



south dakota
DEPARTMENT OF EDUCATION
Learning. Leadership. Service.

Supplemental Educational Service
(SES)
District Monitoring
Packet

2009-2010

District: _____

DOE Monitor: _____

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SES Program Overview

Background:

The Elementary and Secondary Education Act (ESEA), originally signed into law in 1964, is the major method of distributing federal aid for public schools. The No Child Left Behind (NCLB) Act is the name given to the current ESEA law, reauthorized in 2001. Title I is the largest aid program under NCLB. When NCLB was enacted, new provisions regarding accountability for student achievement were created as part of the Title I law. Under these new provisions states have to develop academic goals, described as Adequate Yearly Progress (AYP), for all schools to meet. Supplemental Educational Services (SES) are additional academic instruction designed to increase the academic achievement of students in Title I schools that have not met state targets for increasing student achievement (AYP) for three or more years. These services may include tutoring and after-school services. They may be offered through public- or private-sector providers that are approved by the state, such as public schools, local districts, educational service agencies, and faith-based organizations. Private-sector providers may be either nonprofit or for-profit entities. Students eligible for Supplemental Educational Services are those students from low- income families in the eligible schools. The cost of tutoring is paid by the school district.

Monitoring Authority:

The NCLB law (Title I, Section 1116(e)(4)(B)) requires states to develop and apply objective criteria for evaluating providers and to monitor the quality of services offered. The South Dakota Department of Education (DOE) is the state agency charged with the responsibility to administer the SES program and monitor provider compliance with the federal requirements.

DOE TITLE I SES CONTACTS

Diane Lowery - Title I, NCLB Director	(605)773-6509	diane.lowery@state.sd.us
Betsy Chapman - PSC & SES Coordinator	(605)773-4712	betsy.chapman@state.sd.us
Beth Schiltz - District Improvement & SI Coordinator	(605)773-4176	beth.schiltz@state.sd.us
Dr. Al Kosters - DOE SES Monitoring Agent	(605)360-8397	alkos345@hotmail.com

SES Monitoring Process Overview

SES compliance monitoring is an annual process. An onsite monitoring process will be conducted for districts which offer SES services. These monitoring visits will cover federal requirements of SES programs and to verify compliance.

- DOE Title I staff members will conduct the monitoring visits.
- Districts will receive notification, logistical information, and preparation materials in advance of the monitoring visit.

The monitoring visits will focus on requirements related to:

Ensuring compliance with federal regulations involving SES services

Implementation of tutoring in accordance with the provider agreements.

Appropriate policies and procedures related to computer and internet use by online providers.

SES Monitoring Process Guidelines for DOE Monitoring Agent

- Contact the District to setup up the date.
- Email the Pre-Visit Document to the appropriate contact.
- Have the district representative complete and return the document as soon as possible.
- DOE will complete the Monitoring Criteria for Notification of Service Availability portion of the packet.
- Complete the rest of the packet.

The Monitoring document can be filled out on the computer and submitted to the DOE or printed out and sent with any other documentation that was collected on-site.

**2009-2010 Department of Education
SUPPLEMENTAL EDUCATION SERVICES
Pre-Visit Monitoring Document**

Monitoring Report for District: _____ **School Name:** _____

Name of Person completing document: _____

09-10 # of students eligible for SES: ()

Please answer the following statements/questions.

1. Date the School SES Information Letter was sent to parents: _____
2. What other methods were used by the school to help parents understand the SES program?
(ex: 2nd notice sent out, parent information meeting held, flyers placed in the community)
3. Date a copy of the SES Information Letter was sent to Betsy Chapman (DOE): _____
4. Contract(s)/Agreement(s) were signed with the following approved service providers:

Name(s) of the approved service Provider contracted with:	Current # of students enrolled in each program providing services	Grades of students enrolled (ex:3,4,5) in each program

***Note: a sample lesson plan from each provider is to be provided to the monitor.**

5. Please list the name and email address of the person who is responsible for implementing the program at the school:
6. What was the timeline established for the delivery of services to the students? At this time has it been followed?
7. When was a learning plan developed for each student enrolled in the SES program? Who was involved in creating and or approving it (teacher, parent, provider)?
8. If your school has a 21st Century Program, how many students are enrolled? Do you incorporate your SES program within the timeframe set aside for the academic component?
9. Has your school used the DOE website to obtain SES information, such as the Guidance or Toolkit document or the Complaint Procedure? If so, is there any other information you would like to see on it?
10. Do you need any Technical Assistance or have any questions or issues/barriers that need to be addressed? Please call or email your SES DOE Monitoring Agent for assistance: Dr. Al Kusters: Phone:360-8397 or Email: alkos345@hotmail.com.

