

Technical Assistance Paper Regarding Supplemental Educational Services (SES) in Title I Schools

The Legislation

The 2006 Legislature passed Committee Substitute for Committee Substitute for Senate Bill 772 (CS/CS/SB 772) to create a new section of law (Section 1008.331, Florida Statutes) related to SES for Title I schools. See the appendix for a copy of the bill. This new statute addresses the following topics:

- Incentives
- Responsibilities of the school district and provider
- Access to school facilities
- Compliance of school district and provider
- Penalties for non-compliance
- Reallocation of funds
- Rules

Implementation Guidelines

Section 1008.331(1), Florida Statutes (Incentives)

A provider or school district may not provide incentives to entice a student or a student's parent to choose a provider. After a provider has been chosen, the student may be awarded incentives for performance or attendance, the total value of which may not exceed \$50 per student per year.

Parents of eligible students are to be active participants in the SES program by choosing a provider approved by the state and available in the district that best meets the needs of their children. School districts may provide assistance to parents in selecting a provider. The school districts must offer unbiased assistance focused on the specific academic needs of the student and the preferences of the parents.

The law prohibits providers or school districts from offering incentives to entice parents or students to choose one provider over another. However, after a parent has selected a provider, a student may be awarded an incentive for performance or attendance. The value of this incentive may not exceed \$50 per student per year.

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TECHNICAL ASSISTANCE PAPERS (TAPs) are produced periodically by the Bureau of Public School Options to present discussion of current topics. The TAPs may be used for inservice sessions, technical assistance visits, parent organization meetings, or interdisciplinary discussion groups. Topics are identified by state steering committees, district personnel, and individuals, or from program compliance monitoring.

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Desktop and laptop computers are viewed as an enticement or incentive for parents to choose a specific provider. However, providers may provide desktop or laptop computers to students if they are necessary for participation in the program. A provider may provide the use of a laptop for the duration of the program with the expectation that the parent must return the computer upon completion. If the program requires a computer or limited Internet connection, the provider must clearly communicate in writing that the computer is a loaner with the expectation that the equipment must be returned at the completion of the program. Providers may not advertise “free computers” to be given with enrollment. Computers loaned to students must be fitted in such a way that students only have access to the approved SES program.

Section 1008.331, Florida Statutes (Responsibilities of School District and Provider)

(2)(a) *School districts must create a streamlined parent enrollment and provider selection process for supplemental educational services and ensure that the process enables eligible students to begin receiving supplemental educational services no later than October 15 of each school year.*

A streamlined process is one in which information is clear and understandable by parents with easy-to-follow steps for participation and a clear point of contact for parents. The district must eliminate barriers for parents seeking to make a choice for their child. Examples of a streamlined process include, but are not limited to:

- A letter which clearly indicates the parent’s choices and encourages them to respond
- An easy-to-follow process and timelines for parents to follow
- Simple process for returning enrollment forms
- Contact information clearly identified if parents want or need more information
- Directory information made available to providers as requested and to the extent allowable by school board policies

Requiring parents to appear in person to state their choices is not a streamlined process. This requirement puts an unnecessary burden on parents. School districts should provide several methods for parents to communicate their choices, including but not limited to standard mail, email, or fax.

(2) (b) *Supplemental educational services enrollment forms must be made freely available to the parents of eligible students and providers both prior to and after the start of the school year.*

The district must make enrollment forms available to parents of eligible students and providers both prior to and after the start of school. Providers are encouraged to appropriately market their programs and services; however, providers are not authorized to enroll students. The enrollment process is the responsibility of the school district, and districts are held accountable for designing and implementing a streamlined process for notifying parents and enrolling students.

(2) (c) *School districts must provide notification to parents of students eligible to receive supplemental educational services prior to and after the start of the school year. Notification shall include contact information for state-approved providers as well as the enrollment form, clear instructions, and timeline for the selection of providers and commencement of services.*

Parents are their child's first and most important teachers, and they have a vital interest in their child's educational progress. Prior to NCLB, low income parents rarely had the opportunity to hire a tutor when their child was falling behind or struggling. Now these parents have the opportunity to select tutorial help for their child. To do so, parents must receive information in a format that is easy to understand and in a readily accessible language. All communication to parents should present a straightforward explanation about the SES program that does not detract or discourage participation in the program.

