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Policy for Removal of Supplemental Educational Service Providers from the State Approved List

The State Education Agency is required to monitor the quality and effectiveness of state approved Supplemental Educational Service (SES) providers in accordance with Public Law 107-110 Section 1116(e)(4)(D) of Title I Part A of No Child Left Behind, corresponding regulation 200.47(a)(4)(ii), and South Dakota Administrative Rule 24:42:02:48. The South Dakota Department of Education (SD DOE) has developed the following policy for removal of SES providers from the state approved list.

The SD DOE will withdraw approval for SES providers that fail, for two years, to contribute to increasing the academic proficiency of students to whom they provide services. Providers that fail to meet any of the other provider requirements or assurances may be removed from the approved list. Failing to operate in accordance with certain provider responsibilities or assurances will constitute grounds for immediate removal from the state-approved list**.**

Procedure

The South Dakota Department of Education will use the following procedure for removal from the state approved provider list.

Gathering Information

- DOE reviews submitted district and provider reports along with its own monitoring reports.
- DOE reviews evaluation reports from a third-party evaluator.
- Potential violations cited.
- District and parent complaint through the district received by DOE

Evaluation of Information

- Notification to provider of complaints and/or violations
- DOE further investigates alleged violations.
- Committee convened to review findings if warranted. Recommendations provided to DOE.

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- DOE renders decision for removal based upon findings and committee recommendations.

Resulting Action

- First violations for the provider will be noted and the provider is informed of the decision.
- If the offence is the second violation in two years, the provider's approval status will be removed. Provider may appeal the decision through the appeals process.
- Decision and timeline for appeal process communicated to the provider.
- Removal from the state approved provider list. Provider will be immediately notified.
- Districts will be immediately notified of provider's removal from state approved list.
- Provider may reapply during the application next window.

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Application Review Committee
The Committee to review the findings will consist of DOE staff, Committee of Practitioners, School Support Team members, and representation from Title I districts with schools with experience with Supplemental Educational Services. The Committee will make recommendations to the South Dakota Department of Education.

Appeals Process
If a provider believes that removal from the state's approved SES provider list is unwarranted due to statistical or other substantive reasons, the provider may submit evidence to the SD DOE to support such belief.

Appeal
- The provider will submit a letter and supporting evidence to the DOE indicating the appeal no later than ten working days after receipt of the notice of removal.
- The Department of Education will review the evidence provided.
- Based on the evidence, the Department of Education may either rescind or retain its decision to remove the provider from the list.
- If the decision for removal stands, the Department of Education will activate the appeals committee and inform the provider of details of the appeals committee review.

Appeals Committee Review
- The provider will be given the opportunity to present evidence in person, by written correspondence, or by conference call to the appeals committee.
- The appeals committee will notify the Department of Education of its decision within 10 working days after the review.
- The appeals committee's decision is final.
- The Department of Education will notify the provider of the appeals committee's decision within 20 days of the review.

Appeals Committee
The appeals committee will consist of 3 to 5 members representing state practitioners with expertise in Title I Part A programs. Members of the appeals committee will be neutral to the SES process; they are not part of the application approval process, nor represent a district where services from the provider have been used.

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Timeline

Providers will be evaluated each summer. If violations are cited, the review committee will be convened in a timely manner in order that removal from the state's approved provider list, if necessary, takes place prior to the start of the school year. Violations of certain requirements may constitute immediate removal. Department of Education retains the right to convene the review committee on an as-needed basis through out the year.

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Responsibilities of the Approved Provider

Entities included on the Approved Supplemental Services Provider list are required to do the following:

