

## **Colorado Supplemental Educational Services (SES) Code of Ethics**

### **Provider Responsibilities (Including LEAs that are Approved Providers)**

#### *General Provisions*

- Providers must meet all applicable federal, state, and local health, safety, and civil rights laws.
- Providers must comply with the Colorado SES Guidance pertaining to Supplemental Educational Services.
- Providers must serve all SES-eligible children, whose parents request services from an SES provider, equally without discrimination.
- Providers must be financially sound and able to complete services to the student and school without disruption due to financial problems (e.g., the company is not able to pay tutors for services rendered).
- Providers may only charge the district for services rendered in accordance with the contract between the district and provider.
- Providers should not publicly criticize, disparage, or mistreat district personnel or other providers.
- Providers must maintain a system or procedure for addressing consumer grievances and concerns. Provider must immediately report any grievances to both the district and CDE.
- Providers may not render services until the district has confirmed the eligibility of students for SES services.
- Providers may not have more than three “no shows” for scheduled tutoring sessions. Providers that must reschedule with students/parents must do so at least 24 hours prior to scheduled services, except in cases of inclement weather or emergencies.
- Providers must not compensate district employees in exchange for access to facilities, to obtain student lists, or for any illegal purpose. Providers must not solicit or accept an exclusive arrangement with any district or school (including, but not limited to, an exclusive right to conduct in-school assemblies or other marketing activities).

*Contact and Communication with Parents, Students, Schools, and Districts*

- Providers may not sign up students without prior notification from the district. Only the district can determine eligibility of students for SES and communicate to parents the eligibility of their children to participate in SES Services.
- Providers must accurately and completely describe services to districts, schools, parents, and students in terms that are easy to understand.
- Providers must create and use promotional materials and advertisements that are free from deception. For example, advertisement should not insinuate that an organization is the only provider available to parents or that a particular program is supported by the district or a district program. Upon request by CDE or the school served, providers shall submit all promotional materials and advertisements related to the SES program.
- Providers must not offer or advertise economic incentives or gratuities of any kind to *potential* parents or *potential* students to solicit them to *select* the provider for SES. In the course of instruction, providers may offer incentives or rewards of negligible value (e.g., pencils, balloons, magnets).
- Providers must not misrepresent the location of a provider's program or the approval status of a program. If services are contingent upon a minimum student enrollment, the approval of a district, or the use of a school facility, the provider shall indicate the applicable contingencies in its marketing materials.
- Providers must refrain from making any representations as to whether a school district shall pay all or any portion of the cost of the services in advertising and informational materials to parents and students, (07-HB1077) [[http://www.state.co.us/gov\\_dir/leg\\_dir/olls/sl2007a/sl\\_106.htm](http://www.state.co.us/gov_dir/leg_dir/olls/sl2007a/sl_106.htm)].
- Providers must comply with district policy(ies) when distributing enrollment forms to parents. Only district enrollment forms can be distributed to parents.
- Providers must provide progress reports on student academic achievement to the parents of children receiving services and the appropriate school/district personnel in accordance with the terms and frequency outlined in the contract between the district and the provider.

*Facility Usage*

- Providers may contract for facility usage with a district/school if the district's policy allows for facility usage by outside organizations. Districts are not required to provide space or resources for SES services (i.e., staff, computers, copies, facility).

- Providers may contract with a district/school to use school facilities, if the district/school chooses to enter into an agreement with a provider.
  - A district may require additional fees for the use of school facilities.
  - While at a school site, providers must ensure supervision of students before, during, and after tutoring sessions, starting at the end of the school day and as long as students are on school grounds. Elementary age students should be supervised until they are released to parents/guardians.
  - Providers that intend to use a school site must obtain a letter of agreement or facility usage contract between the provider and the district stating that if chosen by parents, there will be space available in the building. Such agreements must be sent to CDE upon request.
- Providers must not make payments or in-kind contributions to a district, exclusive of customary fees for facility utilization.

