EDUCATION POLICY PLANNING COMMITTEE

Wednesday, June 15, 2005
1:00 p.m.
4th Floor Conference Room

Public Conference Call Access Number: 1-866-297-6391 (listen only)
Confirmation # 1 1 8 8 7 3 1 7

AGENDA

1. Public Participation
2. Discussion of IMAGE cut scores (Ginger Reynolds, Becky McCabe & Rense Lange)
3. Discussion of Memorandum of Understanding to Acquire ACCESS to ELL's Assessment (Becky McCabe, Jon Furr & Dave McDermott)
4. Update on Accountability Workbook (Ginger Reynolds, Gail Lieberman & Connie Wise)
5. Student Advisory Council Update (Linda Jamali, Jennifer Saba)
6. SES monitoring update (Ginger Reynolds, Jon Furr & Cheryl Bradley)
7. Additional Items
8. Adjourn
TO: Illinois State Board of Education
FROM: Dr. Randy J. Dunn, State Superintendent of Education (Interim)

Agenda Topic: IMAGE Cut Score Adjustment

Materials: No attachments

Staff Contact(s): Becky McCabe, Division Administrator, Student Assessment
Dr. Sam Krug, Metritech

Purpose of Agenda Item
To inform the Board with information of why the Illinois Measure of Growth in English (IMAGE) cut scores need to be revised.

Expected Outcome(s) of Agenda Item
Approval of the new cut scores and direction from the Board to proceed with applying the scores to the results of the 2004-05 IMAGE.

Background Information
The Illinois Measure of Annual Growth in English (IMAGE) was originally designed to assess the language proficiency of students with limited English proficiency.

During the 1998-1999 school year, the Illinois State Board of Education established performance categories for IMAGE reading and writing to facilitate interpretation of individual test scores. Those categories were intended to differentiate four proficiency levels—Beginning, Strengthening, Expanding, and Transitioning—that represent milestones in students’ progress toward proficiency in English-language reading and writing.

Beginning in 2001, IMAGE was used as a performance assessment for LEP students. With the passage of No Child Left Behind, the results of the performance assessment were used for academic accountability. Recognizing that the test was being used for a purpose for which it was not developed, ISBE staff, along with the Illinois English Language Learner Assessment Advisory Committee (IELLAAC) reviewed the student results of IMAGE and identified the need to revisit the cut scores.

In March, 2005, panels of English Language Learner (ELL) teachers convened in Champaign to reexamine these cut scores particularly in light of federal assessment requirements (NCLB) that make use of these cut scores in evaluating school and district performance as well as individual student performance. Panelists had specific knowledge of student performance at the grades (3, 5, 8, 11) being assessed by IMAGE in 2005 and experience in teaching students at those grades. Panelists were selected to be broadly representative of the diversity of the Illinois public school system. A total of 45 educators participated in the two-day standard-setting process.
The procedure used in 2005 was different than that used in 1998 but consistent with the approach previously used to establish ISAT and PSAE cut scores. A number of checks were made on the reliability of the panelists’ judgments. Agreement among the panelists was high at all grade levels. Evaluation forms completed at the end of the session indicated that the overall level of panelist confidence in the final ratings was extremely high.

Since both sets of cut scores (1998, 2005) were arrived at by valid processes, the most reasonable conclusion is to average the two sets of results. When these averaged cut scores were applied to the 2004 test population, the results were as follows:

![Bar chart showing the percent of 2004 students scores falling in each IMAGE performance category.]

The IMAGE cut score process and results were presented to the State Testing Review Committee on May 16th. The Committee recommended that an additional validation process be scheduled in order to meet federal requirements and to support the revised cut scores. This process was held June 7th with bilingual teachers. Those results then compared the teacher ratings to the test outcomes, and look for a high degree of correspondence. These results validated the cut scores as first determined and therefore, we are ready for board action.
Analysis and Implications for Policy, Budget, Legislative Action and Communications

Policy Implications: The Board will establish a policy to apply the adjusted cut scores beginning with 2005 IMAGE test results and beyond.

Budget Implications: None

Legislative Action: None

Communication: The Board will develop and implement a communication plan that will explain how the new cut scores impact the 2005 student results as well as the data that will be used in calculating school and district AYP.

Pros and Cons of Various Actions

Pro: There are excellent reasons for reexamining the IMAGE performance categories at this time. When the 1998 cutoffs were established, standards for English language proficiency were less well developed than they are today. There has also been a significant increase in the number of students tested each year with IMAGE. Approximately 30,000 more students took IMAGE statewide in 2004 than in 1997 when it was first introduced.

The proposed cut scores involved larger and more representative panels of ELL teachers than had participated in 1998. The 2005 panel also was aware of accountability consequences related to the cut scores that were unknown to the 1998 group.

The proposed solution, averaging the 1998 and 2005 results, does not abandon the earlier cut scores entirely but gives both outcomes equal weight.

Con: These proposed new cut scores replace others that have been in use for several years, and any change will necessarily involve public scrutiny and criticism of both motivation and outcomes.

Superintendent’s Recommendation

I recommend that the following motion be adopted: The Illinois Board of Education approves the adjustment of the cut scores to the IMAGE test beginning with the 2005 test.

Next Steps

Student Assessment will direct its contractors to apply these cuts to the current tests being scored.

Student Assessment will provide information for dissemination to district superintendents.
TO: Illinois State Board of Education

FROM: Randy J. Dunn, State Superintendent (Interim)
Ginger Reynolds, Assistant Superintendent (Interim), Teaching and Learning Services

Agenda Topic: Action Item: World-class Innovations in Developing Assessments (WIDA) Consortium Memorandum of Understanding ACCESS for ELL’s

Materials: None

Staff Contacts: Becky McCabe
John Craig

Purpose(s) of Agenda Item
The purpose of this agenda item is for the Board to authorize the issuance of a Memorandum of Understanding to acquire the “ACCESS for ELL’s” assessment tests provided through the multi-state WIDA consortia. The ACCESS is a newly developed measure of English proficiency as required for use in federal Title III ESEA NCLB funded programs.

Expected Outcome of Agenda Item
It is expected that staff will receive the Board’s authorization enter into a Memorandum of Understanding with the WIDA consortia to acquire the ACCESS for ELL’s assessment for 2006 and 2007.

Background Information
Title III of ESEA NCLB federal legislation requires Limited English Proficient (LEP) students to be assessed annually for English proficiency and growth. Prior to adoption of this legislation Illinois provided for measures of English proficiency by allowing local school district programs to use a variety of commercial measures which were not based upon standards to determine student proficiency. Continuing this situation could eventually take the state out of compliance with NCLB Title III requirement.

Subsequent to the implementation of NCLB legislation, ISBE entered into an agreement with a consortium of other states (Wisconsin, Alabama, Delaware, New Hampshire, etc.), identified as WIDA to develop a standards based assessment instrument for English Language Learners (Ell’s) which would be an improved measure of proficiency, “a better test”, than those outdated tests previously used in local programs, and also be compliant with Title III ESEA requirements. The work of developing the test has been completed. The next step is the acquisition and use of the test by local school districts in determining the proficiency of ELL students.

The WIDA consortium will provide the ACCESS for ELL’s (Assessing Comprehension and Communication in English State to State for English Language Learners). The proposed memorandum of understanding provides for acquisition of tests, scoring and reporting services
for the determination of English proficiency and growth and evolution of local programs. The costs for such services are on a per student basis.

The continued participation in the WIDA consortia is the most effective manner in which the state and its ELL program can obtain the most appropriate and cost efficient measure of English proficiency is consistent with Title III ESEA-NCLB requirements.

**Budget**

It is anticipated that the Memorandum of Understanding will provide ACCESS an estimated $172,000 for ELL’s tests for two years, 2006 and 2007. The anticipated cost for ACCESS is: 2006 - $4,098,760; 2007 - $4,442,276. The amounts are paid from State of Illinois funds.

This action provides local schools with a uniform and improved test for identification and evaluation of ELL proficiency. This replaces a variety of outdated measures local schools needed to purchase at their own expense. (The use of the ACCESS will bring Illinois into compliance with this aspect of Title III ESEA program requirements. It maintains eligibility for the use of the approximately $26.4 million of federal funds.) Also included in this agreement are two one time costs of $50,000 and $25,000 for test validation and ELL curriculum resource development undertaken by the consortia.

**Legislative Action** None.

**Pro-Con**

The Memorandum of Understanding provides Illinois continued membership in the multi-state WIDA consortia, securing the ACCESS for ELL proficiency tests. Local districts no longer need to purchase antiquated proficiency tests. ACCESS serves a dual role a) measure of individual student proficiency, b) a local district program evaluation measure. Use of ACCESS is a more reliable and solid source of data than previously used tests. This resolves the concerns about meeting Title III ESEA requirements for identification of ELL student language proficiency.

**Superintendent’s Recommendation**

The State Superintendent recommends that the following motion be adopted:

I move that the State Board of Education hereby authorizes staff to develop a Memorandum of Understanding to provide the development, printing, delivery, and scoring services for the ACCESS.

- the English Language Learner (ELL’s) agreement period will extend from July 30, 2006, through June 30, 2007;
- the total amount will not exceed $8.75 million for the two-year period.

