

Strengthening Choice and Free Tutoring

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

October 2008

The reforms introduced into the Elementary and Secondary Education Act of 1965 (ESEA) by the No Child Left Behind Act of 2001 (NCLB) fundamentally changed the way that states and districts approach the challenge of educating all students to achieve high standards. The U.S. Department of Education announced new regulations for Title I of the No Child Left Behind Act that respond to the lessons learned from six years of implementing these reforms and build on the advancements of state assessment and accountability systems. The Department carefully considered the more than 400 comments received after issuing the proposed regulations in April 2008 and made several substantive changes based on those comments.

The final regulations establish a uniform and more accurate measure of calculating high school graduation rate that is comparable across states; strengthen public school choice and supplemental educational services requirements; and increase accountability and transparency.

Proposed Regulations for Public School Choice and Supplemental Educational Services

➤ Timely and Clear Notification to Parents

Early notification to parents of their public school choice options is essential for parents to have time to make an informed decision about whether to transfer their child to another public school. Additionally, it is important that a district's communication to parents about their SES options be as straightforward and easy for parents to understand as possible.

- ✓ The **final regulations** supplement the regulatory provisions regarding notice to parents of the availability of public school choice and SES to require that notice be timely and clear. Districts must:
 - Notify parents of eligible children of the option to transfer their child to another public school not identified for improvement and provide details about the available options as far in advance as possible, but no later than 14 days before the start of the school year; and
 - Notify parents of eligible children of the availability of SES in a manner that is clear and concise, as well as clearly distinguishable from other school-related information that parents receive.

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

Requiring districts to post on their Web sites current information about available Title I public school choice options and SES will make this information more widely accessible to parents and other interested parties.

- ✓ The **final regulations** require districts to include on their Web sites the following information in a timely manner in order to ensure that parents have current information on their public school choice and SES options:

- The number of students who were eligible for and who participated in SES and public school choice, beginning with data from the 2007–08 school year and for each subsequent year;
- 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 Responsibilities for SES**

Requiring each state to post on its Web site the funds available to support public school choice, SES, and parent outreach, and identify the providers that can serve students with special needs will provide valuable information for all stakeholders. In addition, requiring each state to report publicly on the criteria it uses to monitor districts' implementation of SES will help ensure that all states set rigorous and clear expectations for their districts, which, in turn, will lead to more effective implementation of SES.

- ✓ The **final regulations** require each state to:
 - Post on its Web site, for each district, the amount of funds the district must spend on choice-related transportation, SES, and parent outreach, and the maximum per-pupil amount available for SES;
 - Indicate on its list of approved SES providers those that are able to serve students with disabilities or limited English proficient students; and
 - Develop, implement, and publicly report the standards and techniques it uses to monitor how districts implement the SES requirements.

➤ **SES Provider Approval Process**

The final regulations will help ensure that states use a rigorous approval process that considers all relevant information before they approve entities to serve as SES providers in the state.

- ✓ The **final regulations** supplement the requirements for approving applications from potential SES providers by requiring each state to consider:
 - Evidence from a provider that its instructional methods and content are aligned with state academic content and student academic achievement standards, and are of high quality, research-based, and specifically designed to increase the academic achievement of eligible children;
 - Information from a 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 a provider's instructional program in increasing student achievement; and
 - Any evaluation results demonstrating that a provider's instructional program has improved student achievement.

➤ **State Monitoring of SES Provider Effectiveness**

The final regulations will help create a more uniform, evidence-based process across states for monitoring SES providers.

- ✓ The **final regulations** require a state, before renewing or withdrawing approval of a provider, 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 the state;
 - Addresses students' individual 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.

States must also take into account parent recommendations, results from parent surveys, or other evaluation results, if any, regarding the success of a provider's program in increasing student achievement.

➤ **Costs for Parent Outreach Related to Public School Choice and SES**

Under the statute, districts are required to spend an amount equal to at least 20 percent of their Title I, Part A allocation on choice-related transportation and SES (the "20 percent obligation"). By permitting districts to count costs of parent outreach and assistance toward meeting their 20 percent obligation, the final regulations encourage districts to provide more parent outreach and other assistance to help parents take advantage of their public school choice and SES options.

- ✓ The **final regulations** permit a district to count a portion of its costs for parent outreach and assistance (up to an amount equal to 0.2 percent of its Title I, Part A allocation) toward meeting its 20 percent obligation.

➤ **Use of Funds for Public School Choice and SES**

The final regulations help to ensure that parents of eligible students have a genuine opportunity to transfer their child to another school or to obtain SES before a district may use any unspent funds from its 20 percent obligation for other allowable activities.

- ✓ The **final regulations** require a district, before it uses unspent funds from its 20 percent obligation for other allowable activities, to:
 - Meet, at a minimum, the following criteria:
 - Partner, to the extent practicable, with outside groups to help inform students and parents of the opportunities to transfer to another public school or receive SES.
 - Ensure that students and their parents have had a genuine opportunity to sign up to transfer to another 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
 - + 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 an SES provider.
 - Ensure 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.
 - Maintain records demonstrating that the district has met these criteria and has notified the state education agency (SEA) that it has met the criteria.
 - Inform the SEA of the amount of funds remaining from the 20 percent obligation that it intends to spend on other allowable activities.
- ✓ The **final regulations** require that each state:
 - Ensure, through its regular monitoring process, that a district that uses unspent funds from its 20 percent obligation for other allowable activities meets the criteria listed above.
 - In addition to regular monitoring, review, by the beginning of the next school year, the activities of any district that spends a significant portion of its 20 percent obligation for other allowable activities and that has been the subject of multiple complaints regarding its implementation of the public school choice and SES requirements.

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