

## TITLE 23: EDUCATION AND CULTURAL RESOURCES

## SUBTITLE A: EDUCATION

## CHAPTER I: STATE BOARD OF EDUCATION

## SUBCHAPTER 0: MISCELLANEOUS

## PART 675

## PROVIDERS OF SUPPLEMENTAL EDUCATIONAL SERVICES

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**AUTHORITY:** Implementing Section 1116(e) of Public Law 107-110, the No Child Left Behind Act of 2001 (20 USC 6316(e)) (34 CFR 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. 9516, effective June 17, 2005, for a maximum of 150 days; emergency expired November 13, 2005; adopted at 29 Ill. Reg. 19942, effective November 23, 2005; amended at 30 Ill. Reg. 14325, effective August 18, 2006; amended at 32 Ill. Reg. 4046, effective February 26, 2008; amended at 33 Ill. Reg. 8497, effective June 1, 2009; amended at 33 Ill. Reg. 15290, effective October 20, 2009; amended at 35 Ill. Reg. 2285, effective January 20, 2011.

## SUBPART A: GENERAL PROVISIONS

**Section 675.10 Purpose and Scope**

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**

“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, 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. Public schools or school districts identified for improvement under NCLB shall only be eligible to the extent permitted by the United States Department of Education.

“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 17<sup>th</sup> 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**

The specific provisions of this Section are intended to illustrate the ethical behavior that is expected of personnel employed by providers of SES, their agents, and school districts, as well as by parents in certain situations. The provisions of this Section shall not be construed as exhaustive but rather as examples that not only apply in the specified situations, but that also guide the parties' actions under related circumstances. The requirements of this Section for providers shall apply not only to each provider but also to any subcontractor or other person or entity ("agent"), whether paid or unpaid, who acts in conjunction with or on behalf of an approved provider for the purpose of performing any function related to a program of supplemental educational services, including, but not limited to, marketing the program, tutoring students, providing snacks, conducting assessments, and completing individual learning plans. Each provider shall maintain a record of having notified each agent of the agent's responsibility for complying with the requirements of this Section. This notification shall include either the transmittal of a paper or electronic copy of this Part or provision of the web address where this Part is posted by the State Superintendent of Education.

- a) Providers must accurately and completely describe services to consumers in terms that are easy to understand. Providers' statements regarding the number of hours of service offered in their programs must match the number of hours for which districts have contracted. That is, a provider shall not charge a district for a portion of the hours of service offered and indicate that the remaining hours of service are to be provided free of charge.
- b) Providers must create and use promotional materials and advertisements that are consistent with their approved applications and free from deception. Upon request, providers shall submit all promotional materials and advertisements related to the SES program to ISBE or the school districts in which they wish to serve.
- c) Providers must not misrepresent to anyone the location of a provider's program or the approval status of a program. If the location of services is contingent upon a minimum student enrollment or the approval of a district, the provider shall indicate the applicable contingencies in its marketing materials.
- d) Providers must not publicly criticize or disparage other providers.
- e) Providers must not distribute a district enrollment form that has the selected provider's name pre-printed as part of the form. Providers must not distribute enrollment forms with directions for how to complete the forms.

- f) Providers must not market their programs directly to students in the absence of those students' parents or guardians, except in the course of district-sponsored provider fairs, school assemblies, or other events permitted pursuant to this Part.
- g) Providers must maintain a system of addressing consumer grievances and concerns and must immediately report any grievances to both the district and ISBE.
- h) Providers must not compensate district employees in exchange for access to facilities, to obtain student lists, or for any illegal purpose. Providers must not solicit or accept an exclusive arrangement with any district or school (including, but not limited to, an exclusive right to conduct in-school assemblies or other marketing activities).
- i) Role of District Personnel
  - 1) Employees of a particular district may be hired by a provider serving that district for instructional purposes or to perform other functions related to the delivery of the provider's program of SES. District personnel hired for these purposes shall not recruit students to a provider's program, engage in marketing activities on behalf of a provider, distribute or collect enrollment forms, or otherwise promote or encourage students to enroll in a provider's program.
  - 2) District personnel without responsibility for or involvement in the district's administration of SES may be employed to perform solely clerical functions having no relationship to the marketing of a provider's program or the recruitment of students.
  - 3) Where a school district or a school is also a provider of SES, an individual may be employed as coordinator or site manager for the SES program it provides if the individual will have no other responsibilities apart from oversight and management of that SES program, which may include marketing and recruitment, subject to the following additional requirements.
    - A) The individual employed by the district for this purpose shall not present marketing or recruitment information on any occasion unless all other providers approved for the schools served are offered the same opportunity to present information or recruit students.

- B) The district shall ensure that the individual has no greater access to parents and students at provider fairs, school assemblies, and other, similar occasions than is afforded to all other providers. "Access" means the amount of speaking time available, the space used, and any other resources allocated to providers.
  - C) The individual's duties related to the SES program for which the district is the provider shall be entirely distinct from those of any other district employee who performs oversight with respect to the provision of SES generally, such as serving as the district's liaison to all SES providers within a school or schools.
- j) Each restriction applicable to a school district employee under this Section shall apply equally to each officer of any governmental or nonprofit organization formed to support or advise a particular school in which the provider seeks to offer services, to each member of a local school board, governing body, or board of control, and to each member of a local school council in a school district organized pursuant to Article 34 of the School Code [105 ILCS 5/Art.34].
  - k) Each parent of an eligible student who is hired by a provider must have a written job description and must be compensated on the same basis as all other employees of the provider who perform similar work. No parent may receive any commission or other benefit related to the enrollment of his or her child in a provider's program, nor may a parent be subject to any employment action by the provider on account of the parent's selection of an SES program for his or her child.
  - l) Providers must not make payments or in-kind contributions to a district, exclusive of customary fees for facility utilization.
  - m) 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, but may offer promotional materials of negligible value, such as pencils, balloons, or magnets.
  - n) During the provision of SES, providers may offer only nominal rewards to students for achievement of program milestones or objectives that cannot be attained through attendance alone, or for above-average attendance when given after the mid-point of the provider's program. Providers shall not spend more than \$50 per pupil on rewards, exclusive of rewards that consist of materials and equipment used directly in the provision of services.

