



Supplemental Education Services under NCLB: Emerging Evidence and Policy Issues

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May 2007

<http://www.greatlakescenter.org>

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Abstract

This policy brief analyzes evidence relating to the implementation and effects of the supplemental education services (SES) provision of the No Child Left Behind Act of 2001. The SES provision requires school districts to pay the cost of third-party, after-school tutoring services for eligible students. Four areas of analysis in this brief are:

- Student eligibility and participation in SES;
- Services provided by SES firms;
- State and district implementation; and
- Impact on student achievement.

The data and analyses presented here highlight limitations in the current law and implementation of SES: low participation rates; limited services available for English Language Learners and special education students; and, state and district capacity to implement the law and monitor program quality. Even with improvement in such areas, however, it is unclear how SES might affect academic achievement, because existing research leaves many questions unanswered. Similarly, existing research offers little information about specific conditions that support positive outcomes. To make well-informed decisions in the future, policy makers will require additional empirical evidence.

Therefore, it is recommended that policy makers do each of the following.

- Redesign the law to address the core problem of local administrators lacking fiscal resources and expertise to successfully administer SES programs.
- Commission federally funded, comprehensive evaluations to determine: (a) to what degree SES may affect student achievement, and (b) to what extent at-risk student populations have access to SES services.
- Investigate the feasibility and desirability of reallocating Title I funds from SES programs to existing successful state and local reform efforts.

- Examine and reconsider NCLB's apparent tension between the high-stakes accountability imposed on schools and the more limited measures for holding SES providers accountable for their contributions to student achievement.

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Introduction

The Law

Supplemental educational services (SES) are a core provision of the No Child Left Behind Act of 2001. The law mandates specific interventions for schools that fail to make “adequate yearly progress” (AYP) toward state benchmarks. The SES provision requires districts to pay the cost of third-party, after-school tutoring services for eligible students. This was a compromise associated with the controversy over private-school vouchers. In lieu of vouchers, House Republicans endorsed the SES provision as a way to add a private market and to increase parental choice; NCLB also provides for public school choice as a consequence of school failure to meet AYP.¹

NCLB requires that a Title I school begin an SES program if it fails to meet AYP goals for three consecutive years. If a school fails to meet AYP goals for two years, it is classified as a “school in need of improvement” (SINI). That year, the school must offer parents the option of transferring their children to another public school. The second year of SINI designation (the third year of failure to meet AYP), parents have the option of enrolling their children in after-school tutoring paid for by the district. Of note here is the distinct possibility that most students in a school may perform very well and yet the school may fall short of AYP – if some student subgroups (like English Language Learners) perform poorly. Eligibility for tutoring is not tied to specific subgroups, however. In a school designated as in need of improvement, all students are eligible for tutoring services. Even in the third, fourth, and fifth years of SINI designation, as the NCLB sanctions become increasingly harsh, the SES after-school tutoring option remains in effect. The SINI-designated school must set aside up to 20 percent of its Title I funds to pay for supplemental services, which may be provided by state-approved providers. Providers may be for-profit or non-profit and public or private firms.

State and District Roles

States and districts are responsible by law for implementing the SES program. In first SINI year, a state educational agency (SEA) must notify appropriate service providers of the school's potential need the following year for tutoring services. The state agency is also responsible for monitoring the quality and effectiveness of services that providers deliver and for sharing such assessment information with the public. In the event that a school has been SINI-designed for two years and that an outside provider has taken on SES responsibilities for some of that school's students, the SEA must monitor that provider. Further, the SEA must withdraw its approval to participate in the SES program if the provider fails for two consecutive years to contribute to the academic proficiency of students served.

While the state focuses on notifying tutoring providers, the local education agency (LEA) is responsible for identifying eligible students and annually notifying their parents of service options. Once parents have decided to take advantage of services and selected an approved provider, the LEA establishes a contract. In cases where the mandated 20 percent of Title I funds are insufficient to provide supplemental educational services to all eligible students requesting services, the LEA must give priority to the lowest-achieving students.

Overview of the Policy Brief

With NCLB entering its sixth year and reauthorization possible in 2007, this seems an appropriate moment to look closely at the SES provision. This policy brief analyzes evidence relating to the implementation and effects of SES to date. Four areas of analysis include:

- Student eligibility and participation in SES;
- Services provided by SES firms;
- State and district implementation; and
- Impact on student achievement.