#### *Staff Requirements*

- Providers must ensure that all individuals who will interact with students reside in the United States and are fingerprinted and background checked pursuant to CDE teacher licensure procedures.
- Providers may only employ tutors who meet the requirements specified in Colorado House Bill 07-1077  
[[http://www.state.co.us/gov\\_dir/leg\\_dir/olls/sl2007a/sl\\_106.htm](http://www.state.co.us/gov_dir/leg_dir/olls/sl2007a/sl_106.htm)].
- Providers are responsible for the safety of students in their program. Students cannot be left unattended during tutoring sessions.
- Providers may hire district and school personnel for instructional purposes only. Additionally, district personnel who have responsibility for or involvement in the district's administration of SES may be employed to perform *solely* clerical functions (i.e., duties having no relationship to the marketing of a provider's program or the recruitment of students). District or school personnel (i.e., teachers) hired for instructional purposes shall not recruit students to a provider's program, engage in marketing activities on behalf of a provider, distribute or collect enrollment forms, or otherwise promote or encourage students to enroll in a provider's program.
- Providers may employ parents of eligible students only if the position has a written job description and employee is compensated on the same basis as all other employees of the provider who perform similar work. No parent may receive any commission or other benefit related to the enrollment of his or her child in a

provider's program, nor may a parent be subject to any employment action by the provider on account of the parent's selection of a SES program for his or her child.

*Programmatic Requirements for SES Providers*

- Providers must begin instruction within 4 weeks of the provider being selected by a parent.
- Providers must ensure that all instruction and content are secular, neutral, and non-ideological.
- Providers must ensure that programs align with Colorado student academic achievement standards and, in the case of a student with disabilities, is consistent with the student's individualized education program (IEP) under section 614(d) of the Individuals with Disabilities Education Act.
- Providers must ensure that programs build upon the academic program a student experiences in the regular school day and are aligned with the district's curriculum.
- Providers must offer an instructional program in reading, math, or English Language Development based on the students' needs as determined by pre-testing or diagnostic assessment conducted by the school district.
- Providers must use high-quality, research-based instructional practices that are specifically designed to increase students' academic achievement or language proficiency. Furthermore, remediation/instruction must be aimed at addressing the individual skill gaps revealed during the assessment and that must be based upon an individual learning plan.
- Providers must administer the instructional program described in the approved application. The program must be offered to students at or below the cost provided in the approved application.
- Providers may not disclose to the public the identity of any student eligible for or receiving Supplemental Educational Services without the written permission of the parent.
- Providers may not apply additional admission criteria to eligible students.
- Providers must administer a standardized pre and post assessment appropriate for (1) identifying students' weaknesses and achievement gaps; and (2) building individual student plans and learning goals. The assessment must be able to identify an overall gain score.

- Providers may offer only nominal rewards to students for achievement of program milestones or objectives. Rewards may not be attained through attendance alone. Providers shall not spend more than \$50 per pupil on rewards, exclusive of rewards that consist of materials and equipment used directly in the provision of services.

### *Data Collection*

- Providers must have a standardized pre and post assessment appropriate in identifying students' weaknesses, achievement gaps and to build an individual student plan and learning goals. The assessment must be able to identify an overall gain score. A copy of any assessments used must be provided to CDE.
- Providers must not attempt to influence or bias parents when performing an evaluation of the provider's services and achievement of the objectives in the student's Individual Learning Plan.
- Providers must provide to the State and district(s) information needed to determine the effectiveness of the program. All information will be submitted in the timeframe established by the State. Specifically, the provider will input by the end of each month, the prior month's data to the Colorado Department of Education's online database system. For example, October's service record on each student must be entered on the system by November 15<sup>th</sup>.

### *Ramifications for Non-Compliance*

Providers who conduct business that does not meet the above stated requirements will be placed on "Warning" for one year. A formal letter will be sent by CDE to the provider explaining the areas in which the provider did not meet the Code of Ethics and outlining the required corrective actions. The provider will then have 30 days to develop a corrective action plan that addresses how the provider will ensure that the stated infractions will be remedied and not happen again. The Corrective Action plan will be reviewed and approved by CDE in conjunction with the affected district. In some instances, the state may dictate the corrective actions to be taken by a specific deadline.

Providers will be held to the corrective action plan. If the provider fails to take the corrective actions or if the infractions are not remedied or continue to occur, the provider will be subject to immediate removal from the state list of approved providers.