- Ensure the instruction provided is aligned with South Dakota student academic achievement standards and in the case of a student with disabilities, is consistent with the student's individualized education program (IEP) under section 614(d) of the Individuals with Disabilities Education Act.
- Provide parents of children receiving supplemental educational services and the appropriate school with information on the progress of the children in increasing achievement in a format and, to the extent practicable, in a language that such parents can understand.
- Ensure all individuals who will interact with students (any contact consisting of but not limited to technology, email, distance learning, phone calls, onsite, face-to-face) are fingerprinted and background checked pursuant to procedures set forth in SDCL 13-10-12.
- Enter into an agreement with the local school district that includes:
    - A statement of specific achievement goals for each student receiving supplemental educational services based upon the specific educational needs of the child;
    - A description of how student progress will be measured;
    - A timetable for improving achievement that, in the case of a student with disabilities, is consistent with the student's individual education program;
    - A description of the research based program to be utilized with specific references;
    - A description of the way in which the reading program aligns to scientifically based reading research;
    - The amount of instructional time to be provided;
    - The location where services will be provided;
    - The means of transporting children to the place of instruction if the services will be provided in a location other than the student's school;
    - A description of how parents, teacher(s) and the school district will be regularly informed of student progress;
    - Provisions for the termination of such agreement;
    - Provisions for the payment for services to the provider by the school district;

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- An assurance from the provider that the identity of any student eligible for or receiving, supplemental educational services will not be disclosed without the written permission of the parents of the student; and
- The qualifications of staff responsible for the delivery of the instructional program.

- Submit to the Local Educational Agency (LEA) a final written report that summarizes the individual academic progress of each student provided with supplemental services.
- Comply with district employee requirements (some districts require finger-printing and background checks of all employees).

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.

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7. The provider has liability insurance.

8. If requested, copies of background checks of all employees/tutors will be made available to school districts.

Monitoring

The South Dakota Department of Education, in cooperation with the applicable school districts, is required to monitor the quality and effectiveness of the services offered by providers and to assure that all provider requirements have been met. SEA monitoring will be conducted through contact with local school districts to evaluate the effectiveness of providers. A third-party evaluation will also be conducted to determine effectiveness of provider services. Providers not utilized in the state within a two-year period will need to reapply.

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References

Statute -- NCLB Title I Part A -- 1116 (e)(4)(D):

(4) STATE EDUCATIONAL AGENCY RESPONSIBILITIES– A State educational agency shall-

(A) in consultation with local educational agencies, parents, teachers, and other interested members of the public, promote maximum participation by providers to ensure, to the extent practicable, that parents have as many choices as possible;

(B) develop and apply objective criteria, consistent with paragraph (5), to potential providers that are based on a demonstrated record of effectiveness in increasing the academic proficiency of students in subjects relevant to meeting the State academic content and student achievement standards adopted under section 1111(b)(1);

(C) maintain an updated list of approved providers across the State, by school district, from which parents may select;

(D) develop, implement, and publicly report on standards and techniques for monitoring the quality and effectiveness of the services offered by approved providers under this subsection, and for withdrawing approval from providers that fail, for 2 consecutive years, to contribute to increasing the academic proficiency of students served under this subsection as described in subparagraph (B); and

(E) provide annual notice to potential providers of supplemental educational services of the opportunity to provide services under this subsection and of the applicable procedures for obtaining approval from the State educational agency to be an approved provider of those services.

Regulations -- NCLB Title I Part A 200.47 (a)(4)(II):

<u>§200.47 SEA responsibilities for supplemental educational services</u>.

(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.

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(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.

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Administrative Rules: (4)(b)

24:42:02:48. Department responsibilities for supplemental educational services. If one or more school districts are required to make available supplemental educational services to schools in level 2 school improvement under § 24:42:02:54, corrective action under § 24:42:02:55, or restructuring under § 24:42:02:59, the department will:

(1) Consult with the school districts, parents, teachers, and other interested members of the public, promote participation by as many providers as possible, including annual notice to potential providers of the opportunity to provide supplemental educational services, and procedures for obtaining the department's approval to be a provider of those services;

(2) Consistent with § 24:42:02:43, develop and apply objective criteria to potential providers;

(3) Maintain an updated list of approved providers across the state, by school district, from which parents may select;

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

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

(b) 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 students with disabilities as defined in § 24:05:24.01:01 and students covered under Section 503 of the Rehabilitation Act of 1973, Pub. L. No. 93-112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. No. 93-516, 29 U.S.C. 794, January 8, 2002, receive appropriate supplemental educational services and accommodations in the provision of those services; and

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

Source: 30 SDR 181, effective May 20, 2004.
General Authority: SDCL 13-3-67, 13-3-69.
Law Implemented: SDCL 13-3-67, 13-3-69(13).