The data and analyses presented here highlight limitations in the current law and implementation of SES: low participation rates; limited services available for English Language Learners (ELLs) and special education students; and, state and district capacity to implement the law and monitor program quality. Even with improvement in such areas, however, it is unclear how SES might affect academic achievement; existing research leaves many questions unanswered. Similarly, existing research offers little information about specific conditions that support positive outcomes. To make well-informed decisions in the future, policy makers will require additional empirical evidence.

Politics versus Effectiveness: The Scope of Research on SES

Both in the U.S. and abroad, there exists a political movement in favor of education reforms based on the logic of the market,² which assumes that business strategies can and should transfer to education. The SES reform reflects such marketplace values as outsourcing, limited government regulation, competition and choice. It also incorporates elements of government contracting, in that school districts contract with outside firms to provide the mandated tutoring. And it incorporates features of vouchers and school choice by providing a fixed per-pupil allocation for eligible students and then allowing parents the choice of providers. Such market-based reforms are consistent with and part of the larger neo-liberal movement in economic and political discourse, which has promoted the reforms at a rate outpacing evidence of their effectiveness.³

For SES, the evidence is indeed quite limited, even though the reform is often referenced and enjoys substantive support from the business community. The evidence that does exist tends to fall into one of three categories: evaluation studies by third parties (for example, non-district, non-provider entities); evaluation studies conducted by local school districts; and academic and scholarly research. To date, the U.S. Department of Education has not conducted or commissioned a national evaluation of the program.

Each of these three categories generally offers insight into a different aspect of the SES enterprise. Third-party evaluations provide a broad overview of implementation patterns occurring in local school districts, and they yield information on district capacity and the providers' role. School district studies, such as those conducted by Chicago and Minneapolis, evaluate the effect of SES on their students' achievement and test-score gains. Scholarly research addresses questions of SES program design and implementation, primarily as they relate to low-income and minority students. These studies inform the following segments of the brief, which examine what is currently known about SES.

What We Know about Demand and Participation Rates in SES

According to recent estimates by the Department of Education, approximately 2.3 million children currently are eligible for SES, and the number is increasing. From 2002-2004, the number of schools required to offer SES – that is, those designated SINI for two or more years – increased from 800 to 2,500. Eligible students are largely students of color, students from low-income families, and students with limited English proficiency.⁴

Student-eligibility numbers can vary considerably across states and districts.⁵ In some districts, the percentage of SES-eligible students ranges from 2 -10 percent. In others, the range is 40.5 - 86 percent. When the Civil Rights Project in 2004 examined student eligibility for SES across 10 districts, the number of students identified ranged from 0 in the case of Meza, Ariz., to 245,618 in the case of Los Angeles. Eligibility also can vary substantially across districts within the same state, depending on factors such as district size and poverty rates. For example, during the 2004-5 school years, more than 1,000 were eligible for SES in Buffalo, N.Y., while more than 200,000 were eligible in New York City.⁶ Eligibility rates are much higher than enrollment rates, however. Most estimates suggest that 15-20 percent or fewer of all eligible students receive supplemental services, a figure that has grown only slightly since 2003-2004, the first year of mandated services.

Little is known about which eligible students are *not* participating in SES. Based on a study conducted from August 2005 through July 2006, the GAO estimated that 20 percent of districts required to offer SES had no students receiving SES services. The majority of these districts were located in rural areas with fewer than 2,500 students – probably too few to prompt the development of a private market. To date, however, little research has been conducted on enrollment patterns among other populations, such as children of the very poor, children with special education needs and English language learners.

Existing research on parent choice suggests that many students who want to participate in SES likely face obstacles to doing so, which may offer some explanation for low enrollment figures. These obstacles include lack of information, language barriers, and inadequate transportation.⁷ Parents of students who must travel long distances to school or who live in neighborhoods with drugs and violence may decide that traveling to and spending time with an SES provider is not a safe option for their children, even though they may desire the after-school tutoring. Parents with limited English or literacy skills may not be aware of the options available to them because they cannot read informational literature. These are hypotheses, however. There is insufficient research at this point to reliably document why parents and students choose to participate or not in SES. What is certain is that only a small percentage of eligible students enroll.

Research has also generated more questions than answers about SES funding. Current low enrollment levels may reflect an insufficient NCLB allocation, with some schools only able to fund a fraction of their eligible and interested students. The Center for Education Policy in 2005 reported that, on average, the reserved portion of Title I funds provided districts with capacity to serve only 22 percent of eligible students.⁸ The Department of Education raised similar concerns about possible underfunding in its study of SES across nine districts.⁹ Ironically, concerns about overfunding also arise, since the law does not allow districts to carry

over reserved but unused SES funds for later use. Further, unused SES funds cannot be spent for other purposes until late in the school year, perhaps too late for their optimal use. It appears that reserving a fixed portion of Title I funds for SES may not make sense given low levels of participation nationally and major discrepancies in district need. As currently constructed, the set aside impedes effective use of Title I resources and long-term planning.