**Next Steps**

Staff will prepare the Memorandum of Understanding with the WIDA consortia no later than July 30, 2005.
TO: Illinois State Board of Education EPPC Members
FROM: Dr. Ginger Reynolds, Assistant Superintendent
       Teaching and Learning

Agenda Topic: Update on Accountability Workbook

Staff Contact(s): Gail Lieberman, Special Assistant for NCLB

Purpose of Agenda Item
The purpose of the agenda item is to apprise members of the Committee of any progress made in dialogue with staff of the U. S. Department of Education (USDE) regarding changes in the Illinois Accountability Workbook pursuant to the No Child Left Behind Act (NCLB) of 2001, and status to date of making changes. It is also to explain the agency’s request for the 2% flexibility in testing students with disabilities recently offered by the USDE.

Expected Outcome(s) of Agenda Item
The Board members will have a better understanding of the specific changes being proposed and the potential for new flexibility.

Background Information
This item was discussed at the Board’s March and May 2005 Education Policy and Planning Committee meetings.
On May 31 the agency submitted to USDE Deputy Secretary Ray Simon a letter and document outlining the agency’s intention to take advantage of the recently offered flexibility for calculating assessments for 2% of students with disabilities. Using the most appropriate of the USDE’s transition options, the agency proposes to implement this flexibility by applying a 14% proxy to the 2005 AYP calculations of schools and districts that did not make adequate yearly progress in 2004 solely on the basis of the subgroup of students with disabilities. In other words, in order for a school or district in this category to meet the 47.5% performance threshold in 2005, the students with disabilities subgroup must have at least 33.5% of students meeting and exceeding state standards. To request this flexibility, Illinois has agreed to develop and implement a modified assessment and outline our process for this in a submission to USDE by June 15.
MEMORANDUM

TO: Education Policy Committee Members
FROM: Linda Jamali and Jennifer Saba
SUBJECT: Student Advisory Council

During the week of May 31, 2005, Linda Jamali and Jennifer Saba read and analyzed student essays and letters of recommendations for each candidate applying for the Student Advisory Council. Thirty-three (33) students were selected for interviews, which will be conducted on June 22, 2005, in Springfield and June 24, 2005, in Chicago. Students may choose to conduct the fifteen minute interview via phone conference or in person; two locations were selected because travel to Springfield or Chicago will be done at the applicant’s expense.

Because we received so many outstanding applications, it was very difficult to whittle the number of applicants to thirty-three (33). Students who were not selected for an interview will receive a letter from State Board Chairman Jesse Ruiz thanking them for their interest in the program. Two students who applied did not meet the minimum age requirement; they will receive a letter encouraging them to apply next year.

Daniel McFadden, a returning member from Joliet Township West, will assist in the interview process. As he is a returning member of the Council, his travel expenses---along with those of the sponsors---will be covered by the remaining balance in the Student Advisory Council fund. Final selection of the nineteen (19) remaining Council members will take place the week of June 27, 2005, and a formal report will be submitted to the Board at its next meeting. The first meeting of the Student Advisory Council will be held in Springfield in September.

Once Council membership is complete, we will prepare a press release for dissemination. In addition, we will be contacting various organizations for financial support. We plan to invite Council members to three or four Board meetings: two or three in Springfield and one in Chicago. Jean Ladage assisted in securing direct billing for SAC member hotel stays.
To: Members of the State Board of Education  
From: Jonathan Furr  
Dr. Ginger Reynolds  
Re: Improving the Illinois State Board of Education’s Administration and Regulation of Supplemental Educational Services  
Date: June 15, 2005

I. INTRODUCTION

Under the No Child Left Behind Act of 2001 (NCLB), students from low-income families attending schools that do not make adequate yearly progress for three consecutive years are eligible to receive Supplemental Educational Services (SES). School districts are responsible for funding these services, which must be provided outside the normal school day, through their Title I, Part A funds. State education agencies must develop and apply objective criteria to create approved lists of SES providers. Currently, 75 providers are on the ISBE-approved list.

Over the past year, the United States Department of Education has clearly taken the position that state educational agencies, and not local school districts, are responsible for setting requirements related to program design and fees charged by SES providers. We believe our agency can and should take an increased role in regulating the SES industry and assisting districts with the implementation of this NCLB mandate. Our proposal to accomplish this objective consists of the following three components:

1. Revamp the Application, Monitoring and Removal Process to Hold Providers Accountable: SES providers must be held to high standards during the application process and during the implementation of services. ISBE will revamp its application process to more closely review a provider’s educational program; hold providers to higher ethical standards; improve monitoring through data collection, reporting and site visits; and more thoroughly evaluate a provider’s services in order for a provider to remain on the State-approved list. ISBE is also revising its application process to encourage community-based organizations and government entities to develop SES programs.

2. Ensure Provider Rates Reflect the Actual Cost of Services: School districts have a limited amount of funds to spend on SES. If the rates providers charge to districts do not reflect the actual cost of services, fewer students will be served. To ensure provider rates reflect the actual cost of services, ISBE will require more detailed financial reporting that will be used to set provider rates, publicly report the financial information submitted by providers and the percentage of a provider’s rate directly attributable to tutoring activities, and develop processes to reflect the savings realized by providers using school district facilities.
3. **Provide Additional Resources to Districts for the Administration of SES:** To implement a successful SES program, school districts must coordinate with a number of potential providers, handle numerous notices and contracts, and oversee the delivery of services to students. ISBE is in the process of developing a state-wide web-based reporting system to assist districts with oversight and monitoring of providers, and creating a “toolkit” of form notices and contracts to assist districts with SES implementation.

Each component is described in greater detail below. Action items related to the various components will be carried out through the adoption of administrative rules relating to SES (set forth in your Board packet); through leadership of the General Counsel and Assistant Superintendent for Teaching and Learning and staff within the Accountability, External Assurance and Legal divisions; through new technologies such as a web-based tracking system; and through partnerships with other governmental entities such as universities, regional offices of education and school districts.

ISBE’s implementation of this proposal will occur as the agency continues to ensure districts meet their obligations with respect to SES under NCLB. Districts have a number of responsibilities, including: (1) notifying parents, (2) helping parents choose a provider, (3) determining which students should receive services if not all students can be served, (4) assisting ISBE in identifying potential providers, (5) contracting with providers, (6) providing information to ISBE to assist with the monitoring of providers, and (7) protecting the privacy of students receiving services. To ensure students receive the maximum benefits from SES, both providers and districts must meet their respective obligations for SES under NCLB.

II. **REVAMP THE APPLICATION, MONITORING AND REMOVAL PROCESS TO HOLD PROVIDERS ACCOUNTABLE**

A. **Application Process**

ISBE’s application will be revamped to more closely review program delivery and reflect the best practices in other states. In addition, ISBE will engage local school districts in provider reviews, and partner with an appropriate outside entity to assist with the application review and renewal process.

1. **More Detailed Review of Program Delivery**

ISBE will provide a more detailed review of each provider’s program to ensure services are adequately targeted to improve student achievement. In addition to existing requirements, ISBE will require providers to demonstrate the following:

- The provider’s model includes an appropriate nationally recognized diagnostic assessment to identify student weaknesses and achievement gaps upon which to build an individual student plan and individual learning goals.
- The provider’s model includes targeted remediation/instruction aimed at addressing the individual skill gaps revealed during the assessment and based upon an individual learning plan.
- The provider’s model includes an appropriate nationally recognized post assessment, linked to the pre-assessment, to see if student gains occurred and/or to further develop a plan for either reteaching skills or identifying new skills for instruction.
- The provider must indicate the number of instructional hours per subject. For any program proposing less than thirty instructional hours per subject, the provider must include specific evidence, including verification from school district administrators in which the program has been
To demonstrate evidence of effectiveness, providers must (i) demonstrate that the program proposed in the application has a positive impact on student achievement in reading and/or math particularly for low-income, underachieving students on state, district and/or another independent, valid and reliable nationally recognized performance test; and (ii) submit a minimum of five and a maximum of ten letters of reference from previous clients. ISBE is also creating an alternate method to demonstrate evidence of effectiveness as a means to encourage more community-based organizations and government entities to develop SES programs. Applicants seeking approval through the alternate method must: (i) provide evidence that the provider has a minimum of three years experience serving youth in the community where the provider intends to serve through activities such as tutoring, mentoring or other extracurricular programs; (ii) submit evidence of effectiveness for the program’s proposed curriculum; (iii) submit a minimum of five and a maximum of ten letters of reference; and (iv) agree to limit services to no more than 200 students during the first two years of services.

2. More Stringent Application Requirements

ISBE’s application will be made more stringent in a number of other ways. For example, ISBE will require resumes of persons overseeing instructional plans for students, require information on whether providers have been denied approval or removed from an approved list in other states, and ask for information on lawsuits and safety incidents. Other application questions and assurances will be modified to reflect best practices used by other states.

3. Engage Local School Districts in Provider Reviews

School districts may have the most knowledge on how the information in a provider’s application relates to its ability to successfully deliver SES. ISBE will provide SES applications to the local school districts in which a provider wishes to serve. Districts will then have the opportunity to request that ISBE seek additional information and clarifications from providers. These clarifications will then be made a part of the provider’s application for approval. ISBE will, however, retain full approval authority.