SES Monitoring Document Checklist

Please have the following documents/information available for review:

- Fill out and email the Pre-Visit monitoring document to your Monitoring Agent.
- Contracts or agreements between District & Provider (sample copies may need to be made).
- Original SES registration/enrollment forms showing parent signatures. Copies will need to be made.
- Copies of student learning plans (one from each provider serving the district).
- Copies of communications between the provider and the student's teacher regarding student progress.
- Copies of any complaints or grievances against providers or the district regarding SES, if any.
- Copies of correspondence/communication between providers and the district, if any.
- Amount of Title I, Part A Allocation, amt of funds reserved for 20% set aside, # of eligible students.

Overview

The federal No Child Left Behind Act (NCLB) requires states to ensure that districts and providers of supplemental educational services (SES) adhere to certain parameters in the design and delivery of SES programs. The South Dakota Department of Education has a responsibility, through its approval and monitoring processes, to ensure that high-quality services are delivered. The Department must develop, implement, and publicly report on standards and techniques for monitoring a district's implementation of SES [34 C.F.R. §200.47(a)(4)(iii)]. These standards and techniques, as well as any findings resulting from such monitoring, must be publicly reported. The South Dakota Department of Education will monitor Districts in two ways: through documents mailed in to the state and through onsite visits from SD DOE employees.

General Information

District:			
Name and title of representative:			
Name of DOE reviewer:			
Schools required to provide Supplemental Educational Services:			
District's total Title I, Part A allocation for current year:		Amount of funds reserved for SES in current year:	
If applicable, the district spent no more than up to 1 percent of its 20 percent obligation on parent outreach and assistance for public school choice and/or SES (Yes/No):			
Number of students eligible for SES in current year based on 20 percent reservation:		Number of students receiving SES in current year:	

Check One:

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The district has spent or anticipates spending the total amount needed to meet its 20 percent obligation for SES in the current year.	The district has spent or anticipates spending less than the amount needed to meet its 20 percent obligation for SES in the current year and intends to spend the remainder of that obligation in the subsequent school year.	The district spent less than the amount needed to meet its 20 percent obligation and meets the criteria specified in [34 C.F.R. §200.48(d)(2)(i)]. <i>If checked complete EQUITY & ACCESS section below.</i>

Follow-Up Required:	
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Monitoring Criteria for SES Districts – Completed by the DOE

NOTIFICATION OF SERVICE AVAILABILITY: Does the district notify parents/guardians of the availability of SES in a timely, clear, and accessible way?

[34 C.F.R. § 200.37 (b)(5)(i)(ii) (A) (B)(C)(iii) (A)(B); 200.46 (a) (1)]

Monitoring Criteria	Y	N	N/A	Comments
1. The notice was provided sufficiently in advance of, but no later than, 14 calendar days (2 weeks) after the start of the school year.				The notice was sent on:
2. The notice was approved by DOE.				Date notice was approved by DOE:
3. A copy of the notice was mailed at the same time the notice was mailed (USPS) to parents.				Date notice was received by DOE:
4. The notice explains how parents can obtain SES for their child.				
5. The notice identifies each approved SES provider within the district or in its general geographic location, including providers that are accessible through technology, such as distance learning.				
6. The notice gives information about the services, qualifications, and evidence of effectiveness for each SES provider able to serve students in the district.				
7. The notice indicates providers that are able to serve students with disabilities or LEP students.				
8. The notice includes an explanation of the benefits of receiving SES.				
9. The notice describes the procedures and timelines that parents must follow to select a provider to serve their child.				
10. The notice gives contact information for the district, including a registration form for SES. (copies of registration forms should be made available to DOE employee)				
11. The notice is easily understandable, in a uniform format, including alternate formats upon request, and to the extent practicable, in a language the parents can understand.				
12. The notice is clear and concise, and clearly distinguishable from other information on school improvement that the district sends to parents.				