What We Know about Services and Providers

Although demand is low, the level of federal funds available for SES is increasing—and providers seem to be noticing. The funds available for SES increased from \$1.75 billion in FY 2001 to approximately \$2.55 billion in FY 2005.¹⁰ Regional variations in funding are significant. For example, from FY 2001 to FY 2005, the Southwest region experienced a 63 percent increase and the West a 52 percent increase. During this same period, the New England and South regions experienced SES funding growth of 33 percent and 47 percent, respectively. Ten states (California, New York, Texas, Florida, Illinois, Pennsylvania, Puerto Rico, Michigan, Georgia and Ohio) accounted for 59 percent of the nearly \$2.5 billion SES funds available in FY 2005.

The potential for sizeable economic returns has contributed to increasing numbers of providers operating nationally. In a single year spanning 2003-2004, the number of approved providers increased 90 percent.¹¹ The field is dominated by private, for-profit companies, which constitute approximately 50 percent of all approved providers. In contrast, non-profit companies constitute 18 percent, and school districts constitute 14 percent. Twenty-six percent of school districts required to offer SES have themselves become approved providers, a figure that is down from and an earlier figure of 37 percent in 2003-2004.¹² Only 9 percent of providers have religious affiliations.¹³

While the supply side of the SES market grows, research on providers' instructional practices remains scarce. Evidence to date suggests that a range of instructional formats are in use. These include independent study, homework help, one-on-one tutoring based on individual diagnostics, and direct instruction through a scripted curriculum. The student-teacher ratio also can vary significantly, both by provider and by location. The Education Industry Association reports that SES typically is offered in small groups of fewer than 10 students.¹⁴ Some other studies report providers with ratios of 1:10 or 1:12, however.¹⁵ In a forthcoming report analyzing service delivery patterns in a medium-sized urban school district, Burch, Steinberg and Donovan found that providers with larger market share in the district tended to have larger class sizes (of 1:8 or 1:10) relative to providers that served a smaller number of students in the district (from 1:1 or 1:3).¹⁶

The setting for SES also varies.¹⁷ It may be offered in schools, in classrooms, lunchrooms, or even gyms. It may also be offered in such non-school settings as public libraries, boys and girls clubs, church annexes, and homes. Companies like Huntington Learning Centers and Sylvan Learning Centers provide the additional alternative of private tutoring centers. While parents have historically paid for after-school tutoring by such companies, some districts now contract with them to provide SES services.

To date virtually nothing is known about what students are actually being taught in SES after-school settings, beyond what SES firms report on their web-sites and in their marketing materials. These materials tend to describe curriculum in very broad terms such as “literacy skills” and “problem solving skills.” The lack of precise information about the curricula employed is problematic given the explicit goal of SES to provide students with targeted help in academic subjects.¹⁸

Providers are responsible for hiring and training their own SES instructors. Here too, the emerging pattern appears to be one of wide variation. For example, in the Department of Education study, 15 of the 24 providers reported requiring employees to hold a teaching certificate; the remaining nine did not.¹⁹ Tutoring centers such as Huntington Learning Centers do not require their tutors to hold teacher certification; Princeton Review, in contrast, hires teachers from outside the SES-eligible school to tutor in its SES program.²⁰ Some providers ignore teacher certification but implement other requirements that suggest teacher preparation is required. For example, Kaplan requires its tutors to pass the company’s proprietary Teacher Development Program; there exists little independent evidence, however, concerning the relationship between teacher preparation under this program and the certification requirements met by teachers in SES-eligible schools. The American Institutes for Research and the Education Industry Association reported that while most current SES instructors are certified teachers, others are high school students and college graduates without teaching experience.²¹ Although NCLB requires classroom teachers to be highly qualified (as the law defines that term), it sets no requirements for SES instructor qualifications.

Many important questions about the nature of instruction occurring under SES remain unanswered. What is the subject area focus of the instruction? What is the nature of the curriculum being used? Does it, for example, involve worksheets or textbooks, or is it based on activities designed by individual instructors? Is the curriculum connected to learning during the school day? Is it connected to what students or their parents desire? Beyond formal teaching credentials (if instructors happen to have them), what are the qualifications of instructors providing the curriculum? Do they have experience in multi-racial and multicultural classrooms? What training, if any, do they receive once they are hired?