- o) Providers must not encourage or induce students or parents to switch providers once enrolled.
- p) 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.
- q) A provider shall not use information provided by parents of students served under this Part for any commercial purpose without securing the parent's prior written consent for the intended use of the specified information, except that a provider may use parental contact information to communicate about SES with the parents of students served by that specific provider in any prior year.
- r) School district personnel shall treat all providers of SES impartially. Whether or not the employing district or school is a provider, school personnel shall not:
  - 1) promote or disparage specific SES providers;
  - 2) distribute SES enrollment forms that include a pre-printed provider's name;
  - 3) obstruct parents in exercising their right to select an SES provider;
  - 4) seek to influence parents' choices among SES providers;
  - 5) alter or destroy registration forms submitted by parents without specific authorization from the parents; or
  - 6) encourage students to drop out of an SES program or switch providers once enrolled.

(Source: Amended at 33 Ill. Reg. 8497, effective June 1, 2009)

**Section 675.40 Programmatic Requirements**

Each provider's SES program shall be conducted at or from a location other than a private dwelling and:

- 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;
- f) use instructional practices that are high-quality, research-based, and specifically designed to increase students' academic achievement; and
- g) assign as tutors only individuals who hold or are qualified to hold the letter of approval that is required for service as a paraprofessional in a program supported with federal funds under Title I, Part A, of the ESEA, as described in the rules of the State Board of Education at 23 Ill. Adm. Code 25.510 (Paraprofessionals; Teacher Aides), provided that, in the case of tutors who reside outside the United States, the requirement for United States citizenship or legal presence in the United States shall not apply.

(Source: Amended at 32 Ill. Reg. 4046, effective February 26, 2008)

**Section 675.50 Application Requirements**

Each application for approval to provide SES in Illinois shall consist of the components described in this Section and shall be submitted as specified by the State Superintendent.

- a) A summary of services that indicates:
  - 1) the subject areas available;
  - 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 locations of service delivery;
  - 5) the minimum number of students required by the eligible applicant in order to offer SES to a district and an indication of any districts in which that minimum will apply to each site served rather than to the district in the aggregate;
  - 6) whether the eligible applicant can provide services to students of limited English proficiency (LEP) 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;
  - 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 curriculum and pedagogy proposed for each subject encompassed in the application have a positive impact on students' achievement in that subject, 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 through activities such as tutoring, mentoring or other extracurricular programs;
    - ii) Evidence that the curriculum and pedagogy to be used by the eligible applicant in a given subject have been demonstrated to have a positive impact on students' achievement in that subject, particularly for low-income, underachieving students, as demonstrated by scores on the State assessment or on a nationally recognized assessment;
    - 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. If the applicant intends to assign tutors who reside outside the United States, the application shall identify their countries of residence and, for each of those countries, the national and either regional or local law enforcement authorities from which fingerprint-based checks of criminal history records will be obtained that will be comparable to those required under Section 10-21.9 of the School Code [105 ILCS 5/10-21.9]. Individuals residing in countries where checks of these types are not available shall not be assigned as tutors.
- 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. This evidence shall include, but need not be limited to:
  - 1) completed federal tax returns (or the equivalent for non-profit entities) for the two most recent years; and
  - 2) verified financial documents identified either in subsection (g)(2)(A) or (g)(2)(B) of this Section, as applicable to the provider.
    - A) If the provider has a total gross income or revenue as reported to the Internal Revenue Service on its most recently submitted income tax return (or the equivalent for non-profit entities) in excess of \$500,000, then the provider shall supply an audit of financial statements or an organization-wide A-133 audit completed within the past two years from an independent Licensed Certified Public Accountant (CPA) who is a member of the American Institute of Certified Public Accountants. This

must be an audit and not a compilation, review or other type of CPA report.

- B) If the provider has a total gross income or revenue as reported to the Internal Revenue Service on its most recently submitted income tax return (or the equivalent for non-profit entities) equal to or less than \$500,000, then the provider shall supply verified financial documents covering the two most recently completed fiscal years. This requirement may be satisfied in one of the following three ways:
- i) Profit and loss statements, cash flow statements, and net assets statements. These statements must be signed and dated by a person attesting to the accuracy of the numbers contained in the statements. The relationship of the signatory to the provider must also be stated or described; or
  - ii) a compilation report from an independent CPA who is a member of the American Institute of Certified Public Accountants; or
  - iii) a review report from an independent CPA who is a member of the American Institute of Certified Public Accountants.
- h) Proof of legal authority to conduct business in Illinois.
- i) Information on the eligible applicant's estimated per-pupil program cost, calculated as set forth in Section 675.210 of this Part for a sample or hypothetical district for which the provider assumes cost factors to be representative. If the provider's costs will vary based on the number of students enrolled, costs must be provided for various enrollment ranges. Providers must specify the assumptions upon which occupancy costs are shown for services in district facilities.
- 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.

