bill at the cessation of several months of service. The MDE also recommends including language in the Provider contract that stipulates invoices may not be paid if Providers fail to follow the LEA billing/invoicing procedures.

Special thanks to the following contributors to the original and revised versions of Michigan's *District Guidelines for SES Implementation*:

*Battle Creek Public Schools
Benton Harbor Public Schools
Buena Vista School District
Detroit City School District
The Leona Group, LLC
Michigan SES Committee
Muskegon Public Schools*

Sources of additional SES information:

- *Supplemental Educational Services Non-Regulatory Guidance*
<http://www.ed.gov/policy/elsec/guid/suppsvcsguid.doc>
- *Michigan Department of Education SES Home Page*
<http://www.michigan.gov/mde-ses>

Insert your group, state, district, or school logo here.



CHOOSING AN SES PROVIDER

NOTE TO PARENTS: Use this form to help you choose tutoring services for your child. Ask Providers these questions, and write their answers on this form to help you compare your options. If you would like help choosing a Provider, contact your child’s school, your school district, or your local Parent Information Resource Center. To find the Center nearest you, go to www.pirc-info.net or call 866-544-8686. For more information on Supplemental Educational Services (SES), go to www.tutorsforkids.org.

Questions to Ask Providers	Provider Name: _____	Provider Name: _____	Provider Name: _____	Provider Name: _____
Where and when is tutoring?				
How many times per week? For how many weeks?				
Who tutors students? What are their qualifications?				
What subject areas are covered?				
How do I know that your services are effective?				
How would you inform me of my child’s progress?				

2010-11 SES ASSURANCES

Approved SES providers in the State of Michigan must certify they have read and understood each of the following statements, agree to be held accountable for the content of each, and understand that the Michigan Department of Education (MDE) may invoke disciplinary action at any time, up to and including removal from the approved list, based upon evidence they have violated any of these Assurances.

1. The applicant entity certifies that the instructional program described in the application is the instructional program that will be offered to students.
2. The applicant entity certifies that the instruction and content that will be offered is secular, neutral, and non-ideological.
3. The applicant entity is responsible for payment of all payroll taxes and other business expenses or fees.
4. The applicant entity will be available to provide services in a district as required by the district's enrollment procedures or contract.
5. The applicant entity will serve all qualified eligible children whose parent(s)/guardian(s) register for services from the applicant entity, on a fair and equitable basis and in accordance with the terms specified in the application.
6. The applicant entity will promptly notify the district, in writing, within three business days, if it does not meet its minimum or exceeds its maximum number of students.
7. The applicant entity will provide parent(s)/legal guardian(s) of children receiving services, and district personnel, information on students' academic progress in an understandable format and language on a regular basis consistent with this application.
8. The applicant entity will provide evidence to the district (before services are delivered) that individuals providing services to children have successfully completed fingerprinting and criminal background checks as required in the district contract.
9. The applicant entity will not disclose to the public the identity of any student eligible for or receiving SES without the written permission of the parent(s)/guardian(s). All public requests for student information should be directed to the district.

10. The applicant entity ensures that the entity is financially sound and agrees to notify the MDE and district, in writing within ten business days, if and when it is no longer financially sound.
11. The applicant entity agrees to follow all applicable Federal, state, and local health, safety, employment, and civil rights laws at all times. This includes, but is not limited to, provision of occupancy permits and fire marshal reports to districts, if requested.
12. The applicant entity will not discriminate on the basis of race, national origin, sex, or disability in accepting students and providing students with SES under Title I (in general, a provider may not, on the basis of disability, exclude a qualified student with disabilities or a student covered under Section 504 if a student can, with minor adjustments, be provided SES designed to meet the individual educational needs of the student).
13. The applicant entity will provide services consistent with the qualified student's individualized education program under the Individuals with Disabilities Education Act (IDEA) if the student is covered under IDEA or Section 504 of the Rehabilitation Act of 1973 if the entity proposes to serve such students.
14. The applicant entity will comply with the MDE Standards for Monitoring SES Providers. The applicant entity agrees to make all documents available to the MDE or district for inspection/monitoring purposes, and participate in site visits at the request of the MDE or the district.
15. The applicant entity agrees to notify MDE and applicable district(s), in writing, of any change in the contact information provided in this application within ten business days.
16. The applicant entity further ensures that it will provide written notification to MDE, when SES will no longer be provided, thirty days prior to termination of services.