4. Partner With an Outside Entity to Evaluate Providers

Currently, a significant amount of staff time is spent evaluating proposals from SES applicants. ISBE believes this process can and should be performed by an appropriate outside governmental or not-for-profit entity to provide an objective outside analysis of a provider’s strengths and weaknesses and to free staff resources for other aspects of State SES administration.

ISBE currently has an open application process for providers. Interested providers can apply at any time, but only once during a twelve-month period. To facilitate the review of applications by an outside partner, ISBE will establish two SES application windows per year, with the possibility of emergency approval in special circumstances.

B. Code of Ethics

To ensure SES providers are held to the highest ethical standards, ISBE will institute an SES Provider Code of Ethics based upon the “Standards for Best Practice for Education Service Providers” adopted by the Education Industry Association. The ISBE SES Provider Code of Ethics is set forth in Section 675.30 of the administrative rules included with your Board packet.
C. Monitoring of Services

Through data collection, reports from providers, on-site visits and a state-level grievance and dispute resolution process, ISBE can improve its monitoring of delivery of SES by providers.

1. Develop a State-wide Tracking System

ISBE is working to implement a web-based tracking system for student enrollment and progress through which all providers will be required to enter data on a frequent basis. The system will provide real-time reporting to the providers, districts and ISBE, and also facilitate the administration of SES programs by local districts. The system will also aid ISBE as it monitors districts’ compliance with the implementation of SES. ISBE is in the process of licensing the tracking system currently used by the Louisiana Department of Education for use in Illinois at no cost. ISBE expects to have this system operational during the 2005 – 06 school year.

2. Analyze Providers’ Success in Increasing Achievement on Statewide Assessments

Once ISBE’s state-wide tracking system is implemented, the system will be linked to ISBE’s student information system to allow an analysis of the success of the provider’s students on statewide assessments. ISBE will then be able to compare students in the provider’s program to a control group with similar demographics to measure the impact attributable to the provider’s services, and incorporate this measurement into the basis for removing providers for failing to contribute to increased student proficiency. Providers and districts will also have access to this analysis.

3. Require Providers to Submit an Annual Report

ISBE will require a report containing general information on the students served, the percentage of students meeting the academic goals set out in their Individual Learning Plans, and details on any complaints received from teachers or parents. Prior to submitting the annual report, providers will be required to survey the parents of all children in the program to determine whether the parents: (a) agree with the provider’s assessment on the student’s achievement of the academic goals; and (b) are satisfied with the services provided to their child. Results from the survey must be included in the annual report, and providers must take corrective action if they do not meet specified levels of parent satisfaction. ISBE’s outside partner for the review of provider applications will review, analyze and publicly disseminate the information generated from the provider’s annual report.

4. Perform On-site Monitoring

ISBE will have the authority and ability to use staff from its External Assurance Division to visit provider sites to ensure providers are accurately reporting information to ISBE. These visits will be used to review the sign-in sheets to confirm information submitted to ISBE’s web-based tracking system, and generally note whether the provider’s delivery of services reflects the information submitted to ISBE in the provider’s application.

5. Develop State-level Grievance and Dispute Resolution Procedures

ISBE will institute and publicize a grievance procedure to ensure that parents, students, teachers and providers have the ability to directly inform the agency of any concerns over a provider’s performance or a district’s oversight. ISBE will also be launching a pilot program through the Suburban Cook
County Regional Office of Education to obtain assistance in resolving provider/district disputes and provide monitoring of compliance by providers and districts with SES requirements.

ISBE will also require local districts to notify ISBE if they intend to terminate the services of a provider throughout the district or at a particular school. ISBE will then require information from both the provider and the district to determine the validity of the complaint, determine whether a corrective action plan should be implemented for a period of time to address the complaint and ultimately determine whether the district should be allowed to proceed with the termination. Local school districts would continue to be able to terminate the services a provider is offering to a particular student if the provider is unable to meet the student’s specific achievement goals within the timetable set out in the agreement between the district and the provider.

D. Corrective Action and Removal

Currently, in order for ISBE to remove a provider from the State’s approved list, 50% of the LEA agreements with a provider must be terminated for two consecutive years. This basis for removal is unnecessarily stringent and has not proved workable in practice. Districts will not be in a position to evaluate whether a provider has increased the academic proficiency of students until the end of the school year. At that time, the district would have no reason to terminate the agreement with the provider, and students will not have had the chance to have services from a more useful provider.

Instead, ISBE’s determination of whether a provider has failed to contribute to increased student proficiency relative to state academic content and achievement standards will be based upon whether the students completing the provider’s program meet the academic goals set forth in the students’ respective Individual Learning Plans. A provider will be removed from the State-approved list if, for two consecutive years, no more than 70% of the students meet the academic goals set forth in the students’ respective Individual Learning Plans. As mentioned previously, once ISBE has the capability to analyze the success of the provider’s students on statewide assessments through ISBE’s student information system, this analysis will be incorporated into the basis for removing providers from the State-approved list.

If no more than 70% of the students in a provider’s program meet the academic goals set forth in the students’ respective Individual Learning Plans for any year, the provider will be required to develop a corrective action plan detailing how the provider intends to improve the deficiencies in its program. ISBE will also have the authority to place a provider in corrective action if compliance issues are raised through monitoring, the grievance process or the dispute resolution process. The provider will be removed from the State-approved list if it does not undertake all actions in an approved corrective action plan during the next school year.

In addition to its removal rights specified above, ISBE will have the authority:

- To prohibit providers from providing services in one or more schools or districts, if the performance issues are localized;
- To immediately suspend a provider’s services if the agency determines a threat exists to the health or safety of students; and
- To remove providers from the State-approved list if the provider has engaged in illegal or deceptive practices, violated any assurance or aspect of its application to ISBE, falsified any information on its application or other reports to ISBE or otherwise violated state or federal law.
III. **Ensure Provider Rates Reflect the Actual Cost of Services**

As stated in the Introduction, ensuring providers do not inflate the cost of SES delivery increases the number of students being served. ISBE also believes that the foundation for the SES industry in our state must be based on accurate, transparent financial information to aid decision-making by parents, implementation of SES by districts and regulation by ISBE. Illinois will become the first state to use its application and renewal process to force providers to substantiate the actual cost of services charged to school districts. In addition, ISBE will adopt several other creative approaches to more accurately determine the cost of services and, ultimately, ensure more students are served.

A. **Financial Reporting and Determination of the Actual Cost of Services**

Under NCLB, the per-child amount providers can charge for SES is limited to the lesser of: (a) the district’s per-child allocation under Part A of Title I; or (b) the actual cost of the services. ISBE is proposing a financial reporting model for SES providers to determine the “actual cost of the services” incurred by providers. This model is based on ISBE’s financial reporting system for private residential placement facilities.

The rules proposed in the Board packet will require all existing providers to report to ISBE their cost of providing services during the 2004-05 school year within each district the provider services. Cost must be reported in the following categories:

1. Direct Program Expenses;
2. Occupancy Expenses for Facilities Housing SES Activities;
3. Curriculum and Training Expenses; and
4. Administrative and General Expenses Not Directly Attributable to the Provision of SES.

Costs in categories 3 and 4 must be prorated in accordance with the percentage of students served within each district. The administrative rules also specify a number of non-reimbursable expenses (such as entertainment expenses, advertising, lobbying expenses, non-nutritional snacks, and incentives of any kind to students or parents).

The provider’s district program costs will be divided by the total number of students enrolled in the provider’s program to determine the provider’s “actual cost” for inclusion in SES agreements with districts for the 2005-06 school year. Non-governmental providers serving more than fifty students within a district will be required to have their reported financial information reviewed by a Licensed Certified Public Accountant. ISBE will also verify the reported financial information through on-site visits. At the end of the 2005-06 school year, providers must again report their incurred costs for the SES program. Districts may include a “true-up” provision in their SES agreements to only require payment to the provider of its actual incurred costs (provided such costs are less than the amount stated in the contract). For this purpose, a district may withhold no more than 20% of the overall contract amount.

New providers must estimate their costs based upon the minimum number of students required by the provider to offer supplemental educational services to a district. Upon closure of the enrollment period, new providers must submit adjusted estimates based upon the number of students enrolled.

B. **Reflecting the Benefit to Providers Using District Facilities**
Districts are encouraged, but not required, to allow providers to use district facilities for SES in order to facilitate access by students and parents to SES opportunities. If a provider seeks to use district facilities for SES during the 2005-06 school year, the provider must obtain a signed letter of understanding from the district specifying the facilities, equipment and services the district can offer the provider. The provider must then submit to ISBE a per-pupil rate based upon its use of district facilities. This rate will presumably be much less than the provider’s regular rate, due to the operational costs associated with using district facilities, the value of the real estate provided by the district and the business advantages resulting from access to district facilities.

Certain schools will be limited in their ability to accommodate multiple providers. For example, some schools may only be able to provide access to a limited number of classrooms after normal school hours, or may not have the administrative capacity to oversee multiple contractors providing on-site services. For each school, districts will be authorized to determine the number of providers the school can accommodate on-site based on space or administrative capacity issues. Districts that have determined a limit on the number of providers per facility will then be authorized to select the providers for its facilities using an equitable process that considers a provider’s cost of services and other reasonable administrative and operational criteria consistent with criteria generally used by the district to select contractors.

