No Child Left Behind Act

Greater Emphasis Needed by U.S. Education Department and Local School Officials to Fully Utilize Funds for Supplemental Educational Services

South Carolina Advisory Committee to the United States Commission on Civil Rights

September 2009

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Acknowledgements

Research, analysis, and the writing of this report were conducted under the direction and supervision of Peter Minarik, Ph.D., Regional Director, Southern Regional Office. Derek Horne planned and organized the public hearing. Kendra Fordham, Pauline Kim, David Stephens, and Christopher Upperman, assisted in the research and analysis, conducted the survey of school districts, and wrote portions of the report.

Letter of Transmittal

South Carolina Advisory Committee to the
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The South Carolina Advisory Committee submits this report, *No Child Left Behind Act: Greater Emphasis Needed from U.S. Department of Education and Local School District Officials to Fully Utilize Funds for Supplemental Educational Services,* as part of its responsibility to study and report on civil rights issues in South Carolina. This report by the Committee was unanimously approved by a vote of 13 yes and 0 no, with no abstentions.

On January 8, 2002, President Bush signed into law the No Child Left Behind Act of 2001 (NCLB). NCLB is a reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA), which was first created in 1965 as part of the War on Poverty. NCLB requires every public school and school district to make demonstrable annual progress in raising the percentage of students proficient in reading/language arts and mathematics in order to narrow the test-score gap between economically disadvantaged students and their peers. The requirement of public schools and public school districts to demonstrate annual progress in reading/language arts and mathematics proficiency is known as "Adequate Yearly Progress" (AYP), and is based on whether students achieve "proficiency" on state-administered assessments.

If a school fails to make its AYP goals for three consecutive years, attending students from low-income families must now be offered supplemental educational services and school choice options. Supplemental educational services are additional free academic instruction targeted towards increasing the academic achievement. SES may include assistance such as tutoring, remediation, and other educational interventions, provided that such approaches are consistent with the content and instruction used by the school district and are aligned with the state's academic content standards. Under the school choice requirement, parents must be given the option to transfer their children to another public school in the district that is not poorly performing.

In concert with its responsibility, the South Carolina Committee undertook to examine the participation of eligible children regarding supplemental educational services and school choice options under the No Child Left Behind Act. Nearly three-quarters of a million children attend school in grades 1 through 12 in South Carolina; African American and Latino children comprise nearly half of all children in the state's public schools, and together the two groups are the majority of poor children in the state.

In September 2008 the South Carolina Committee held a public hearing in Columbia, South Carolina, on the low participation rates by eligible children in supplemental educational service programs funded by Title I. The Committee heard from representatives of the U.S. Department of Education, the South Carolina Department of Education, local school districts, private education providers, researchers, parents, and other interested parties. The hearing was

followed by a study of the provision of supplemental educational services in the state, to include site visits and a survey of the ten school districts with the highest and lowest participation rates.

The Committee found that during the 2006-07 school year, only 13 percent of the children eligible in South Carolina took advantage of free supplemental educational services offered under NCLB, and very few parents of eligible children opting for school choice. In addition, the Committee found there to be a wide range in participation rates among the school districts in the state, with participation rates among the school districts ranging from 41 percent of all eligible children in one school district to less than 1 percent in another district. Moreover, among selected school districts, the Committee found that the districts used less than 75 percent of the designated Title I dollars for supplemental educational service programs.

The Committee learned of a number of factors that purport to explain differences among the state's school districts regarding participation rates of eligible children for supplemental educational service programs. These included: (1) the number of private educational service providers, (2) parental notification procedures, (3) parental interest in such services, and (4) the presence in a district of other, similar federally funded programs such as 21st Century Grant programs.

Although the Committee found some credibility in all these explanations, it is our conclusion that the primary reason for the low percentage of eligible children availing themselves of offered supplemental educational services is the lack of emphasis by U.S. Department of Education and local school officials in student participation. We found that the primary focus of federal government oversight under NCLB is a monetary audit function. As a result, local school districts in South Carolina are under little pressure to use designated federal dollars for supplemental educational services on the program, and without the independent interest of local school officials in the program participation rates by eligible children are low.

