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August 19, 2011

**Title I Policy Guidance
Supplemental Educational
Services**

TO: Chief School Administrators
Charter School Lead Persons

FROM: Karen Campbell, Interim Director
Office of Title I

SUBJECT: Title I, Supplemental Educational Services Policy Guidance

Attached is policy guidance regarding Title I Supplemental Educational Service (SES).

The New Jersey Department of Education (NJDOE) is issuing this guidance to provide districts with information on two important issues regarding SES contracts and the Annual State-Approved SES Provider List. This information is being released at this time as the 2011-2012 provider list has been released and districts are currently in the process of developing service contracts with SES Providers.

1. The District/SES Provider Service Contract:

- Fees and Payments - Districts are responsible for ensuring that their contracts with SES Providers accurately reflect the state-approved fees for service. Unless otherwise specified in the contract, SES Provider payments may only be made for services rendered. Districts may not make payments to SES Providers without invoices reflecting state approved rates and accompanying valid attendance records. Contractual provisions governing district payment for SES services, must include provisions addressing missed sessions [*Refer to Section 1116(e)(3)(D); 34 C.F.R. §200.46(b)(2)(iv)*];
- Attendance – Attendance procedures and requirements must be articulated in the contract.

2. Communication regarding 2011-2012 NJ SES Providers:

- The 2011-2012 State-Approved SES Provider List was released on August 1, 2011 and is available at: <http://education.state.nj.us/ses/2011/>. Districts are responsible to utilize the most recent version of the state list and must refer to the “last updated” date at the top of the list. The list will change when the state approval status of a provider changes as a result of findings from a monitoring visit, verification of a compliance violation, validation of a Compliance and Safety Investigation Report, implementation of an administrative suspension, or if the state withdraws its approval of a provider.

These guidance documents are part of a new SES Resource Manual and Toolkit that will be released early this Fall. Please review and share this guidance with your staff responsible for administering the district's SES program. Training on these and all other issues of the SES program will be scheduled for your staff in September and October.

Thank you for your commitment to improving the educational opportunities of Title I students in your district. If you have any questions, contact the Office of Title I at ses@doe.state.nj.us.

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Attachments

c: Members, State Board of Education
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SES District/Provider Service Contract Elements

The required elements of a NJ district/SES Provider Service Contract are outlined in federal statute, regulation and state requirements. According to requirements, a district must develop an SES service agreement that includes, at a minimum, the following regulatory elements:

1. Provisions governing payment for services;
2. Student and family confidentiality agreement;
3. Federal and State assurances typical to contract law;
4. A provision for terminating the agreement if terms are not met;
5. Addenda as required by the district for administration and operation of the program.

The SES Non-Regulatory Guidance of January 14, 2009, Section H-2, clearly states that it is the district, not the SES Provider, which is responsible for developing all SES agreements. The following is a description of key elements in the SES District/Provider Service Agreement:

1. **Provisions governing payment for the services, which include provisions addressing missed sessions [Section 1116(e)(3)(D); 34 C.F.R. §200.46(b)(2)(iv)];**
 - A. NJ Districts may have reasonable operational and administrative procedures that include standardized invoicing requirements, frequency of student progress reports, professional expectations of staff while on district property, advertising and marketing tools with the district name or logo, etc. as long as the requirements made of the SES Provider are not inconsistent from those required of other similar service providers.
 - B. NJ SES Providers must submit valid student attendance records with every invoice.
 - a. Attendance procedures must be articulated in the contract and should not be unreasonably burdensome.
 - b. Through random observations, districts are expected to monitor student attendance.
 - c. Districts must include in the contract a statement clarifying if a student, absent from the learning day, may or may not participate in SES afterschool programs.
 - d. All student SES absences MUST be documented for payment purposes. The provision of student services is the priority of SES, therefore, NJ SES Providers must offer student make-up sessions for absences.
 - Attendance records must indicate *excused* absences.
 - Students should not have more than four *excused* absences.
 - Attendance records must indicate *unexcused* absences.
 - Unless otherwise specified in the contract, students may not have more than two *unexcused* absences.
 - C. NJ Districts may only pay SES Providers the state approved fee for services renders as cited on the Annual NJ SES Provider List and may not pay SES Providers in advance of services rendered.
 - a. For payment purposes “services rendered” by the provider shall be defined as the provision of all parts of the regular delivery of SES; in full, in part when the student leaves early, or within one-half-hour prior to the scheduled SES session without cancellation notice.
2. **A confidentiality 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 [Section 1116(e)(3)(E); 34 C.F.R. §200.46(b)(2)(v)];**
3. **An assurance that SES will be provided consistent with applicable health, safety, and civil rights laws [Section 1116(e)(5)(C)]. (See C-19, C-31, C-32.);**