C. Transparent Reporting of Financial Information

Using the financial information obtained from providers, ISBE will publicly report the costs charged to districts for the provision of SES, emphasizing the amount each provider is directly allocating toward the provision of tutoring (as opposed to overhead and profit). Through this reporting, parents will have better information to select a provider spending more on the delivery of tutoring.

IV. PROVIDE ADDITIONAL RESOURCES TO DISTRICTS FOR ADMINISTRATION OF SES

As more and more districts are required to provide SES, ISBE should do all that it can to provide the district with forms and resources to implement SES programs. ISBE’s development of a state-wide web-based tracking system will significantly reduce the paperwork required of local districts for the administration of SES. In addition, ISBE is developing a “toolkit” for districts to use when developing SES programs. The toolkit will consist of the following resources:

1. Description of SES, including the role of ISBE, the school district, the provider and parents;
2. Form memo to principals from superintendents;
3. Form referral for SES;
4. Form letter from districts to parents;
5. Form selection form for parents;
6. Form LEA contractual services agreement (including form scope of services and monitoring plan); and
7. Form Individual Learning Plan.

Over the course of the next school year, ISBE will be collaborating with providers, districts and other constituents to develop the format of the annual report, a form student progress report, and the required parent survey.
To: Members of the State Board of Education

From: Jonathan Furr
Dr. Ginger Reynolds

Re: Improving the Illinois State Board of Education’s Administration and Regulation of Supplemental Educational Services

Date: June 8, 2005

I. INTRODUCTION

Under the No Child Left Behind Act of 2001 (NCLB), students from low-income families attending schools that do not make adequate yearly progress for three consecutive years are eligible to receive Supplemental Educational Services (SES). School districts are responsible for funding these services, which must be provided outside the normal school day, through their Title I, Part A funds. State education agencies must develop and apply objective criteria to create approved lists of SES providers. Currently, 75 providers are on the ISBE-approved list.

Over the past year, the United States Department of Education has clearly taken the position that state educational agencies, and not local school districts, are responsible for setting requirements related to program design and fees charged by SES providers. We believe our agency can and should take an increased role in regulating the SES industry and assisting districts with the implementation of this NCLB mandate. Our proposal to accomplish this objective consists of the following three components:

1. Revamp the Application, Monitoring and Removal Process to Hold Providers Accountable: SES providers must be held to high standards during the application process and during the implementation of services. ISBE will revamp its application process to more closely review a provider’s educational program; hold providers to higher ethical standards; improve monitoring through data collection, reporting and site visits; and more thoroughly evaluate a provider’s services in order for a provider to remain on the State-approved list. ISBE is also revising its application process to encourage community-based organizations and government entities to develop SES programs.

2. Ensure Provider Rates Reflect the Actual Cost of Services: School districts have a limited amount of funds to spend on SES. If the rates providers charge to districts do not reflect the actual cost of services, fewer students will be served. To ensure provider rates reflect the actual cost of services, ISBE will require more detailed financial reporting that will be used to set provider rates, publicly report the financial information submitted by providers and the percentage of a provider’s rate directly attributable to tutoring activities, and develop processes to reflect the savings realized by providers using school district facilities.
3. **Provide Additional Resources to Districts for the Administration of SES:** To implement a successful SES program, school districts must coordinate with a number of potential providers, handle numerous notices and contracts, and oversee the delivery of services to students. ISBE is in the process of developing a state-wide web-based reporting system to assist districts with oversight and monitoring of providers, and creating a “toolkit” of form notices and contracts to assist districts with SES implementation.

Each component is described in greater detail below. Action items related to the various components will be carried out through the adoption of administrative rules relating to SES (set forth in your Board packet); through leadership of the General Counsel and Assistant Superintendent for Teaching and Learning and staff within the Accountability, External Assurance and Legal divisions; through new technologies such as a web-based tracking system; and through partnerships with other governmental entities such as universities, regional offices of education and school districts.

ISBE’s implementation of this proposal will occur as the agency continues to ensure districts meet their obligations with respect to SES under NCLB. Districts have a number of responsibilities, including: (1) notifying parents, (2) helping parents choose a provider, (3) determining which students should receive services if not all students can be served, (4) assisting ISBE in identifying potential providers, (5) contracting with providers, (6) providing information to ISBE to assist with the monitoring of providers, and (7) protecting the privacy of students receiving services. To ensure students receive the maximum benefits from SES, both providers and districts must meet their respective obligations for SES under NCLB.

II. **REVAMP THE APPLICATION, MONITORING AND REMOVAL PROCESS TO HOLD PROVIDERS ACCOUNTABLE**

A. **Application Process**

ISBE’s application will be revamped to more closely review program delivery and reflect the best practices in other states. In addition, ISBE will engage local school districts in provider reviews, and partner with an appropriate outside entity to assist with the application review and renewal process.

1. **More Detailed Review of Program Delivery**

ISBE will provide a more detailed review of each provider’s program to ensure services are adequately targeted to improve student achievement. In addition to existing requirements, ISBE will require providers to demonstrate the following:

- The provider’s model includes an appropriate nationally recognized diagnostic assessment to identify student weaknesses and achievement gaps upon which to build an individual student plan and individual learning goals.
- The provider’s model includes targeted remediation/instruction aimed at addressing the individual skill gaps revealed during the assessment and based upon an individual learning plan.
- The provider’s model includes an appropriate nationally recognized post assessment, linked to the pre-assessment, to see if student gains occurred and/or to further develop a plan for either reteaching skills or identifying new skills for instruction.
- The provider must indicate the number of instructional hours per subject. For any program proposing less than thirty instructional hours per subject, the provider must include specific evidence, including verification from school district administrators in which the program has been
To demonstrate evidence of effectiveness, providers must (i) demonstrate that the program proposed in the application has a positive impact on student achievement in reading and/or math particularly for low-income, underachieving students on state, district and/or another independent, valid and reliable nationally recognized performance test; and (ii) submit a minimum of five and a maximum of ten letters of reference from previous clients. ISBE is also creating an alternate method to demonstrate evidence of effectiveness as a means to encourage more community-based organizations and government entities to develop SES programs. Applicants seeking approval through the alternate method must: (i) provide evidence that the provider has a minimum of three years experience serving youth in the community where the provider intends to serve through activities such as tutoring, mentoring or other extracurricular programs; (ii) submit evidence of effectiveness for the program’s proposed curriculum; (iii) submit a minimum of five and a maximum of ten letters of reference; and (iv) agree to limit services to no more than 200 students during the first two years of services.

2. More Stringent Application Requirements

ISBE’s application will be made more stringent in a number of other ways. For example, ISBE will require resumes of persons overseeing instructional plans for students, require information on whether providers have been denied approval or removed from an approved list in other states, and ask for information on lawsuits and safety incidents. Other application questions and assurances will be modified to reflect best practices used by other states.

3. Engage Local School Districts in Provider Reviews

School districts may have the most knowledge on how the information in a provider’s application relates to its ability to successfully deliver SES. ISBE will provide SES applications to the local school districts in which a provider wishes to serve. Districts will then have the opportunity to request that ISBE seek additional information and clarifications from providers. These clarifications will then be made a part of the provider’s application for approval. ISBE will, however, retain full approval authority.

4. Partner With an Outside Entity to Evaluate Providers

Currently, a significant amount of staff time is spent evaluating proposals from SES applicants. ISBE believes this process can and should be performed by an appropriate outside governmental or not-for-profit entity to provide an objective outside analysis of a provider’s strengths and weaknesses and to free staff resources for other aspects of State SES administration.

ISBE currently has an open application process for providers. Interested providers can apply at any time, but only once during a twelve-month period. To facilitate the review of applications by an outside partner, ISBE will establish two SES application windows per year, with the possibility of emergency approval in special circumstances.

B. Code of Ethics

To ensure SES providers are held to the highest ethical standards, ISBE will institute an SES Provider Code of Ethics based upon the “Standards for Best Practice for Education Service Providers” adopted by the Education Industry Association. The ISBE SES Provider Code of Ethics is set forth in Section 675.30 of the administrative rules included with your Board packet.
C. Monitoring of Services

Through data collection, reports from providers, on-site visits and a state-level grievance and dispute resolution process, ISBE can improve its monitoring of delivery of SES by providers.

1. Develop a State-wide Tracking System

ISBE is working to implement a web-based tracking system for student enrollment and progress through which all providers will be required to enter data on a frequent basis. The system will provide real-time reporting to the providers, districts and ISBE, and also facilitate the administration of SES programs by local districts. The system will also aid ISBE as it monitors districts’ compliance with the implementation of SES. ISBE is in the process of licensing the tracking system currently used by the Louisiana Department of Education for use in Illinois at no cost. ISBE expects to have this system operational during the 2005 – 06 school year.

2. Analyze Providers’ Success in Increasing Achievement on Statewide Assessments

Once ISBE’s state-wide tracking system is implemented, the system will be linked to ISBE’s student information system to allow an analysis of the success of the provider’s students on statewide assessments. ISBE will then be able to compare students in the provider’s program to a control group with similar demographics to measure the impact attributable to the provider’s services, and incorporate this measurement into the basis for removing providers for failing to contribute to increased student proficiency. Providers and districts will also have access to this analysis.