We feel that as the United States Congress considers the supplemental educational service program an important component of the No Child Left Behind Act as demonstrated by its funding of the program, the U.S. Department of Education should in turn revise its emphasis concerning the program to one with a focus on greater student participation.

Respectfully,
Mignon L. Clyburn, *Chairperson*
South Carolina State Advisory Committee

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Introduction

The United States Commission on Civil Rights (Commission) has for its mission the study of matters relating to discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, or national origin. In 1977 the Commission released its first study on equal education opportunity, *Reviewing A Decade of School Desegregation: 1966-1975.* The Commission reported on its nationwide survey of school district superintendents and concluded that desegregation efforts between 1966 and 1975 had been effective in achieving sweeping reductions in the isolation of racial and ethnic minorities within numerous school districts.

In the 1990s the Commission followed with a 5-series report on equal education opportunity. The first report in the series, *Equal Educational Opportunity Project Series (1995),* discussed national trends in education generally and evaluated the history, performance, and activities of the U.S. Department of Education. The second report in the series, *Equal Educational Opportunities and Nondiscrimination for Students with Disabilities (1997)*, discussed educational opportunities for students classified as having learning disabilities. The third report, *Equal Education Opportunity and Nondiscrimination for Students with Limited English Proficiency (1997)*, examined educational opportunities afforded students with limited English proficiency and the development and implementation of educational programs appropriate for such students. The fourth volume in the series, *Equal Educational Opportunity and Nondiscrimination for Minority Students: Federal Enforcement of Title VI in Ability Grouping Practices (1999)*, analyzed the educational opportunities offered to minority students as they relate to mainstreaming, tracking, and instructional grouping practices. The last report, *Equal Educational Opportunity and Nondiscrimination for Native American Children (1999),* reported on educational opportunities for children attending schools on Indian reservations.

As part of the Commission, state advisory committees are constituted in each of the 50 states and the District of Columbia. These state advisory committees are charged with the responsibility to examine and to report on civil rights issues in their states that are within the Commission's jurisdiction and report publicly on their findings and recommendations. In 2008 the South Carolina Advisory Committee released its study on school desegregation in the state. The Committee reported that private schools and inter-district segregation were the two overriding factors perpetuating present day racial segregation in the state's public schools.[1]

At a meeting of the South Carolina Advisory Committee in May 2008, the Committee decided to examine equal educational opportunities for minority children from low-income families in the state. Today in South Carolina African American and Latino children are nearly half of all children in the state's public schools, and together the two groups comprise the majority of poor children in the state. The Committee sought to learn the extent that school districts were acting to notify parents of eligible children about available supplemental educational services available under the No Child Left Behind Act 0f 2001. For that purpose, the Committee held a public hearing on the issue in September 2008, and followed the hearing with a survey of school districts and independent fact finding. This report is the Committee's public statement about its findings.

[1] See, report of South Carolina Advisory Committee to the United States Commission on Civil Rights, "School Desegregation in South Carolina: High Level of Segregation Persists 50 Years After Brown, 15 School Districts Remain Under Desegregation Orders," December 2008.

No Child Left Behind Act Implements Accountability for Performance, Low Performing Schools Required to Provide Supplemental Services

Under the No Child Left Behind Act of 2001, federal grants are made to school districts to establish and maintain programs that will improve the educational opportunities of low-income children. Under the Act, school districts receiving federal grant dollars are required to monitor the annual progress of its students, and eligible children at schools that fail to make adequate yearly progress must be offered supplemental educational services and school choice options and parents are to be notified of these opportunities.

