

April 29, 2004

VIA FACSIMILE AND FIRST CLASS MAIL

Raymond J. Simon
Assistant Secretary
Office of Elementary and Secondary Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Assistant Secretary Simon:

I am writing to obtain clarification on questions that have emerged as a result of the non-regulatory guidance on Supplemental Educational Services (SES) issued by the Department on August 22, 2003.

My questions concern the voluntary provision of supplemental educational services to students in the first year of school improvement. The guidance seems to contradict Title I regulations regarding the eligibility of students to receive these services.

The Title I regulations state an LEA may offer supplemental services to eligible students, as defined in 34 CFR § 200.45, in schools in their first year of school improvement when there are no schools eligible to receive school choice transfers. See 34 CFR § 200.44(h)(2). Under 34 CFR § 200.45, “only students from low-income families are eligible for supplemental education services.”

However, the SES guidance states LEAs offering supplemental services in the first year of school improvement do not need to offer services only to low-income students. See Q&A G-8. Rather, the guidance states LEAs must meet Title I requirements governing the use of funds in targeted assistance and schoolwide programs. Neither of these programs limits services only to students from low-income families. An LEA could provide supplemental services to all students in a schoolwide program school, and, in a targeted assistance school, only to children identified as educationally disadvantaged, i.e., those children at risk of failing to meet the state’s challenging academic standards. In fact, if an LEA were to provide supplemental services only to the targeted population in a targeted assistance school, it may fail to serve the students from low-income families as required by the Title I regulations.

I would greatly appreciate your response to the following questions:

1. If an LEA provides supplemental educational services in the first year of school improvement in a targeted assistance school, should it offer supplemental services to (a) students from low-income families only, as stated in section 200.45 of the Title I regulations, (b) to targeted students only, as suggested by the SES guidance, or (c) to both populations of students?
2. If an LEA provides supplemental educational services in the first year of school improvement in a schoolwide program school, should the LEA offer supplemental services to all students?

I appreciate the opportunity to raise these questions. As these issues have surfaced in several districts, I thank you in advance for your prompt assistance.

Sincerely,

Leigh M. Manasevit