Monitoring Criteria for SES Districts – Completed by the Onsite Observer

ACCESSIBILITY OF SERVICES: Does the district ensure that all eligible parents/guardians and their children have access to the information they need to make informed decisions for their child and participate as partners in their child’s education?

[34 C.F.R. § 200.46(a)(2)(3)(4)(5)(6) 34 C.F.R. § 200.46(b) (2)(ii)]

Monitoring Criteria	Y	N	N/A	Comments
1. The district provides more than one enrollment window, at separate points during the school year, in order to expand SES enrollment opportunities for families, or allows enrollment throughout the year.				Dates of enrollment windows:
2. The district has a process to help parents choose a provider, if requested.				
3. The district offers parents a genuine opportunity to consult on the terms of their child’s individual student agreement.				
4. The district has a fair and equitable procedures for serving students if not all students can be served.				
5. The district ensures that eligible students with disabilities and LEP students receive appropriate services.				
6. The district protects the privacy of students who are eligible for or receive SES.				

Monitoring Criteria for SES Districts – Completed by the Onsite Observer

**SERVICE DELIVERY: Has the district entered into agreements with providers selected by parents of eligible students that ensure high quality services are delivered in a safe, healthy environment?
[34 C.F.R. § 200.46 (b)(1)(2)(i)((iii) (iv) (v)]**

Monitoring Criteria	Y	N	N/A	Comments
1. The agreement entered into between the district and the provider contains a provision for terminating the agreement if the provider fails to meet the student’s specific achievement goals and timetables.				
2. The agreement entered into between the district and the provider contains provisions governing payment for the services, which may include provisions addressing missed sessions.				
3. The agreement entered into between the district and the provider contains a provision prohibiting the provider from disclosing to the public the identity of any student eligible for or receiving SES without the written permission of the student’s parents.				
4. The agreement entered into between the district and the provider contains an assurance that SES will be provided consistent with applicable health, safety, and civil rights laws. (state level, but can be included)				

Monitoring Criteria for SES Districts – Completed by the Onsite Observer

EDUCATIONAL PLANS : Are SES educational plans tailored to the learning needs of individual students, aligned to State and local academic achievement standards, and designed to help parents/guardians, district personnel, and the provider monitor student progress?

[34 C.F.R. § 200.46 (b)(1)(2)(i) (A) (B) (C) (ii) (3)]

Monitoring Criteria	Y	N	N/A	Comments
1. Plans exist for each student served				
2. Plans are signed by parents and district/school officials				
3. Plans contain specific, measurable achievement goals for students				
4. Achievement goals indicate State academic standards to be addressed				
5. Achievement goals for special education students are consistent with the student's IEP				
6. Achievement goals for students covered by Section 504 consistent with student's individualized services under Section 504				
7. Plans contain appropriate language assistance in the provision of services to LEP students				
8. Plans describe how student progress will be measured				
9. Plans describe how and when the student's parents / guardians and district/school officials (e.g., the child's teachers) will be regularly informed of progress				
10. Plans give a timetable for improving the student's achievement				
11. Plans contain activities designed to address the student's needs				

Monitoring Criteria for SES Districts – Completed by the Onsite Observer

EQUITY AND ACCESS: If the district spent less than the amount needed to meet its 20 percent obligation for SES, it meets the below criteria: [34CFR 200.48 (d)(ii)(3)(i)(A)(B)(1)(2)(3)(C)(ii)]