To select a provider, parents must first understand the opportunity provided under NCLB. Although written communication alone rarely suffices, sending a letter to parents letting them know about their child's eligibility for SES services is an important first step. The straightforward letter should contain seven basic components:

- Clarification of SES
- Explanation of how students become eligible for services
- Notification that the services are free
- Description of where to return an accompanying application
- Description of the timeline for enrollment
- Identification of the person to contact with questions
- Description of the option to receive services or to reject available services

Districts may need to expand their outreach efforts to communicate information related to SES to the parents of all eligible students. Many districts report a low return of enrollment forms or low participation in provider fairs. The challenge to implement a new program and connect with parents provides opportunities for creative and innovative communication channels. Additional marketing strategies may include:

- Enlisting schools in outreach efforts
- Preparing classroom packets for teachers to share with parents during parent/teacher conferences
- Designing information flyers in multiple languages to distribute to parents through various means
- Placing articles and advertisements in local newspapers
- Collaborating with local press to share information
- Placing flyers and posters in natural gathering places, such as community centers, churches, and shopping centers
- Distributing postcard reminders
- Facilitating provider fairs at multiple locations and times for parents to obtain information to help them make informed choices
- Developing partnerships with local community and faith-based organizations to communicate to parents

(2)(d) *State-approved SES providers must be able to provide services to eligible students no later than October 15 of each school year contingent upon receipt of their district-approved student enrollment lists at least 20 days prior to the start date.*

It is in the best interest of the students, school districts, and providers to begin services as soon as possible to ensure maximum access to students to impact student achievement prior to the administration of the Florida Comprehensive Assessment Test (FCAT). Contracts between providers and school districts should indicate the date the contract takes effect and how long it is in effect. Services to students must begin by October 15 or within 20 days of the date the contract is signed. Providers must be prepared with the necessary infrastructure to begin services to students as soon as possible following the execution of the contract with the school district.

(2)(e) *In the event that a contract with a state-approved provider is signed less than 20 days prior to October 15, the provider shall have no less than 20 days from the date the contract was executed to begin delivering services.*

If the contract is signed after September 25 (20 days prior to October 15), the provider must begin services within 20 days from the date the contract was executed.

(2)(f) *Each school district must hold open student enrollment for supplemental educational services unless or until it has obtained a written election to receive or reject services from the parents of at least a majority of eligible students unless a waiver is granted by the State Board of Education.*

Parents must clearly understand that they have three choices:

- choose for their child to transfer to another public school
- choose for their child to remain at the same school and participate in SES, if eligible
- choose to accept neither option

It is the responsibility of the district to ensure that a majority (50 percent plus one student) of parents with eligible students have made one of these three choices. Not returning the enrollment form does not constitute evidence of rejection of the available choices. Districts are responsible for reaching out to parents to encourage participation in choice with transportation and SES.

Districts must continue to hold open enrollment for SES until all available funds have been expended. It is the responsibility of the district to maintain documentation of the parent selection of choice with transportation or SES, the provider selected, and all efforts for parent outreach.

(2)(g) *School districts, using the same policies applied to other organizations that have access to school sites, shall provide access to school facilities to providers that wish to use these sites for supplemental educational services.*

The law requires districts to provide access to school facilities to providers that wish to use these sites for supplemental educational services using the same policies applied to other organizations that have access to school sites. In general, there are three levels of access to school facilities provided by districts:

- All groups are allowed to use the facilities by renting space.
- Only non-profit groups are allowed to use the facilities by renting space.
- No groups are allowed to use the facilities.

SES providers must have the same access to school facilities as other groups. For example, if the Boy Scouts (a non-profit organization) is allowed to use the facilities for no cost, the non-profit SES providers must be allowed to use the facilities for no cost. As part of the contract, the school board's policy related to the use of school facilities should be clearly defined for all providers.

