

SUPPLEMENTAL EDUCATIONAL SERVICES

Leigh M. Manasevit
Brustein & Manasevit
lmanasevit@bruman.com

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TOPICS

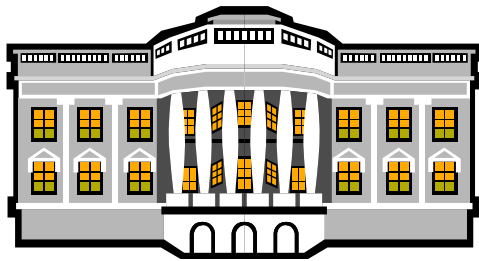
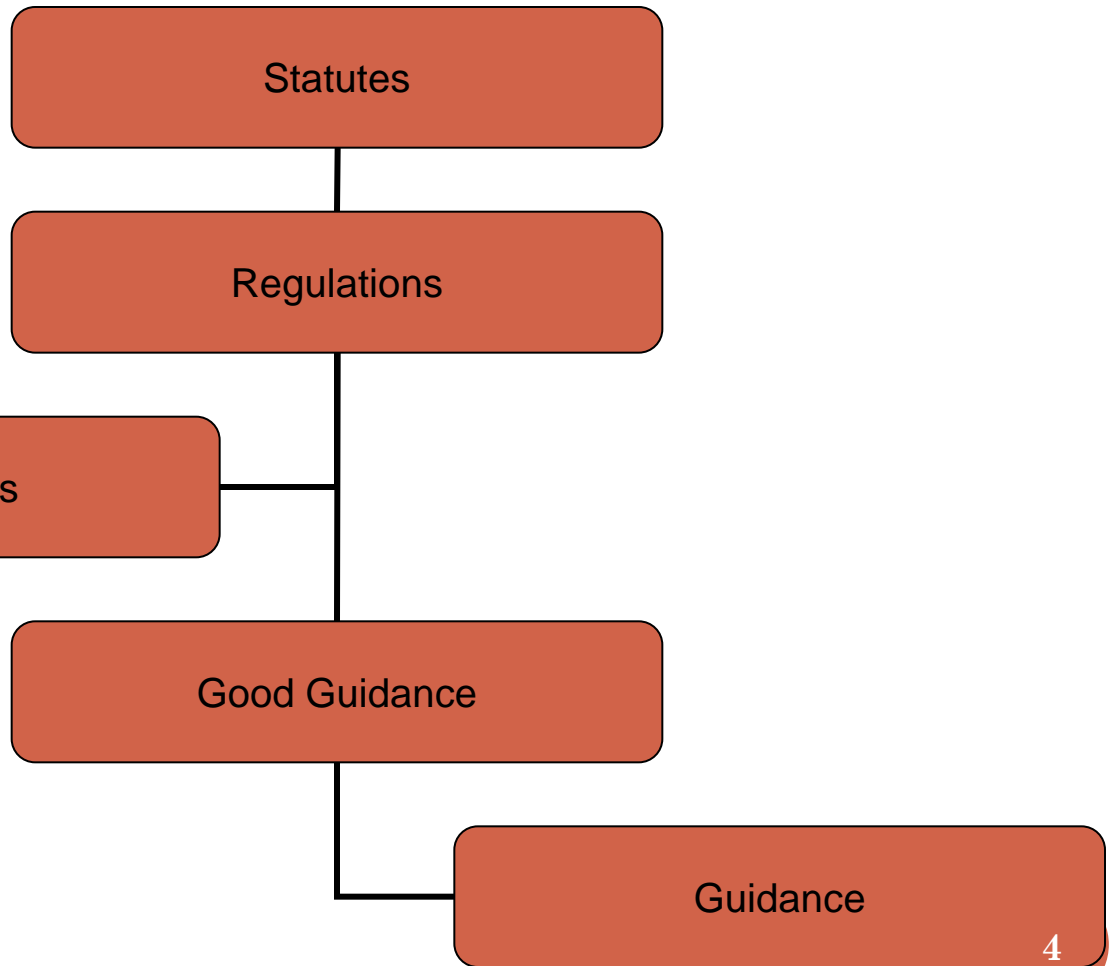
- SES Resources
- SES Provider Requirements
- Student Eligibility
- LEA Responsibilities
- SES Program Design
- Financial Requirements
- Monitoring