## **District Responsibilities**

### *General Provisions*

- Districts must meet all applicable federal, state, and local health, safety, and civil rights laws.
- Districts must annually identify eligible students for SES. Eligible students are all non proficient students as measured by TCAP, CSAP, CBLA or CELA who attend Title I schools with a status of Priority Improvement or Turnaround. If funds are limited, a district must give priority to the lowest achieving eligible students.
- Districts may not impose additional programmatic requirements on SES providers; however, districts may limit the number of SES providers in the district.
- Districts must contact providers selected by parents of eligible students and enter into a contractual agreement on behalf of the student before services are rendered.
- Districts must enter into a contract with the SES provider selected by the parents of eligible students from the State’s approved providers list. Such a contract must include an agreement that includes,
  - A statement of specific achievement goals for the student, determined in consultation with the provider and parent(s), and consistent with the student’s individualized education program
  - How the student’s progress will be measured
  - A timetable for improving the achievement of students
  - A description of the method and frequency of progress reports to students, parents, teachers, and district personnel
  - A clause for termination of such agreement if the provider is unable to meet such goals and timetables
  - A payment provision including a provision should funds be reduced by CDE or by the USDE.
  - A statement prohibiting providers from disclosing the identity of eligible students or students served
- Districts must collaborate with the leadership of eligible schools to ensure that everyone understands the applicable Federal, State, and local laws and regulations, as well as the district’s policies and procedures, for implementing SES.

- Districts are encouraged to develop a collaborative relationship and open lines of communication with SES providers to ensure that issues and concerns are handled in a timely and efficient manner.
- Districts must clearly communicate to providers that SES funds can only be paid for instructional services rendered to each eligible student up to the per pupil allocation of the district.
- Districts must permit SES services to be provided throughout the school year. Districts must continue to pay for SES services for eligible students until all eligible students who requested services during the open enrollment window are served or until the district's 15 percent obligation has been expended on SES and Choice.
- Districts may not publicly criticize, disparage, or mistreat providers.
- Districts must provide equitable information to parents about all SES providers approved by the state or selected by the district to serve that district.
- Districts must have formal policies and procedures for implementing SES, that address the following issues in addition to the statutory and regulatory requirements and provisions of this document:
  - Determining eligibility of students and stating whether providers are permitted to sign-up SES students.
  - Using a fair and equitable process for selecting providers to work onsite, if more than one provider wishes to have access to a school site.
- Districts may apply to the state to reallocate unspent 15 percent obligation for SES and Public School Choice. In order to meet the requirements for reallocation of funds, the district must
  - Partner with outside organizations to inform students and parents of the opportunity to sign up for SES.
  - Ensure that eligible parents and students have had a genuine opportunity to sign up for SES.
    - Provide timely and accurate notice to parents;
    - Provide sign-up forms directly to all eligible parents/students;
    - Provide one enrollment window for signing up for SES of sufficient length of time for parents to have a genuine opportunity to sign up for services. (For example; a two week open enrollment window)

- Ensure that SES providers are given access to the school facilities on the same terms as other groups/organizations.
- Apply to the State using the 15 percent Obligation Reallocation Application, providing all requested information in said application, including
  - Districts that meet demand for SES and choice by the end of the enrollment window will be required to use the remaining set-aside funds to provide extended learning opportunities for struggling students, such as before or after school programs and summer school in Priority Improvement or Turnaround schools. The LEA must use the Post Award revision process to reallocate remaining SES set aside funds for other allowable activities and extended learning opportunities.
  - Notification that all requirements have been met and that the district plans to reallocate the remaining funds for other allowable activities.
  - Explanation of the other activities allowable for general Title IA funds that are to be funded from the unexpended 15 percent obligation funds.