Monitoring Criteria	Y	N	N/A	Comments
<p>1. The district partners, to the extent practicable, with outside groups, such as faith-based organizations, other community-based organizations, and business groups, to help inform eligible students and their families of the opportunities to transfer or to receive SES.</p>				
<p>2. The district ensures that eligible students and their parents have a genuine opportunity to sign up to transfer or to obtain SES, including by: (a) providing timely, accurate notice to parents; (b) ensuring that sign-up forms for SES are distributed directly to all eligible students and their parents and are made widely available and accessible through broad means of dissemination, such as the Internet, other media, and communications through public agencies serving eligible students and their families; and (c) providing a minimum of two enrollment windows, at separate points in the school year, that are of sufficient length to enable parents of eligible students to make informed decisions about requesting SES and selecting a provider.</p>				
<p>3. The district ensures that eligible SES providers are given access to school facilities, using a fair, open, and objective process, on the same basis and terms as are available to other groups that seek access to school facilities.</p>				
<p>4. The district maintains records that demonstrate it has met the criteria above.</p>				
<p>5. The district notifies the State that it has met the above criteria, intends to spend the remainder of its 20 percent obligation on other allowable activities, and gives the amount of that remainder.</p>				

Signature of DOE Monitor: _____

Appendix A – CODE OF ETHICS

Code of Professional Conduct and Business Ethics For Supplemental Educational Services Providers Amended January 8, 2008

This revised code of ethics, as adopted by the EIA Board of Directors, shall become effective January 8, 2008.

SES Providers (and other education service providers) operate in an environment that touches communities, school officials, parents, students and other providers. The importance of the activities and complexity of the interactions make it paramount that EIA member organizations adhere to the highest standards of professional conduct and business ethics. In its role of providing critical leadership to the education industry, both public and private, EIA has adopted this voluntary code to describe key organizational behaviors and policies that will guide its member companies and others. High quality educational programs delivered by trained professionals represent the core value that is to be reflected throughout all of our partnerships with schools, parents and students. The following structure represents the collective judgment of what constitutes ethical behavior. EIA members are committed to using it to guide decision-making and performance at all levels of their organizations—from the CEO to the employee in the classroom. Accountability for achieving desired results consistent with these guidelines and standards is the ultimate benchmark upon which EIA member service providers will be judged.

1. EIA will develop educational materials on these standards for use by providers, States and school district personnel. These materials will be distributed to members and non-members alike for their incorporation into their internal staff development procedures.
2. All EIA members will sign a statement acknowledging their acceptance of these standards. EIA will maintain a list of signers on its website for the public to review.
3. When a State or School District completes an investigation and has a finding that a breach of these guidelines has occurred, EIA may issue its own censure, suspend or terminate the membership status of the Member. Before EIA acts, it will discuss the matter with the party and offer the party the opportunity to present its information to an ad hoc committee of the Board of Directors.

General Guidelines

In the conduct of business and discharge of responsibilities, Providers commit to:

1. Conduct community outreach and student recruitment and to serve students fully consistent with the terms of their state-approved application and all state and local policies.
2. Conduct business honestly, openly, fairly, and with integrity.
3. Comply with applicable laws, statutes, regulations and ordinances.
4. Avoid known conflict of interest situations.
5. Never offer or accept illegal payments for services rendered.

We encourage States and Local School Districts to adopt these guidelines into their governance, contractual and oversight systems and apply all appropriate sanctions when the guidelines have been breached EIA Compliance Procedures:

1. Apply these guidelines and standards throughout the company by insuring all employees understand them and act accordingly.
2. Refrain from publicly criticizing or disparaging other providers.
3. In the case of any conflict, first attempt resolution directly with each other. However, the parties involved may ask EIA to help mediate potential disputes.
4. Comply with the confidentiality and non-disclosure provisions of all applicable federal, state and local laws, including those relating to student identity, records, reports, data, scores and other sensitive information.
5. Be factual and forthright in reporting and documenting attendance rates, effectiveness of their programs, and in explaining the theoretical/empirical rationale behind major elements of its program, as well as the link between research and program design.
6. Take appropriate corrective action against provider employees, consultants or contractors who act in a manner detrimental to the letter or spirit of this code.
7. Take immediate steps to correct any actions on its part that willfully or inadvertently violate of the letter or spirit of this code.