4. A **provision for terminating the agreement** if the provider fails to meet the student's specific achievement goals and timetables [*Section 1116(e)(3)(C); 34 C.F.R. §200.46(b)(2)(iii)*]. The service contract between a district and a provider must specify the terms and processes for terminating services; and
- A district's authority to terminate a service contract or Individual Student Learning Plan (ISLP) is limited to services provided to an individual student and should not cover all students served by a provider.
 - A district 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 and the timetable set out in the ISLP [*Section 1116(e)(3)(C); 34 C.F.R. §200.46(b)(2)(ii)*]. A district may also terminate its agreement with a provider if the provider violates provisions in the agreement, such as provisions regarding student progress reports, invoicing payment for services, protecting student privacy, and complying with applicable health, safety, and civil rights laws. Further, districts may terminate an agreement if a provider fails to meet additional administrative or operational terms that may be included in the agreement, such as conducting background checks on the provider's employees, provided those terms are reasonable, do not subject the provider to more stringent requirements than apply to other contractors of the district, and do not have the effect of inappropriately limiting educational options for students and their parents.
 - If an LEA has general concerns about the quality of a provider's services, the LEA should make its concerns known to the state.
5. The following **addenda** are recommended so that districts maintain a comprehensive accounting of each NJ SES provider's programs and responsibilities:
- A copy of State Approved SES Provider Application,
 - A signed copy of the Annual NJ SES Provider Assurances,
 - Criminal Background Clearances and tuberculosis screening for all employees (or statement of assurances from practicing NJ licensed teachers), and
 - Miscellaneous district required forms (such as facilities use forms or food service agreements for snacks).

*A District that is also an SES provider must prepare a modified agreement that contains the required regulatory information listed in the Federal SES Non-Regulatory Guidance of 1-14-10. Although the district is not formally entering into an agreement with itself as the SES provider, information for the service contract and Individual Student Learning Plan (ISLP) is necessary so that parents of a student receiving services from the district as an SES Provider will know, for example, that SES is being delivered equitably, that achievement goals for the student are reasonable, how progress will be measured, and the timetable for improving the student's achievement. This information must also be available to state and federal Title I monitors.

New Jersey SES Best Practice - SES Agreements: A Two-Part NJ SES District/Provider Contract Structure

Section 1116(e)(3)(A) of NCLB requires a district's agreements, or contracts, with Supplemental Educational Services (SES) Providers to contain an individual statement of goals for each SES student, the involvement of the students' parents and teachers, the specification of how, and how often, progress toward each learning goal will be measured, and identify how that progress will be communicated to parents, teachers and districts. The law does not specifically require that individual statement of goals and the SES Provider service agreement to be incorporated into the *same* document. Therefore, in New Jersey, under state regulations of school district governance, it is most efficient to separate the service contract from the Individualized Student Learning Plans.

While it is not practical for each ISLP to be reviewed by a local Board of Education, New Jersey Boards of Education have a specific interest in the common elements of all business agreements that are part of SES accountability. New Jersey Boards of Education have State statutory and regulatory responsibilities that require review of service contracts covering groups of students, payment authorization procedures and other accountability measures. NJ SES providers should prepare to provide the necessary components of all SES District/Provider Service Agreements.

For efficiency and effectiveness New Jersey districts separate the SES agreements into two parts:

- **Part I - The Service Contract** - Common business elements of SES accountability which are addressed in a District/SES Provider Service Agreement developed by the district business office, and
- **Part 2 - The unique Individual Student Learning Plan (ISLP)**, which is developed by the District Title I program office, the SES Provider and the parent to fulfill the regulatory requirements unique to each SES enrolled student. It includes Student achievement goals, how progress will be measured, how progress will be communicated, timetable, and linkage with IEP if applicable. (A best practice model for NJ SES ISLP development is available for reference in the SES Resource Manual and Toolkit.)

