

June 4, 2008

Dear Chief State School Officer:

Over the past several years, hundreds of thousands of students across the country have taken advantage of the free tutoring available under Title I of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB). These tutoring opportunities, known as supplemental educational services (SES), provide students from low-income families in Title I schools that have been identified as in need of improvement for two or more years with access to State-approved tutoring providers at no charge. The Department applauds the progress that States and local educational agencies (LEAs) have made in offering SES to eligible students. However, we know that more families can and should take advantage of these important services.

In the 2005-06 school year, Secretary Spellings began a pilot to determine whether more families would take advantage of SES if services were offered in the first year of school improvement—one year earlier than the law requires. In that school year, Secretary Spellings granted four LEAs in Virginia the flexibility to offer SES to students beginning in the first year of school improvement and public school choice beginning in the second year of improvement. In exchange for this flexibility, the participating LEAs and the State agreed to meet a set of conditions to ensure quality SES implementation. The response to this flexibility was positive and resulted in increases in student participation. The Secretary expanded the pilot in the 2006-07 school year to include a limited number of LEAs in Alaska, Delaware, Indiana, and North Carolina. Again, the results showed that the overall number of students receiving SES increased in the participating LEAs. In the current 2007-08 school year, LEAs in Alaska, Indiana, North Carolina, and Virginia continue to participate in the pilot.

Overview of the SES Pilot for the 2008-09 School Year

The Secretary will continue this pilot for the 2008-09 school year and invites all eligible States to apply to participate on behalf of their LEAs. To encourage increased student participation in SES, we are making two changes to the pilot for the 2008-09 school year: (1) there will be no limit on the number of LEAs within an applying State that may participate; and (2) participating LEAs will be allowed to count costs for providing parent outreach toward the 20 percent expenditure requirement, up to an amount equal to 1.0 percent of the 20 percent (or 0.2 percent of an LEA's total Title I, Part A allocation). Once the Title I regulations that are currently out for public comment have been finalized, States and LEAs participating in this pilot, like other States and LEAs, must meet the requirements of these new regulations. In the event that a provision of the final regulations conflicts with a State's flexibility agreement for this pilot, the Department will clarify how the State should conduct the pilot so as to remain in compliance with both the regulations and the flexibility agreement.

State Eligibility Criteria

To be eligible to participate in this pilot program, a State must meet the following three criteria:

- *State assessment system with “Full Approval,” “Full Approval with Recommendations,” or “Approval Expected.”* A State’s assessment system, as administered during the 2007-08 school year, must be designated by the Department to be in one of these three categories.
- *Timely notification of adequate yearly progress (AYP) results.* A State must have made AYP determinations before the start of the 2006-07 and 2007-08 school years. States that have one or more unapproved occurrences of late AYP notification in the past two years are not eligible.
- *State evaluation of SES providers in progress.* A State must be conducting an evaluation of the extent to which its SES providers are contributing to student achievement and must have, at a minimum, started the process of collecting data for the evaluation.

We provide guidance in the enclosed appendix on the process for States to submit applications for this pilot to the Department. The appendix also describes the conditions that participating States and LEAs will need to meet during the 2008-09 school year. Please note that the submission deadline for States is July 2 by 5:00 p.m. EDT.

Please do not hesitate to contact Stacy Kreppel or Kelly Rhoads in my office by email at stacy.kreppel@ed.gov or kelly.rhoads@ed.gov, or by phone at (202) 205-4500 with any questions. We look forward to working with States interested in this pilot.

Sincerely,

Douglas B. Mesecar
Assistant Deputy Secretary

Enclosure

**Appendix: SES Pilot Proposals:
Offering SES to Eligible Students in Title I Schools in Year One of Improvement**

Proposal Process and Content: Question and Answers

1. *What must a State include in its proposal?*

A State must submit a proposal seeking flexibility under section 9401 of the ESEA to allow some or all of its LEAs to reverse the order in which SES and public school choice are offered, providing SES to eligible students starting with schools in year one of improvement, and public school choice to students starting with schools in year two of improvement. A State may also choose to allow its participating LEAs to offer both public school choice and SES to students in schools in year one of improvement. A State's proposal must include the following elements:

- A justification for this flexibility that is clear and concise.
- Evidence that the State meets the eligibility criteria listed in number 2 below.
- Identification of its proposed participating LEAs that addresses the requirements in number 3 below.
- An assurance and description of how the State and its participating LEAs can meet the "Conditions for Participation in the Pilot" set forth below.

