

Strengthening Choice and Free Tutoring

How the proposed regulations for Title I affect Public School Choice and Supplemental Educational Services (SES) in the *No Child Left Behind Act*

April 2008

The U.S. Department of Education is proposing new regulations for Title I of the ESEA with the intent of building on the advancements of state assessment and accountability systems, as well as strengthening the public school choice and supplemental educational services (SES) provisions of the No Child Left Behind Act of 2001. The regulations also incorporate key feedback from the field.

Along with the "district in need of improvement" pilot program and the pilot program allowing districts to offer SES in the first year of improvement, these proposed regulations help parents make more informed decisions about education options and help states and districts implement these programs that are used by thousands of students nationwide.

Proposed Regulations for Public School Choice and Supplemental Educational Services

➤ **Timely and Clear Notification to Parents**

Too often, parents whose children attend Title I schools that are identified as in need of improvement are not notified until after the start of the school year that they may send their children to better-performing public schools in their districts. Additionally, parents may be unaware of their children's eligibility for SES because the eligibility notice is not clearly distinguishable from the information that districts provide when a school is in improvement status.

Proposed regulations: Require timely notification to parents regarding public school choice and SES. Districts must:

- Notify parents of eligible children that they may elect to participate in public school choice, and detail their available options as far in advance as possible, but no later than 14 days before the start of the school year. This requirement will give parents adequate time to exercise their choice option before the school year begins. With more time for parents to evaluate their choice options, the level of public school choice participation across the country should increase.
- Notify parents of eligible children of the availability of SES and highlight the benefits of SES. This notice must be clear and concise, as well as clearly distinguishable from the other information sent to parents notifying them that their child's school is in improvement status.

➤ **Access to Information on District Implementation of Public School Choice and SES**

Districts currently are not required to make information on public school choice and SES eligibility available to the public. Doing so would make districts' implementation more transparent and make it easier for parents to obtain the information they need.

Proposed regulations: Require districts to include on their Web sites the following information:

- The number of students who were eligible for and who participated in SES and public school choice during prior school years;
- A list of SES providers approved to serve the district, as well as the locations where services are provided for the current school year; and

- A list of available schools to which students eligible for public school choice may transfer for the current school year.

➤ State Monitoring of Districts' Implementation of SES

Although States have always had to monitor their districts to ensure that the SES requirements were being met, states have not been required to make their monitoring procedures public.

Proposed regulations: Require States to develop, implement and publicly report the standards and techniques they use to monitor how districts implement the SES requirements.

➤ SES Provider Approval Process

Background: The law currently sets forth the minimum criteria that states must consider in approving SES providers. However, more can be done to ensure that states approve only those providers with programs having evidence of contributing to increased student achievement.

Proposed regulations: In approving an SES provider, the states must consider, at a minimum:

- Evidence from the provider that the instruction it would provide and the content it would use are research-based and aligned with state academic content and student achievement standards;
- Information from the provider on whether it has been removed from any state's approved provider list;
- Parent recommendations or results from parent surveys, if available, regarding the success of the provider's instructional program in increasing student achievement; and
- Any evaluation results demonstrating that the instructional program has improved student achievement.

➤ State Monitoring of SES Provider Effectiveness

States are required to evaluate whether providers have contributed to increased student achievement for two consecutive years. However, the law does not specify the evidence a state must consider in making determinations about renewing approval of providers or withdrawing them from the state's approved list.

Proposed regulations: To inform the renewal or withdrawal of approval for a provider, the proposed regulations require a state to examine, at a minimum, evidence that the provider's instructional program:

- Is consistent with the instruction provided and content used by the district and state;
- Addresses students' needs as described in their SES plans;
- Has contributed to increasing students' academic proficiency; and
- Is aligned with state academic content and student academic achievement standards.

Additionally, states would have to consider, if available, parent recommendations, results from parent surveys or other evaluation results regarding the success of the provider's program in increasing student achievement.

➤ Costs for Parent Outreach

Districts must provide parents with the information they need to make the best, most informed decisions regarding their children's education. Currently, districts are not allowed to count the costs of this outreach toward their obligation to spend an amount equal to 20 percent of their Title I, Part A funding on public school choice and SES.

Proposed regulations: Permit a district to count the costs associated with providing parent outreach and assistance toward meeting its 20 percent obligation for SES and transportation for public school choice. The amount that could be counted as such would be capped at 0.2 percent of the district's

Title I, Part A allocation. A district still would be allowed to spend more than that amount on parental outreach activities.

➤ Use of Funds for Public School Choice and SES

Currently, the law does not require that districts meet certain requirements before reallocating funds for public school choice and SES to other purposes.

Proposed regulations: Require a district, before reallocating unused funds from choice-related transportation and SES to other purposes, to provide satisfactory evidence to the state that it has demonstrated success in:

- Partnering with community-based organizations to inform students and parents of SES and public school choice options.
- Ensuring that students and their parents have had a genuine opportunity to sign up to transfer to a better-performing school or obtain SES by:
 - Providing timely, accurate notice to parents;
 - Ensuring that sign-up forms are made widely available and accessible and that they have been distributed directly to all eligible students and their parents; and
 - Allowing eligible students to sign up to receive SES throughout the academic year.
- Ensuring that SES providers are given access to school facilities on the same terms as are available to other groups that seek to use school facilities.

For more information, visit www.ed.gov, or call 1-800-USA-LEARN