See H-1 through H-9 and H-21 of the federal SES regulations for elements that a district must include in its service agreement with an SES Provider.

New Jersey SES Guidance - District Payment of SES Provider Fees

State guidance on the fiscal aspects of SES is based on sections K and L of the Federal SES Non-Regulatory Guidance of 1-14-10 which can be found at: <http://www2.ed.gov/policy/elsec/quid/suppsvcsguid.pdf>.

New Jersey requires its SES Providers to list instructional fees based on a per-student, per-hour basis. SES providers may serve students in the following manner: one-to-one tutoring; small group tutoring (2-5 students) or large group tutoring (6-12 students). When reconciling SES invoices, a district must accurately calculate payment to the provider based upon the assigned group size and hourly services rendered per student.

Districts are responsible for ensuring that their contracts accurately reflect NJ SES provider state-approved fees in all SES contracts and on all SES invoices prior to payment.

1. **SES Provider Fees** - Districts required to implement SES programs must pay state approved SES Providers the approved instructional rate as listed in the State Approved SES Provider List at: <http://www.nj.gov/education/title1/program/ss/providers/apprv-1011/>. The district must include conditions governing payment for SES services in the district's SES provider service contract, which may include provisions addressing students that miss sessions [Section 1116(e)(3)(D); 34 C.F.R. §200.46(b)(2)(iv)]. Districts may have reasonable operational and administrative procedures that include standardized invoicing requirements as long as the requirements made of the SES Provider are not inconsistent from those required of other similar service providers that contract with the district.
 - a) Districts may not enter into contract with SES providers for fees that exceed the provider's state approved fee for SES instruction.
 - b) Districts may not submit payment for provider invoices with instructional fees beyond those indicated on the corresponding purchase.
2. **Payments to SES Providers** - The NJDOE has informed its school districts that they may only pay providers for *services rendered*. For service contract payment purposes, "services rendered" by the SES Provider shall be defined as the provision of all parts of the regular delivery of SES; in full or in part, but may not be less than one half of the scheduled instructional session. Through random on-site observations and original student signature attendance sheets districts are expected to monitor student attendance records. Attendance procedures must be articulated in the contract and should not be unreasonably burdensome.
 - a) Districts may not make payments for SES Provider invoices without valid student attendance records.
 - b) Unless a district/SES Provider contract outlines a policy for student absenteeism (including make-up tutoring sessions), districts may not pay invoices that include sessions for students that were absent.
 - c) Districts may only pay SES Providers the state approved rate for services rendered as cited on the state's Annual NJ SES Provider List at: <http://www.nj.gov/education/title1/program/ss/>.
 - d) Districts may not use confirming orders to pay SES Providers in advance of services rendered; purchase orders clearly indicating the annual per pupil allocation (PPA) must be utilized. The annual district PPA can be found at: <http://www.nj.gov/education/title1/program/ss/max.shtml>.
 - e) NJDOE SES targeted onsite monitoring activities and other NJ DOE monitoring protocols include a review of district payments to providers. Monitors examine the payments to ensure consistency with state approved SES provider rates, contracted rates, invoiced rates, and the number of hours billed for services rendered.

Contact the NJDOE Title I SES helpline for questions on SES funding or provider payments at: ses@doe.state.nj.us.

New Jersey SES Guidance – Student Attendance and Attrition

One of the greatest challenges of the SES program is student attendance. Ten years after the program was first implemented there are increasing numbers of students enrolling in SES, but the challenge to get them to regularly attend the scheduled sessions remains a concern. Low completion rates and high attrition rates make it difficult to gauge the SES program's effectiveness in raising student achievement at struggling schools.

According to researchers at Vanderbilt University's National Center on Performance Incentives (<http://www.performanceincentives.org/news/detail.aspx?linkid=482&moduleid=61>) less than 20 percent of students who are eligible for SES enroll, and only about 40 percent of those who enroll attend the program to completion. Therefore, by year's end, districts serve only about 14 percent of the students who could have benefitted from SES. The Vanderbilt study also indicated one specific practice that was common to all well-attended SES programs; parent involvement. By increasing parent involvement with SES, student attendance improves and attrition decreases.

