

## 21b. Supplemental Educational Services

Statutory Requirements: Section 1116 (e)

### Overview

The No Child Left Behind Act breaks totally new ground in Title I by giving parents of children in failing schools the option to obtain supplemental educational services. Supplemental educational services offer tutoring and other academic programs after the regular school day by providers that must be certified by the state education agency as qualified to enable students to achieve proficiency on state's academic assessments. Parents of eligible children choose the provider. The school district makes arrangements for the services and pays the provider. This option, is limited to certain students in certain Title I schools and for specific periods of time.

**Eligible Schools and Students**—An eligible Title I school is one that has failed to make adequate yearly progress for two or more years and has been identified for school improvement or corrective action. The only students eligible to use these services are those from low-income families, usually determined by eligibility for free and reduced-price lunches. If Title I funds are not sufficient to provide services to all eligible children whose parents request them, priority must be given to the lowest achieving, low-income students. Parents must be notified of this option at the end of the first full year after a school has been designated in need of improvement or when a school is required to undertake improvement or corrective action.

Parents are the decision-makers. An LEA shall not be required to arrange for the provision of supplemental educational services for a student, if the parent of such student has not requested supplemental educational services. This places the responsibilities on parents; however, the school district must notify them of the available providers so that they may make their request.

**Notice to Parents**—The notice, in a language and format parents can understand, must be issued each year and must contain the following:

- the availability of services;
- the list of providers within the school district or those reasonably available in next-door districts;
- a brief description of the services, qualifications, and demonstrated effectiveness of each provider;
- help parents can get in choosing a provider;
- the fair and equitable procedures to be used if approved providers are oversubscribed;
- the identity of students eligible for or receiving supplementary services must not be disclosed.

**Duration of Supplemental Services**—Services are limited to the school year in which they were first received. The availability of this option depends, in the first instance, on the status of a student's Title I school. It is only available while the child's school is in improvement or corrective action. If the child's school has achieved significant enough progress to have been removed from one of those two conditions, he or she is not longer entitled to after-school services. The child could also lose entitlement to services if he or she is no longer among the lowest achieving students or no longer eligible for free and reduced priced meals. After-school tutoring would no longer be paid by the district's Title I funds. But if the child has not achieved proficiency on state tests *and* if the school is still failing, he or she could continue to participate in supplemental educational services.

**Paying for Supplemental Services**—The cost of supplying after-school tutoring or academic enrichment programs is borne by school districts’ Title I funds. Students’ transportation to and from the provider’s location, if required, is also paid by Title I and certain other federal funds. At least five percent and up to 15 percent of districts’ Title I funds “off the top” of their Title I Part A allocation must be made available for the services and transportation. This amount must be spent unless a lesser amount is needed to provide services for all requests. States can also use their administrative money under Title I, and states and school districts can use funds under the Title V Part A, Innovative Programs Block Grant.

The amount per child that must be spent on supplemental educational services is determined by federal law. It is the lesser amount of

- the local educational agency’s Title I Part A allocation divided by the number of poor children below the poverty line,
- or
- the actual cost of the services provided per child.

**District Responsibilities**—School district officials must notify parents of eligible children of the availability of supplementary educational services. Once a parent has chosen a provider, the school district enters into an agreement with the parent and the provider. That agreement must state

- specific achievement goals for the student;
- how progress toward those goals will be measured;
- the timetable for improving achievement (in the case of a disabled student, the timetable must be consistent with the child’s IEP);
- how the parents and the student’s teacher(s) will be regularly informed of the child’s progress;
- that the agreement will be terminated if the provider is unable to meet the goals and timetables;
- how the provider will be paid; and
- that the child’s identity will not be publicly disclosed without the parent’s written permission.

Districts must employ “fair and equitable” procedures if there are more requests for services than spaces available. Districts must ensure that eligible students who are disabled are provided with appropriate accommodations when they receive supplemental services. And, limited-English-proficient students who are eligible for supplemental services must have language assistance in the provision of those services.

**State Responsibilities**—The state education agency is charged with identifying nonprofit, or for-profit organizations or school districts as providers that have a “demonstrated record of effectiveness in increasing the academic proficiency of students” in subjects covered by states’ academic standards. The state develops criteria the providers must meet in order to be state-approved. Providers must be financially sound and able to provide services that are of “high quality, research-based, and specifically designed to increase the academic achievement of eligible children” so that they achieve the proficiency level on the state’s academic achievement standards.

The state must ensure that providers of supplementary educational services provide accommodations to eligible students with disabilities and language assistance to eligible students who are limited-English proficient. Public schools that have been identified for improvement, corrective action, or restructuring and school districts that are in district improvement status cannot be certified as supplemental services providers.

The state education agency publishes annually a notice of the opportunity to provide services. Providers must agree to

- provide parents and district school officials with information about the child's progress;
- ensure that instruction and content are consistent with state standards and the district's own instructional program;
- obey all federal, state, and local laws governing health and safety;
- guarantee that all instruction and content are secular, neutral, and non-ideological.

The state is further responsible for monitoring the quality of nonprofit organizations that provide supplemental educational services. The state agency must withdraw approval of providers that have failed for two consecutive years to contribute to increasing the academic proficiency of students they served.

Eligible students in eligible schools may choose supplemental services or public school choice, but they cannot use both. Supplemental services must be offered outside the normal school day and be designed to help students meet state academic standards. An approved provider cannot refuse to serve a disabled student who can, without minor adjustments, be provided services called for in his or her individual educational plan (IEP).