Answering these questions will require moving beyond general mapping of the services offered. There is an urgent need for in-depth

qualitative work within SES classroom settings. This research must involve critical attention to what is being taught, how it is being taught and instructors' ability to teach effectively.²²

Such research will have to take into account that instruction under SES is linked to market forces, which can be expected to shape the supply of services available to children. For example, thousands of providers of supplemental educational services are currently approved across the country. Only 2 percent of all SES firms, however, are broadly approved providers – that is, approved in ten or more states. This group of firms is gravitating to the same states and are noticeably absent in others, and the pattern is distinctly linked to the level of Title I revenues. Not surprisingly, the private firms are operating where they are more likely to achieve financial success. Yet the concentration of these firms in a few states has implications for students: since the size of the market will vary by state, location will affect access to providers.²³

Large, national providers bring to the SES market considerable strengths, which could translate into benefits for eligible students. They have financial solvency, they have the potential to provide integrated services, and they have experience in other states and districts that they can leverage for clients. As currently constructed, however, federal policy provides few incentives for large firms to put their size and scale to work for all students. Current regulations seem primarily designed to protect private firms from specific costs. Such protection is evident, for example, in the limited regulation of firms in relation to services for “high cost” students. Under current regulations, SES providers are not required to provide services to students with disabilities or those learning English. These students require more resources and expertise, such as fluency in another language. One study in a large urban school district reported that, in fact, none of the district's top eight providers served ELL or special education students.²⁴ In many cases districts have stepped in to fill this gap because these subgroups did not meet the proficiency goals required for adequate yearly progress.²⁵ This dynamic assists the private firms but places additional financial burdens on financially strained school districts.

There are also power asymmetries within the law that may work against the interests of its intended beneficiaries. Providers have considerable discretion in how much they can charge districts, and their per-hour charges can vary widely in the same district.²⁶ These differences have implications for the supply of services: given the standard per-pupil allocation of \$2,000, higher hourly rates can translate into fewer hours of tutoring for individual children. Some states, such as Illinois, have attempted to set cost caps, but powerful lobbying associations like the Education Industry Association have actively challenged such caps.²⁷

Power differentials between national and local providers can also have important implications for the supply of services to districts. Becoming an SES provider requires steep costs for such factors as insurance and facility rental, costs that smaller providers serving a handful

of students are unlikely to be able to absorb. Insurance alone may cost for a small provider more than \$15,000, which must be paid up-front, before the provider receives any payment from the district. Unlike large national providers with multiple business platforms, small local providers tend to depend exclusively on SES revenues. These power differentials can have the effect of creating a competitive disadvantage for small local firms that may have ties to the community and a tradition of local leadership.

What We Know about State and Local Implementation

Local Concerns: Administrative Burdens and Implementation Problems

Other kinds of challenges confront local school districts. One challenge is simply that SES imposes many responsibilities on districts but allocates no additional resources to fund them.²⁸ For example, districts are responsible for establishing and managing contracts with active providers and providing parents of eligible students with timely information. They must establish detailed contracts that specify performance goals. They must monitor provider payment. They must respond to potential providers' queries about the specifics of the law, and they must provide information to both current and potential providers detailing their insurance liability and legal responsibility for student privacy and safety. In some instances, districts may even need to provide staff development to the providers' instructors or to ensure that the providers' programs run smoothly.

Evidence is mixed on how well districts are performing these responsibilities. Some argue that districts appear to be making good faith efforts to implement SES services.²⁹ Such studies point to evidence of districts securing funds to hire additional staff to administer the program and making aggressive efforts to notify and enroll students, track attendance and monitor providers. This positive literature suggests that problems at the district level may in fact originate at the state level. For example, often the process of notifying parents and enrolling students is delayed because states do not release test score data and data on schools' improvement status until the academic year is nearly over. In addition, some states assume leadership responsibility in such areas as drafting sample information letters to parents; state-level delays in such areas can result in delays at the local level.

Other research, however, offers a more critical view of district implementation efforts.³⁰ For example, the study of SES practices in nine districts described above included individual interviews and focus groups with parents of eligible children. The authors reported that some parents were critical of districts' efforts to disseminate SES information. While the nine case study districts were found to have made improvements in their outreach to parents, many parents in focus groups described only a vague understanding of the services available to their children. Schools in

the nine case study districts commonly found that the information provided by their district about tutoring options was insufficient to adequately address parents' concerns and questions about which option was best suited to their child's needs.