Standards Specific to SES

EIA Members will consistently implement the NCLB Supplemental Services provisions and promote full access to SES services. To that end, Providers Shall:

1. Not compensate school district employees personally in exchange for access to facilities, to obtain student lists, to assist with marketing or student recruitment, to promote enrollment in a provider's program at the exclusion of other providers, to obtain other similar benefits for their SES program, or for any illegal purpose.
2. Not employ any district employees who currently serve the districts in the capacity of Principal, Assistant Principal, or school or district SES Coordinator.
3. Not employ any individuals, including teachers, parents or community leaders, who have any governing 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.
4. Not hire school-employed personnel for any purpose other than instruction-related services or program coordination, as described in item #3 in the next section below.
5. Not make payments or in-kind contributions to schools or school personnel, exclusive of customary fees for facility utilization in exchange for access to facilities, to obtain student lists, to increase student enrollment, to obtain other similar benefits for their SES program or for any illegal purpose.
6. Not misrepresent to anyone, including parents (during student recruitment), the location of a provider's program, principal/district or state's approval of a provider, or the likelihood of becoming so approved.
7. Not offer a student, parent or teacher any form of incentive for signing-up a student with a provider. This includes restricting the promotion of any allowable attendance or performance incentives to the period following student enrollment. Only then may the provider inform the student of any incentives that are directly linked to attendance or performance in SES.

8. Not sponsor promotional events including pizza parties on school grounds for student recruitment that are for the sole benefit of a single provider. The preferred practice is for the school to organize such recruitment events that are for the benefit of all providers, accepting voluntary sponsorship from providers.
 1. Not employ any SES-enrolled student.
 2. Not use a district enrollment form that has the selected provider's name pre-printed as part of the form. Any facsimile of the enrollment form used to demonstrate how to accurately complete it must be clearly marked as "SAMPLE" and this facsimile shall in no way be used to actually enroll the student.
 3. Not encourage students/parents to switch providers once enrolled. A student is considered enrolled once the District has issued the formal student / Provider selection list.

Providers MAY:

1. Provide simple door prizes of a nominal value (approximately \$2 per prize) and refreshments to potential students and their families, while attending informational sessions.
2. Offer enrolled students performance rewards with a maximum value of \$50 that are directly linked to documented meaningful attendance benchmarks and/or the completion of assessment and program objectives. These incentives shall not be advertised in advance of actual enrollment.
3. Employ a parent of an SES-eligible student subject to the following conditions. 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 his or her 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 his or her child.
4. Employ school district employees (subject to items #2, #3 and #4 in the previous section above) for instruction-related services or program coordination purposes as long as the person does not restrict the marketing or enrollment opportunities of other providers, subject to District policies governing conflict of interests and other District-imposed requirements. However, tutors who are currently employed by the school district may not recruit students.
5. Include in tutor compensation, incentives for student achievement consistent with a company's written policy. For more information about the Education Industry Association, contact Steve Pines, Executive Director, 800-252-3280, spines@educationindustry.org , www.educationindustry.org .

Appendix B – USE OF INCENTIVES BY SES PROVIDERS

Background

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 use of incentives to promote academic achievement and/or attendance is allowable and should be educationally appropriate. A school or district may host provider fairs.

Incentive Use

Below is a proposed list of acceptable and not acceptable educational incentives. This list is not exhaustive, and it is intended only as a guideline for determining appropriate educational incentives.

Acceptable Educational Incentives	Not Acceptable Educational Incentives
Books	iPods
Educational software	Mall cards
Highlighters, markers, etc	Store gift cards
Magazines, comic books	Movie passes
Museum field trips	Pizza parties
Trips to colleges and universities	Stipends for drivers' education classes

If a provider receives donations of non-educational items that it would like to distribute as incentives, it may do so. Donated items are only to be used for attendance and achievement. Additionally, the provider must have clear documentation available to demonstrate that incentives were donated and not purchased with federal dollars. Documentation must be maintained by the provider, and documentation should include, at a minimum, a letter stating the type and date of donations. Such letters should be dated and signed by the donor.