#### *Enrollment of Eligible Students and Parent Contact*

- Districts must include statements in parent communications that tutoring is free to eligible students and paid for out of district Title IA funds up to the per pupil allocation for the district.
- Districts must inform parents about all providers approved to serve in the district. The information shared with parents about the providers must equally represent all providers approved to serve the district. Districts may not highlight, showcase, or recommend specific programs, including the district's own SES program (if the district is an approved provider).
- Districts must allow students making demonstrated progress (though a body of evidence), but not yet at grade level, to re-enroll if per pupil funds for that student are remaining.
  - If a student begins services with one provider, but the student and/or student's parents decide to change providers, district must pay for the services rendered up to the district's Per Pupil Allocation for that student.
- Districts must prioritize students that shall receive services if not all students can be served using an objective procedure based on academic need. District must have a process for prioritizing students. District policy and/or procedure for prioritizing students must be available for review upon request.



- Districts must notify parents at least yearly (in an understandable and uniform format, and, to the extent practicable, in a language the parents can understand) regarding:
  - The availability of Supplemental Educational Services
  - The providers that are approved by the state and selected by the district to serve within the school district or whose services are reasonably available in neighboring school districts
  - A brief description of or a link to the CDE website listing the services, qualifications, and demonstrated effectiveness of each approved provider to assist the parent in selecting a provider
  - The application and/or registration process for requesting and signing up for services
  - Notification must be clearly distinguishable from other school-related information that parents receive and should not contain information concerning other enrichment programs (i.e., district after school program, Saturday school)
- Districts are encouraged to notify parents in other effective ways in addition to the written notification (e.g., through local media, posters in schools, notices in school newsletters, through community/parent liaisons, parent groups).
- District websites must be updated in a timely manner to inform parents of SES options and must include:
  - The list of schools required to provide SES
  - A list of SES providers approved to serve the district, as well as information about where services are provided during the current school year.
  - Contact information for parents interested in obtaining SES for their eligible students.
- Districts are encouraged to hold informational meeting to inform parents about options available for eligible students and share with parents how they may assist their school and the LEA in improving student academic achievement. These meetings should be offered multiple times to accommodate parents' schedules [0.2 percent of the district's Title IA allocation or 1 percent of the 15 percent obligation can be used for parent outreach].
- Districts should include approved providers in the marketing and recruitment of students, as appropriate. This may include having providers available at Back to School nights, Parent/Teacher conferences or other school events (e.g., a provider fair).

- Districts should notify approved providers of the date as to when letters will be sent to parents and include copies of materials sent to parents.
- Districts may not discourage parents from participating in SES.

### *Facility Usage*

- Districts are not required to provide space or resources for SES services (i.e., staff, computers, copies, facility); however, if they choose to do so, access must be equitable for all SES providers approved to serve that district, including the district if the district is an approved provider. A district may require additional fees for the use of the facility and that the providers ensure the on-site supervision of students.
- Districts must allow access to schools for SES services in accordance with the district's facility usage policies
- Districts must use a fair and equitable process for selecting providers to be onsite if the school facility does not have space to accommodate all providers requesting to be onsite.
- Districts are not required to provide transportation to services offered away from the school location.
- Districts are encouraged to work with providers to ensure that those kids in need are receiving services at a location easily accessible by parents.

### *Data Collection/Monitoring*

- Districts are encouraged to build consistency in the CDE processes to limit duplication of work for providers.
- Districts should establish clear and reasonable enrollment and service deadlines for providers and make this information widely available.
- Districts should monitor the implementation of SES programs at their schools. Districts should report any inconsistencies or concerns to the Colorado Department of Education.
- Districts are encouraged to independently and informally evaluate the effectiveness of the providers in improving the academic achievement of students that receive SES and to share the analyses results with CDE.

### *Ramifications for Non-Compliance*

If CDE determines that a district is not implementing SES in accordance with the Code of Ethics, federal statute and regulations, a formal letter will be sent to the district explaining the areas in which district's steps were not sufficient to reach compliance. The district will then have 30 days to develop a corrective action plan that addresses how the district will ensure that the stated infractions are remedied and do not happen again. The corrective action plan will be reviewed and approved by the State. In some instances, the State may dictate the corrective actions to be taken by a specific deadline.

Districts will be held to the corrective action plan. If the district fails to take the corrective actions or if the infractions are not remedied or continue to occur, the consequences may include the withholding of funds, additional reporting and monitoring, and additional approval prior to implementing allowable activities.