

Roles and Responsibilities of Hawai'i Department of Education

As defined by the SES Non-Regulatory Guidance (1-14-09) and the Hawaii Department of Education Procedures and Guidelines (August 2011)

SES Non-Regulatory Guidance:

What is the responsibility of an SEA in ensuring that SES are made available to all eligible students?

An SEA has a number of responsibilities in ensuring that SES are available to all eligible students. The SEA must approve SES providers, maintain a list of approved providers, display certain information on its Web site, monitor its LEAs' implementation of SES, and monitor the quality and effectiveness of providers. Specifically, the SEA must:

1. Consult with parents, teachers, LEAs, and interested members of the public to promote maximum participation by providers to ensure, to the extent practicable, that parents have as many choices as possible [*Section 1116(e)(4)(A); 34 C.F.R. §200.47(a)(1)(i)*].
2. Provide and disseminate broadly, through an annual notice to potential providers, information on the opportunity to provide SES and the process for obtaining approval to be an SES provider [*Section 1116(e)(4)(E); 34 C.F.R. §200.47(a)(1)(ii)*].
3. Develop and apply objective criteria for approving potential providers [*Section 1116(e)(4)(B); 34 C.F.R. §200.47(a)(2)*].
4. Maintain an updated list of approved providers across the State, for each LEA, from which parents may select, and indicate which providers are able to serve students with disabilities or LEP students [*Section 1116(e)(4)(C); 34 C.F.R. §200.47(a)(3)(ii)*]. An SEA should also give each LEA a list of approved providers in its general geographic location.
5. Post on its Web site, for each LEA, the amount equal to 20 percent of the LEA's Title I, Part A allocation available for SES and choice-related transportation (also known as the "20 percent obligation") and the per-pupil amount available for SES [*34 C.F.R. §200.47(a)(1)(ii)(B)*].
6. Develop, implement, and publicly report on standards and techniques for monitoring the quality and effectiveness of services offered by approved SES providers, and for withdrawing approval from providers that fail, for two consecutive years, to contribute to increasing the academic proficiency of students served by the providers [*Section 1116(e)(4)(D); 34 C.F.R. §200.47(a)(4)*].
7. Develop, implement, and publicly report on standards and techniques for monitoring an LEA's implementation of SES [*34 C.F.R. §200.47(a)(4)(iii)*].
8. Monitor each LEA's implementation of SES, including any LEA that spends less than the amount needed to meet its 20 percent obligation and chooses to spend the remainder of that obligation on other allowable activities to ensure that the LEA complies with the criteria in 34 C.F.R. §200.48(d)(2)(i) [*34 C.F.R. §200.48(d)(3)*].
9. In addition to its regular monitoring, review by the beginning of the next school year any LEA that spends significantly less than the amount needed to meet its 20 percent

obligation and has been the subject of multiple complaints, supported by credible evidence, regarding implementation of the public school choice and SES requirements [34 C.F.R. §200.48(d)(3)(ii)(A)].

What is an SEA's responsibility with respect to monitoring SES providers?

An SEA is responsible for monitoring the quality and effectiveness of services of an approved provider and removing any provider that fails, for two consecutive years, to contribute to increasing academic achievement among the students it serves [Section 1116(e)(4)(D); 34 C.F.R. §200.47(c)]. Such monitoring must include, at a minimum, examination of evidence that the provider's instructional program:

1. Is consistent with the instruction provided and the content used by the LEA and the SEA [Section 1116(e)(5)(B), (e)(12)(B)(ii); 34 C.F.R. §200.47(c)(1)(i)];
2. Addresses students' individual needs as described in students' SES plans [Section 1116(e)(3)(A); 34 C.F.R. §200.47(c)(1)(ii)];
3. Has contributed to increasing students' academic proficiency [Section 1116(e)(4)(D); 34 C.F.R. §200.47(c)(1)(iii)]; and
4. Is aligned with the State's academic content and student academic achievement standards [Section 1116(e)(5)(B), (e)(12)(B)(ii); 34 C.F.R. §200.47(c)(1)(iv)].

Additionally, an SEA must consider, if available, parent recommendations or results from parent surveys regarding the success of the provider's instructional program in increasing student achievement and evaluation results demonstrating that the provider's instructional program has improved student achievement [34 C.F.R. §200.47(c)(2)].