Appendix C – ASSURANCES & SIGNATURES

Assurances and Signatures Form

In submitting this application to be included on the South Dakota Department of Education Approved Supplemental Services Provider List, I certify that:

1. The provider will provide parents of children receiving supplemental education services under Public Law 107-100, Section 1116(e) and the appropriate LEA with information on the progress of the children in increasing achievement in a format and, to the extent practicable, a language that the parents can understand.
2. The provider will respect the confidentiality of students in the program and share information on the student only with appropriate school personnel and parents.
3. The provider will meet all applicable federal, state, and local health, safety, and civil rights laws.
4. The provider will ensure that all instruction and content offered in the supplemental services program offered through Public Law 107-110, Section 1116(e) are secular, neutral, and non-ideological.
5. The provider is financially sound and will be able to provide complete services to the student and the school.
6. The provider will collaborate with the local school to assure alignment to the student's instructional program and assist the students in reaching the state's high academic content standards.
7. The provider has liability insurance.
8. If requested, copies of background checks of all employees/tutors will be made available to school districts.

Signature: _____

Title: _____

Date: _____

Appendix D – TITLE I REGULATIONS

Title I Regulations which apply to SES (SES Provider specific responsibilities are highlighted.)

§ 200.45 Supplemental educational services.

(a) *Definition.* “Supplemental educational services” means tutoring and other supplemental academic enrichment services that are—

(1) In addition to instruction provided during the school day;

(2) Specifically designed to—

(i) Increase the academic achievement of eligible students as measured by the State’s assessment system; and

(ii) Enable these children to attain proficiency in meeting State academic achievement standards; and

(3) Of high quality and research based.

(b) *Eligibility.* (1) Only students from low-income families are eligible for supplemental educational services.

(2) The LEA must determine family income on the same basis that the LEA uses to make allocations to schools under subpart A of this part.

(c) *Requirement.* (1) If an LEA identifies a school for a second year of improvement under § 200.32, corrective action under § 200.33, or restructuring under § 200.34, the LEA must arrange, consistent with paragraph (d) of this section, for each eligible student in the school to receive supplemental educational services from a State approved provider selected by the student’s parents.

(2) Except as described in §§ 200.32(d) and 200.33(c), if a school was in school improvement status for two or more consecutive school years or subject to corrective action on January 7, 2002, the State must ensure that the LEA makes available, consistent with paragraph (d) of this section, supplemental educational services to all eligible students not later than the first day of the 2002–2003 school year.

(3) The LEA must, consistent with § 200.48, continue to make available supplemental educational services to eligible students until the end of the school year in which the LEA is making those services available.

(4)(i) At the request of an LEA, the SEA may waive, in whole or in part, the requirement that the LEA make available supplemental educational services if the SEA determines that—

(A) None of the providers of those services on the list approved by the SEA under § 200.47 makes those services available in the area served by the LEA or within a reasonable distance of that area; and

(B) The LEA provides evidence that it is not otherwise able to make those services available.

(ii) The SEA must notify the LEA, within 30 days of receiving the LEA’s request for a waiver under paragraph (c)(4)(i) of this section, whether it approves or disapproves the request and, if it disapproves, the reasons for the disapproval, in writing.

(iii) An LEA that receives a waiver must renew its request for that waiver on an annual basis.

(d) *Priority.* If the amount of funds available for supplemental educational services is insufficient to provide services to each student whose parents request these services, the LEA must give priority to the lowest-achieving students.

§ 200.46 LEA responsibilities for supplemental educational services.

(a) If an LEA is required to make available supplemental educational services under § 200.39(b)(3), § 200.42(b)(3), or § 200.43(b)(2), the LEA must do the following:

(1) Provide the annual notice to parents described in § 200.37(b)(5).

(2) If requested, assist parents in choosing a provider from the list of approved providers maintained by the SEA.

(3) Apply fair and equitable procedures for serving students if the number of spaces at approved providers is not sufficient to serve all eligible students whose parents request services consistent with § 200.45.

(4) Ensure that eligible students with disabilities under IDEA and students covered under Section 504 receive appropriate supplemental educational services and accommodations in the provision of those services.

(5) Ensure that eligible students who have limited English proficiency receive appropriate supplemental educational services and language assistance in the provision of those services.

(6) Not disclose to the public, without the written permission of the student's parents, the identity of any student who is eligible for, or receiving, supplemental educational services.

