

This is a new rule.

6A-1.039 Supplemental Educational Services in Title I Schools.

(1) Purpose. This rule implements supplemental educational services in Title I schools as authorized by Section 1008.331, Florida Statutes.

(2) Definitions. For the purpose of this rule, the following definitions shall be used:

(a) “District/provider contract” means the agreement each school district is required to enter into with state-approved supplemental educational services providers in the district for the provision of supplemental educational services.

(b) “Eligible school” is a Title I school that is in year two or beyond of school improvement, corrective action, or restructuring.

(c) “Eligible student” means students from low-income families, as determined by the school district consistent with 20 U.S.C, Section 6316, who are attending a Title I funded school that is in year two or beyond of school improvement, corrective action, or restructuring.

(d) “School district” for the purposes of this rule, refers to all local education agencies in the state of Florida.

(e) “State-approved supplemental educational services provider” means a provider that has been approved by the Florida Department of Education to provide supplemental educational services in one or more school districts.

(f) “Student learning plan” means the plan developed in consultation with the parent, school district, and state-approved provider, which is designed to improve academic achievement of a child receiving supplemental educational services.

(g) “Supplemental educational services” means academic instruction, such as

tutoring, remediation, or other educational interventions, that is provided by state-approved supplemental educational services providers outside of the regular school day, on weekends, or in the summer, and that are designed to increase the academic achievement of students from low-income families who are attending Title I schools in their second year of school improvement, corrective action, or restructuring.

(h) “Increasing academic proficiency” means the provider has demonstrated increased academic proficiency as measured by sixty percent of students earning a minimum of one normal curve equivalency point learning gain in reading/language arts and seventy percent of students earning a minimum of one normal curve equivalency point learning gain in mathematics on assessments identified by the Department.

(3) Roles and Responsibilities.

(a) The Department shall:

1. Provide annual notice of the process for obtaining approval to provide supplemental educational services.

2. Approve supplemental educational services providers based upon the application requirements set forth in Form SES 100, Supplemental Educational Services Provider Application, which is hereby incorporated by reference to become effective upon the effective date of this rule. Form SES 100 may be obtained from the Florida Department of Education, Bureau of Public School Options, 325 West Gaines Street, Suite 316, Tallahassee, Florida 32399-0400 or on the Department’s website at [www.fldoe.org/flbpso](http://www.fldoe.org/flbpso).

3. Maintain a list of state-approved providers.

(b) School districts providing supplemental educational services shall:

1. Identify eligible students and develop equitable procedures for prioritizing services if demand exceeds available funding.

2. Notify eligible families prior to and after the start of the school year regarding the availability of services and the process for obtaining supplemental educational services in an understandable and uniform format. This notice shall include:

a. Contact information for state-approved providers serving the school district, including providers accessible through technology, such as distance learning;

b. A description of services, tutor qualifications, and evidence of effectiveness as determined by the Department's evaluation of academic proficiency of each provider;

c. A description of the procedures and timelines for selecting a provider and the commencement of services;

d. The enrollment form with clear instructions; and

e. An offer to assist parents in choosing a provider.

3. Unless a waiver is granted by the State Board of Education, pursuant to Section 1008.331(3)(a), Florida Statutes, hold open student enrollment for supplemental educational services until the school district has obtained a written election to receive or reject services from the parents of at least a majority of eligible students or until the school district has expended all available funds.

4. Make available the supplemental educational services enrollment forms to the parents of eligible students and providers prior to and after the start of the school year.

5. Provide enrollment lists, parent contact information, and available student diagnostic data to supplemental educational services providers sufficiently in advance of October

15 so that eligible students may begin receiving supplemental educational services no later than October 15.

6. Enter into a district/provider contract with each approved supplemental educational services provider approved to serve the school district; the school district is responsible for ensuring services are consistent with the district/provider contract.

7. Enter into a student learning plan. The plan shall be consistent with the student's individual education plan, English language learner plan, or the plan developed under Section 504 of the Rehabilitation Act. The plan shall include the following:

a. A statement of specific achievement goals for the student; these goals shall be aligned with the Sunshine State Standards as approved by the State Board of Education;

b. An explanation of how the student's progress will be measured;

c. A timetable for improving achievement; and

d. An explanation describing how the student's parents and teacher(s) will be regularly informed of the student's progress.

8. Reassign students to another provider for the remainder of the student's funding allocation if the provider's services do not begin by the timelines established in this rule, or if the provider's district/provider contract is terminated, or if the provider is removed from the state-approved list.

(c) State-approved supplemental educational services providers shall:

1. Be capable of delivering supplemental educational services in the school districts where approved by the Department.

2. Provide services that are secular, neutral, and nonideological.

3. Provide services outside of the regular school day, such as before or after school, on weekends, or in the summer.

4. Unless provided by the school district, conduct diagnostic assessments to determine student's gaps in knowledge and skills prior to beginning services.

5. Use the results of the diagnostic assessments, student academic performance information provided by the district, and input from the parents to develop the student learning plan.

6. Provide educational services designed to enable the student to attain achievement goals specified on the student learning plan.

7. Measure the student's progress and regularly report progress to the student's parents and teachers.

8. Adhere to the timetable in the student learning plan for improving the student's achievement.

9. Provide services consistent with health, safety, and civil rights laws.

10. Abide by school district policies and procedures on criminal background checks and the provisions of Section 1012.465, Florida Statutes.