An SEA may also want to consider monitoring the extent to which a provider's program, as implemented, reflects its program design, as proposed in its application to the SEA; student enrollment (including enrollment of students with disabilities and LEP students); and attendance in a provider's program. An SEA's monitoring criteria must be publicly reported [Section 1116(e)(4)(D); 34 C.F.R. §200.47(a)(4)(iii)], and an SEA should report any findings resulting from such monitoring.

An SEA is ultimately responsible for monitoring providers, and should request assistance from its LEAs only in collecting and reporting data to the SEA, not in monitoring the effectiveness of providers.

How may an SEA meet its monitoring responsibility to measure a provider's performance in increasing student academic proficiency?

An SEA must examine a provider's effectiveness in improving student academic proficiency as part of its responsibility to monitor a provider's performance for purposes of renewing or withdrawing approval of a provider [34 C.F.R. §200.47(c)(1)(iii)]. Additionally, an SEA must monitor whether a provider is addressing students' needs as described in their individual student plans [34 C.F.R. §200.47(c)(1)(ii)]. An SEA may use State assessment results, LEA assessments, provider assessments, or other measures to assess the academic achievement gains of students receiving SES. Whatever measure is used, it should be specified publicly (ideally in the SEA's notice inviting entities to apply to become SES providers) so that all providers know how the SEA will measure providers' performance in increasing student academic proficiency.

Under what circumstances must an SEA withdraw approval of a provider that is not meeting the statutory requirement to increase students' academic proficiency?

An SEA must have standards and techniques for withdrawing approval of an SES provider and removing the provider from the State-approved list [34 C.F.R. §200.47(a)(4)(ii)]. The statute requires an SEA to remove from the approved list any provider that fails, for two consecutive years, to contribute to increased student proficiency relative to State academic content and student academic achievement standards [Section 1116(e)(4)(D)]. In addition, a provider may be removed from the list if it fails to provide SES consistent with applicable health, safety, and civil rights requirements, or fails to meet any other regulatory or statutory requirements, particularly after more than one violation.

What is an SEA's responsibility regarding monitoring an LEA's implementation of SES?

An SEA is required to develop, implement, and publicly report on the standards and techniques it will use to monitor LEAs' implementation of SES [34 C.F.R. §200.47(a)(4)(ii)]. An SEA must ensure that its LEAs meet the requirements of the statute and its implementing regulations. Monitoring LEAs to ensure that they meet all requirements for implementing SES should be part of the regular Title I monitoring that SEAs conduct of their LEAs [see 34 C.F.R. §80.40].

As part of its regular Title I monitoring of LEAs, an SEA must ensure that an LEA meets the criteria in 34 C.F.R. §200.48(d)(2)(i) if the LEA spends less than its 20 percent obligation for choice-related transportation and SES and uses the unexpended amount for other allowable activities [34 C.F.R. §200.48(d)(3)(i)]. Further, an SEA must review, before the beginning of the subsequent school year, any LEA that has spent a significant portion of its 20 percent obligation for other allowable activities and has been the subject of multiple complaints, supported by credible evidence, regarding implementation of public school choice or SES requirements [34 C.F.R. §200.48(d)(3)(ii)]. (See L-1 and L-16.)

An SEA should consider tools and strategies it can use throughout the year to monitor LEAs' progress in meeting the requirements of the law. An SEA might choose, for example, to require an LEA to submit to the SEA the parental notification letters the LEA has developed, or an SEA might request that an LEA provide it with updates throughout the year on how many students in the LEA are eligible for SES, and how many students sign up for and receive services.

The Department, as part of its auditing and on-site and desk monitoring of Title I, requests evidence documenting that SEAs are effectively monitoring the implementation of SES by their LEAs.

What steps should an SEA take if it determines that an LEA is failing to implement SES in a manner that is consistent with the statute and regulations?

An SEA is responsible for ensuring that SES requirements are properly implemented by LEAs in the State. If an SEA determines that an LEA is failing to implement SES in a manner consistent with the statute and regulations, an SEA might provide technical assistance to the LEA, or institute peer-to-peer oversight and technical assistance by another LEA that the SEA determines to be in compliance with the law and implementing effective SES practices. Additionally, an SEA should, pursuant to Section 1116(b)(14)(B) of the ESEA, take such corrective actions as the SEA determines to be appropriate and in compliance with State law. An SEA should act promptly to rectify a

situation in which an LEA is out of compliance with the statute or regulations so that such compliance problems do not delay eligible students from enrolling and participating in SES programs.