(Source: Amended at 35 Ill. Reg. 2285, effective January 20, 2011)

**Section 675.60 Application Process**

- 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 fiscal 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. Each provider's approval shall take effect beginning with the fiscal year after the year in which the application was submitted, unless the State Superintendent makes an exception to account for circumstances at ISBE that have led to a delay, resulting in approval of a provider's application in the fiscal year after its original submission.
- 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. For providers seeking to serve all eligible districts, ISBE may elect to provide the application to a group of representative districts for review. 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.
  - 1) If an applicant fails to respond to a request for additional information or clarification, ISBE shall, upon 14 days' written notice, declare the application inactive. If an application is declared inactive under this subsection (b)(1), the applicant shall be required to submit an entirely new application using the then-current application form and within an application period established by the State Superintendent for a subsequent fiscal year.
  - 2) If attempts to clarify or revise an application fail to result in its approval by the end of the fiscal year for which it was submitted, it shall be declared inactive and a new application shall be required.
- 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, provided that, when applicable, ISBE shall also consider factors that have led to any other state's revocation of, or refusal to renew, a provider's approval. ISBE may reject an application if this information indicates that the provider violated any applicable law or regulatory requirement, failed to demonstrate the program's effectiveness, or otherwise acted in a manner contrary to the intent of NCLB. If an application

is rejected, neither the eligible applicant nor any related organization shall be eligible to re-apply during the following 12-month period.

- d) If a provider is removed from the State-approved list for any reason other than as described in Section 675.110 of this Part, the provider and any related organization shall be ineligible to re-apply for any of the following three fiscal years, except that a provider that is a public school or school district that has its eligibility restored by being removed from “improvement status” shall be eligible to re-apply for the fiscal year after the year of its removal from that status.

(Source: Amended at 32 Ill. Reg. 4046, effective February 26, 2008)

**Section 675.65 Mid-Year Changes**

Each provider shall implement its SES program in accordance with its approved application. Changes in any aspect of an approved program shall require prior written approval from ISBE. Applications for approval of changes shall be submitted in a format specified by the State Superintendent of Education. Except as otherwise provided in this Section, approved changes shall take effect beginning with the fiscal year after the year during which they are approved.

- a) When a provider receives approval to serve an additional district after the beginning of a fiscal year, that district may either offer that provider's program as a choice for parents or wait until the next enrollment period or the next fiscal year before doing so.
- b) Approved changes in a provider's program for a district, such as changes in the student/teacher ratio or grade levels to be served, may be placed into effect without waiting for the next fiscal year if the district agrees in writing to the changes as of a specified effective date. The provider shall provide a copy of the district's written agreement to the State Superintendent within 10 days after receipt of the agreement.
- c) If circumstances change in a country to the extent that a previously approved method for obtaining checks of criminal history records for prospective tutors cannot be implemented (see Sections 675.50(d) and 675.150(f) of this Part), the affected provider shall seek approval for the necessary change in its application and shall implement the newly applicable method prior to assigning tutors who reside in that country.

(Source: Added at 32 Ill. Reg. 4046, effective February 26, 2008)

**Section 675.70 Reporting Requirement**

- a) Each provider shall be required to use a tracking system for student enrollment and progress developed by ISBE. This tracking system shall also be used to determine the amount billable to the district for the provider's services.
- b) Within 60 days after a provider's conclusion of SES for the SES reporting period, the provider shall submit a report to the State Superintendent including the information identified in this subsection (b), which shall be submitted as specified by the State Superintendent:
  - 1) information on the students served who received at least 18 hours of services;
  - 2) details of any complaints received from teachers or parents and the resolution of those complaints; and
  - 3) the percentage of the provider's Illinois students who received at least 18 hours of services and met the academic goals set out in their Individual Learning Plans.
- c) On or before May 1 of each year, each approved provider shall submit the information identified in this subsection (c) as specified by the State Superintendent:
  - 1) 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
  - 2) 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.
- d) Upon the request of any district served by a provider, the provider shall, within 10 days after receipt of the district's request or after the provider's submission of the report, whichever is later, furnish to the district the information specified in subsections (b)(2) and (3) of this Section as applicable to that district. However, a provider shall not be obligated to supply this information for any SES reporting period more than one year after the end of that period.

- e) The State Superintendent may request additional information from a provider that may be necessary for the State Superintendent to verify any information reported by the provider or otherwise to fulfill the duties of the State Board with respect to the administration of SES.
- f) Providers failing to submit timely and complete reports shall not be included on the list of eligible providers for the following SES reporting period.

