

## **CFR Title 34: Education – Part 200-Title I Regulations have Added New Responsibilities for SEAs and LEAs Regarding the Implementation of Supplemental Educational Services (SES) and Public School Choice\***

*\*Note: New changes to CFR regulations and a brief reminder of some still existing parent notification requirements are included in these presentation materials. SES & public school choice have many additional requirements not covered by this presentation. For a complete review of Public School Choice and SES regulations click on the link below to the Electronic Code of Federal Regulations. This link also provides information on all CFR regulations related to the NCLB, Title I, Part A program.*

[http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=46d2e3ad904bb8978ba4cc5e4561d2ca&tpl=/ecfrbrowse/Title34/34cfr200\\_main\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=46d2e3ad904bb8978ba4cc5e4561d2ca&tpl=/ecfrbrowse/Title34/34cfr200_main_02.tpl)

### **New LEA Responsibilities:**

- **Public School Choice & SES Notification Requirements**
- **LEA Website – Required Information on SES and School Choice**
- **Allowance for Parent Outreach & Assistance Costs**

### **New CFR Title 34: Education-Part 200 SES & School Choice Regulations Started at the Beginning of the 2009-2010 School Year:**

- *LEAs must notify parents of eligible students about public school choice options sufficiently in advance of, but no later than 14 calendar days before, the start of the school year [§200.37(b)(4)(iv);200.44(a)(2)]*
- *SES Notification must include an explanation of the benefits of receiving SES[§200.37(b)(5)(ii)(C)] – Be clear, concise, and clearly distinguishable from other information sent to parents on school improvement [§200.37(b)(5)(iii)] – and*
- *include an indication of those providers who are able to serve students with disabilities (SWD) or Limited English Proficient (LEP) students [§200.37(b)(5)(ii)(B)].*

**A Reminder:** The following NCLB SES parent notification requirements although not new are still in effect and must be implemented by LEAs with Title I schools in accountability status:

- ***Section 200.37(b)(5)(i):*** Notification must also include information/instructions on how parents can obtain SES for their child.
- ***Section 200.37(b)(5)(ii)(A):*** Notification must identify each approved SES provider available within the LEA or in its general geographic location, including providers that are accessible through technology, such as distance learning.
- ***Section 200.37(b)(5)(ii)(B):*** Notification must briefly describe the services, qualifications, and evidence of effectiveness for each provider. Additionally, the LEA’s notice should describe the procedures and timelines that parents must follow in selecting a provider to serve their child. As an example the notification materials should describe where and when to return a completed application, when and how the LEA will notify parents about enrollment dates and start dates, and whom to contact in the LEA for more information.

If the LEA anticipates that it will not have sufficient funds to serve all eligible students, it should also include information on how it will set priorities in order to determine which eligible students receive services.

**LEA Must Prominently Display\*\* on its Web Site\*, In a Timely Manner:**

- *The number of students who were eligible for and the number of students who participated in school choice & SES, beginning with data from the 2007-2008 school year and each subsequent school year.*
- *For the current school year, a list of SES providers approved by the State to serve the LEA and the locations where services are provided.*
- *For the current school year, a list of available schools to which students eligible to participate in public school choice may transfer [§200.39(c)(1)].*

*\*If an LEA does not have its own Web Site, the State (i.e. NYSED) must include the information for the LEA on its Web Site [§200.39(c)(2)].*

**\*\*Note:** “Prominently Display” means that a district needs to ensure that the required information is in a place that is visible and easy for parents to locate.

**Allowance for Parent Outreach & Assistance Costs**

- *An LEA may count in the amount the LEA is required to spend for choice-related transportation & SES (“20 % obligation,” an amount = to 20% of its Title I, Part A allocation) its costs for parent outreach and assistance.*
- *An LEA may count up to an amount = to 0.2 percent of the LEA’s Title I, Part A allocation ((one percent of the 20-percent obligation) [§200.48(a)(2)(iii)(C)].*

### **State (SEA) Responsibilities Regarding SES**

- *Transparency for Parents & the Public*
- *SES Provider Approval Process*
- *SES Provider Monitoring*
- *Monitoring LEAs*
- *Implementation Timeline*

### **Transparency for Parents & the Public:**

- *For each LEA, States must post on their Web sites [§200.47(a)(1)(ii)(B)]: The amount of funds available for choice-related transportation & SES as required in §200.48(a)(2) (the 20% obligation; i.e., an amount equal to 20 percent of the LEA’s Title I, Part A allocation).*
- *The per-child amount for SES as calculated under §200.48(c)(1).*
- *States must indicate on the list of approved providers those SES providers that are able to serve SWD and LEP students. [§200.47(a)(3)(ii)].*

### **SES Provider Approval Process:**

- *A State must ensure that each provider it approves has a demonstrated record of effectiveness in increasing student academic achievement, and*
- *Is capable of providing instructional services that are aligned with State academic content and student academic achievement standards, and is of high quality, researched-based, and designed to increase student academic achievement [§200.47(b)].*
- *Additionally, a State must consider, at a minimum: information from the provider on whether it has been removed from any State’s approved provider list [§200.47(b)(3)(i)], Parent recommendations, or results from parent surveys, if any exist, regarding the success of the provider’s*

*instructional program in increasing student achievement*  
[§200.46(b)(3)(ii)], and

- *Evaluation results, if any exist, demonstrating that the provider's instructional program has improved student achievement* [§200.47(b)(3)(iii)].