2010-11 SES CODE OF ETHICS

Approved SES providers in the State of Michigan must certify they have read and understood each of the following statements, agree to be held accountable for the content of each, and understand that the Michigan Department of Education (MDE) may invoke disciplinary action at any time, up to and including removal from the approved list, based upon evidence they have violated any of section of the SES Code of Ethics.

1. Providers must accurately and completely describe services to consumers in terms that are easy to understand. Reading level for informational materials should be no higher than eighth grade.
2. Providers must create and use promotional materials and advertisements that are free from deception.
3. Providers must not misrepresent to anyone the location of a provider's program or the approval status of a program. If the location of services is dependent upon a minimum student enrollment or the approval of a district, the provider shall indicate the applicable contingencies in its marketing materials.
4. Providers must not publicly criticize or disparage other providers.
5. Providers must not engage in false advertising about other providers' programs.
6. Providers must comply with each district's enrollment procedures.
7. Providers must not distribute a district enrollment form that has the selected provider's name pre-printed as part of the form. The provider may not modify or alter the district enrollment form in any way.
8. Providers must not encourage or induce students or parents to switch providers, once enrolled, without approval by the district. Providers may not create or distribute enrollment change forms for this purpose.
9. Providers must maintain a system of addressing consumer grievances and concerns and must immediately report any grievances to both the district and MDE.
10. Providers must not charge districts more than the maximum hourly rate identified in the application, nor charge districts any additional fees.

11. Providers must not make payments or in-kind contributions to a district, exclusive of customary fees for facility utilization or transportation.
12. Providers must not compensate district employees in exchange for access to facilities, registration, to obtain student lists, or to encourage any district employee to violate district policies or procedure including conflict of interest.
13. Providers must not solicit or accept an exclusive arrangement with any district or school (including, but not limited to, an exclusive right to conduct in-school assemblies or other marketing activities).
14. Providers may not seek access to individual classrooms or interrupt instructional time during the school day for any reason.
15. Providers may not employ any SES-eligible or enrolled student.
16. Each parent of an eligible student who is hired by a provider must have a written job description and must be compensated on the same basis as all other employees of the provider who perform similar work. No parent may receive any commission or other benefit related to the enrollment of their child in a provider's program, nor may a parent be subject to any employment action by the provider on account of the parent's selection of an SES program for their child.
17. Any school personnel employed by an SES provider shall not recruit students to a provider's program, engage in marketing activities on behalf of a provider, or otherwise promote or encourage students to enroll in a specific provider's program. This restriction does not apply to school districts that are approved SES providers. Please see #20 below for specific guidance regarding marketing and recruiting in school districts that are approved SES providers.
18. Providers shall not employ any district employees who currently serve in the capacity of Principal, Assistant Principal, building SES Coordinator, or district SES Coordinator.
19. Providers shall not employ any individuals, including teachers, parents or community leaders, who have any decision-making authority over a school district or school site. The sole exception shall be in school districts that are considered rural and where there are few providers.
20. Where a school district or a school is also an approved provider of SES, district personnel assigned SES provider responsibilities shall avoid all conflicts of interest or favoritism, including the following:
 - a. Individuals employed by the district for this purpose shall not present marketing or recruitment information on any occasion unless all other

providers approved for the schools served are offered the same opportunity to present information or recruit students.