2. *Which States are eligible to submit proposals?*

To be eligible for this pilot, a State must meet the following three criteria:

- *State assessment system with "Full Approval," "Full Approval with Recommendations," or "Approval Expected."* A State's assessment system, as administered during the 2007-08 school year, must be designated by the Department to be in one of these three categories.
- *Timely notification of adequate yearly progress (AYP) results.* A State must have made AYP determinations before the start of the 2006-07 and 2007-08 school years. States that have one or more unapproved occurrences of late AYP notification in the past two years are not eligible.
- *State evaluation of SES providers in progress.* A State must be conducting an evaluation of the extent to which its SES providers are contributing to student achievement and must have, at a minimum, started the process of collecting data for the evaluation at the time of submission.

3. *Which LEAs are eligible for this flexibility?*

All LEAs within an eligible State are eligible to participate. In its application, the State must identify each LEA for which it is requesting this flexibility and describe the actions the LEA is taking to increase capacity for public school choice, if capacity is limited. If a State applies on behalf of all its LEAs, it may summarize the actions of all its LEAs, rather than provide individual descriptions.

4. *When and to whom should a State submit its proposal?*

A State that wishes to participate in this pilot for the 2008-09 school year must submit its proposal to the Department by July 2 at 5:00 p.m EDT. Note that only States, and not LEAs, may apply to the Department for this pilot. A State submitting a proposal must send it

electronically to the email address: **SESPilot@ed.gov**

5. *What is the approval process?*

The Department will review each State's proposal to determine whether the State and its identified LEAs meet the criteria for participation. If the proposal meets the criteria, the Department will issue a letter to the State outlining the terms of the flexibility agreement.

6. *How long is this flexibility in effect?*

The flexibility agreement will be in effect during the 2008-09 school year only. At the end of that school year, the Department will evaluate whether to continue the agreement in future school years.

7. *May a State that applied to participate in the Differentiated Accountability Pilot also apply to participate in this pilot?*

Yes, a State that applied for the Differentiated Accountability Pilot may also apply to participate in this SES pilot. In reviewing and approving proposals for this pilot, the Department will take into consideration a State's proposal for the Differentiated Accountability Pilot with respect to its plans to implement public school choice and SES.

Conditions for Participation in the Pilot

In its proposal, a State must provide an assurance and description of how the State and its LEAs will meet the goals and principles below. A State must also provide an assurance that it can meet the waiver requirements specified in section 9401 of the ESEA, including the requirement to provide notice and information regarding the waiver request to the public in the manner in which the State customarily provides such notice.

Goals

- Increased student participation in SES. Participating LEAs must increase the number of students receiving SES under NCLB from prior years.

Principles

- Availability of SES providers. The State must:
 - Maintain a comprehensive list of approved SES providers that may include nonprofit, for-profit, faith- and community-based, and online providers; and
 - Ensure that there are at least two providers available in each participating LEA from which parents may choose.
- Effective parent notification and outreach. The State must ensure that participating LEAs:
 - Provide timely, clear, accurate notice to parents about the identification of their child's school as in need of improvement and their parental involvement opportunities, including the availability of the SES and public school choice options, in simple language that parents can understand;
 - Notify parents of eligible students about SES prior to the start of the 2008-09 school year, or within the first few weeks of the school year, and provide SES shortly thereafter;

- Offer continuous enrollment in SES or multiple SES enrollment periods throughout the 2008-09 school year until each pilot LEA spends the 20 percent required by Title I or until all students who request SES and public school choice are served.
- Level playing field for all providers. The State must ensure that participating LEAs:
 - Provide fair and equitable treatment of non-LEA providers by giving providers access to school facilities at a reasonable price and dividing space among providers in a fair manner;
 - Allow providers to market their services to parents and work with community and business partners to reach out to parents and provide them with information on their options.
- Reporting. The State must:
 - Submit complete and accurate public school choice and SES data for all its LEAs to the Department via the Educational Data Exchange Network (EDEN) for the 2007-08 school year by the end of October 2008, and for the 2008-09 school year by the end of October 2009;
 - Submit reports to the Department on how the conditions of the flexibility agreement were met, including an explanation of trends in participation in SES and public school choice within the participating LEAs, at the end of the first semester of the 2008-09 school year and at the end of the second semester of that school year.