SES RESOURCES

- ▶ ED's Website on SES:
<http://www.ed.gov/nclb/choice/help/ses/index.html>
- ▶ Title I Regulations:
<http://www.ed.gov/legislation/FedRegister/finrule/2008-4/102908a.html>
- ▶ SES 2009 Guidance:
www.ed.gov/policy/elsec/guid/suppsvcsguid.doc
- ▶ Regulations on the Participation of Faith-Based and Community Organizations in Department Programs:
<http://www.ed.gov/policy/fund/reg/fbci-reg.html>
- ▶ EDGAR:
<http://www.ed.gov/policy/fund/reg/edgarReg/edgar.html>
- ▶ OMB Circulars:
<http://www.whitehouse.gov/omb/circulars/>

LEGAL STRUCTURE OF FEDERAL PROGRAMS



WHAT ARE SES?

- Supplemental educational services (SES) are additional academic instruction designed to increase the academic achievement of students consistent with LEA content and instruction aligned to state standards.

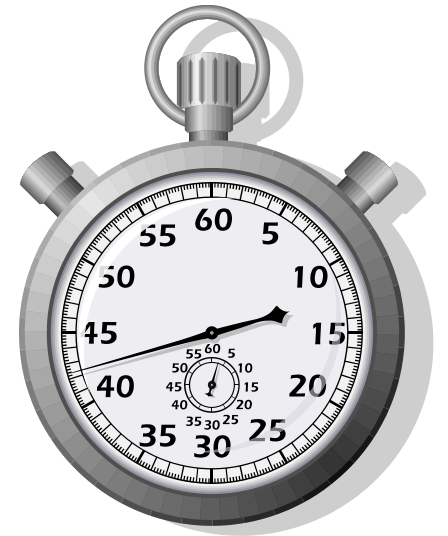


WHEN IS SES REQUIRED?

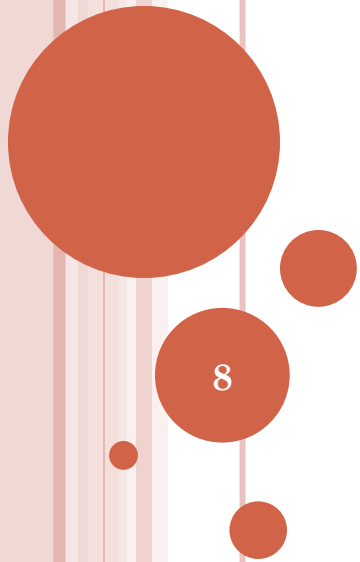
Years of failing AYP**	Status
1	
2	
3	School Improvement (“Year 1”) (school choice)
4	School Improvement (“Year 2”) (choice and SES)
5	Corrective Action (“Year 3”)
6	Restructuring – Planning year (“Year 4”)
7	Restructuring – Implementation (“Year 5”)
8+	?

WHEN IS SES REQUIRED

- At beginning of SY following assessments
- Must have at least two enrollment periods - **Potential**
- May establish deadline for parents
 - Give sufficient time (2 weeks is not enough)

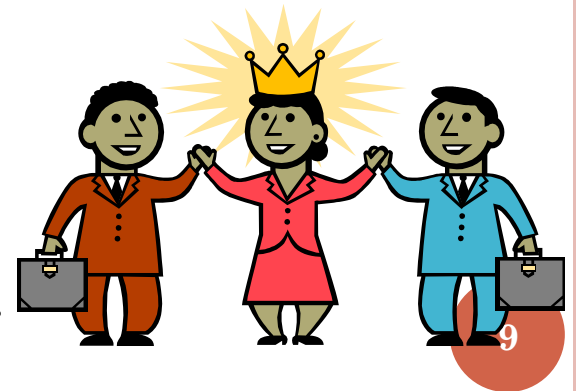


SES PROVIDERS



WHO MAY BE A SES PROVIDER?

- Any (non-profit or for-profit) entity that meets the State's criteria for approval.
- Public schools (including charter schools) (not identified for improvement),
- Private schools,
- LEAs (not identified for improvement – unless waived),
- Educational service agencies,
- Institutions of higher education,
- Faith-based organizations,
- Community-based organizations,
- Business groups, and Individuals.