11. Refrain from altering, completing, or submitting enrollment forms on behalf of a parent.

12. Provide services to eligible students no later than October 15 of each school year contingent upon receipt of the district-approved student enrollment lists at least 20 days prior to the start date. In the event that a contract with a state-approved provider is signed fewer than 20 days prior to October 15, the provider shall have no fewer than 20 days from the date the contract

is executed to begin delivering services.

(4) Supplemental Educational Provider Approval.

(a) Application for approval by the Department for the provision of supplemental educational services shall be made on Form SES 100, Supplemental Educational Services Provider Application.

(b) Except for that portion of the application documenting financial soundness and assurances, applications shall be submitted on-line at [www.fldoe.org/flbpso](http://www.fldoe.org/flbpso). The financial soundness documentation and assurances of the application shall be delivered to the following address: Florida Department of Education, Bureau of Public School Options, 325 West Gaines Street, Suite 316, Tallahassee, Florida 32399-0400.

(c) Applications submitted by means other than those set forth above and applications received after the deadline for submission, set forth in Form SES 100, regardless of the cause or nature of the delay, will not be accepted or considered for approval by the Department.

(d) Approval requires the timely submission of all documents and meeting the requirements set forth in Form SES 100.

(e) Approval shall be for one year. Approval is non-transferable and valid only for the person or entity named by the Department in its notice of approval.

(5) Monitoring of Supplemental Educational Services. The Department is authorized to conduct announced and unannounced site visits of school districts and of approved providers to monitor compliance with the approved application, district/provider contract, student learning plan, and requirements of this rule.

(a) Monitoring shall be in compliance with Education Department General

Administrative Regulation 34CFR 80.40(a) and consistent with the authority for oversight in Section 1008.32, Florida Statutes.

(b) Each district and provider shall maintain documentation to verify compliance with the requirements of law and rules applicable to supplemental educational services and comply with the Department’s monitoring procedures, including on-site and desktop monitoring and self-evaluations.

(c) The Department shall annually develop a report of the results of the monitoring reviews.

(6) Evaluation of Supplemental Educational Services: The Department shall evaluate and report the quality and effectiveness of supplemental educational services provided by each state-approved provider. The evaluation will measure academic proficiency in reading/language arts and mathematics for all students participating in supplemental educational services.

(7) Complaint Process: The following process is established to allow for notification to the Department of a violation of the laws or rules related to supplemental educational services by providers or school districts.

(a) To initiate a complaint, a person must submit a written complaint to the Florida Department of Education using Form SES 200, Complaint Regarding Supplemental Educational Services, which is hereby incorporated by reference to become effective upon the effective date of this rule. This complaint form may be obtained by contacting the Florida Department of Education, Bureau of Public School Options at (850) 245-0479, or 325 West Gaines Street, Suite 316, Tallahassee, Florida 32399-0400 or by downloading the form on the Department’s web site at [www.fldoe.org/flbpso](http://www.fldoe.org/flbpso).

(b) Upon receipt of a complaint, the Department shall review for sufficiency and shall close the complaint where it does not allege a violation of the laws regarding supplemental educational providers. Where the complaint alleges a violation of the laws regarding supplemental education providers, the Department shall cause the complaint to be investigated. The provider and school district shall cooperate fully in the investigation.

(c) The Department shall review the investigation and provide notice of its intended action, specifying the nature of the action, such as dismissal of the complaint, request for corrective action, referral to the district, removal from the approved provider list or enforcement under Section 1008.331, Florida Statutes. The notice shall state the grounds for the intended action. Nothing in this rule shall restrict the Department's authority to summarily suspend or remove a provider from the approved provider list where the Department finds that an immediate serious danger to the public health, safety, or welfare exists. Upon determination that there is a need for immediate action, the Commissioner or designee shall provide written notice of the immediate action.

(d) Unless the complaint is closed under the provisions of paragraph (7)(b) of this rule, or summary action is taken under the provisions of paragraph (7)(c) of this rule, the entity against whom a complaint has been made shall be provided notice of the complaint and the opportunity to respond prior to the Department's intended action.

(8) Removal from the State-Approved Supplemental Educational Services Provider List. A provider shall be removed from the approved list, and the provider and any related organizations shall be ineligible to re-apply during the following two-year period, following the process established in subsection (7) of this rule, for the following reasons:

(a) The failure to deliver services as provided Section 1008.331(3)(b), Florida Statutes;

(b) The failure to contribute to increasing the academic proficiency of students for two consecutive years; or

(c) When the Department determines that the matter is of such magnitude that it cannot be addressed by the school district through its enforcement mechanisms, the failure to comply with provider responsibilities and assurances, the failure to meet and maintain the eligibility application requirements found in Form SES 100, the Supplemental Educational Services Providers Request for Applications, and the failure to comply with the requirements established for providers in this rule.

(9) Reporting Requirements.

(a) School districts are required to report, through the Department's automated student information data base system, students who are served by supplemental educational services.

(b) Supplemental educational services providers must provide auditable documentation of services and contact hours provided to each student to the school district.

(c) School districts and state-approved providers shall cooperate with Department requests for information pertaining to supplemental educational services.

(10) Confidentiality. The identity of any student who is eligible for or receiving supplemental educational services shall not be disclosed to the public without prior written consent of the parents of the student. Providers shall abide by the procedures of the school district and the Department for the security, privacy and retention of student records in

accordance with the requirements of Section 1002.22, Florida Statutes and 20 U.S.C. § 1232g.

Specific Authority 1008.331 FS. Law Implemented 1008.331 History – New