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**NO CHILD LEFT BEHIND ACT OF 2001:
REAUTHORIZATION OF ELEMENTARY
AND SECONDARY EDUCATION ACT**

RESEARCH AND EDUCATIONAL SERVICES

FACT SHEET 3: SUPPLEMENTAL EDUCATIONAL SERVICES (SES)

STATUTORY SUMMARY —

Title 1, Part A, Section 1116 of the No Child Left Behind (NCLB) Act of 2001 requires school districts to make available supplemental educational services to each child from a low-income family enrolled in a school that does not make adequate yearly progress for three consecutive years. The provision of such services must commence in the fourth year. Supplemental educational services are additional educational opportunities, which are made available to students outside the regular school day from a provider approved by the State Education Department. The parent is responsible for selecting the SES provider.

— FREQUENTLY ASKED QUESTIONS —

1. Question: What is the definition of supplemental educational services?

Answer: According to Section 1116 (e) (12) supplemental educational services means tutoring and other supplemental academic enrichment services that are in addition to instruction provided during the school day, and are of high quality, research-based, and specifically designed to increase a student's academic achievement on the state's academic assessments and attain proficiency in meeting the state's learning standards.

2. Question: Which schools must provide supplemental educational services?

Answer: Title I schools and charter schools that are in their second year of school improvement (i.e., have not made AYP for three or more years), in corrective action or in restructuring, must provide supplemental educational services. Schools must continue offering SES to eligible students until the schools are no longer identified for school improvement, corrective action, or restructuring (i.e. schools have made adequate yearly progress for two consecutive years). Where public school choice is not possible, school districts may offer SES during the first year of school improvement.

3. Question: What is the definition of a "provider"?

Answer: A provider of supplemental educational services means a non-profit or for-profit agency or a school district that (1) has a demonstrated record of effectiveness in increasing student academic achievement; (2) is capable of providing supplemental educational services that are consistent with the instructional program of the local educational agency and the state's academic standards; and (3) is financially sound. Public schools (including Charter schools), private schools, institutions of higher education, faith based and community based organizations, and private businesses are among the types of entities that may apply for approval by the State Education Department.

4. Question: Is the school district required to notify parents about the availability of supplemental educational services?

Answer: Yes. Each school district must notify parents annually that their children are eligible for supplemental educational services. The notification must be understandable and, where practicable, in the

parent's language. The notice must tell parents of their children's eligibility, provide a list of approved providers within the district or reasonably available in neighboring districts, and a brief description of the services, qualifications and demonstrated effectiveness of such providers. A school district may establish a reasonable deadline by which parents must request services or allow a rolling enrollment for services.

5. Question: *Who selects the approved provider for supplemental educational services?*

Answer: Upon notification of their child's eligibility, the parent selects a provider from an approved list of providers. If there is not enough money to provide services to each low-income child whose parents request the services, the district must give priority to the lowest-achieving children. If there are not enough spaces at approved providers, the district must set up fair and equitable procedures for serving students. Districts must help parents select a supplemental educational service provider, if the parents request such assistance.

6. Question: *What happens once a parent selects a supplemental service provider for his or her child?*

Answer: The school district must develop, in consultation with the parents and the provider, an agreement that includes a statement of specific achievement goals for the student, how the student's progress will be measured, and a timetable for improving achievement. In the case of a student with a disability, the agreement must be consistent with the student's IEP. However, these services are in addition to, and not a substitute for, the instruction and services required under IDEA and Section 504 and should not be written into IEPs or 504 plans. The agreement must also describe how the parents and teachers of the student will be regularly informed on the student's progress, provide for the termination of the agreement if the provider cannot meet the goals and timetables, and contain provisions on how the district will pay the provider. School districts and providers may not disclose to the public the identity of any student eligible for receiving supplemental services without the written permission of the parent of the student.

7. Question: *How much money is the district required to spend on supplemental educational services?*

Answer: Unless a lesser amount is needed to meet demand for choice-related transportation and to satisfy all requests for SES, a school district must spend up to 20 percent of its Title I, Part A funds on choice-related transportation; SES, or a combination of both. A school district must use 5 percent of Title I funds to pay/or supplemental services. A school district that does not incur any choice-related transportation costs, could use the full 20 percent of Title I funds to pay for SES if there is sufficient demand for such services. In circumstances where more students request services than the school district can fund, the school district must place a priority on serving those low-income students who are the lowest achieving. School districts are not required to provide or pay for transportation for students receiving supplemental educational services.

8. Question: *Are there any circumstances under which a school district would not be required to provide supplemental educational services?*

Answer: A state may waive the requirement of supplemental educational services, if the district can demonstrate that there are not sufficient providers within a reasonable distance of the school district and if the school provides evidence that it is not able to provide those services.

9. Question: *What are the criteria for providers of Supplemental Educational Services?*

Answer: Each state education department must develop and maintain an updated list of providers. In order to be included on the state list a provider must agree to carry out the following:

- ▶ Provide parents of children receiving supplemental educational services and the school district with information on the progress of the children in increasing achievement in a format, and to the extent practicable, a language that a parent can understand.

- ▶ Ensure that instruction provided and content used by the provider is consistent with the instruction and content of the school district and state, and are aligned with the state’s academic achievement standards in the areas of English language arts (including reading and mathematics).
- ▶ Meet all applicable federal, state and local health, safety and civil right laws.
- ▶ Ensure that all instruction and content are secular, neutral and non-ideological.
- ▶ Proof of adequate insurance for liability, property loss and personal injury involving students receiving supplemental educational services.
- ▶ Prohibit the use of financial rewards or incentives to solicit enrollment, encourage parents to stitch providers, or attempt to influence parents, students, local educational agencies, or school staff. Nominal rewards or incentives may be offered to students that:
 1. Do not exceed a total value of \$25 per student per year;
 2. Are directly linked to documented meaningful attendance benchmarks and/or completion of assessment and program objectives; and
 3. Are approved by the Commissioner as part of the provider’s instructional program.

In addition, each state education department must define how it will monitor the quality and effectiveness of the supplemental services offered by providers. If a provider fails to contribute to increasing the academic achievement of those students it serves, for two consecutive years, the state must remove the provider from the state list of eligible providers. The list of approved SES providers is available at www.emsc.nysed.gov/nyc/SES/ApprovedProviders/AlphaList.html

10. Question: Are supplemental educational service providers required to meet the teacher quality requirements of Section 1119 of NCLB?

Answer. No. However, Section 120.4 of the Regulations of the Commissioner of Education requires that SES providers assure that instruction will be provided under the general supervision of a New York State certified teacher. AFT and NYSUT continue to advocate for changes in NCLB requiring SES providers to be certified in the area in which they provide instruction.

— ADVICE TO LOCAL LEADERS —

1. Urge local administrators to actively promote the school district as a bold, innovative supplemental educational service provider.
2. Urge local school districts to develop clearly defined agreements between the school district and approved providers, especially in relation to how the student’s teacher(s) will be regularly informed of the student’s progress.
3. Examine the potential impact on teacher time resulting from coordination with SES providers.
4. Monitor the effectiveness of private supplemental educational service providers.
5. Work with local school district personnel to identify student needs that may be addressed through the provision of supplemental educational services.
6. Check the NYSUT web site for additional information.

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