(b)(1) In addition to meeting the requirements in paragraph (a) of this section, the LEA must enter into an agreement with each provider selected by a parent or parents.

(2) The agreement must—

(i) Require the LEA to develop, in consultation with the parents and the provider, a statement that includes—

(A) Specific achievement goals for the student;

(B) A description of how the student's progress will be measured; and

(C) A timetable for improving achievement;

(ii) Describe procedures for regularly informing the student's parents and teachers of the student's progress;

(iii) Provide for the termination of the agreement if the provider is unable to meet the goals and timetables specified in the agreement;

(iv) Specify how the LEA will pay the provider; and

(v) Prohibit the provider from disclosing to the public, without the written permission of the student's parents, the identity of any student who is eligible for, or receiving, supplemental educational services.

(3) In the case of a student with disabilities under IDEA or a student covered under Section 504, the provisions of the agreement referred to in paragraph (b)(2)(i) of this section must be consistent with the student's individualized education program under section 614(d) of the IDEA or the student's individualized services under Section 504.

(4) The LEA may not pay the provider for religious worship or instruction.

(c) If State law prohibits an SEA from carrying out one or more of its responsibilities under § 200.47 with respect to those who provide, or seek approval to provide, supplemental educational services, each LEA must carry out those responsibilities with respect to its students who are eligible for those services.

§ 200.47 SEA responsibilities for supplemental educational services.

(a) If one or more LEAs in a State are required to make available supplemental educational services under § 200.39(b)(3), § 200.42(b)(3), or § 200.43(b)(2), the SEA for that State must do the following:

(1)(i) In consultation with affected LEAs, parents, teachers, and other interested members of the public, promote participation by as many providers as possible.

(ii) This promotion must include annual notice to potential providers of—

(A) The opportunity to provide supplemental educational services; and

(B) Procedures for obtaining the SEA's approval to be a provider of those services.

(2) Consistent with paragraph (b) of this section, develop and apply to potential providers objective criteria.

(3) Maintain by LEA an updated list of approved providers, including any technology-based or distance-learning providers, from which parents may select.

(4) Develop, implement, and publicly report on standards and techniques for—

(i) Monitoring the quality and effectiveness of the services offered by each approved provider; and

(ii) Withdrawing approval from a provider that fails, for two consecutive years, to contribute to increasing the academic proficiency of students receiving supplemental educational services from that provider.

(5) Ensure that eligible students with disabilities under IDEA and students covered under Section 504 receive appropriate supplemental educational services and accommodations in the provision of those services.

(6) Ensure that eligible students who have limited English proficiency receive appropriate supplemental educational services and language assistance in the provision of those services.

(b) *Standards for approving providers.*

(1) As used in this section and in § 200.46, “provider” means a non-profit entity, a for-profit entity, an LEA, an educational service agency, a public school, including a public charter school, or a private school that—

(i) Has a demonstrated record of effectiveness in increasing the academic achievement of students in subjects relevant to meeting the State’s academic content and student achievement standards described under § 200.1;

(ii) Is capable of providing supplemental educational services that are consistent with the instructional program of the LEA and with the State academic content standards and State student achievement standards described under § 200.1;

(iii) Is financially sound; and

(iv) In the case of—

(A) A public school, has not been identified under §§ 200.32, 200.33, or 200.34; or

(B) An LEA, has not been identified under § 200.50(d) or (e).

(2) In order for the SEA to include a provider on the State list, the provider must agree to—

(i)(A) Provide parents of each student receiving supplemental educational services and the appropriate LEA with information on the progress of the student in increasing achievement; and

(B) This information must be in an understandable and uniform format, including alternative formats upon request, and, to the extent practicable, in a language that the parents can understand;

(ii) Ensure that the instruction the provider gives and the content the provider uses—

(A) Are consistent with the instruction provided and the content used by the LEA and the SEA;

(B) Are aligned with State student academic achievement standards; and

(C) Are secular, neutral, and non-ideological; and

(iii) Meet all applicable Federal, State, and local health, safety, and civil rights laws.

(3) As a condition of approval, a State may not require a provider to hire only staff who meet the requirements under §§ 200.55 and 200.56.