(Source: Amended at 33 Ill. Reg. 8497, effective June 1, 2009)

**Section 675.80 Retention of Records; Access to Premises**

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 Evaluation of Providers' Performance, Providers' Status, Sanctions, and Removal**

- a) For each SES reporting period, ISBE shall evaluate each provider's performance in each district the provider serves based upon students' achievement, students' attendance, and parents' satisfaction. Separate evaluations shall be performed for each subject tutored by a provider. Achievement shall be measured by calculating an "effect size" in accordance with the provisions of Appendix A to this Part based upon the assessment results attained by students who have received at least 18 hours of instruction in the same provider's program. Attendance shall be measured by the information submitted to ISBE through its tracking system for students' enrollment and progress and by means of a survey administered by ISBE to all providers. Parental satisfaction shall be measured by a survey administered by ISBE to parents of students receiving services. Providers and school districts shall cooperate with ISBE to facilitate the administration of all surveys.
- b) For each of the criteria outlined in subsection (a) of this Section, ISBE will determine, based upon the evaluation rubric set forth in Appendix B to this Part, whether the provider's performance in each subject tutored falls into the category of "insufficient information", "below standards", "meets standards", or "above standards". Based on these determinations, ISBE will assign each provider the status of "good standing", "probationary status 1", or "probationary status 2", in accordance with the decision tree displayed in Appendix C to this Part. Each provider's status shall be determined on a statewide basis for each subject tutored.
- c) If a provider's compliance with State or federal requirements or interactions with districts or parents indicate areas for improvement that are not serious enough to warrant corrective action under subsection (h) of this Section, the provider's status may also be assigned "with reservations". A provider assigned any status with reservations that fails to address the identified areas for improvement during the next SES reporting period shall be placed into corrective action in accordance with subsection (h) of this Section.
- d) A provider assigned the status of good standing shall not be required to take any action in response, other than addressing any reservations during the next SES reporting period.
- e) A provider assigned to probationary status 1 shall submit a remedial action plan describing the policies and practices the provider will immediately implement to return its status to good standing, including:

- 1) specific, measurable steps to be taken;
  - 2) a timeline for these activities; and
  - 3) a budget for these activities.
- f) A provider assigned to probationary status 2 shall submit a reconstitution plan setting forth substantial changes the provider will immediately implement to return its status to good standing, including:
- 1) a fundamental revision to the program described in the provider's approved application;
  - 2) professional development activities for all the provider's instructional staff serving the district;
  - 3) a plan of outreach to promote effective parental involvement in the provider's program;
  - 4) for each aspect described pursuant to subsections (f)(1) through (3) of this Section:
    - A) the specific, measurable steps to be taken;
    - B) a timeline for these activities; and
    - C) a budget for these activities; and
  - 5) a process for monitoring progress and revising the plan as needed.
- g) A provider that receives three consecutive determinations of probationary status 1 or lower with respect to any particular district shall be removed from the State-approved list, except that a provider that receives two consecutive determinations of probationary status 2 shall be removed.
- h) 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 (h) 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.

- i) 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 or if necessary to investigate or remedy concerns regarding compliance issues or illegal practices allegedly engaged in by the provider.
- j) 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, violated any assurance or aspect of a plan submitted to ISBE in accordance with this Section, falsified any information on its application or other reports to ISBE, or otherwise violated State or federal law.
- k) 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.

(Source: Amended at 33 Ill. Reg. 8497, effective June 1, 2009)

**Section 675.100 Public Information**

All information submitted to ISBE pursuant to this Part, and the provider's status determined in accordance with Section 675.90 of this Part, may be publicly reported by ISBE in any manner ISBE deems necessary to inform the public of the services offered by the provider.

(Source: Amended at 30 Ill. Reg. 14325, effective August 18, 2006)

**Section 675.110 Removal When No Services Offered**

A provider that has not proposed to provide SES in any Illinois school district over a consecutive period of 12 months shall be removed from the State-approved list.

**Section 675.150 Provider's Relationship with District**

- 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 or requirements set by ISBE 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 reasonable programmatic, 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 original 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.
- e) No later than 30 days after the district's delivery to the provider of a district-approved list of students and a fully executed contract, a provider shall begin the provision of services to students in that district. See also Section 675.175 of this Part.
- f) Each district shall ensure that the requirements of Section 10-21.9 of the School Code are met with respect to any tutor assigned to the district's students under the

auspices of a provider of supplemental educational services. In the case of any tutor who resides outside the United States, the district's contract with the provider employing the tutor shall require that the provider request fingerprint-based checks of criminal history records to be performed by the national and either regional or local law enforcement authorities identified in the provider's approved application.

- 1) The provider shall identify for these authorities the regional superintendents of education to whom results of the records checks are to be sent. *Any information concerning the record of conviction and identification as a sex offender of any such employee obtained by the regional superintendent shall be promptly reported to the president of the appropriate school board or school boards.* [105 ILCS 5/10-21.9(f)]
- 2) If law enforcement authorities decline to correspond with regional superintendents and indicate that they will respond only to the requesting provider, the provider shall furnish the presidents of the appropriate school boards with the results of all completed background checks within five business days after receiving those results.

(Source: Amended at 32 Ill. Reg. 4046, effective February 26, 2008)

**Section 675.175 Timetable for Implementation of the Program**

The requirements of this Section shall pertain to a district's initial enrollment period for SES in each school year. Districts are strongly encouraged to undertake parental notification and student enrollment in advance of the timelines set forth in this Section. No provision of this Section shall be construed to limit a district's ability to offer multiple enrollment periods during the course of a school year. The deadline for each district's initial enrollment period shall be no later than 60 days after the first day of school or 60 days after the district's receipt of notification from ISBE as to its status, whichever occurs later.