### **SES Provider Monitoring:**

**To monitor the quality & effectiveness of services offered by an approved provider in order to inform the renewal or the withdrawal of provider approval, a State must examine, at a minimum, evidence that the provider's instructional program:**

- *Is consistent with the instruction provided & content used by the LEA & State* [§200.47(c)(1)(i)],
- *Addresses students' individual needs, as described in students' SES plans* [§200.47(c)(1)(ii)],
- *Has contributed to increasing students' academic proficiency* [§200.47(c)(1)(iii), and
- *Is aligned with the State's academic content & student academic achievement standards* [§200.47(c)(1)].

### **A State must also consider information, if any exists, regarding:**

- *Parent recommendations or results from parent surveys regarding the success of the provider's instructional program in increasing student achievement* [§200.47], and
- *Evaluation results demonstrating that the instructional program has improved student achievement* [§200.47 (c)(2)].

### **Monitoring LEAs:**

- **A State is required to develop, implement, and publicly report on the standards and techniques it will use to monitor LEAs' implementation of SES [§200.47(a)(4)(iii)].\***

**\*The New York State Education Department, Title I School & Community Services Office (NYC) monitor LEAs' implementation of SES by the methods described below.**

- **Coordinated Monitoring Review:**

**Title I staff, as part of a larger, on-site review, across several program offices, monitors an LEA's implementation of their Title I, Part A, C, and D programs. LEAs that have had Title I schools identified as being in corrective action, and/or restructuring are chosen for these reviews. Under NCLB, Title I legislation and regulations these LEAs are required to offer parents of children enrolled in these schools the Public School Choice and/or SES option. Department staff using NCLB Title I Part A legislation and 34 CFR regulations as guidance, monitors the implementation of public school choice and/or SES through document reviews (programmatic, fiscal, parental notifications, contracts, etc.), and interviews of LEA administrative staff, parents and their children (with parental permission) who are receiving SES, SES provider administrators, and SES tutors. A report is filed with the LEA and any findings are noted. The LEA is required to develop a corrective action plan (CAP) to address any findings. If the CAP is inadequate the Department follows up with either additional technical assistance or schedules another on-site review to address the remaining issues. Traditionally, the Department schedules six coordinated reviews each school year. The purpose of a coordinated review for Title I is to look in-depth at an LEA's implementation of their Title I program(s). A coordinated review takes from 3 to 5 days to complete and may involve 3-6 program offices and a dozen or more staff across several program offices.**

- **Title I Targeted Review:**

**Staff from the Title I School and Community Services Office (NYC) in the Office of Accountability conducts 25-50 targeted on-site reviews, focused solely on Title I, Part A programs. When applicable Public School Choice and SES are reviewed. Not all 25-50 LEAs reviewed have Title I schools in accountability. These LEAs are not required to offer Public School Choice and/or SES. As in a coordinated review, a written report is generated and findings related to Public School Choice and/or SES is noted. The LEA is required to submit a CAP and the Department will either approve the CAP or request additional information or CAP development. Any outstanding issues not resolved through the CAP are dealt with through additional technical assistance and/or a follow-up on-site review. The purpose of a Title I Targeted Review is to focus on a few Title I areas (ex. school improvement, parental involvement, fiduciary responsibilities etc.) rather**

than the entire Title I program. Title I Targeted Reviews are conducted by one staff member and take one day to complete.

- **Title I, Part A Desk Audit Document Reviews:**

Staff from the Title I School and Community Services Office (NYC) annually conduct 100 (to increase to 200 in 2010-2011) Title I Desk Audit Document reviews. LEAs are required to submit to the Department, Title I documents which are reviewed for accuracy and proper content. Public School Choice and SES documents are part of the review. Not all required Title I documents are reviewed. The purpose of the Title I, Part A Desk Audit review is to narrowly focus on a few Title I program areas (ex. consultation/collaboration, parental involvement, fiscal requirements, private school participation etc.) in order to determine if LEAs are fulfilling those Title I program documentation requirements. As in coordinated reviews and targeted reviews, LEAs are required to provide corrected documents or develop a plan to create the necessary documentation. LEAs that submit incorrect or inadequate documentation are often scheduled for a follow-up, Targeted Title I, on-site review for the following school year.