- b. The district shall ensure that the individual has no greater access to parents and students at provider fairs, school assemblies, and other, similar occasions than is afforded to all other providers. "Access" means the amount of speaking time available, the space used, and any other resources allocated to providers.
 - c. Individuals serving as an approved SES provider shall have duties that are entirely distinct from those of any other district employee who performs oversight with respect to the provision of SES. This prohibits the district SES provider from duties such as serving as the district's liaison to all SES providers within a school or schools, or assigning students to other providers.
21. Before or during the registration period, providers must not distribute any objects (such as gift cards, money, pencils, balloons, candy, Frisbees, tote bags, etc.) to parents or students. Informational program materials should be printed on paper.
 22. Before or during the registration period, providers must not verbally or nonverbally promise or reference any objects or rewards that will be provided upon registration, program completion or as student rewards during the provision of services.
 23. Informational program materials, including the 150-word program summary, must not verbally or non-verbally promise or reference any objects or rewards that will be provided upon registration, program completion or as student rewards during the provision of services.
 24. During the provision of SES, providers may not exceed a total of \$20.00 per student annually for rewards. These rewards may not be identified in any written informational material or identified verbally to parents until AFTER enrollment.
 25. Technology-based providers may not advertise computers as a reward for program completion. Students may keep computers at the cessation of tutoring services, but providers must fully disclose information about the computers as detailed in the MDE Policy of December 15, 2008. This information may not be included in any written informational material or identified verbally to parents until AFTER enrollment. Computers are not subject to the \$20.00 annual cap on rewards.
 26. Providers must not attempt to influence or bias parents when performing an evaluation of the provider's services and achievement of the student's individualized learning goals.

27. A provider shall not use information provided by parents of SES-enrolled students for any commercial purpose without securing the parent's prior written consent for the intended use of the specified information, except that a provider may use parental contact information to communicate about SES with the parents of students served by that specific provider in any prior year.
28. Providers must serve substantially all students registered and immediately communicate to the district any students who cannot be served or who drop out of the program.
29. Providers may not solicit confidential information on minor students without the written consent of parents and/or the school district. This includes, but is not limited to, collecting student or parent information such as addresses, phone numbers, or email addresses.



Office of Education
Improvement & Innovation

**Local Educational Agency Instrument for
Monitoring Supplemental Educational Services
Providers**



District Supplemental Educational Services (SES) On-site Monitoring Report

SES Provider:	
CEO/Owner:	
Mailing Address:	Telephone/Fax:
	E-Mail:
On-Site Provider Representative:	
Mailing Address:	Telephone/Fax:
	E-Mail:

Monitoring Status (*Check the appropriate box*):

Closed <input type="checkbox"/>	Closed with Suggestions <input type="checkbox"/>	Incomplete Pending Compliance with Approved Compliance Action Plan Agreement <input type="checkbox"/>	Open <input type="checkbox"/>
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Required Signatures:

Printed Name/Signature of On-Site Provider Representative:

Printed Name(s)/Signature(s) of Monitor(s):

Name:	Title/Position:	Date(s) of Monitoring:

SES Provider On-Site Monitoring Summary

Commendations:

Recommendations:

DISTRICT MONITORING INSTRUMENT FOR SUPPLEMENTAL EDUCATIONAL SERVICES PROVIDERS

Provider Requirements	Yes	No	N/A	Evidence
<p>1. The Provider obtained written permission of the parent or legal guardian of SES students before disclosing to the public or unauthorized personnel any confidential information about any students eligible for or receiving SES.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <i>Policy or guidelines</i> <input type="checkbox"/> <i>Letters of parental permission</i> <input type="checkbox"/> <i>Form shows permission</i> <input type="checkbox"/> <i>Other _____</i> <input type="checkbox"/> <i>N/A is checked – Provider did not disclose to the public or unauthorized personnel any confidential information about any students eligible for or receiving SES</i>
<p>2. The Provider regularly measures the students' progress.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <i>Copies of student progress reports</i> <input type="checkbox"/> <i>Copies pretests and post tests</i> <input type="checkbox"/> <i>Calendar/Timeline for release of progress reports</i> <input type="checkbox"/> <i>Other _____</i>
<p>3. The Provider regularly informs the students' parents and teachers of the students' progress in understandable language and format.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <i>Copies of student progress reports to parents</i> <input type="checkbox"/> <i>Copies of student progress reports to teachers</i> <input type="checkbox"/> <i>Documentation of frequency</i> <input type="checkbox"/> <i>Other _____</i>
<p>4. The Provider communicates with parents, using an understandable and uniform format, and to the extent practicable, expressed in a language parents can understand.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <i>Copies of letters, memoranda and/or other documents used in communicating with parents</i> <input type="checkbox"/> <i>Copies of student progress reports to parents</i> <input type="checkbox"/> <i>Copies of translated documents</i> <input type="checkbox"/> <i>Other _____</i>
<p>5. The Provider's instruction is aligned with the regular school program, as well as with Michigan academic content standards and learning expectations.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <i>Lesson plans with references to related Michigan academic content standards and learning expectations.</i> <input type="checkbox"/> <i>Communication with teachers and/or school staff regarding students' regular school program</i> <input type="checkbox"/> <i>Documents showing alignment with Michigan academic standards</i> <input type="checkbox"/> <i>Documents showing alignment of Provider's instruction to district's learning expectations</i> <input type="checkbox"/> <i>Other _____</i>