- a) In any school year when the performance of a district's schools obligates the district to offer supplemental educational services, the district shall distribute to parents of eligible students a notification to this effect, accompanied by a selection form for use by the parents. Each district's notification and selection form must be approved by the State Superintendent of Education annually to ensure that it includes the material required by Section 1116(e)(2)(A) of NCLB, is free of unrelated information, and, to the extent practicable, is written in language that will be understandable to parents.
  - 1) No later than three weeks prior to the date on which the district plans to distribute its notification to parents, each district shall submit to the State Superintendent either:
    - A) the intended notification and the intended enrollment form, if separate; or
    - B) an assurance that its approved notification and enrollment form from the previous year will not be changed other than with respect to dates or available providers.
  - 2) Within four weeks after receipt of a district's intended notification materials or assurance, the State Superintendent shall either approve the communication or specify areas of insufficiency that must be corrected before the notification can be released.
  - 3) This notification shall be distributed in such a way as to reach parents no later than two weeks prior to the close of the district's initial enrollment period, and shall inform parents regarding all the approved providers that will be serving the schools attended by their respective students.
  - 4) Concurrently with distribution of the notification to parents required under this subsection (a), each district shall post on its website:

- A) the number of students eligible for SES in each school year beginning with 2007-08;
  - B) the number of students who participated in SES in each school year beginning with 2007-08, provided that a student is considered to have participated if the district paid a provider for any services performed in connection with that student;
  - C) a list of the providers that are approved and have agreed to serve the district in the current school year; and
  - D) a list of the locations where each provider will offer services during the current school year.
- b) Prior to negotiating contracts with districts, each provider shall submit to ISBE, in the form specified by the State Superintendent, good-faith estimates of its per-pupil district program costs, as specified in Section 675.240 of this Part and based in each case on the approximate number of students expected to enroll in the provider's program. The State Superintendent shall make these estimates available to districts without delay. As soon as reasonably practicable, but in no event later than 45 days after the deadline for a district's initial enrollment period, the district shall submit to each provider a district-approved list of students whose parents have selected that provider, a fully executed contract, and any other information or approvals the provider may need from the district in order to comply with the requirements of this Part. The district may receive an extension of no more than 10 days' time by establishing to the satisfaction of the State Superintendent that the delay is due to circumstances beyond the district's control.
- c) No later than 30 days after the district's delivery to the provider of a student list and fully executed contract and any other materials needed pursuant to subsection (b) of this Section, each school district shall verify that each provider with which the district has executed a contract has begun the provision of tutoring to the students whose families chose that provider. If any provider has not begun to provide services, the provider may receive an extension of no more than 10 days' time by establishing to the satisfaction of the State Superintendent that the delay is due to circumstances that are beyond the provider's control and will be alleviated within 10 days. Otherwise, at the end of the 30-day period, the district shall notify the parents of the affected students to this effect and offer the parents a one-week opportunity to choose another approved provider. In any such instance, the district shall conclude any needed contractual revisions within one further week and ensure that the new provider begins serving each affected

student no later than two weeks after receiving the applicable contract and the list of students. The other provisions of this subsection (c) notwithstanding, a district that has collected indications of parents' second choices may assign students to the programs selected and notify parents that this has occurred.

- d) Section 1116(e)(3)(A) of NCLB requires consultation by a district with a student's parents and the student's provider to develop a statement of specific achievement goals for the student, a statement regarding how the student's progress will be measured, and a timetable for improving the student's academic achievement in the subjects tutored. For any student with respect to whom this consultation has not occurred by the time the provision of tutoring is to begin pursuant to subsection (c) of this Section, the plans for the student shall stand as developed by the district and the provider, and the district shall maintain records demonstrating that reasonable efforts were made to consult with a parent, such as, but not limited to, telephone contact, e-mail, home visits, or contact at school events.

(Source: Amended at 33 Ill. Reg. 8497, effective June 1, 2009)

## SUBPART B: FINANCIAL REQUIREMENTS

**Section 675.200 Financial Framework for SES**

- 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**

- a) A provider's district program cost shall consist of amounts reported for each of the cost categories described in this subsection (a) that the provider seeks to charge to the district in accordance with its contract.
  - 1) Direct program expenses caused directly by and related directly to the provision of SES within a district and costs attributable to fulfilling certain State mandates imposed by this Part (collectively, "direct program expenses"). 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 (e.g., replacement copies of consumable curricular materials, such as workbooks), 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) Costs related to the administration of student assessments;
    - E) Instructional Staff Training Services – Workshops and demonstrations designed to contribute to the professional competence of the instructional staff;
    - F) Snacks for program participants, provided 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);
    - G) Program Insurance – All liability, malpractice, personal injury, and other types of insurance not reported as property insurance or as employee benefits;

- H) Rewards for student achievement provided in accordance with Section 675.30(m) of this Part;
  - I) Student retention activities;
  - J) Data entry related to State or local requirements for reporting on enrollment and attendance;
  - K) Transportation of students to and from SES activities;
  - L) State cost reporting and auditing requirements; and
  - M) 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 development expenses – Activities designed to aid providers in purchasing or preparing new curricular materials, refining or updating the existing curriculum, preparing and utilizing special curriculum materials, and understanding and appreciating the various techniques that stimulate and motivate pupils, including:
- A) Salaries or wages, payroll taxes, and fringe benefits for staff engaged in curriculum development; and

- B) 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;
  - C) Operations and maintenance of buildings and equipment – not assigned to program;
  - D) Materials, supplies, and equipment – not assigned to program;
  - E) 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);
  - F) Corporate royalty fees;
  - G) Advertising and marketing expenses;
  - H) Meals and entertainment expenses;
  - I) Distributions to shareholders or retained earnings; and
  - J) 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. ( $\$100,000 \times .5 \times .2 = \$10,000$ .) All of the foregoing allocations must be in accordance with the following cost principles, as applicable:

- 1) OMB Circulars (5 CFR 1310 (2005)) available at [www.whitehouse.gov/omb/circulars/index.html](http://www.whitehouse.gov/omb/circulars/index.html):
  - A) OMB Circular A-87 (Cost Principles for State, Local and Indian Tribal Governments);
  - B) OMB Circular A-21 (Cost Principles for Educational Institutions);
  - C) OMB Circular A-122 (Cost Principles for Non-Profit Organizations).
- 2) Federal Acquisition Regulation (applicable to for-profit providers) (48 CFR 9904 (2005)) available at [www.access.gpo.gov/nara/cfr/waisidx\\_01/48cfr9904\\_01.html](http://www.access.gpo.gov/nara/cfr/waisidx_01/48cfr9904_01.html).