The enforcement mechanisms available to SEAs under Federal law and regulations in carrying out this responsibility include: (1) withholding approval, in whole or in part, of the application of an LEA until the SEA is satisfied that program requirements will be met; (2) suspending payments to an LEA, in whole or in part, if the SEA has reason to believe that the LEA has failed substantially to comply with program requirements; (3) withholding payments, in whole or in part, if the SEA finds, after reasonable notice and opportunity for a hearing, that an LEA has failed substantially to comply with program requirements; and (4) ordering, in accordance with a State audit resolution, repayment of misspent funds. Sections 432 and 440 of the General Education Provisions Act (20 U.S.C. 1231b-2, 1232c) provide more detailed information on these enforcement mechanisms, including due process requirements.

Procedures and Guidelines:
Hawai'i State Department of Education (DOE)

1. HIDOE Contact Persons
Designate contact persons for SES.
2. Information for Schools and Complex Areas
Provide eligible schools and complex areas with:
 - SES Procedures and Guidelines
 - Sample forms and sample parent/guardian communications (e.g., SES application)
 - Program summary and contact information on approved service providers
 - SES County per pupil funding limit
 - HIDOE contact persons for SES and priority ranking system
 - Copy of SES provider contracts
 - Copy of SES provider evaluation system and name of contracted evaluator
 - Copy of **SES Complaint Procedures**
3. Information for Service Providers
Provide approved service providers with:
 - Service provider contract for approval by HIDOE and provider
 - SES Procedures and Guidelines
 - Sample forms and sample parent/guardian communications (e.g., SES application)
 - Information on complex area contacts on SES administration and SES purchase orders and payments
 - Maximum County per pupil amount for SES in the school year
 - List of SES-eligible schools
 - HIDOE and complex area contact persons for SES
 - Copy of SES provider evaluation system and name of contracted evaluator
 - Copy of **SES Complaint Procedures**
4. Instructions to Complex Areas for Priority Ranking
Provide instructions to complex areas and schools to access complex area and school priority ranking reports.
5. Allocation
 - a. Allocate SES funds to complex areas, calculated as follows: the number of students receiving free and reduced-price meals at eligible schools (School Improvement Year 2, Corrective Action, Planning for Restructuring, and Restructuring) in the complex area as a proportion of the County, multiplied by the County set-aside for SES.
 - b. Allocate “start-up” funds to each Community School for Adults (CSA) who will be providing SES for the new school year at the same time HIDOE provides the initial SES funding to complex areas. Start-up funds shall consist of \$5,000 per CSA or the 15% carry-over funds retained by the CSA.
 - c. Allocate funds to the complex areas for postage (e.g., parent/guardian surveys or letters) and other resources to support SES implementation, pending availability of funds. Fiscal Requirement Form for complex area is required.
6. Updated List of HIDOE-Approved Supplemental Educational Services Providers
 - a. Solicit new service providers at least once a year.
 - b. Review and recommend approval of applications for providers through a HIDOE SES Advisory and Review Committee for placement on the List of HIDOE-Approved Supplemental Educational Services Providers.

- c. Withdraw approval from providers that fail, for two consecutive years, to contribute to increasing the academic proficiency of students or fail to meet other applicable requirements. Use the results of an evaluation of service providers to help determine whether any provider has failed to meet requirements and needs to be withdrawn from the list.
 - d. Update the list by approving new providers and withdrawing approval from providers who fail to meet requirements.
7. Evaluation of Service Providers
- a. Oversee the evaluation of SES providers by a HIDOE-contracted evaluator.
 - b. Evaluate the quality, performance, effectiveness, and accountability of the services provided.
 - c. Inform providers of the evaluation criteria, which are subject to review and revision by the HIDOE.
 - d. Use the evaluation results to help determine whether any provider has failed to meet requirements, including failure to increase student proficiency relative to HIDOE standards, and needs to be withdrawn from the List of HIDOE-Approved Supplemental Educational Services Providers.
 - e. Monitor compliance with applicable health, safety, civil rights, and fiscal requirements. Non-compliance of these requirements may result in withdrawal from the List of HIDOE-Approved Supplemental Educational Services Providers.
8. Parent/Guardian Outreach and Assistance
- a. Provide SES advertisements on TheBus on Oahu and the Hele-On Bus on the Big Island of Hawaii.
 - b. Provide translations of SES documents on the DOE website.