Provider Requirements	Yes	No	N/A	Evidence
<p>6. The Provider requires a criminal background check for individuals of the organization having contact with or being in close proximity to children related to the provision of services.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <i>** Copies of notification from LEAs regarding status of criminal background checks</i> <input type="checkbox"/> <i>Other _____</i>
<p>7. The Provider offers supplemental educational services that are secular, neutral, and non-ideological.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <i>Samples of students' work</i> <input type="checkbox"/> <i>Current Lesson plans</i> <input type="checkbox"/> <i>Observation of tutoring session and setting</i> <input type="checkbox"/> <i>Other _____</i>
<p>8. The Provider requires all individuals providing tutoring to students, regardless of whether they are the "lead tutor" or an "assistant tutor" to have at least a high school diploma.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <i>**Employee educational records for all tutors on site</i> <input type="checkbox"/> <i>Other _____</i>
<p>9. The Provider complies with all applicable federal, state and local health, safety and civil rights laws. All qualified children, who receive services from the SES organization, are served equitably. Discrimination is prohibited based on race, color, religion, gender, disability, or national origin.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <i>Compliance statements on brochures</i> <input type="checkbox"/> <i>Posters/signs promoting good health practices</i> <input type="checkbox"/> <i>Safety posters</i> <input type="checkbox"/> <i>Other _____</i>
<p>10. The Provider complies with the requirements that the SES organization shall not apply additional admission criteria to eligible students.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <i>Recruitment brochures and information sheets</i> <input type="checkbox"/> <i>Interviews with parents and teachers</i> <input type="checkbox"/> <i>Other _____</i>
<p>11. The Provider has a plan that is communicated to students and staff for emergency situations including fires, weather-related events, evacuations, building intruders, and medical emergencies or other events requiring safety precautions, including a mechanism for communicating with emergency personnel, at all Provider sites.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <i>Posted evacuation instructions in response to fire</i> <input type="checkbox"/> <i>Emergency contact information readily available</i> <input type="checkbox"/> <i>Interview with students</i> <input type="checkbox"/> <i>Employee handbooks and/or policy manuals</i> <input type="checkbox"/> <i>Interview with on-site tutor(s)</i> <input type="checkbox"/> <i>Other _____</i>

Provider Requirements	Yes	No	N/A	Evidence
12. The Provider maintains methods or programs for tracking and documenting enrollment, attendance, and supplemental services provided to eligible students enrolled in the SES program.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Enrollment records of participating students <input type="checkbox"/> Attendance records of participating students <input type="checkbox"/> Copy of cover letter and accompanying records sent to the LEA <input type="checkbox"/> Other _____
13. The Provider maintains liability insurance relative to providing tutoring services and working with children.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> ** Copy of current liability insurance certificate <input type="checkbox"/> Other _____
14. The Provider's time of service (frequency of sessions and duration of sessions) is consistent with the Provider's application.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Copy of the Provider's SES application. <input type="checkbox"/> Tutoring schedules <input type="checkbox"/> Observation of tutoring sessions <input type="checkbox"/> Other _____
15. The Provider allocated appropriate materials to deliver services to students without infringing on school sites for copies and materials.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Purchase orders/invoices for tutoring materials <input type="checkbox"/> Expense records for copying <input type="checkbox"/> Tutoring no provided at school site <input type="checkbox"/> Other _____
16. The Provider ensured that students receiving SES are supervised up until the time students return to other authorized, school-based programs via adult supervision or are released into the care of their parent or guardian.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Payroll records for site coordinator <input type="checkbox"/> Contract for site coordinator <input type="checkbox"/> Observation of tutoring session and dismissal of students <input type="checkbox"/> Parent forms specifying person to pick up child <input type="checkbox"/> Parent forms with specific directions for child to use public transportation or other mode of travel <input type="checkbox"/> Other _____
17. The Provider complies with all applicable laws concerning patents and copyrights.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Instructional materials are originals <input type="checkbox"/> Other _____
18. The Provider complies with the LEA's conflict of interest policy related to LEA employees who are dually employed.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Payroll records for tutors <input type="checkbox"/> Tutor schedule <input type="checkbox"/> Other _____