(Source: Amended at 33 Ill. Reg. 8497, effective June 1, 2009)

**Section 675.220 Non-Reimbursable Expenses and Revenue Offsets**

- 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) Interest payments related to a provider's assets that are unrelated to an SES program.
  - 7) Costs incurred by owners for non-SES activities, including that portion of overhead that should be allocated to these activities.
  - 8) Printing expenses unrelated to the program.
  - 9) Lobbying activities.
  - 10) Meals provided to students enrolled in SES programs.
  - 11) 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.
  - 12) Fines and penalties.
  - 13) Payments of principal on mortgages or loans.

- 14) Asset acquisition costs for items whose costs exceed \$500 and have a useful life of one year or more.
  - 15) Legal expenses incurred for non-program activities or for litigation against governmental entities.
  - 16) Severance pay.
  - 17) Sales tax (in the case of not-for-profit organizations).
  - 18) Income tax.
  - 19) Costs of any kind prohibited by the Code of Ethics set forth in Section 675.30 of this Part.
  - 20) 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.

(Source: Amended at 33 Ill. Reg. 8497, effective June 1, 2009)

**Section 675.230 Reports of Actual Costs**

- a) Each provider shall report to the State Board of Education, no later than September 30 following the end of the SES reporting period or 45 days after the end of the provider's fiscal year, whichever is later, and using a form provided by ISBE, the provider's district program cost for each district the provider served. The cost report shall also indicate the payments received or invoiced to the district for the SES reporting period, as well as the difference between these payments and the district program cost.
  - 1) Each provider shall identify all transactions with related organizations and the actual cost of each transaction.
  - 2) For purposes of this subsection (a)(2), a student "served" is one with respect to whom a provider performed any service that was billed to a district. Each non-governmental provider serving more than 50 students within a district must engage an independent Licensed Certified Public Accountant (CPA) who is a member of the American Institute of Certified Public Accountants to perform agreed-upon procedures on its reported information. An agreed-upon procedures report must be submitted with the district program cost report required by this subsection (a). The agreed-upon procedures must include the following.
    - A) Obtain the general ledger trial balance as of the reporting date and agree or reconcile the balances in the trial balance to the cost report;
    - B) Inquire of members of management who have responsibility for financial and accounting matters concerning:
      - i) whether the cost report has been prepared using the accrual basis;
      - ii) the procedures for recording, classifying, and summarizing transactions and accumulating information;
      - iii) the method used to allocate curriculum development and administrative and general expenses to the district;
      - iv) known transactions with related organizations and whether the actual cost of such transactions was accurately reported; and

- v) the provider's procedures for identifying non-reimbursable expenses;
- C) Identify and report on results from the following procedures:
- i) compare the actual average cost per pupil as shown on the cost report to the average cost per pupil shown in the contract with the district, and report on management's explanation for any differences greater than 10 percent; and
  - ii) compare current-year and prior-year cost results by report line item, and report on management's explanations for any differences in line item amounts that exceed 10 percent of the prior year's amounts, or if the total cost for the reporting period exceeds the total cost for the prior year by more than 5 percent;
- D) For providers serving more than 200 students in a district, select a sample of program and curriculum and training expenses for source document testing. The sample must be representative of the population and represent no less than 25 percent of the expenses for each category. As a part of testing procedures, perform the following:
- i) verify that the provider properly classified costs according to the categories and subcategories set forth in Section 675.210 of this Part, and report on sampled items that were not classified in accordance with that Section;
  - ii) verify that sampled items are not non-reimbursable as defined in Section 675.220 of this Part, and report on sampled items that are non-reimbursable as defined in that Section; and
  - iii) verify that curriculum development and administrative and general expenses have been allocated to the district in an accurate and consistent manner and in accordance with Section 675.210(b) of this Part, and report on allocations for any sampled items that are not in accordance with that Section; and

- E) Report on whether, as determined by the procedures performed under subsection (a)(2)(D) of this Section, the sampled items contain errors, omissions, inconsistencies, or non-compliance with the cost reporting requirements set forth in this Section, and specify each material error, omission, or inconsistency.
  - 3) An agreed-upon procedures report submitted pursuant to subsection (a)(2) of this Section shall indicate whether all elements of the provider's cost report comply with the requirements of this Subpart B. In addition to the specific items to be reported under subsection (a)(2) of this Section, the CPA shall also report on:
    - A) any unreconciled differences between the general ledger trial balance and the cost report;
    - B) any cost report that was not prepared on the accrual basis;
    - C) any entries that are not supported by or do not agree with documentation provided by management;
    - D) any cost allocation methods that are not in accordance with the requirements set forth in Section 675.210(b) of this Part; and
    - E) any other material error, omission, inconsistency, or area of non-compliance that comes to the CPA's attention during the course of conducting the agreed-upon procedures required by subsection (a)(2) of this Section.
  - b) 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.
  - c) All reporting shall be provided on an accrual basis.