Similarly, in a study of SES implementation in urban school districts, the Council of Great City Schools found districts stumbling in their efforts to provide parents with timely information about SES options.³¹ By the end of the school year, only one of the 32 eligible districts was able to provide parents with any SES options for the 2003-04 year, while 23 districts notified parents about SES eligibility after the start of the school year. This delay in notification gave parents a short time-line in which to choose an SES provider.

State Concerns: Good Faith Efforts but Limited Capacity

Like districts, states have considerable responsibility under SES. And like the districts, they, too, have limited capacity to execute their responsibilities effectively. States are responsible for screening providers for evidence of effectiveness and for compiling a list of approved providers. By law, they also are responsible for monitoring provider activity for possible malfeasance or misconduct. As is the case with other Title I programs, states also must monitor district compliance with federal law. Providers that are guilty of infractions either through misconduct or failure to meet academic goals can be removed from state lists. Finally, states are responsible for evaluating providers' records of academic achievement under SES.

Studies of efforts in these areas have suggested that states are beginning to screen, monitor and evaluate providers. For example, in their forthcoming survey of 30 state administrators, Burch, Steinberg and Donovan reported that 90 percent of these states required providers to prove their financial solvency.³² State requirements might include the use of specific accounting standards, a report of assets, and other general proof that the provider will not close mid-year due to financial problems. The survey also showed that all but one of these 30 state agencies required evidence of a research-proven curriculum. Such evidence might include the use of specific curricular methods, curriculum or text books. Finally, all but one state required some evidence of prior success in enhancing academic achievement. This evidence might include prior years' pre- and post test scores or other illustrations that the providers' services raised student achievement. Only one state reported that it did not require proof of financial solvency, a research-proven curriculum, or evidence of prior success (confidentiality was promised regarding each state's identity).

A federal study also reported evidence that states are trying to hold providers accountable.³³ Based on a web-based survey of 49 state SES coordinators, the report found that approximately 75 percent of states indicated that they conducted on-site reviews, and many were collecting

information from districts, schools and parents to monitor providers. Yet despite such reports of state monitoring, the fact is that much of the information collected and reported to the public is based on accounts that come from providers themselves, not from disinterested assessors.

As with districts, states appear to lack the capacity to perform their functions effectively.³⁴ For example, in this federal study, 37 of 49 states responding to the survey reported that determining the effectiveness and quality of SES providers was a serious or moderate challenge.³⁵ In their survey of state practices, Burch and colleagues found few states moving beyond basic screening processes, and few states helping students and families make optimal individual choices in the face of aggressive marketing.³⁶ Five states required specific instructor-to-student ratios, and 10 states disallowed the use of certain student recruitment tools, including giving cash or prizes to students with good attendance.

Finally, while many new SES responsibilities for both states and school districts are clearly laid out in the law and its accompanying regulations, nested within these requirements are many other activities requiring significant time and effort. These involve activities such as training new vendors in the district's billing system, developing rubrics and assessments to monitor and evaluate providers, developing informational brochures, responding to parent complaints about providers, and involving legal representatives in contract writing. There is evidence that many states and districts have made a good faith effort to implement SES requirements. Their limited resources and capacity has impaired their ability to effectively carry out functions essential to the integrity of the SES program, however, including adequate monitoring of provider activity.

What We Know about the Effects of SES on Students' Achievement

The research base on how SES may affect student performance is virtually non-existent. The only relevant studies were conducted by two urban school districts: Minneapolis and Chicago.³⁷

The Minneapolis Public Schools (MPS) conducted two paired studies to explore SES impact. The first study began by determining reading gains for SES students as indicated by the Northwest Achievement Levels Tests (NALT), a national norm-referenced test of 500,000 students.³⁸ Researchers compared two test scores for 602 students who all took the same two NALT reading tests: one in the spring of 2004, when they were in grades 2-6, and one in 2005, when they were in grades 3-7. After determining the growth rate for these SES students, the study compared it to the rate in national grade level norms. The second study was based on the Minnesota Comprehensive Assessments (MCA), used to meet NCLB disciplinary accountability requirements. This second study compared students who received SES from the district's largest providers

with students who had similar demographic characteristics but who did not receive SES. This group included all SES students who took NALT reading tests in the spring of 2004 and MCA 2005 reading tests in grades 3, 5 or 7 in 2005.