Provider Requirements	Yes	No	N/A	Evidence
<p>19. If the Provider uses the Internet for tutoring, the Provider avoids transmitting any material in violation of any U.S. or State regulation or school board policy via the Internet. This includes, but is not limited to copyrighted material and threatening or obscene material.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Copies of LEA policy related to Internet use <input type="checkbox"/> Other _____ <input type="checkbox"/> N/A is checked – The Provider does not use the Internet for tutoring
<p>20. If the Provider uses the Internet for tutoring, the Provider recognizes that Internet files are not private and that the State, LEA, school administrators, as well as parents may review files and communications at any time to ensure that the school network is being used responsibly.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Policy or guidelines <input type="checkbox"/> Copies of communication to parents regarding policy <input type="checkbox"/> Other _____ <input type="checkbox"/> N/A is checked – The Provider does not use the Internet for tutoring
<p>21. If the Provider uses the Internet for tutoring, the Provider obtains written parental permission before communicating with students under the age of 13 via e-mail or Internet. (Title XIII, <i>Children's Online Privacy Protection Act of 1998</i>)</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Policy or guidelines <input type="checkbox"/> Letters of parental permission <input type="checkbox"/> Other _____ <input type="checkbox"/> N/A is checked – The Provider does not use the Internet for tutoring
<p>22. The Provider abides by all school/LEA policies and procedures regarding computer/Internet use, if students use a school computer to access information from the Provider.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Policy or guidelines <input type="checkbox"/> Posted copies of LEA policy regarding computer/Internet use <input type="checkbox"/> Other _____ <input type="checkbox"/> N/A is checked – The Provider does not ask students to use the school's computers for accessing the Internet for tutoring

Provider Requirements	Yes	No	N/A	Evidence
<p>23. In the case of a student with a disability, the achievement goals, measurement and reporting of progress, and timetable are consistent with (although not included in) the student's individualized education program under Section 614(d) of the IDEA.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Information from the LEA related to students' IEPs <input type="checkbox"/> Copy of instruction timetable for reaching students' academic goals and reporting student progress <input type="checkbox"/> Documentation that Provider's instruction is aligned with IEP <input type="checkbox"/> Other _____ <input type="checkbox"/> N/A is checked – The Provider does not provide tutoring to students with disabilities
<p>24. In the case of a student covered by Section 504, the achievement goals, measurement and reporting of progress, and timetable are consistent with (although not included in) the student's individualized services under Section 504.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Documentation that services are provided with necessary accommodations to students with disabilities and students covered under Section 504 <input type="checkbox"/> Documentation that SES tutoring is aligned with students' individualized education programs under Section 504 <input type="checkbox"/> Other _____ <input type="checkbox"/> N/A is checked – The Provider does provide tutoring to students covered by Section 504
<p>25. The Provider did not promise or provide gifts or awards as enrollment incentives to eligible SES students, their parents or guardians, teachers or other LEA staff for the purpose of recruiting students for the SES Provider.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> Record of incentives awarded <input type="checkbox"/> Interviews with LEA staff/administrators <input type="checkbox"/> Interviews with parents <input type="checkbox"/> Interviews with teachers employed by SES Providers <input type="checkbox"/> Other _____
<p>26. The Provider's grade levels of students receiving tutoring are consistent with the Provider's application.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> Interview with students <input type="checkbox"/> Copies of records showing grade levels of students <input type="checkbox"/> Other _____
<p>27. The Provider's place of service where students receive tutoring is consistent with the Provider's application.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> On-site visit <input type="checkbox"/> Schedules of tutoring showing location <input type="checkbox"/> Other _____