3. Require Providers to Submit an Annual Report

ISBE will require a report containing general information on the students served, the percentage of students meeting the academic goals set out in their Individual Learning Plans, and details on any complaints received from teachers or parents. Prior to submitting the annual report, providers will be required to survey the parents of all children in the program to determine whether the parents: (a) agree with the provider’s assessment on the student’s achievement of the academic goals; and (b) are satisfied with the services provided to their child. Results from the survey must be included in the annual report, and providers must take corrective action if they do not meet specified levels of parent satisfaction. ISBE’s outside partner for the review of provider applications will review, analyze and publicly disseminate the information generated from the provider’s annual report.

4. Perform On-site Monitoring

ISBE will have the authority and ability to use staff from its External Assurance Division to visit provider sites to ensure providers are accurately reporting information to ISBE. These visits will be used to review the sign-in sheets to confirm information submitted to ISBE’s web-based tracking system, and generally note whether the provider’s delivery of services reflects the information submitted to ISBE in the provider’s application.

5. Develop State-level Grievance and Dispute Resolution Procedures

ISBE will institute and publicize a grievance procedure to ensure that parents, students, teachers and providers have the ability to directly inform the agency of any concerns over a provider’s performance or a district’s oversight. ISBE will also be launching a pilot program through the Suburban Cook
County Regional Office of Education to obtain assistance in resolving provider/district disputes and provide monitoring of compliance by providers and districts with SES requirements.

ISBE will also require local districts to notify ISBE if they intend to terminate the services of a provider throughout the district or at a particular school. ISBE will then require information from both the provider and the district to determine the validity of the complaint, determine whether a corrective action plan should be implemented for a period of time to address the complaint and ultimately determine whether the district should be allowed to proceed with the termination. Local school districts would continue to be able to terminate the services a provider is offering to a particular student if the provider is unable to meet the student’s specific achievement goals within the timetable set out in the agreement between the district and the provider.

D. Corrective Action and Removal

Currently, in order for ISBE to remove a provider from the State’s approved list, 50% of the LEA agreements with a provider must be terminated for two consecutive years. This basis for removal is unnecessarily stringent and has not proved workable in practice. Districts will not be in a position to evaluate whether a provider has increased the academic proficiency of students until the end of the school year. At that time, the district would have no reason to terminate the agreement with the provider, and students will not have had the chance to have services from a more useful provider.

Instead, ISBE’s determination of whether a provider has failed to contribute to increased student proficiency relative to state academic content and achievement standards will be based upon whether the students completing the provider’s program meet the academic goals set forth in the students’ respective Individual Learning Plans. A provider will be removed from the State-approved list if, for two consecutive years, no more than 70% of the students meet the academic goals set forth in the students’ respective Individual Learning Plans. As mentioned previously, once ISBE has the capability to analyze the success of the provider’s students on statewide assessments through ISBE’s student information system, this analysis will be incorporated into the basis for removing providers from the State-approved list.

If no more than 70% of the students in a provider’s program meet the academic goals set forth in the students’ respective Individual Learning Plans for any year, the provider will be required to develop a corrective action plan detailing how the provider intends to improve the deficiencies in its program. ISBE will also have the authority to place a provider in corrective action if compliance issues are raised through monitoring, the grievance process or the dispute resolution process. The provider will be removed from the State-approved list if it does not undertake all actions in an approved corrective action plan during the next school year.

In addition to its removal rights specified above, ISBE will have the authority:

- To prohibit providers from providing services in one or more schools or districts, if the performance issues are localized;
- To immediately suspend a provider’s services if the agency determines a threat exists to the health or safety of students; and
- To remove providers from the State-approved list if the provider has engaged in illegal or deceptive practices, violated any assurance or aspect of its application to ISBE, falsified any information on its application or other reports to ISBE or otherwise violated state or federal law.
III. **Ensure Provider Rates Reflect the Actual Cost of Services**

As stated in the Introduction, ensuring providers do not inflate the cost of SES delivery increases the number of students being served. ISBE also believes that the foundation for the SES industry in our state must be based on accurate, transparent financial information to aid decision-making by parents, implementation of SES by districts and regulation by ISBE. Illinois will become the first state to use its application and renewal process to force providers to substantiate the actual cost of services charged to school districts. In addition, ISBE will adopt several other creative approaches to more accurately determine the cost of services and, ultimately, ensure more students are served.

A. **Financial Reporting and Determination of the Actual Cost of Services**

Under NCLB, the per-child amount providers can charge for SES is limited to the lesser of: (a) the district’s per-child allocation under Part A of Title I; or (b) the actual cost of the services. ISBE is proposing a financial reporting model for SES providers to determine the “actual cost of the services” incurred by providers. This model is based on ISBE’s financial reporting system for private residential placement facilities.

The rules proposed in the Board packet will require all existing providers to report to ISBE their cost of providing services during the 2004-05 school year within each district the provider services. Cost must be reported in the following categories:

1. Direct Program Expenses;
2. Occupancy Expenses for Facilities Housing SES Activities;
3. Curriculum and Training Expenses; and
4. Administrative and General Expenses Not Directly Attributable to the Provision of SES.

Costs in categories 3 and 4 must be prorated in accordance with the percentage of students served within each district. The administrative rules also specify a number of non-reimbursable expenses (such as entertainment expenses, advertising, lobbying expenses, non-nutritional snacks, and incentives of any kind to students or parents).

The provider’s district program costs will be divided by the total number of students enrolled in the provider’s program to determine the provider’s “actual cost” for inclusion in SES agreements with districts for the 2005-06 school year. Non-governmental providers serving more than fifty students within a district will be required to have their reported financial information reviewed by a Licensed Certified Public Accountant. ISBE will also verify the reported financial information through on-site visits. At the end of the 2005-06 school year, providers must again report their incurred costs for the SES program. Districts may include a “true-up” provision in their SES agreements to only require payment to the provider of its actual incurred costs (provided such costs are less than the amount stated in the contract). For this purpose, a district may withhold no more than 20% of the overall contract amount.

New providers must estimate their costs based upon the minimum number of students required by the provider to offer supplemental educational services to a district. Upon closure of the enrollment period, new providers must submit adjusted estimates based upon the number of students enrolled.

B. **Reflecting the Benefit to Providers Using District Facilities**
Districts are encouraged, but not required, to allow providers to use district facilities for SES in order to facilitate access by students and parents to SES opportunities. If a provider seeks to use district facilities for SES during the 2005-06 school year, the provider must obtain a signed letter of understanding from the district specifying the facilities, equipment and services the district can offer the provider. The provider must then submit to ISBE a per-pupil rate based upon its use of district facilities. This rate will presumably be much less than the provider’s regular rate, due to the operational costs associated with using district facilities, the value of the real estate provided by the district and the business advantages resulting from access to district facilities.

Certain schools will be limited in their ability to accommodate multiple providers. For example, some schools may only be able to provide access to a limited number of classrooms after normal school hours, or may not have the administrative capacity to oversee multiple contractors providing on-site services. For each school, districts will be authorized to determine the number of providers the school can accommodate on-site based on space or administrative capacity issues. Districts that have determined a limit on the number of providers per facility will then be authorized to select the providers for its facilities using an equitable process that considers a provider’s cost of services and other reasonable administrative and operational criteria consistent with criteria generally used by the district to select contractors.

C. **Transparent Reporting of Financial Information**

Using the financial information obtained from providers, ISBE will publicly report the costs charged to districts for the provision of SES, emphasizing the amount each provider is directly allocating toward the provision of tutoring (as opposed to overhead and profit). Through this reporting, parents will have better information to select a provider spending more on the delivery of tutoring.

**IV. PROVIDE ADDITIONAL RESOURCES TO DISTRICTS FOR ADMINISTRATION OF SES**

As more and more districts are required to provide SES, ISBE should do all that it can to provide the district with forms and resources to implement SES programs. ISBE’s development of a state-wide web-based tracking system will significantly reduce the paperwork required of local districts for the administration of SES. In addition, ISBE is developing a “toolkit” for districts to use when developing SES programs. The toolkit will consist of the following resources:

1. Description of SES, including the role of ISBE, the school district, the provider and parents;
2. Form memo to principals from superintendents;
3. Form referral for SES;
4. Form letter from districts to parents;
5. Form selection form for parents;
6. Form LEA contractual services agreement (including form scope of services and monitoring plan); and
7. Form Individual Learning Plan.

Over the course of the next school year, ISBE will be collaborating with providers, districts and other constituents to develop the format of the annual report, a form student progress report, and the required parent survey.
TO: Illinois State Board of Education
FROM: Randy J. Dunn, Interim Superintendent
       Jonathan Furr, General Counsel
       Ginger Reynolds, Assistant Superintendent (Interim)
Agenda Topic: Action Item: Rules for Initial Review and Emergency Rules for Adoption – Part 675 (Providers of Supplemental Educational Services)
Materials: Recommended Rules
Staff Contact(s): Jon Furr

Purpose of Agenda Item
The purpose of this agenda item is to present the proposed rules for the Board’s initial review and the identical emergency rules for adoption.