**Additional Annual SEA Requirements: - Before the Start of or During the New School Year -**

- *Post data on each LEA's 20% obligation & per-pupil cap for SES.*
- *Beginning with the State's next approval cycle, approve providers using the new criteria.*
- *Beginning with the State's next monitoring cycle, monitor providers using the new criteria.*
- *Develop, implement, and publish standards for monitoring LEAs.*

**Funding for Choice-Related Transportation and SES**

- *Criteria that an LEA Must meet to Spend Less than its 20% Obligation*
- *LEA Responsibilities to Document & Notify the State (SEA)*
- *State (SEA) Responsibilities*

- Consequences for Non-Compliance
- Availability of Funds

### **Criteria that an LEA Must meet to Spend Less than its 20% Obligation:**

- *To spend less than the amount needed to meet its 20% obligation, an LEA must meet, at a minimum, the following criteria:*
  1. *Partner, to the extent practicable, with outside groups, such as faith-based organizations, other community-based organizations (CBO), and business groups, to help inform eligible students and their families of opportunities to transfer or to receive SES [§200.48(d)(2)(i)(A)].*
  2. *Ensure that eligible students and their parents have a genuine opportunity to sign up to transfer or to obtain SES, including by:*
    - *Providing timely, accurate notice to parents.*
    - *Ensuring that sign-up forms for SES are distributed directly to all eligible students and their parents, and are made widely available and accessible through broad means of dissemination, such as the Internet, other media, and communications through public agencies serving eligible students and their families.*
  3. *Ensure that eligible students and their parents have a genuine opportunity to sign up to transfer or to obtain SES including by:*
    - *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 a provider [§200.48(d)(2)(i)(B)].*
  4. *Ensure that eligible SES providers are given equal access to school facilities, using a fair, open, and objective process, on the same basis and terms as are available to other groups that seek access to school facilities [§200.48(d)(2)(i)(c)].*

### **LEA Responsibilities to Document & Notify the State (SEA)**

**To spend less than the amount needed to meet its 20% obligation, an LEA must:**

- *Maintain records demonstrating that it has meet the criteria in §200.48(d)(2)(ii), and*

- *Notify the State that it has met the criteria in §200.48(d)(2)(i); and intends to spend the remainder of its 20% obligation on other allowable activities, specifying the amount of that remainder [§200.48(d)(2)(iii)].*

## **States' Responsibilities**

**Each State must, through its regular monitoring process, ensure that an LEA that spent less than its 20% obligation on choice-related transportation and SES met the criteria in §200.48(d)(2)(i).**

**In addition to its regular monitoring progress, a State must, by the beginning of the next school year, review any LEA that:**

- *The State determines has spent a significant portion of its 20% obligation on other allowable activities; and*
- *Has been the subject of multiple complaints, supported by credible evidence, regarding implementation of public school choice or SES [§200.48(d)(3)].*

## **Consequences for Non-Compliance**

**If a State determines that an LEA has failed to meet any of the criteria in §200.48(d)(2)(i), the LEA must:**

- *Spend an amount equal to the remainder of its 20 percent obligation in the subsequent year, in addition to its 20 percent obligation for that year, on choice-related transportation costs, SES, or parent outreach and assistance, or*
- *Meet the criteria and obtain permission from the State before spending less than the required amount in that subsequent school year. The State must confirm the LEA's compliance with the criteria before granting such permission [§200.48(d)(4)].*

*The following information is not based upon CFR regulation changes but USDE's rationale for the regulation changes and its impact on the availability of funds.*

## **Impact on Availability of Funds**

- **The USDE does not believe that these regulations will likely lead to the loss of Title I funds due to the 15 percent carryover limitation or other fiscal accounting requirements.**
- **LEAs have considerable flexibility in managing their federal allocations.**
- **The regulations focus on the amount that must be spent for choice-related transportation & SES, not the specific funds or source of funds.**
- **Thus, an LEA may use any choice-related transportation and SES funds (that otherwise might lapse) for other allowable activities as long as an identical amount is added to its 20% obligation in the subsequent year.**
- **LEAs may avoid lapsing prior-year funds due to the end of the period of availability by following the “first-in, first-out” practice of spending any carried-over funds before using current-year funds.**
- **An LEA may apply to the State for a one-year exemption (available once every three years) from the 15 percent Title I carryover limitation.**
- **Concerns regarding the availability of funds may be avoided by meeting the criteria in §§200.48(d)(2)(i),**

## **Questions on Public School Choice or SES?**

**Call the Title I School & Community Services Office  
at: 1-(518)-473-0295.**

**Questions can be e-mailed by writing to:**

**[LHovish@mail.nysed.gov](mailto:LHovish@mail.nysed.gov)**