Provider Requirements	Yes	No	N/A	Evidence
28. The Provider's mode of instructional delivery (example: group size, individual, computer-aided, and the student/teacher ratio and student/adult ratio) is consistent with the Provider's application.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <i>Observation of tutoring session.</i> <input type="checkbox"/> <i>Tutoring schedules</i> <input type="checkbox"/> <i>Other _____</i>
29. The Provider's cost/fee structure (cost per hour/per student, cost per hour/per student in group, monthly costs) is consistent with the Provider's application.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <i>Interview with LEA NCLB personnel</i> <input type="checkbox"/> <i>Copies of invoices to LEAs</i> <input type="checkbox"/> <i>Tutoring schedules</i> <input type="checkbox"/> <i>Other _____</i>
30. The Provider's students have access to transportation that is consistent with transportation provisions in the Provider's application.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <i>Bus Schedules</i> <input type="checkbox"/> <i>Other Transportation schedules</i> <input type="checkbox"/> <i>Other _____</i>
31. The Provider's assessment instruments and process are consistent with the provisions in the Provider's application.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <i>Provider's assessment instruments</i> <input type="checkbox"/> <i>Description of Provider's assessment program</i> <input type="checkbox"/> <i>Other _____</i>
32. The Provider's instructional program design is consistent with the provisions in the Provider's application.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <i>Provider's program design</i> <input type="checkbox"/> <i>Description of Provider's program design</i> <input type="checkbox"/> <i>Other _____</i>



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



JENNIFER M. GRANHOLM
GOVERNOR

MICHAEL P. FLANAGAN
SUPERINTENDENT OF
PUBLIC INSTRUCTION

December 15, 2008

MEMORANDUM

TO: Superintendents and Principals of High Priority Schools
PSA Management Companies and Authorizers
Supplemental Educational Services Providers

FROM: Sally Vaughn, Ph.D. *Sally*
Deputy Superintendent/Chief Academic Officer

SUBJECT: Federal Letter of Clarification Dated August 20th, 2008

The United States Department of Education (USED) has provided the state education agencies with a letter of clarification dated August 20, 2008 (attached), regarding Supplemental Educational Services (SES). This communication specifically addresses two issues that have generated questions for the implementation of SES. The first clarification addresses the role of parents in the creation of the Individual Learning Plan (ILP). The second clarification addresses the practice of technology-based SES providers allowing students to keep computers at the cessation of tutoring services. The Michigan Department of Education (MDE) guidelines resulting from that letter is provided in this communication.

MDE Guidelines on Individual Learning Plans (ILPs) and Parent Consultation

- 1) The LEA is responsible for the creation of the ILP. The LEA may request that an SES provider conduct the ILP process, but the SES provider is not required to do so. The LEA retains final responsibility for completing the ILP.
- 2) Consultation with parents in creating the ILP is an integral part of the process. The LEA may request that an SES provider conduct the parent consultation, but the SES provider is not required to do so. The LEA retains final responsibility for contacting the parent for participation in creation of the ILP.
- 3) Consultation with parents may take different forms. The accepted methods for consultation with parents are:
 - a) Face to face meetings (in a mutually agreed upon location; the LEA may not limit this to only school grounds/facilities)
 - b) Email
 - c) Telephone
- 4) LEAs (or the SES provider acting on behalf of the LEA) must document the date of the parent consultation and also the method used (face to face, email, or phone). This documentation must be kept with individual student records or in a central file in accordance with each entity's record keeping procedures.