(Source: Amended at 33 Ill. Reg. 8497, effective June 1, 2009)

**Section 675.240 Establishment of Contract Amount and Payment Provisions**

- 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 provider's reasonable estimate of its actual cost of services during the SES reporting period that it seeks to charge to the district pursuant to the contract.
- b) A provider's reasonable estimate pursuant to subsection (a)(2) of this Section shall be established using the four expense categories set forth in Section 675.210(a) of this Part (i.e., program expenses, occupancy expenses, curriculum development expenses, and administrative and general expenses).
  - 1) To the extent that any category of expenses in the estimate exceeds the per-pupil amount for the same category set out in the provider's district program cost report, the provider shall itemize the expenses and attach a specific justification for the increase based upon additional expenditures the provider reasonably expects to incur for reasons such as inflation, increased labor costs, or budgeted equipment expenditures or for another legitimate business purpose (e.g., additional investment in professional development for staff, increase in profit margins to reflect industry standards).
  - 2) An estimate by a provider that will use a district's facilities shall specify the provider's assumptions for any occupancy costs and shall reflect the per-pupil savings the provider reasonably expects to receive, based upon:
    - A) operational savings associated with using the district's facilities;
    - B) the value of real estate provided by the district; and
    - C) the business advantages resulting from access to the district's facilities.
  - 3) Except as otherwise provided in subsections (b)(4) and (b)(5) of this Section, at least 60 percent of funds paid to a provider from a district's Title I, Part A, allocation shall be used for either direct program expenses or occupancy expenses.

- 4) Any provider in good standing (with or without reservations) and with student achievement outcomes of “above standards” shall be exempt from the percentage restriction set forth in subsection (b)(3) of this Section, provided that the provider submits all cost estimates and cost reports required by this Part and accurately displays its elements of cost in all instances. The exemption provided by this subsection (b)(4) shall also be available on the same basis to any Web-based provider whose per-pupil district program cost is less than 50 percent of the mean actual cost reported for the prior year for either providers serving the Chicago Public Schools or providers serving all other school districts, as applicable to the district with respect to which the provider desires the exemption.
- 5) A provider whose reasonable estimate for administrative and general expenses is not more than 25 percent of the district’s Title I, Part A, allocation per pupil may petition the State Superintendent for permission to spend less than the amount required for direct program expenses and occupancy expenses under subsection (b)(3) of this Section in order to allocate increased funds to curriculum development expenses. The petition must be received by the State Superintendent within 20 days after the provider’s receipt of notification of its status in accordance with Section 675.90 of this Part and must:
  - A) demonstrate that the proposed cost structure will contribute to the increased academic achievement of students served and will allow the provider to deliver a program in accordance with its approved application;
  - B) specify the amount the provider seeks to establish for each of the four expense categories, including the specific cost items the provider is seeking to increase; and
  - C) demonstrate that the amounts specified as required by subsection (b)(5)(B) of this Section are properly attributed to the district in accordance with the cost principles set forth in Section 675.210 of this Part.
- c) If the provider receives benefits from the use of district facilities not accounted for in the provider’s assumptions, the provider’s reasonable estimate pursuant to subsection (a)(2) of this Section shall be adjusted accordingly.
- d) Prior to executing a contract with a district, a provider may petition ISBE for permission to revise the reasonable estimate provided pursuant to Section

675.50(i) of this Part, which shall be granted if based on administrative requirements imposed by the district that were not reasonably foreseeable when the estimate was submitted. After the execution of a contract with a district, a provider may seek a revision to its reasonable estimate in accordance with its contractual agreement with the district.

- e) If permitted in the provider's contract with the district, the district may withhold no more than 10 percent of the total amount payable to the provider until such time as the provider reports to ISBE its district program costs, the amount paid by or invoiced to the district, 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 amount paid by or invoiced to the district based upon 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. The district shall not be liable for actual costs, on a per-pupil basis, that exceed the provider's reasonable estimate established for the relevant expense category in accordance with this Section.

(Source: Amended at 32 Ill. Reg. 4046, effective February 26, 2008)

**Section 675.245 Basis for Invoices and Payments**

All providers must submit to ISBE an hourly rate for each district served, based on the initial per-pupil contract amount determined in accordance with Section 675.240(a) of this Part divided by the scheduled hours of service determined in accordance with the provider's approved application. Providers may schedule make-up sessions during a school year to account for any canceled sessions. Providers shall bill and districts shall pay the provider's hourly rate or fraction thereof for each hour of a student's attendance or fraction thereof during the SES reporting period. Unless otherwise agreed to by the school district, a provider shall not bill in increments of less than 15 minutes. A student shall be dropped from the SES program after having missed and failed to make up 12 sessions in total, or five consecutive sessions (unless due to illness or vacation). A district shall only be liable to pay for sessions attended by a student.