Section 1008.331, Florida Statutes (Compliance; Penalties for Noncompliance)

(3)(a) The school district has met compliance when it has obtained evidence of reception or rejection of services from the parents of at least a majority of eligible students unless a waiver is granted by the State Board of Education. A waiver shall only be granted if there is clear and convincing evidence of the district's efforts to secure evidence of the parent's decision. Requirements for parental election to receive supplemental educational services shall not exceed the election requirements for the free and reduced-price lunch program.

Parents must clearly understand that they have three choices:

- choose for their child to transfer to another public school
- choose for their child to remain at the same school and participate in SES, if eligible
- choose to accept neither option

Districts must maintain documentation of the parent selection of choice with transportation or SES, the provider selected, and all efforts for parent outreach. The district must be prepared to submit the documents, if necessary, to demonstrate compliance before the State Board of Education.

(3)(b) Providers must be able to deliver supplemental educational services to school districts in which the provider is approved by the state. If a state-approved provider withdraws from offering services to students in a school district in which it is approved and in which it has signed either a contract to provide services or a letter of intent, and the minimum per site set by the provider has been met, the school district must report the provider to the department. The provider shall be immediately removed from the state-approved list for the current school year for that school district. Upon the second such withdrawal in any school district, the provider shall be ineligible to provide services in the state the following year.

If the school district assigns the minimum number of students to a provider, pursuant to the approved application, and the provider refuses to serve these students, the provider will be immediately removed from the state-approved list for that district. If the provider withdraws from another district, the provider will be removed from the state-approved provider list for the remainder of the current year for the state and will not be eligible to apply for approval for the following school year. The penalty will only be applied if the district has assigned students to the provider, and the provider withdraws from serving students in the district.

Section 1008.331, Florida Statutes (Reallocation of Funds)

If a school district has not spent the required supplemental educational services set-aside funding, the district may apply to the Department of Education after January 1 for authorization to reallocate the funds. If the Commissioner of Education does not approve the reallocation of funds, the district may appeal to the State Board of Education. The State Board of Education must consider the appeal within 60 days of its receipt and the decision of the state board shall be final.

The law provides authority to school districts to request approval from the Department for the reallocation of any remaining portion of the 20 percent set-aside funds after January 1. If the Commissioner of Education does not approve the reallocation of funds, the district may appeal to the State Board of Education. The State Board of Education must consider the appeal within 60 days of its receipt, and the decision of the state board shall be final.

Following January 1, if a district determines that it has unexpended funds remaining in the 20 percent set-aside, the district may request authorization to reallocate the remaining funds. Upon receiving the request, Department staff will review required documentation of the district's parent outreach efforts and any extenuating circumstances that may have impacted student participation. Approval will be based on the preponderance of evidence supporting the district's efforts to fully comply with the requirements and intent of NCLB.

Title I, Part A, of NCLB is a state-administered program, and the state is ultimately responsible for administering all aspects of the program, including ensuring that all subgrantees comply with the programmatic and fiscal requirements of the program. The Department has the authority to set reasonable conditions on the use of funds by each local education agency. The Department's policy regarding the 20 percent set-aside for choice with transportation and SES is consistent with federal law and policy.

According to the USDE Non-Regulatory Guidance on SES, the state is responsible for ensuring that a school district has fully met parental demand for choice-related transportation and SES. Before the Department approves a district's request to reallocate any funds reserved for NCLB school choice, the district must be prepared to document that the district has:

- Appropriately notified all eligible parents of the availability of public school choice and SES
- Adequately publicized the options to parents in understandable formats and multiple forms of communication

- Offered parents a reasonable amount of time to investigate their options and submit their requests for either public school choice or SES (see USDE Non-Regulatory Guidance on SES, question K-4)
- Collected documentation from the parents of at least a majority of eligible students regarding whether or not they have chosen SES for their children

Section 1008.331, Florida Statutes (Rules)

The State Board of Education may adopt rules to implement and enforce the provisions of this section.