SES PROVIDER SELECTION

Provider MUST:

- Have a “demonstrated record of effectiveness” in increasing the academic achievement of students in subjects relevant to meeting the State’s academic content and student academic achievement standards;
- Instructional services:
 - (a) High quality, research-based, and designed to increase student academic achievement
 - (b) Consistent with the instructional program of the LEA
 - (c) Aligned with State academic content and student academic achievement standards
 - (d) Secular, neutral, and non-ideological
- Financially sound;
- Federal, State, and local health, safety, and civil rights laws

“DEMONSTRATED RECORD OF EFFECTIVENESS”

- An SEA must consider whether a potential provider can demonstrate that its program meets this standard for approval.
 - Empirical evidence that the provider’s instructional program has increased student academic achievement, or
 - Qualitative data (parents or students served) to program’s effectiveness.

 - **New Applicants** (with no history available)
 - SEA has discretion to determine how it will evaluate the provider
- Examples:
- Anticipated effect of its instructional program on student achievement ;
 - Why it anticipates such effects;
 - Demonstrated effectiveness of the applicant’s instructional program as implemented by *another* entity;
 - Soundness of the research; or
 - How the applicant will measure the effectiveness in increasing student achievement.

SES PROVIDER SELECTION (CONT.)

Additionally, in approving a provider, an SEA must consider, at a minimum:

- Information from the provider on whether the provider has been removed from any State's approved provider list
- Parent recommendations or results from parent surveys, if any, regarding the success of the provider's instructional program in increasing student achievement
- Evaluation results, if any, demonstrating that the provider's instructional program has improved student achievement

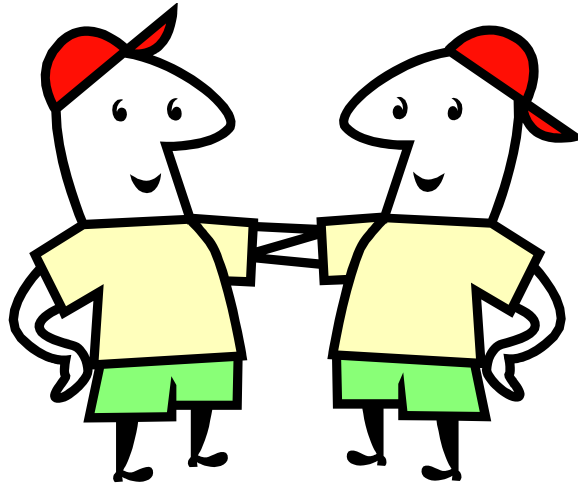
SES PROVIDER SELECTION (CONT.)

- An SEA may require a large provider with franchises to apply separately – or may allow one application.

SES PROVIDER RESPONSIBILITIES

- Enable students to attain achievement goals.
- Measure student progress.
- Adhere to timetable for improvement.
- Protect student identity.
- Health, safety and civil rights laws.
- Secular, neutral, non-ideological.

STUDENT ELIGIBILITY



WHO IS ELIGIBLE?

- All students from low-income families who attend Title I schools that are in their second year of school improvement, in corrective action, or in restructuring.
 - Same regardless whether Targeted Assistance School (TAS) or School wide (SW) school.
- Eligibility is not dependent on whether a student is a member of a subgroup that did not make AYP or whether a student is in a grade that takes the statewide assessments required by Section 1111 of the ESEA.
- Provision 2 or 3 Schools – all students are eligible



WHEN MUST YOU PRIORITIZE SES STUDENTS?

- If the funds are insufficient to provide SES to each eligible student whose parent requests those services, an LEA must give priority to the lowest-achieving eligible students.
- The LEA should use objective criteria to determine which students are the lowest-achieving.



WHEN MUST YOU PRIORITIZE SES STUDENTS?

- May prioritize by cut score on state assessment;
- Subjects that resulted in identification; or
- Lowest performers in specific grades.

SES AND STUDENTS WITH DISABILITIES

- May not discriminate against these students.
- SEAs/LEAs must indicate those providers that are able to serve students with disabilities
 - Such services and necessary accommodations must be available, but not necessarily from each provider.
- Must ensure that eligible students with disabilities have an equal opportunity to participate in SES, and that they receive appropriate accommodations in the provision of SES

SES AND STUDENTS WITH DISABILITIES (CONT.)