The MPS studies found that students receiving SES did not perform as well as the matched samples. Further, no significant difference appeared among SES providers as determined by NALT annual reading gains. No provider serving 10 or more students produced achievement gains averaging close to 100 percent of expected academic growth indicated by national norms. For example, 561 students receiving Education Station services averaged 71 percent of a year's growth, while 92 students receiving Newton Learning services averaged only 67 percent of a year's growth. Overall, the average growth for SES students was only 66 percent of the national norm.

Efforts to distinguish among providers yielded little additional information. For all SES providers combined, the number of service hours did not significantly correlate with reading score gains. For students enrolled in Newton Learning and Kids Reading for Success programs, however, total service hours did correlate significantly with NALT gains. Interestingly, students in grades 3 and 7 who received services from Catapult Learning did less well than their matched sample, which outscored them by 19 points and 6 points respectively; conversely, grade 5 students enrolled in Catapult outscored the matched sample by 4 scale points. These differences, however, were not statistically significant.

The Chicago Public Schools (CPS) report also attempted, among other things, to determine any achievement score gains associated with SES.³⁹ To assess achievement, researchers analyzed test score data from the 2003-04 and 2004-05 school years. For students in grades 4-8, gains in reading and mathematics scores on the Iowa Tests of Basic Skills were compared for eligible students who did, and did not, receive SES services; results were then analyzed in terms of expected gains. Across grades 4-8, students receiving at least 40 SES tutoring hours in 2004-05 showed higher gains in both reading and mathematics than eligible students who did not receive SES services. Further, students who received at least 40 total hours of tutoring had higher math and reading gain scores than students who received fewer than 40 hours. The study also compared the benefits of tutoring across the 17 providers included in the study. Students receiving SES from seven providers (one of the seven was the CPS itself) had higher reading scores than the district average. The cost of the program appeared to have no relationship to the score gains.

Both of these studies lay useful methodological ground work for future studies on learning gains. From that perspective, they make an important contribution to the field, particularly given the law's emphasis on improving learning outcomes. Methodological limitations in both studies, however, leave many questions unanswered.

In the case of the Chicago study, the methods used failed to consider differences among student populations. The greater average gains for students who did receive SES may have resulted from something other than the free tutoring provided. It is quite possible that the apparent gains are due to selection bias; parents who engage in active choice tend to be better educated parents and have greater intrinsic motivation and engagement with their children's education. Because such possibilities are not accounted for, the findings remain open to question.

There are similar limitations in the design of the Minneapolis study. Although it did factor in students' prior achievement, it did not consider how the MPS students tested may have varied significantly from the national sample used for comparison. Most notably, the MPS students were disproportionately low-income (73 percent received free/reduced lunch) and minority (76 percent were either black, Hispanic, American-Indian or Asian). Thus, while the study attempted to compare its results to a reasonable norm, significant variation in the two populations also make its findings questionable.

Research in the area of achievement is currently limited to these two efforts, both sponsored by school districts and both methodologically inadequate. The Department of Education has not yet commissioned a national study to evaluate SES.

Issues and Implications

As the reauthorization of NCLB nears, policy makers interested in strengthening SES must address a complicated array of legislative, organizational, instructional and technical issues.

Political Issues

Implementation patterns, and failures, must be considered in the broader reform context of NCLB. With that legislation, the federal government has moved assertively into the political territory of education reform that has long been largely the province of state and local communities. The design of SES reflects these political tensions. The law places enormous burdens on local and state administrators, yet the legislation provides no additional administrative funds specifically to cover the costs of implementing and evaluating SES. From the state and district perspective, SES requirements arguably constitute an under-funded federal mandate. Moreover, various provisions of the legislation compound negative and disproportionate effects on districts.

For example, SES provisions require districts to divert resources from other Title I activities to cover the costs of supplemental tutoring programs. When the district can provide those programs itself, it can at least keep funds within the district. When a district fails to make AYP, however, it is generally prohibited from delivering supplemental programs

and must contract with third-party providers.⁴⁰ From 2002 to 2005, the percentage of districts providing SES declined significantly from 43 percent in 2002-3 to 13 percent in 2004-5.⁴¹ In contrast to the harsh penalties for districts with unsatisfactory performance, providers receive the same total per-student allocation regardless of the quality or quantity of the services they provide.