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- 5) LEAs (or the SES provider acting on behalf of the LEA) must make a minimum of three (3) documented attempts to contact parents for purposes of ILP creation/consultation. This documentation must be kept with individual student records or in a central file in accordance with each entity's record keeping procedures.
- 6) If the LEA (or the SES provider acting on behalf of the LEA) is unable to reach the parent for consultation after three documented attempts, it may proceed with the student's ILP creation.
- 7) LEAs may not use the lack of parent involvement in the creation of the ILP as grounds to deny SES to any child whose parents have otherwise requested services, nor may the LEA use this as grounds to deny payment to the SES provider for services rendered.
- 8) LEAs may not use the lack of a parent signature on the ILP as grounds to deny SES to any child whose parents have otherwise requested services nor may the LEA use this as grounds to deny payment to the SES provider for services rendered.

LEAs must remove any language in their SES provider contracts for the 2009-10 academic year that prohibits the initiation of SES or denies payment to SES providers for services rendered in the event parent consultation or signature is not obtained in the ILP process.

As indicated above, the LEA retains final authority on the creation of the ILP, regardless of who has created it (the LEA or the SES provider acting on its behalf).

SES providers **must** follow the instructional plan and goals developed in the ILP. Failure to follow the ILP may result in suspension or removal from the State approved SES provider list.

MDE Guidelines on Computers and Incentives

- 1) SES providers that utilize the internet or other technology for distance tutoring may allow students to keep computers at the cessation of services **ONLY IF** the computers are used for instructional purposes.
- 2) SES providers may not give computers to students as non-instructional incentives.
- 3) SES providers that utilize face to face tutoring may not give computers to students.
- 4) Before or during the registration period, SES providers must not verbally or nonverbally promise or reference the computers that will be provided upon program completion.
- 5) Informational program materials, including the 150 word program summary, must not verbally or non-verbally promise or reference the computers that will be provided upon program completion.
- 6) Effective **IMMEDIATELY**, SES providers that allow students to keep computers at the cessation of tutoring services must fully disclose to the Michigan Department of Education (MDE), schools, and parents the following information:
 - a) Type of equipment (laptop, desktop, handheld)
 - b) Brand/manufacturer of computer or handheld device
 - c) Age/status of computer or handheld device (new, used, refurbished)
 - d) Peripherals including, but not limited to: mouse, keyboard, monitor, cables

- e) Computer/handheld device hardware, including, but not limited to: hard drive size, speed/type of processor, number and type of disc drives, and desktop memory
 - f) Computer/handheld device software, including, but not limited to: operating system, and description of all programs installed
 - g) Appropriate software licenses (i.e. Microsoft Office®)
- 7) Technology based SES providers must also detail the following to the MDE, schools, and parents:
- a) Type of internet connection or service utilized during service period (if applicable; e.g. dial-up, DSL, high speed)
 - b) Terms and conditions for internet service during tutoring, including length of time and use outside of tutoring sessions
- 8) The SES provider may choose to offer additional electronic tutoring or other services after SES has concluded. These may be provided free of charge or at a cost to parents. However, the SES provider must clearly communicate the terms of the continued service(s) to MDE, schools, and parents.

Failure by the SES provider to fully disclose all required information may result in suspension or removal from the State approved SES provider list.

Any technology related service (i.e., internet), hardware or software application that is found to be non-instructional in nature by MDE will be treated as an incentive and result in a violation of SES Code of Ethics. Such violations may result in suspension or removal from the State approved SES provider list.

Thank you for your prompt attention to this policy. If you have questions about this communication or need more information, please feel free to contact Bill Witt at 517-373-4140 or WittB1@michigan.gov.



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF INNOVATION AND IMPROVEMENT

ASSISTANT DEPUTY SECRETARY

August 20, 2008

Dear Chief State School Officer:

The Department of Education issues this guidance to provide States with information regarding two areas of implementation of the supplemental educational services (SES) provisions of Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA), as reauthorized by the No Child Left Behind Act of 2001 (NCLB). This guidance concerns (1) the development of individual student agreements, including (a) who bears responsibility for developing the agreements, and (b) how the requirement of “consultation with parents” can be met; and (2) whether computers used as part of an SES program and kept by students at the conclusion of such program may be considered an incentive.