- SES must be consistent with a student's individualized education program (IEP) under Section 614 of IDEA or a student's individualized services plan under Section 504
- Note that if no provider is able to provide such services, including necessary language assistance, to an eligible LEP student, the LEA must provide these services, either directly or through a contract.
 - UNLESS there are no approved providers able to serve *any* students in the LEA.

SES AND LIMITED ENGLISH PROFICIENT STUDENTS

- SEAs/ LEAs must indicate those providers that are able to serve LEP students.
- Must ensure that LEP students receive appropriate SES and language assistance in the provision of those services.
- Note that if no provider is able to provide such services, including necessary language assistance, to an eligible LEP student, the LEA must provide these services, either directly or through a contract.
 - UNLESS there are no approved providers able to serve *any* students in the LEA.

SES AND INELIGIBLE STUDENTS

- **May an LEA offer SES to students who are at risk of failing to meet the State’s academic achievement standards, but who are not low-income?**
- Yes. However, an LEA may not “count” funds spent on providing SES to non-low-income students toward meeting its 20 percent obligation.
- Allowable TI expense, if meets all other Title I requirements.

IDENTITY OF STUDENTS?

- Can vendors just get a list of all students eligible for SES?
 - **NO!**
- Prior written consent is required under the Family Educational Rights and Privacy Act (FERPA)
 - Consider a parental consent signature on SES application form.
 - Acknowledgment of the consent must be signed and dated;
 - Specify the records that may be disclosed by the LEA or provider;
 - State the purpose of the disclosure; and
 - Identify the party or class of parties to whom the disclosure may be made.
- (For more information, see 34 C.F.R § 99.30, available at http://www.ed.gov/policy/gen/reg/ferpa/rights_pg4.html.)

HELP VENDORS DISSEMINATE INFO?

For example an LEA may:

- Ask providers to give the LEA stamped envelopes containing information about the program to be mailed by the LEA to parents of eligible students.
- Give providers “directory information” on all students in the LEA (whose parents have not opted out of “directory information”), providers send a mailing to all parents of students in the LEA. (Note, however, that parents of students who are not eligible would also receive such a mailing.)
- “Open house” or “provider fair.”
- Information about providers to parents in school newsletters.
- Brochures and promotional materials at school sites.

LEA RESPONSIBILITIES AND SES PROVIDERS



LEA RESPONSIBILITIES AND SES

An LEA must:

- Notify parents annually about the availability of SES
- Help parents choose a provider, if requested
- Apply fair and equitable procedures for serving students if not all students can be served
- Ensure that eligible students with disabilities and LEP students receive appropriate services
- Enter into an agreement with a provider selected by parents of an eligible student
- Assist the SEA in identifying potential providers within the LEA

PARENTAL NOTIFICATION REQUIREMENTS

- Parent Notice – Annually
 - Ideally at the same time as School Choice Notice
 - New Regulations Choice notice: “no later than 14 calendar days prior to the start of school year.”
- ED strongly encourages that, at a minimum, an LEA acknowledge in its public school choice notification to parents that SES are also an option for eligible students and that additional information about SES will be forthcoming.
- SES Notice: As early as possible!
- *(Don't forget general School Improvement Notice too!)*

SES PARENTAL NOTIFICATION REQUIREMENTS (CONT.)

- An LEA's notice to parents must:
 1. Explain how parents can obtain SES for their child
 2. Identify each approved SES provider within the LEA or in its general geographic location, including providers that are accessible through technology, such as distance learning
 3. Describe briefly the services, qualifications and evidence of effectiveness for each provider
 4. Indicate providers that are able to serve students with disabilities or LEP students
 5. Include an explanation of the benefits of receiving SES

SES PARENTAL NOTIFICATION REQUIREMENTS (CONT.)

- Must also include:
 - Timelines for enrollment.
 - Where and when to return applications.
 - When and how the LEA will notify parents about enrollment dates and start dates.
 - Whom to contact in the LEA for more information;
 - Additional information as needed (should be balanced and should not attempt to dissuade parents from exercising their option to obtain SES for their child).

LEA RESPONSIBILITIES AND SES

- Protect privacy of students who are SES eligible
- Prominently display on its website ,
 - (a) the number of students who were eligible for and the number of students who participated in SES; and
 - (b) the list of providers approved by the SEA to serve in the LEA and the locations where services are provided
- Meet its 20 percent obligation.