Other imbalances in SES accountability are evident. For example, the system for holding SES providers accountable for academic outcomes is both much less rigorous and much more ambiguous than AYP requirements for schools. Providers can be removed from state lists if they fail to contribute to student achievement. In a recent survey, however, 15 out of 30 states responding reported that they did not use any form of test score data to monitor the quality of services provided, relying instead on annual site visits. Fifteen out of 30 also reported that their state actually had removed a provider from a state list because of infraction or lack of demonstrated effectiveness.⁴²

In fact, a provider's record of academic outcomes is identified as only one of several criteria states may use in provider screening, monitoring and evaluation. States are neither required nor encouraged to adopt a single assessment template for all providers. As a result, and in direct contrast to districts, criteria used to evaluate providers can vary widely, even within a single district. Although it seems desirable to require all providers in one district, if not in one state, to use the same standardized test or to test with the same frequency, there is no legislative requirement for such consistency.

Finally, while the law encourages SES curriculum to be aligned with state standards, it explicitly forbids states and districts from attempting to influence providers' curriculum or pedagogy.

Current legislation, then, has several features that undermine the likely effectiveness of SES. States will be hard-pressed to effectively monitor the SES program without funds for significantly increased administrative work; the monitoring is ill-defined and inconsistent; and districts are likely to lose increasing funds to third-party providers, who are not held accountable for outcomes with the same degree of rigor and consistency the districts themselves face. In short, what is mandated by the SES legislation is significantly at odds with what it enables.

Technical Research Issues

In addition to legislative asymmetries, SES presents technical research challenges. With only the Minneapolis and Chicago school district studies having attempted to assess SES's impact on learning outcomes, research to date offers only limited understanding of what kinds of assessment might be most useful in determining the costs and benefits of various SES models. Given the considerable demands already placed on districts and states, they need clear information from researchers on how

to conduct rigorous evaluations of SES programs and on how best to contract for these services.

Some work has been done in this area, jointly conducted by the Center for Research in Educational Policy and the Supplemental Educational Service Quality Center. They recently issued a policy brief designed to assist states in creating an effective system to evaluate SES providers. The document suggests three possible dimensions upon which to assess SES providers, including:

- Effectiveness: Did the provider increase student achievement in reading/language arts or math?
- Customer satisfaction: Are parents and students who receive SES satisfied?
- Service delivery: Did the provider comply with applicable state and district laws and contractual procedures associated with the delivery of SES?⁴³

In relation to effectiveness, the report outlines and evaluates the technical and scientific rigor of several possible designs that attempt to correct for weaknesses of earlier studies. Readers interested in such technical details are referred to the original report, which represents the first of what potentially will be many efforts to summarize approaches to evaluating SES effectiveness reliably.⁴⁴ Guidance of this sort can help build the capacity of states and districts to more rigorously evaluate the data they receive from providers. It also may help providers design and employ assessment models that offer more precise data on the value of their services.

Instructional Issues

Narrowly defined technical considerations fit within a much larger set of instructional concerns. Despite the current stress on accountability, there is much debate about whether test scores are valid indicators of what students know.⁴⁵ Critics point to the fact that because tests inevitably measure only a portion of what students learn, they are an imperfect and partial representation of student outcomes. This reality creates problems for the AYP provision as well as for studies of SES effects. When standardized tests alone are used to assess the value of after-school programming, conclusions will reflect only what the test measures and provide only partial understanding of SES's value – one based solely on restricted, cognitive measures.

The broader research base on after-school programs, however, suggests that they can also have important beneficial effects on non-cognitive indicators.⁴⁶ These include, for example, effects on students' leadership, artistic or athletic skills. The likelihood that tests will drive curriculum is well documented; the more reliance on tests to assess after-school programs, the greater likelihood that tests will begin to drive those programs as well. The potential outcome here is that SES-funded after-

school programs will intensify their focus on academics at the expense of other areas, such as music and arts.

Few would argue that mastery of reading and mathematics should not be an important priority within schools. It is worth noting, however, that while the federal government mandates a laser-like focus on academics in after-school programs for low-income youth, youth from higher socioeconomic brackets continue to enjoy a broad menu of extra-curricular choices. In communities of higher socio-economic status, students are encouraged to become accomplished musicians, athletes and citizens by using after-school time to participate in debate clubs, orchestras and sports teams.⁴⁷ In this regard, SES may have the effect of denying low-income students equal access to enrichment opportunities that are commonly perceived as contributing to future success.

Organizational Issues

In weighing the future of SES, policy makers will also need to consider complex organizational issues. These include funding issues as well as issues of comprehensiveness, coordination and capacity.