Keeping attendance in mind, school leaders and SES providers must work together to develop creative solutions to boost enrollment, support attendance and prevent attrition so that students can receive full benefits from the SES program. Some effective practices are:

- Flexible tutoring hours for students who prefer to attend on weekends or before school rather than after school.
- Snacks for students between school and tutoring sessions.
- Work with athletic coaches to ensure that athletes enrolled in SES attend their tutoring sessions.
- Make SES sessions a regular part of the afterschool options for students and ensure that students understand the value of the program services offered.
- Schedule SES and other afterschool programs on alternate days.
- Blend SES academics with other afterschool activities and programs, such as athletic team study hours or the 21st Century Learning Communities, which include a recreational component.
- Distribute regular progress reports to students and parents. In particular, students are more likely to attend if they participate in setting concrete goals with their teacher and tutor as part of the SES learning plan, and then receive clear reports on their progress in meeting those goals.
- Provide academic achievement awards, progress recognition and reasonable attendance incentives, which can make a difference for some students.

Managing SES attendance and attrition should be an articulated element in all district service contracts with SES Providers.

Contractual provisions governing district payment for SES services must include provisions addressing missed sessions [*Refer to Section 1116(e)(3)(D); 34 C.F.R. §200.46(b)(2)(iv)*]; therefore

A. Attendance procedures must be articulated in the district's service contract.

- Districts may implement reasonable operational and administrative procedures that include standardized invoicing requirements to validate attendance (such as original signatures due the day of the scheduled session, as long as the requirements for invoice attachments are not inconsistent with those required of other similar service providers.
- Through random observations, districts are expected to monitor student attendance.
- Districts must include in the contract a statement clarifying if a student, absent from the learning day, may or may not participate in SES afterschool programs.

Contact the NJDOE Title I SES helpline for questions on SES student attendance and attrition at: ses@doe.state.nj.us.

New Jersey SES Guidance on District Notification of SES Provider Status Changes

The New Jersey Department of Education (NJDOE) has the responsibility for ensuring that Supplemental Educational Services (SES) are available to all eligible students through its districts with schools identified as in need of improvement. The NJDOE must approve SES providers, maintain a list of approved providers, display specific information related to providers on its Web site, monitor its districts' implementation of SES, and monitor the quality and effectiveness of providers. The state is required to maintain an updated list of approved SES Providers from which parents may select [Section 1116(e)(4)(C); 34 C.F.R. §200.47(a)(3)(ii)].

The purpose of this guidance is to specify how the NJDOE communicates with districts regarding changes in the State Approved SES Provider List.

A new State-Approved SES Provider List is released annually on August 1st prior to the beginning of every new Title I SES project period (September 1st). The list can be found at: <http://www.nj.gov/education/title1/program/ss/>. The NJDOE disseminates information regarding the Annual State Approved SES Provider List through technical assistance, individual communication and the NJ SES Resource Manual and Toolkit. During the months of July, August and September the list is frequently updated on a daily basis; therefore, districts should verify the date of the list prior to preparing handouts for parent mailings. A "Last Updated" date is posted at the top of the list to assist districts in obtaining the most current data to provide parents with all options available to them when selecting a provider to serve their child.

The 2011-2012 State-Approved SES Provider List has been redesigned to better assist districts and parents.

District should use the search features to find the providers approved to serve their school. Districts are required to send parents a list of all providers approved to serve their district. The information should also be posted on the district Web site along with other parent choice materials for enrolling their child in SES. Parents may select from any of the providers on the list; districts may not limit a parent's selection of SES Providers. Districts can narrow the state list by entering four search parameters:

1. All of NJ;
2. On-line programs;
3. Your county; and
4. Your district.

The results will be the list of providers that can serve the SES eligible students in the district.

Parents can also search for specific academic areas and special needs providers as well as those providers delivering instruction in other languages, etc. This should help parents find a provider that can best meet their child's needs.

The list is available to the public on the NJDOE SES Webpage. Updates regarding suspension or removal of providers are indicated in red next to the provider's name. There may be occasion when the NJDOE contacts district Title I Directors or SES Coordinators specifically about a change on the State Approved SES Provider List. Such communication may occur when the state approval status of a provider changes as a result of findings from a monitoring visit, verification of a compliance violation, validation of a Compliance and Safety Investigation Report, an administrative suspension, or if the state withdraws its approval of a provider.

Contact the NJDOE Title I SES helpline for questions about the State Approved SES Provider List at: ses@doe.state.nj.us.