LEA RESPONSIBILITIES AND SES (CONT.)

- LEA may not require an additional approval process or impose additional program design requirements on the provider approved by SEA except the requirement to abide by applicable local health, safety, and civil rights laws.
- LEA may not restrict provider based on subject matter.

LEA RESPONSIBILITIES AND SES (CONT.)

- **An LEA - reasonable administrative and operational requirements**
 - Allowable:
 - if reasonable,
 - do not subject SES providers to more stringent requirements than apply to other contractors of the LEA, and
 - do not have the effect of inappropriately limiting educational options for parents.
 - All employees of a provider undergo background checks;
 - Require vendors carry a reasonable amount of liability insurance

CONTRACTS WITH SES PROVIDERS

- Once parents select a provider for their child, an LEA must enter into an agreement with the provider that includes the following:
 - Specific achievement goals for the student, developed in consultation with the student's parents and the provider;
 - How the student's progress will be measured and how the student's parents and teachers will be regularly informed of that progress;
 - A timetable for improving the student's achievement;



CONTRACTS WITH SES PROVIDERS (CONT.)

- A provision for terminating the agreement if the provider fails to meet the student's specific ;achievement goals and timetables;
- Provisions governing payment for the services, which may include provisions addressing missed sessions;
- 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; and
- An assurance that SES will be provided consistent with applicable health, safety, and civil rights laws;
- SWD – must be consistent in IEP or 504 plan – but not a part thereof.

LEA RESPONSIBILITIES AND SES (CONT.)

- Similarly, an LEA may include in its contracts with providers administrative provisions dealing with such issues as:
 - The fees charged to providers for the use of school facilities,
 - The frequency of payments to providers, and
 - Whether payments will be based, in whole or in part, on student attendance.
- Example: 80% of hours to 90% students by Spring. “Philadelphia Rule” ED said this was ok.



CONTRACTS WITH SES PROVIDERS (CONT.)

What if LEA is provider?

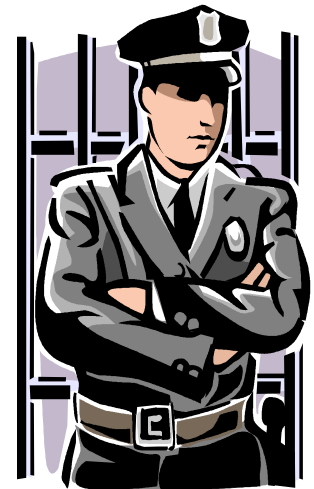
- An LEA that is a provider must prepare an agreement that contains the same required information.
- Although the LEA is not formally entering into an agreement with itself as the provider, the information is necessary so that parents of a student receiving services from the LEA know, for example, the achievement goals for the student, how progress will be measured, and the timetable for improving the student's achievement.

CAN STUDENTS CHANGE PROVIDERS?

- An LEA may allow for such changes if, for example, a parent believes the provider is unlikely to be able to meet their child's progress goals.
- If a number of parents request a change of a particular provider because of the provider's likely inability to meet students' goals, the SEA may need to monitor more carefully the provider's provision of SES.
- The LEA is responsible for having a reimbursement system that allows it to control payments only for those SES rendered.

TERMINATION OF SERVICES

- An LEA may terminate a provider's provision of SES to an individual student if the provider:
 - Is unable to meet the student's specific achievement goals;
 - Is unable to meet the timetable set out in the agreement;
 - Violates provisions re: student progress reports;
 - Violates provisions re: invoicing payment for services;
 - Violates student privacy; or
 - Violates applicable health, safety, and civil rights laws.
 - Fails to meet additional administrative or operational.



SES PROGRAM DESIGN

WHAT ARE SES?

- These services, which are in addition to instruction provided during the school day, may include academic assistance such as tutoring, remediation and other supplemental academic enrichment services that are consistent with the content and instruction used by the LEA and are aligned with the State's academic content and achievement standards.
- SES must be high quality, research-based, and specifically designed to increase student academic achievement.