As already noted, the law provides no new funds to match the new requirements, requiring instead a reallocation of Title I funds. Thus, SES results in other important Title I programs losing support. Moreover, for the past several decades Title I policy and indeed the broader research base on K-12 education reform have emphasized the need for more school-wide, comprehensive approaches to instructional reform. Such approaches encourage schools to align reform activities with a central vision and commonly agreed upon performance standards. As Sunderman notes, however, the law currently fails to require that curricular programming for students within SES programs be coordinated with the school's daily teaching and learning activities.⁴⁸

Furthermore, the implementation of SES requires ongoing coordination across schools, districts, states and federal agencies. A particularly problematic area here is the monitoring and assessment of providers. While states have been assigned primary responsibility, the geographic distance of state officials from individual districts requires significant state and local collaboration. Such collaboration involves not only good working relations, but also the know-how and infrastructure for sharing data on students and providers. Such conditions are frequently lacking at one or both levels; indeed, relationships between state departments of education and districts can be hostile.

The organizational challenges of SES extend beyond the government. While districts and schools long have contracted with outside vendors for a broad array of services, SES significantly increases both the scope and scale of districts' contracting-out activity.⁴⁹ Large urban districts may need to find providers for tens of thousands of students. To identify providers and monitor their services demands a level of

coordination between public agencies and private firms that far surpasses that required in the past. Moreover, it requires a new level of contracting on the part of public agencies. Contracting for instructional services is not like contracting for services such as transportation and food service, which are fairly easily and directly assessed when buses are chronically late and students refuse to eat cafeteria food. In contrast, both the provider and the local school district or state education agency need instructional information and familiarity with assessment models for instructional benefits of purchased services.

Civil Rights Implications

The web of issues detailed above—political, technical, instructional, and organizational—has enormous civil rights implications. Students eligible for SES are largely non-white and poor,⁵⁰ and they tend to be in schools that serve significant numbers of ELL and special education students. NCLB affords these students the same school choice privileges that others have, and any constitutional rights to accessible and quality educational services are also the same as those of their peers. In fact, federal statutes offer specific protections to ELL and special education students. Evidence to date suggests that appropriate services for ELL and special education students are limited, however. Significantly, these supply limitations exist even as available revenues for SES increase. Providers do not seem eager to engage in special programming for high-need, high-cost students.

Civil rights implications extend beyond questions of access and quality. As noted above, the high cost of SES services and the reallocation of funds required can weaken other Title I programs in a district. For example, fewer funds might be available for developing or providing new curriculum, for teacher professional development, for parent involvement activities, and for a variety of other programs and reforms with a proven track record. Because SES is often funded at the expense of such other programs, rigorous analysis of SES cost effectiveness and fiscal stewardship is essential to ensure that private financial interests do not supersede the interests of Title I students. This is particularly important because while SES provides parents of eligible Title I students with the choice to enroll their children in an after-school program, low-income parents lack the same political influence as local school districts and large private firms. A close look at the programming tradeoffs necessary to fund SES is essential to ensure that students with the greatest needs benefit enough to justify the expense to other Title I programs.

Recommendations

Substantive changes in the design of the SES provisions of NCLB seem necessary to remedy the problems identified above. These problems

include the lack of state and district capacity to implement and monitor the program effectively, increasing revenues despite the lack of reliable evidence of effectiveness, impact on curriculum and pedagogy, insufficient accountability for providers, alignment of SES services with school curriculum, impact on extracurricular activities and benefits, impact on other proven Title I programs, and issues of access and quality for high need students.

At this point, it seems likely that some version of SES will be retained in the NCLB reauthorization. Examining and addressing the issues explored above will be critical for policy makers committed to improving the success of SES. The task is made more urgent by the fact that more students will become eligible for SES with each passing year, and as they do so greater public funds will be dedicated to the policy.

Therefore, it is recommended that policy makers do each of the following.

- Redesign the law to address the core problem of local administrators lacking fiscal resources and expertise to successfully administer SES programs.
- Commission federally-funded, comprehensive evaluations to determine: 1) to what degree SES may affect student achievement, and 2) to what extent at-risk student populations have access to SES services.
- Investigate the feasibility and desirability of reallocating Title I funds from SES programs to existing successful state and local reform efforts.
- Examine and reconsider NCLB's apparent tension between the high-stakes accountability imposed on schools and the more limited measures for holding SES providers accountable for their contributions to student achievement.

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Studies across providers represent one approach. Another fruitful approach to conducting qualitative studies on SES programming would incorporate elements of compositional studies as defined by Weis and Fine. A compositional study of SES might involve study of after-school tutoring services provided to students in low-income communities in conjunction with studies of after-school tutoring in adjoining wealthier communities. This work would examine the extent to which services being provided to low-income students under the banner of SES is similar to or different from the services offered (by the same provider) to wealthier students.

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