Expected Outcomes of Agenda Item
The Board will be asked to adopt a motion authorizing the solicitation of public comment on the proposed new Part 675 and a second motion adopting the emergency rules.

Background Information
Please refer to the memorandum in the Education Policy and Planning Committee section of the Board materials for a discussion of the policy basis underlying Part 675 and the other changes to ISBE’s administration and regulation of Supplemental Educational Services.

The programmatic requirements, approval criteria, procedures, and reporting requirements for Supplemental Education Services set out in Part 675 fall within the definition of “rule” provided by the Illinois Administrative Procedure Act (“...each agency statement of general applicability that implements, applies, interprets, or prescribes law or policy...”) and therefore need to be promulgated as rules. They have not been presented for consideration before now because some aspects of the requirements have only recently been clarified through discussions with the U.S. Department of Education. The rules need to be in effect immediately, especially to enable ISBE to collect the cost and service information specified in Section 675.230(a)(3), and we have therefore determined that emergency rulemaking is needed.

Since the proposed version of the rules that will go through the regular rulemaking process is identical to the emergency rules, only the emergency version has been included in this Board packet.

Analysis and Implications for Policy, Budget, Legislative Action and Communications
Policy Implications: Please see above.
Budget Implications: None.
Legislative Action: None needed.
Communication: Please see “Next Steps” below.
**Superintendent’s Recommendation**

The Superintendent recommends that the State Board of Education adopt the following motions:

1) The State Board of Education hereby authorizes solicitation of public comment on the proposed rulemaking for:

   Providers of Supplemental Educational Services (23 Illinois Administrative Code 675),

   including publication of the proposed rules in the *Illinois Register*.

2) The State Board of Education hereby adopts the emergency rulemaking for:

   Providers of Supplemental Educational Services (23 Illinois Administrative Code 675).

**Next Steps**

With the Board’s authorization, staff will submit the proposed rules to the Administrative Code Division for publication in the *Illinois Register* to elicit public comment. Concurrently, the emergency rules will be filed with the Secretary of State so that they can take effect immediately. Means such as the Superintendent’s message and the agency website will be used to inform interested parties of the effectiveness of the emergency rules and the opportunity to comment on the identical proposed rules.
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TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER o: MISCELLANEOUS

PART 675
PROVIDERS OF SUPPLEMENTAL EDUCATIONAL SERVICES

SUBPART A: GENERAL PROVISIONS

Section
675.10 Purpose and Scope
675.20 Definitions
675.30 Code of Ethics
675.40 Programmatic Requirements
675.50 Application Requirements
675.60 Application Process
675.70 Reporting Requirement
675.80 Retention of Records; Access to Premises
675.90 Sanctions
675.100 Public Information
675.150 Provider’s Relationship with District

SUBPART B: FINANCIAL REQUIREMENTS

Section
675.200 Financial Framework for SES
675.210 District Program Cost
EMERGENCY
675.220 Non-Reimbursable Expenses and Revenue Offsets
EMERGENCY
675.230 Cost Reports
EMERGENCY
675.240 Adjustments to Contract for Actual Cost
EMERGENCY

AUTHORITY: Implementing Section 1116(e) of Public Law 107-110, the No Child Left Behind Act of 2001 (20 USC 6316(e)), as specified in 34 CFR Sections 200.45 through 200.48, and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.6].

SOURCE: Emergency rules adopted at 29 Ill. Reg. _____, effective _____________, for a maximum of 150 days.

Section 675.10 Purpose and Scope
EMERGENCY

The purpose of this Part is to establish the process by which the State Board of Education (ISBE) will approve supplemental educational service providers and verify the cost of services provided by such providers, establish reporting and records retention requirements for such providers, establish the process for placing providers in corrective action, and establish the process for terminating a provider’s services.

Section 675.20 Definitions
EMERGENCY

“District” means a local education agency, as defined in NCLB, in which one or more schools are in their second year of school improvement, in corrective action, or in restructuring status under NCLB.

“Eligible applicant” means a public school or a school district that has not been identified for improvement under NCLB, a private school, a regional office of education, an intermediate service center, an institution of higher education, a not-for-profit organization (including a faith-based or community-based organization), or a private business.
“Nationally recognized assessment” means a standardized or commercially available criterion-referenced test, assured by the provider to meet the generally accepted standards of validity and reliability set forth in “Standards for Educational and Psychological Testing” (1999) published by the American Educational Research Association, 1230 17th St., N.W., Washington, D.C. 20036. (No later amendments to or editions of these standards are incorporated.)

“NCLB” means Title I of the Elementary and Secondary Education Act (ESEA), as reauthorized by the No Child Left Behind Act of 2001, and any regulations promulgated by the federal government to implement that Act.

“Provider” means an eligible applicant approved by ISBE to provide SES to one or more districts.

“Related organization” means an entity that:

- directly or indirectly controls, or is controlled by, a provider; or
- influences, or is influenced by, the provider in terms of operational policies; or
- is controlled or influenced by another organization that also controls or influences the provider.

“SES reporting period” shall mean a twelve-month period commencing on July 1 of a calendar year and continuing through June 30 of the following calendar year. The State Superintendent of Education may, however, adjust the SES reporting period for a particular provider to accommodate reporting for summer sessions.

“Supplemental educational services” or “SES” means additional academic instruction that is provided outside of the regular school day and designed to increase the academic achievement of eligible students in schools required to provide such services in accordance with NCLB. These services may include academic assistance such as tutoring, remediation, and other educational interventions.
Section 675.30 Code of Ethics
EMERGENCY

In addition to all other requirements imposed by law, all providers of SES must abide by a code of ethics consisting of the following requirements:

a) Providers must accurately and completely describe services to consumers in terms that are easy to understand.

b) Providers must create and use promotional materials and advertisements that are free from deception.

c) Providers must not misrepresent to anyone the location of a provider’s program or the approval status of a program.

d) Providers must not publicly criticize or disparage other providers.

e) Providers must not use a district enrollment form that has the selected provider’s name pre-printed as part of the form.

f) Providers must maintain a system of addressing consumer grievances and concerns and must immediately report any grievances to both the district and ISBE.

g) Providers must not compensate district employees in exchange for access to facilities, to obtain student lists, or for any illegal purpose. School personnel may be hired for instructional purposes only.

h) Providers must not make payments or in-kind contributions to a district, exclusive of customary fees for facility utilization.

i) Providers must not offer or advertise economic incentives or gratuities of any kind to parents or students to solicit them to select the provider for SES. Providers may not offer any incentives to potential students in the course of informational sessions.

j) During the provision of SES, providers may offer only nominal incentives to students as rewards for achievement and/or the completion of assessments and program objectives.
k) Providers must not encourage or induce students or parents to switch providers once enrolled.

l) 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.

Section 675.40 Programmatic Requirements

EMERGENCY

Each provider’s SES program shall:

a) include an appropriate, nationally recognized diagnostic assessment for use in identifying students’ weaknesses and achievement gaps upon which to build an individual student plan and learning goals, except that, for the 2005-06 reporting period, a diagnostic assessment other than a nationally recognized assessment may be used by providers approved prior to July 1, 2005, upon notification to ISBE;

b) use targeted remediation/instruction that is aimed at addressing the individual skill gaps revealed during the assessment and that is based upon an individual learning plan;

c) include a post assessment linked to the diagnostic assessment to determine whether student gains occurred and to further develop a plan for either re-teaching skills or identifying new skills for instruction;

d) align with the Illinois Learning Standards set forth at 23 Ill. Adm. Code 1, Appendix D, in the area of reading and/or mathematics;

e) be consistent with the academic program a student experiences in the regular school day; and

f) use instructional practices that are high-quality, research-based, and specifically designed to increase students’ academic achievement.
Section 675.50 Application Requirements

Each application for approval to provide SES in Illinois shall consist of the components described in this Section.

a) A summary of services that indicates:

1) the subject areas available (i.e., reading and/or mathematics);

2) the grade levels served;

3) the total program hours per student, provided that, for any program proposing fewer than 30 instructional hours per subject, the applicant must supply specific evidence that the program has resulted in increased student achievement in that subject, including verification from school district administrators in which the program has been previously provided;

4) the proposed location(s) of service delivery and, for a provider seeking to use district facilities for SES, a signed letter of understanding from the district specifying the facilities, equipment and services the district will offer to the provider;

5) the minimum number of students required by the eligible applicant in order to offer SES to a district and the maximum number, if any, for each proposed district;

6) whether the eligible applicant can provide services to students of limited English proficiency and, if so, the languages in which the eligible applicant provides instruction and the maximum number of LEP students the eligible applicant can serve in each district;

7) whether the eligible applicant can provide services to students with disabilities and, if so, the accommodations or modifications the eligible applicant can offer and the maximum number of students with disabilities the eligible applicant can serve in each district;

8) the time of day and [months during which SES will be offered;
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9) the ratio of instructors to children, as determined by the provider; and

10) the districts the eligible applicant seeks to serve.

b) A rationale for the eligible applicant’s SES program, including:

1) Evidence that the program complies with Section 675.40 of this Part; and

2) Evidence of effectiveness that complies with either subsection (b)(2)(A) or subsection (b)(2)(B) of this Section.