(Source: Added at 30 Ill. Reg. 14325, effective August 18, 2006)

**Section 675.250 Appeals**

- a) A provider may file a written appeal of any decision of a school district or the State Superintendent of Education under this Part directly related to the provider's program, including removal from the State-approved list. A school district may file a written appeal of any decision of the State Superintendent of Education under this Part directly related to the district's administration of SES. The entity submitting the appeal shall:
- 1) Indicate the specific decision being appealed;
  - 2) Indicate why this decision is, in the opinion of the entity, not in accordance with the provisions of this Part or other applicable law;
  - 3) Identify the specific provisions of this Part or other applicable law allegedly violated; and
  - 4) Specify the facts demonstrating the alleged violations.
- b) Each appeal shall be submitted in writing, within 30 days after the final action being appealed, to the following address:

Illinois State Board of Education  
Attn: Office of General Counsel  
100 North First Street  
Springfield, Illinois 62777-0001

The appeal must be signed by the executive director or chief administrator of the entity filing the appeal. No electronic or facsimile transmissions will be accepted. Within 14 days after receipt of the written appeal, the State Superintendent of Education shall review the submission and determine whether an independent on-site investigation is necessary. Upon request, the entity submitting the appeal shall promptly provide to the State Superintendent such additional information as the Superintendent determines is necessary to resolve the appeal.

- c) Within 60 days after receipt of the appeal, the completion of any on-site investigation, or the receipt of any additional information requested by the State Superintendent of Education, whichever occurs last, the State Superintendent shall make a final written determination and shall send a copy of the determination to the appealing entity and, if applicable, to the district involved in the appeal.

- d) The appeal rights set forth in this Section shall apply solely to approved providers and to school districts and shall not be available to applicants seeking approval from the State Superintendent of Education.

(Source: Amended at 35 Ill. Reg. 2285, effective January 20, 2011)

**Section 675.APPENDIX A Calculation of Effect Size**

A multiple regression approach will be employed, in which, for each provider, SES students' predicted assessment scores on the applicable State assessment (i.e., ISAT or PSAE) for their grade level in the tutored subjects, based on student demographic variables and prior achievement on the applicable assessment, are compared to their obtained scores. The difference will be expressed in the form of a "residual" score, that, if positive, indicates a higher performance than expected (i.e., a positive effect), and, if negative, indicates a lower performance (a negative effect). An effect size will then be computed by grade level within each school district to determine by how many standard deviations (based on properties of the distribution) the residual differs from zero and then aggregated across grade levels for determining the effect size used in the evaluation described in Appendix B to this Part.

(Source: Added at 30 Ill. Reg. 14325, effective August 18, 2006)

**Section 675.APPENDIX B Evaluation Rubric**

<b>Criterion</b>	<b>Insufficient Information</b>	<b>Below Standards</b>	<b>Meets Standards</b>	<b>Above Standards</b>
Student Achievement (See Note 1)	There is insufficient information available to determine student achievement outcomes.	The effect size for students in the provider's program can be identified and does not demonstrate any gains that can be attributed to tutoring received from the provider.	The effect size for students in the provider's program can be identified and does demonstrate gains that can be attributed to tutoring received from the provider.	The effect size for students in the provider's program can be identified and is in the top one-third of those providers demonstrating gains that can be attributed to tutoring received from the provider.
Attendance (See Notes 2 and 3)	Not applicable. Providers that do not submit attendance data will not be included on the list of eligible providers for the following SES reporting period.	(1) The provider's average attendance is one full standard deviation below the overall average attendance; and (2) The provider cannot demonstrate satisfactorily that it has made dedicated efforts to encourage student attendance.	The provider's average attendance is between one full standard deviation below and one full standard deviation above the overall average attendance.	The provider's average attendance is one standard deviation or more above the overall average attendance.
Parent Satisfaction	There is insufficient information available to determine parent satisfaction outcomes.	More than 25% of respondents indicate: (1) overall dissatisfaction with the provider; or (2) the provider did not consult with the parent regarding results of the student's diagnostic test and plans for the program of the student's study.	More than 10% but no more than 25% of respondents indicate: (1) overall dissatisfaction with the provider; and (2) the provider did not consult with the parent regarding results of the student's diagnostic test and plans for the program of the student's study.	No more than 10% of respondents indicate: (1) overall dissatisfaction with the provider; and (2) the provider did not consult with the parent regarding results of the student's diagnostic test and plans for the program of the student's study.

Note 1: The evaluation shall be limited to students who have received at least 18 hours of instruction from a given provider.

Note 2: Calculated based on attendance rate for sessions scheduled by the provider.

Note 3: A “provider’s average attendance” is calculated by dividing the total number of hours the provider served by the total number of students the provider served. The “overall average attendance” is calculated by dividing the sum of all the “provider’s average attendances” by the total number of providers.

(Source: Amended at 33 Ill. Reg. 15290, effective October 20, 2009)

**Section 675.APPENDIX C Decision Matrix**

<b>Determination Based on Evaluation</b>	<b>Status*</b>
<ul style="list-style-type: none"> <li>• Student achievement: insufficient information, meets standards or above standards.</li> <li>• Attendance: insufficient information, meets standards, or above standards.</li> <li>• Parent satisfaction: insufficient information, meets standards or above standards.</li> </ul>	Maintain or return to good standing.
<ul style="list-style-type: none"> <li>• Student achievement: insufficient information, meets standards or above standards.</li> <li>• Either attendance or parent satisfaction below standards.</li> </ul>	Probationary status 1.
<ul style="list-style-type: none"> <li>• Student achievement: below standards (regardless of attendance or parental satisfaction).</li> </ul>	Probationary status 2.

\* Any status level may be assigned “with reservations” in accordance with Section 675.90(c) of this Part.

(Source: Amended at 33 Ill. Reg. 8497, effective June 1, 2009)