SEA'S AUTHORITY OVER SES

- The SEA has the authority to establish program design criteria for SES providers:
 - Establish certain program design criteria for providers to meet aimed at ensuring that all approved providers offer high-quality services.
 - For example, set a range of acceptable student/tutor ratios. (e.g., 1-10:1 ratio)
 - Establish a range of (or a cap on) acceptable rates that providers may charge in the State to prohibit exorbitant or unrealistically low rates.
 - The use of ranges would help ensure the delivery of quality services while providing necessary flexibility to accommodate fluctuations in attendance and variations in per-pupil funding among LEAs.

WHAT SUBJECTS CAN BE TAUGHT?

- SES are services that are in addition to instruction provided during the school day specifically designed to increase the academic achievement of children on the academic assessments required under Section 1111 of the ESEA.
- Therefore, allowable subjects include:
 - Reading or language arts, mathematics, science, and English language proficiency (for LEP students) and
 - Any other subjects in its ESEA assessments.

STAFF QUALIFICATIONS

- The highly qualified teacher requirements in Sections 1119 and 9101(23) of the ESEA do not apply to SES providers.
 - The Title I regulations specifically prohibits an SEA from requiring a provider to hire only staff who meet these requirements.
- LEA providers are still subject to these requirements!

LOCATION OF SES

Use of LEA Facilities

- ED encourages LEAs to allow providers to use school facilities to deliver SES, either free of charge or for a reasonable fee.
- LEAs should ensure that the use of the school facilities by providers is on the same basis and terms as are available to other groups that seek access to the school facilities.
- Therefore, an LEA should select providers to operate on-site in a manner that is fair, open, and objective. Whatever process an LEA uses, it should strive to provide parents with as diverse and large a group of on-site providers as possible, including faith-based and other community-based organizations, and business groups.

SES AND LEA SITE CAPACITY ISSUES

- An approved provider might not have the capacity to serve all the students who select that provider.
 - LEAs must use a fair and equitable process for selecting students to receive services.

SUMMER SESSIONS

- YES!
- Summer programs can augment school-year instruction and can help reduce “summer learning loss,” which is frequently an issue for educationally disadvantaged children.
- SEAs may thus approve programs that provide services during the school year as well as during the summer

SES FUNDING



FUNDS FOR CHOICE TRANSPORTATION AND SES

- Amount equal to 20% of LEA allocation (unless lesser amount needed)
 - To pay choice transportation;
 - To satisfy all requests for SES services; or
 - Both

FUNDS FOR CHOICE TRANSPORTATION AND SES (CONT.)

- If no SES, then 20% on choice
- If no choice, then 20% on SES
- If both, then minimum of 5% for choice, 5% for supp services, and 10% for either

- An LEA may spend up to 1 percent of its 20% obligation on parent outreach and assistance!

FUNDS FOR CHOICE TRANSPORTATION AND SES (CONT.)

- If an LEA can not provide school choice in Year 1 of SI; then
- An LEA may count the cost of providing SES to students in schools in Year 1 of SI toward meeting its 20% obligation,
- AS LONG AS the services meet all the requirements in Section 1116(e) of the ESEA and
- AS LONG AS the LEA is meeting the full demand for SES from students enrolled in schools in their second year of improvement, in corrective action, or in restructuring.

ADMINISTRATION/SES TRANSPORTATION

- 20% cannot include administration (for choice or SES) or SES transportation
- Allowable Title I, but not in 20%

Examples of Admin Costs:

- Contracting with or arranging for payment to SES providers.
- Costs associated with matching students to respective providers.

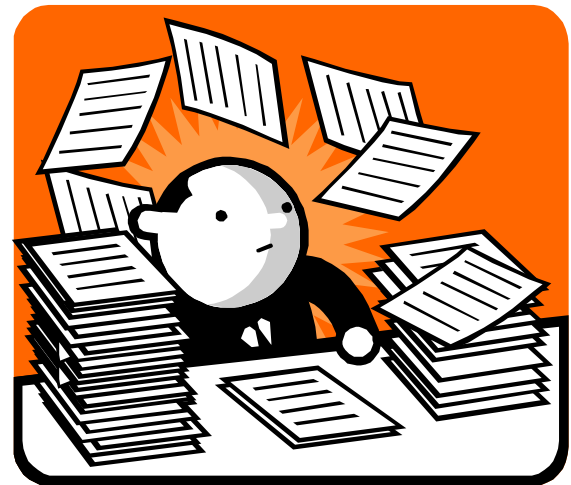


TO SPEND LESS THAN 20%, LEA MUST:

- Ensure SES sign-up forms made widely available through broad dissemination (Internet, other media, public agencies)
 - Ensure Parents have “genuine opportunity” to sign up
 - Send timely, accurate notice to parents
 - Ensure SES sign-up forms given directly to all eligible students/ parents
- Partner, to extent practicable, with outside groups (CBO, FBO, etc)
- Provide (at a minimum) two enrollment windows at separate points in school year of sufficient length
- Ensure SES providers are given access to school facilities, using a fair, open and objective process, on same basis as others

IF FULL 20% NOT NEEDED (RESERVED MORE THAN NECESSARY)

- Reallocate to Title I
- If took school allocations, then reallocated to those schools
- Subject to equitable participation of private school students
- **MUST BE DOCUMENTED!!!**



WHAT IF LEA SPENDS LESS THAN 20%, BUT FULL AMOUNT WAS NEEDED?

- “Out of compliance” and “subject to enforcement sanctions”
- If SEA finds LEA did not meet all criteria, then LEA must in the subsequent year:
- Spend amount equal to the remainder of 20% in the subsequent year on choice/ SES, in addition to new 20%,

OR

- Meet all criteria and obtain permission from the SEA before spending less than full 20% in subsequent year.



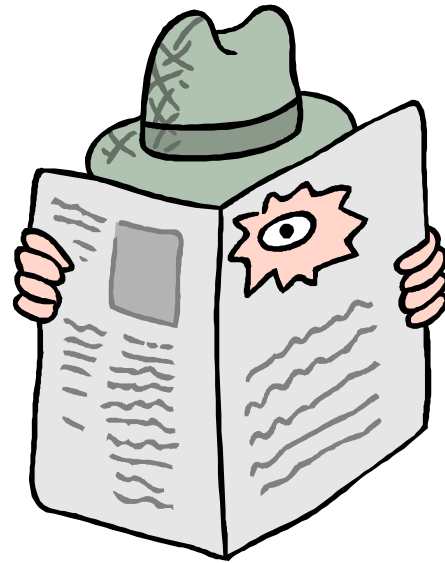
SEA RESPONSIBILITIES

SEA RESPONSIBILITIES

- Ensure SES available to all eligible students.
- May set program design criteria, including hourly rates (LEAs may not).
- Approve providers – maintain list

SES INCENTIVES

- An SEA may develop a policy with regard to providers' use of financial incentives or other gifts directed to families or to school or LEA personnel to encourage enrollment in an SES program.
 - May be allowed, but regulated, or altogether forbidden.
 - Note: Kickbacks are NEVER allowable!
 - May allow student to keep computer at end of program.



SEA PROGRAM MONITORING

SEA MONITORING OF PROVIDERS

- An SEA is responsible for monitoring the quality and effectiveness of services of an approved provider and removing any provider that fails, for two consecutive years, to contribute to increasing academic achievement among the students it serves
- *This includes the* examination of evidence that the provider's instructional program:
 - Is consistent with the instruction provided and the content used by the LEA and the SEA;
 - Addresses students' individual needs as described in students' SES plans;
 - Has contributed to increasing students' academic proficiency; and
 - Is aligned with the State's academic content and student academic achievement standards.

SES MONITORING OF PROVIDERS (CONT.)

- Additionally, an SEA must consider:
 - Parent recommendations or results from parent surveys (if available)
- The SEA may also want to consider:
 - The extent to which a provider's program, as implemented, reflects its program design, student enrollment, attendance, etc.
- An SEA is ultimately responsible for monitoring providers, and should request assistance from its LEAs only in collecting and reporting data to the SEA, not in monitoring the effectiveness of providers.



ROLE OF LEA IN STATE MONITORING

- LEAs:
 - Assist SEA in collecting information
 - NOT in evaluating effectiveness of provider

- Conflict of interest if LEA is provider
 - Guidance - “Consider not involving such LEAs in the monitoring process at all”

STATE MONITORING OF LEAS

- “Should be part of regular Title I monitoring”
- Also, “consider other tools” to monitor throughout year
 - LEA submit to SEA:
 - Parental notification letters
 - Updates during year on:
 - Number of eligible students,
 - Number signed up,
 - Number attending, and
 - Amount of money spent.

QUESTIONS?



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