A) General Method

i) Evidence that the program proposed in the application has a positive impact on students’ achievement in reading and/or math, particularly for low-income, underachieving students, as demonstrated by scores on the State assessment or on a nationally recognized assessment; and

ii) At least five but no more than ten letters of reference from previous clients (families, districts, or teachers) offering testimonial information on the positive impact of the program proposed in the application and including contact information, starting and ending dates of service provided, and school and district names for each reference.

B) Alternate Method

i) Evidence that the eligible applicant has a minimum of three years’ experience serving youth in the community where the eligible applicant intends to offer SES, through activities such as tutoring, mentoring or other extracurricular programs; and

ii) Evidence that the curriculum to be used by the eligible applicant has been demonstrated to have a positive impact on students’ achievement in reading and/or math, particularly for low-income, underachieving students, as
demonstrated by scores on the State assessment or on a nationally recognized assessment; and

iii) At least five but no more than ten letters of reference from previous clients (families, districts, or teachers) offering testimonial information on the positive impact of the youth services provided by the eligible applicant and including contact information, starting and ending dates of service provided, and school and district names for each reference; and

iv) An agreement to limit services to no more than 200 children during the first two years of SES.

c) The specific procedures to be used and frequency of reports of student progress to teachers, district staff, and parents/families (including a description of how information will be provided to parents and families in a format and language they can understand).

d) A description of the qualifications of instructional staff, including such resumes and other information on qualifications as ISBE may require.

e) Proof of liability insurance in amounts deemed sufficient by ISBE to protect the district and ISBE in light of the number of students to be served by the provider.

f) Evidence that the eligible applicant possesses a sound management structure.

g) Evidence that the provider has adequate financial, organizational and technical resources to administer the proposed program.

h) Proof of legal authority to conduct business in Illinois.

i) Information on the eligible applicant’s estimated per-pupil district program cost for the minimum number of students required by the eligible applicant in order to offer SES in a district, calculated as set forth in Section 675.210 of this Part.

j) Such certifications, assurances, and/or additional information as ISBE may require in order to verify any information reported by the eligible applicant or otherwise to fulfill its duties with respect to the administration of SES.
Section 675.60 Application Process
EMERGENCY

a) Applications for approval as SES providers will be accepted only from eligible applicants and only during the two application periods established by the State Superintendent of Education each year, unless an emergency application period is needed for a particular school district to enable students to continue receiving services through the remainder of a school year as required by NCLB.

b) Upon receipt of an application, ISBE will provide it to the district in which an eligible applicant seeks to serve for the district’s general review and comment, but in particular for an assessment by the district as to whether the program is consistent with the academic program a student experiences during the regular school day. The district and ISBE may seek additional information and clarifications from the eligible applicant. These clarifications will then be made a part of the provider’s application.

c) Applications meeting the requirements set forth in Sections 675.40 and 675.50 of this Part and all other requirements of NCLB will be approved.

Section 675.70 Reporting Requirement
EMERGENCY

The requirements of this Section shall apply to reporting periods that begin on or after July 1, 2005.

a) Each provider shall be required to use a tracking system for student enrollment and progress developed by ISBE.

b) Within 45 days after a provider’s conclusion of SES for the SES reporting period, the provider shall submit a report to ISBE and to each district in which the provider operates. This report shall include:

1) information on the students served;

2) details of any complaints received from teachers or parents;
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3) the percentage of students meeting the academic goals set out in their Individual Learning Plans;

4) based upon a survey form prescribed by ISBE of all parents of children in the program, a report on the percentage of parents who:
   A) agree with the provider’s assessment of their respective students’ achievement of the academic goals; and
   B) are satisfied with the services provided to their children;

5) for any provider with a rating lower than 80% under either subsection (a)(4)(A) or subsection (a)(4)(B) of this Section, a description of specific actions the provider will take over the next SES reporting period to better inform parents regarding students’ progress and/or increase parental satisfaction with the provider’s services;

6) updates and revisions to any information set forth in the provider’s approved application (including the submission of all information required by Section 675.50 of this Part not previously reported by the provider); and

7) an assurance that all other information set forth on the provider’s approved application, as may be updated from time to time, remains true and correct.

c) ISBE may request additional information from a provider that may be necessary for ISBE to verify any information reported by the provider or otherwise to fulfill its duties with respect to the administration of SES.

d) Providers failing to submit timely and complete reports shall not be included on the list of eligible providers for the following SES reporting period.

Section 675.80 Retention of Records; Access to Premises
EMERGENCY

Each provider and its contractors shall maintain books and records relating to the provision of SES and necessary to support amounts charged to districts for SES. Books and records, including information stored in databases or other computer systems, shall be maintained by the
provider and its contractors for a period of five years after the date of final payment under the district’s agreement with the provider. Books and records required to be maintained under this Section shall be available for review or audit by representatives of ISBE during normal business hours, with or without notice from ISBE. The provider and its representatives shall fully cooperate with any such review or audit. Each provider shall also grant representatives of ISBE full access to any site at which the provider offers SES for purposes of observing and monitoring program activities.

Section 675.90 Sanctions
EMERGENCY

a) A provider shall be deemed to have failed to contribute to increased student proficiency relative to State academic content and achievement standards and may be removed from the State-approved list either overall or for a particular district, if, for two consecutive SES reporting periods, no more than 70 percent of the students served meet the academic goals set forth in the students’ respective Individual Learning Plans.

b) If no more than 70 percent of the students in a provider’s program (overall, or for a particular district) meet the academic goals set forth in the students’ respective Individual Learning Plans for one SES reporting period, the provider shall, within 75 days after the conclusion of services for that period, submit to State Superintendent of Education for approval a corrective action plan detailing how the provider intends to improve the deficiencies in its program. If the provider does not undertake all actions set forth in an approved corrective action plan during the following SES reporting period, the provider shall be removed from the list of State-approved providers.

c) The State Superintendent of Education may require corrective action of a provider if compliance issues are raised through ISBE’s monitoring of the provider’s program. Providers placed in corrective action under this subsection (c) shall, within 30 days after receiving notice to this effect, submit to the State Superintendent of Education for approval a corrective action plan detailing how the provider intends to improve the deficiencies in its program. A provider shall be removed from the State-approved list if it fails to meet the requirements of its corrective action plan by the end of the SES reporting period following the provider’s placement into corrective action.
d) The State Superintendent of Education may immediately suspend a provider’s services if ISBE determines that a threat exists to the health or safety of students.

e) The State Superintendent of Education may remove a provider from the State-approved list upon 30 days’ written notice if the provider has engaged in illegal or deceptive practices, violated any assurance or aspect of its application to ISBE, falsified any information on its application or other reports to ISBE, or otherwise violated State or federal law.

f) A provider may appeal its removal from the State-approved list by submitting an appeal to ISBE specifying the basis upon which it believes its removal is not in accordance with this Part or other applicable law. The provider will be given a hearing in accordance with the State Board’s rules for Contested Cases and Other Formal Hearings (23 Ill. Adm. Code 475). A final decision shall be rendered by the State Board of Education.

g) Any corrective action or termination rights ISBE has pursuant to this Part may be exercised solely with respect to the provider’s program in one or more schools or districts, if the performance issues are localized.

Section 675.100 Public Information

EMERGENCY

All information submitted to ISBE pursuant to this Part, and the provider’s status in terms of corrective action, may be publicly reported by ISBE in any manner ISBE deems necessary to inform the public of the services offered by the provider.

Section 675.150 Provider’s Relationship with District

EMERGENCY

a) A district may impose reasonable administrative and operational requirements through its agreements with providers that are consistent with requirements imposed generally on the district’s contractors and that do not limit educational options for parents.

b) Districts may, but are not required to, allow the use of district facilities for SES. If a district determines that one or more facilities have a limited capacity to accommodate multiple providers for such reasons as limited available classroom space or a limit to the district’s administrative capacity to oversee multiple
contractors, the district may select those providers using an equitable selection process that considers the provider’s cost of services and other reasonable administrative and operational criteria consistent with criteria generally used by the district in the selection of contractors.

c) A school district may, with notification to the State Superintendent of Education, terminate the services a provider is providing to a particular student if the provider is unable to meet the student’s specific achievement goals within the timetable set out in the agreement between the district and the provider.

d) For any other termination of services by a school district, the district shall provide prior written notification to the State Superintendent of Education if the district intends to terminate the services of a provider throughout the district or at a particular school.

1) The State Superintendent of Education shall require information from both the provider and the district to determine the validity of the complaint and to determine whether a corrective action plan should be implemented to address the complaint.

2) Upon receipt and review of information from both the district and provider, the State Superintendent of Education shall determine whether the district should be allowed to proceed with the termination.

SUBPART B: FINANCIAL REQUIREMENTS

Section 675.200 Financial Framework for SES EMERGENCY

a) Under NCLB, the per-pupil amount a provider is permitted to charge for SES is limited to the lesser of:

1) the district’s per-pupil allocation under Part A of Title I of NCLB; or

2) the actual cost of the services (hereafter, “actual cost”).

b) Each provider shall demonstrate its actual cost through ISBE’s application and annual reporting processes, as set forth in this Part. Each provider shall be
required to determine its actual cost for each district in which the provider offers SES.

c) A provider’s actual cost for a particular district during an SES reporting period shall consist of its district program costs (see Section 675.210 of this Part) divided by the total number of students enrolled in the provider’s program as calculated in accordance with Section 675.230(a)(2) of this Part.