This guidance represents the Department of Education’s current thinking on these topics. It does not create or confer any rights for or on any person. This guidance does not impose any requirements beyond those required under applicable law and regulations. If you are interested in commenting on this guidance, please email us your comment at OIIGuidanceDocument@ed.gov or write to us at the following address:

U.S. Department of Education
Office of Innovation and Improvement
400 Maryland Avenue, SW
Washington, D.C. 20202

Individual Student Agreements

Responsibility for Developing Student Agreements. The ESEA requires that a local educational agency (LEA) enter into an agreement with each SES provider chosen by a parent. Among other requirements for the agreement, the statute: “require[s] the local educational agency to develop, in consultation with parents (and the provider chosen by the parents), a statement of specific achievement goals for the student, how the student’s progress will be measured, and a timetable for improving achievement.” ESEA section 1116(e)(3)(A).

As this statutory language makes clear, it is the LEA’s responsibility, and not the responsibility of a provider, to ensure that an agreement is completed for each student participating in SES and that each agreement contains the information required under the statute. However, an LEA and a provider may agree that the provider will complete, on behalf of the LEA, the agreement for each student the provider serves. An LEA cannot require a provider to develop the agreements for the students it serves, absent the provider’s consent. Ultimately, the LEA maintains final responsibility for reviewing and approving all agreements developed by providers, and for making sure that all agreements, whether developed by the LEA itself or by a provider on behalf of the LEA, are completed for all students participating in SES and contain all required information.

Fulfilling the “Consultation with Parents” Requirement. Section 1116(e)(3)(A) of the ESEA requires consultation with a student’s parents as part of the development of the student’s individual agreement, but it does not define what consultation must entail or how it must occur. Some LEAs are interpreting this provision to require a parent’s signature on the agreement before SES be provided. The statute, however, does not specifically require a parent signature as evidence that consultation has occurred. Rather, we believe that an LEA must offer parents a genuine opportunity to consult on the terms of their child’s

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individual student agreement, but that an LEA cannot use the consultation requirement to deny SES to a child whose parents have not participated in the development of their child's SES plan but who have otherwise requested that their child receive SES.

An LEA must be able to demonstrate that it (or a provider acting on its behalf) has made reasonable efforts to consult with a parent of each student who has requested SES. This may include attempts to reach parents through telephone, email, home visits, at school events, or other means.

An SEA should determine what it considers reasonable efforts by its LEAs to consult with parents, and should provide guidance to its LEAs in terms of when, how often, and through what means an LEA (or a provider on behalf of the LEA) must attempt to consult with parents before it can deem the consultation requirement to have been met. An SEA could also develop a broad definition of "consultation" that would include conversations with parents by phone or email. We encourage SEAs to establish reasonable requirements for their LEAs in this area.

To facilitate parents' participation in the consultation process, an LEA could indicate on its SES enrollment forms that the LEA is required to consult with parents during the development of individual student agreements and that parents' participation in this process is expected and appreciated. Additionally, an LEA could include, on the SES enrollment form or through other means, an opportunity for parents to express their preferred method of consultation.

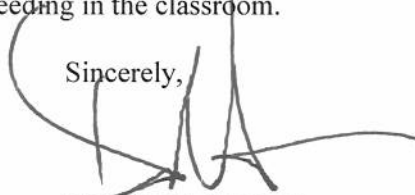
We encourage SEAs to monitor their LEAs carefully with respect to the development of student agreements and to ensure that the agreements are of sufficient quality to drive improvements in student achievement.

Computers Used in SES Programs and Incentives

In the Department's Non-Regulatory Guidance on SES, we state that a provider that uses technology to deliver tutoring services may provide students with computers for the students to use or keep as part of the provider's instructional program (Question C-10.). It has come to our attention that some SEAs may be prohibiting providers from allowing students served by the providers to keep a computer at the completion of tutoring because the SEAs view the computers as an unallowable incentive. We believe, however, that it is appropriate for SEAs to allow students to keep the computers upon completion of the SES program if the computers' primary purpose is instructional. If the computers' primary purpose is not instructional, the computers may be an unallowable incentive under State policy. SEAs should continue to monitor SES providers and determine whether providers are using incentives in a way that violates State policy.

SES is an important component of NCLB, and we thank you for your efforts to ensure that students are obtaining quality services and succeeding in the classroom.

Sincerely,



Douglas B. Mesecar
Assistant Deputy Secretary