Section 675.210 District Program Cost

EMERGENCY

a) A provider’s district program cost shall consist of the cost categories described in this subsection (a).

1) Direct program expenses caused directly by and related directly to the provision of SES within a district. Subcategories of direct program expenses include:

A) Program staff salaries or wages, payroll taxes, and fringe benefits (limited to staff having direct contact with students who receive services);

B) Program consultants having direct contact with students who receive services;

C) Program-related materials, supplies, and equipment (items costing more than $500 and having a useful life of more than one year must be capitalized and depreciated on a straight-line basis);

D) Snacks for program participants, provide that such snacks do not consist of confections, candy, potato chips, carbonated beverages, fruit drinks containing less than 50 percent pure fruit juice, tea, coffee, or other foods or beverages designated as “competitive foods” by the State Board of Education pursuant to 23 Ill. Adm. Code 305 (School Food Service).

E) Program Insurance – All liability, malpractice, personal injury, and other types of insurance not reported as property insurance or as employee benefits; and
F) Other (must be specified).

2) Occupancy expenses for facilities housing SES program activities. Subcategories of occupancy expenses include:
   A) Lease, rental, or property taxes (less any revenues received from portions of a building not used for SES programs);
   B) Operations and maintenance of buildings and equipment (including janitorial, building and grounds, and other maintenance supplies, equipment maintenance, utilities, telecommunications, and property/building insurance);
   C) Housekeeping, maintenance, and security (including staff salaries, payroll taxes, and fringe benefits);
   D) Mortgage and installment interest;
   E) Operating interest; and
   F) Other (must be specified).

3) Curriculum expenses directly attributable to the development of curriculum by the provider for its SES program and training costs directly attributable to the training of instructional staff. Subcategories of curriculum and training expenses include:
   A) Salaries or wages, payroll taxes, and fringe benefits for staff engaged in curriculum development;
   B) Salaries or wages, payroll taxes, and fringe benefits for staff performing training; and
   C) Other (must be specified).

4) Administrative and general expenses not directly attributable to the provision of SES within a district (other than costs reported for curriculum and training), including expenses for all staff, facilities, supplies, and
equipment not used in direct connection with SES program activities (i.e., staff not having regular contact with SES students, and supplies and equipment not used during the delivery of SES at a particular site). Subcategories of administrative and general expenses include:

A) Salaries or wages, payroll taxes, and fringe benefits for all executive, administrative, managerial, office, and clerical employees not having direct contact with students who receive services;

B) Legal and accounting services and other administrative consultants;

D) Operations and maintenance of buildings and equipment – not assigned to program;

E) Materials, supplies, and equipment – not assigned to program;

F) Lease, rental, or property taxes for facilities not serving as a primary location for the delivery of SES (less any revenues from the rental of portions of the facility);

G) Distributions to shareholders; and

H) Other (must be specified).

b) Multiple Districts Served

If a provider serves multiple districts (either within or outside of Illinois), the provider’s expenses in the categories outlined in subsections (a)(3) and (4) of this Section must be prorated, first in accordance with the percentage of time applicable to SES in general, and second in accordance with the percentage of students served within each district. (Example: a provider’s program manager earns an annual salary of $100,000 and spends 50 percent of her time managing the provider’s SES programs throughout the nation and the remainder of her time performing educational consulting services for districts. The provider serves 5,000 students in its SES programs nationwide, 1,000 of whom are within an Illinois district. $10,000 of her salary may be reported as an actual cost of providing SES within that district. ($100,000 x .5 x .2 = $10,000.))
Section 675.220 Non-Reimbursable Expenses and Revenue Offsets

EMERGENCY

a) The expenditures discussed in this subsection (a) shall be non-reimbursable costs and shall not be calculated or reported as part of a provider’s district program cost.

1) Expenses resulting from transactions with related organizations that are greater than the expense to the related organization. Providers may be required to submit evidence to substantiate or refute any claim of relatedness in determining allowable costs.

2) Non-straight-line depreciation.

3) Bad debt.

4) Special benefits to owners, including owner and keyman life insurance, except insofar as required by lending institutions.

5) Charity grants.

6) Entertainment expenses.

7) Fund-raising.

8) Interest payments related to a provider’s assets that are unrelated to an SES program.

9) Costs incurred by owners for non-SES activities, including that portion of overhead that should be allocated to these activities.

10) Printing expenses unrelated to the program.

11) Lobbying activities.

12) Transportation of students to and from SES activities.

13) Meals provided to students enrolled in SES programs.
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14) Confections, candy, potato chips, carbonated beverages, fruit drinks containing less than 50 percent pure fruit juice, tea, coffee, or other foods or beverages designated as “competitive foods” by the State Board of Education pursuant to 23 Ill. Adm. Code 305.

15) Fines and penalties.

16) Payments of principal on mortgages or loans.

17) Asset acquisition costs for items whose costs exceed $500 and have a useful life of one year or more.

18) Legal expenses incurred for non-program activities or for litigation against governmental entities.

19) Severance pay.

20) Sales tax (in the case of not-for-profit organizations).

21) Income tax.

22) Costs of public relations, marketing, and advertising.

23) Incentives of any kind to students, including but not limited to incentives as rewards for achievement and/or the completion of assessments and program objectives.

24) Economic incentives or gratuities of any kind to parents.

b) Any revenue received by the provider for the provision of SES from any source other than the district shall be offset against the provider’s district program costs.

Section 675.230 Cost Reports
EMERGENCY

a) Year-End Requirements
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1) For each SES reporting period beginning on or after July 1, 2005, each provider shall report to the State Board of Education, no later than June 1 and using a form provided by ISBE, the provider’s district program cost for each district the provider served. The information reported shall be based on the provider’s district program costs through April 15.

A) If the provider will continue services beyond April 15, the provider must indicate the percentage of its program completed through April 15.

B) Each provider shall identify all transactions with related organizations.

C) Each non-governmental provider serving more than 50 students within a district must include with its report a letter indicating that the reported information has been reviewed and is fairly presented. This letter shall be provided by a Licensed Certified Public Accountant (CPA) who is licensed pursuant to the Illinois Public Accounting Act [225 ILCS 450] and eligible to perform audits pursuant to Circular A-133 issued by the federal Office of Management and Budget. As evidence of eligibility, the CPA firm shall furnish and the provider shall submit the most current peer review report relative to the CPA firm and the corresponding acceptance letter from the state CPA society, the American Institute of Certified Public Accountants, or the Practice Section of the Securities and Exchange Commission.

2) Each provider shall report the number of students enrolled in the provider’s program during each SES reporting period. If a student’s services are terminated during the SES reporting period, the student shall be reported in accordance with the percentage of the program completed prior to termination of services. For example, a student who completed 60 percent of the provider’s program prior to termination of services should be reported as .6 of a student on the provider’s cost report.

3) All providers on the State-approved list as of June 16, 2005, shall report to ISBE, no later than July 15, 2005, and using a form provided by ISBE, the information required by subsections (a)(1) and (a)(2) of this Section for each district the provider served for the period from July 1, 2004, through
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June 1, 2005. If the provider will continue services beyond June 1, 2005, the provider must indicate the percentage of its program completed through June 1. By October 1, 2005, each non-governmental provider serving more than 50 students within a district shall also submit a letter from a Licensed Certified Public Accountant who provides evidence of meeting the requirements of subsection (a)(1)(C) of this Section, indicating that the information has been reviewed and is fairly presented.

b) Additional Requirement for New Providers

Within thirty days after the closure of the enrollment period within each district served, each newly approved provider must submit to ISBE adjusted estimates of its actual per-pupil cost of service, based upon the number of students enrolled in the provider’s program within each district served.

Section 675.240 Adjustments to Contract for Actual Cost

EMERGENCY

a) The initial per-pupil contract amount set forth in the provider’s contract with a district shall be the lesser of:

1) the district’s per-child allocation under Part A of Title I of NCLB; or

2) the actual cost for the preceding SES reporting period as reported to ISBE pursuant to this Part, adjusted for:

A) inflation as applicable to elementary and secondary schools in accordance with the Employment Cost Index published by the Bureau of Labor Statistics (see Table 2b, Employment Cost Index (Compensation), State and Local Government Workers, by Occupation and Industry Group); and

B) if applicable, the provider’s intended use of district facilities and whether such use, described in the provider’s letter of understanding with the district, can be expected to result in lower provider costs through:

i) operational savings,
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ii) the value of real estate provided by the district; or

iii) the business advantages resulting from access to the
district’s facilities.

b) If permitted in the provider’s contract with the district, the district may withhold
no more than 20 percent of the total amount payable to the provider until such
time as the provider reports to ISBE its district program costs and the number of
students enrolled during the SES reporting period to which the contract relates. If
the actual cost for the SES reporting period to which the contract relates is less
than the initial per-pupil contract amount set forth in the contract, and provided
the contract permits a cost adjustment, the district shall be responsible for paying
to the provider only the actual cost of services for the SES reporting period to
which the contract relates.

c) Nothing in this Section shall affect the validity of any contracts in effect between
districts and providers as of June 16, 2005.