1. Federal Title I Dollars Supplement State and Local Education Funding

On January 8, 2002, the No Child Left Behind Act of 2001 (NCLB) was signed into law.[2] NCLB is a reauthorization of the Elementary and Secondary Education Act of 1965, which was enacted in 1965 as part of the War on Poverty. The legislated purpose of NCLB is to raise achievement for all students and to close the achievement gap between disadvantaged children and their peers. This is designed to be accomplished through accountability, flexibility, and options for parents, so that no child is left behind. According to former U.S. Secretary of Education, Rod Paige, the focus of NCLB "is to see every child in America—regardless of ethnicity, income or background—achieves high standards."[3]

The primary responsibility for K-12 education rests with local governments and the states, and about 83 cents out of every dollar spent on education comes from the state and local levels—46 percent from state funds and 37 percent from local governments. However, as there is a compelling national interest in the quality of the nation's schools, the federal government provides additional assistance to states and local school districts in an effort to supplement state and local support. Presently, the federal government's share of K-12 education funding is about 8 percent, with the remaining 9 percent coming from private sources, primarily for private schools. The education funding role of the federal government has increased over the past two decades. In 1990-91, the federal share of total K-12 spending in the United States was about 6 percent. Since that time its percentage of spending has risen, and today is 8.3 percent of the total.

Title I grants are provided to school districts under NCLB that serve high-poverty areas, and is the largest federal program supporting elementary and secondary education with annual expenditures of about $13 billion. Title I grants provide elementary and secondary schools serving low-income children with additional resources for school libraries, textbooks and other instructional materials, supplemental education centers and services, professional development for teachers, and parental involvement programs. Under the provisions of the grant, local school districts are given great flexibility to use Title I funds for educational programs as they deem most appropriate for their particular school district.

On the whole, Title I grants are allocated to states and school districts on the basis of their numbers of children from low-income families, and funds must be appropriated to higher poverty areas before lower poverty areas are served.[4] For many high-poverty districts and schools Title I is an important source of funding.

In addition to the $13 billion in Title I grants, federal support also includes IDEA grants to states ($11 billion), Improving Teacher Quality grants ($3 billion), 21st Century Community Learning Centers grants ($1 billion), English Language Learners grants ($675 million), and grants to schools impacted by military bases and other facilities ($1.2 billion). IDEA grant dollars are targeted to assist districts with expenditures for disabled children, and may include personnel services, equipment, and other related services such as speech therapy, physical therapy, and occupational therapy.

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[2] Pub.L.107-110.

[3] http://www.ed.gov/nclb/overview/welcome/index.html (last accessed Aug. 6, 2008).

[4] *See inter alia*, report of the North Carolina Advisory Committee to the U.S. Commission on Civil Rights, "An Analysis of Title I Allocations by North Carolina's Ten Largest School Districts, " December 2007.

21st Century Community Learning Center programs (21st Century Programs) are funded under Title IV of NCLB. In many respects, 21st Century Programs are similar to supplemental educational services required under Title I. 21st Century Program grants provide funding to local school districts for the creation of learning centers that provide academic enrichment opportunities during non-school hours for children, particularly students who attend high-poverty and low-performing schools. The programs help students meet state and local student standards in core academic subjects, such as reading and math; offers students a broad array of enrichment activities that can complement their regular academic programs; and offers literacy and other educational services to the families of participating children.

2. Under NCLB, Schools In Need of Improvement Must Offer Supplemental Educational Services to Students

Considered landmark education legislation by supporters and opponents alike, many schools and districts have struggled to meet the provisions of the No Child Left Behind law and effectively implement required reforms. A key component of the No Child Left Behind Act was not just requiring more accountability from schools, but also to give them the resources needed to put these reforms in place. According to some, however, the last six years have shown that many schools have not been given the support and resources needed to be effective and Congress has failed to invest sufficiently in public schools. Some sponsors of NCLB have announced a commitment to increasing funds for public schools, especially to help struggling schools turn around and to ensure teachers have the resources they need to be effective in the classroom.[5]

a. Adequate Yearly Progress Required of All Schools

One controversy surrounding NCLB regards the state requirement to expand the scope and frequency of student testing and higher accountability standards. Specifically, the new law requires every public school and school district to make demonstrable annual progress in raising the percentage of students proficient in reading/language arts and mathematics in order to narrow the test-score gap between advantaged and disadvantaged students. This requirement of public schools and public school districts to demonstrate annual progress in reading/language arts and mathematics proficiency is known as "Adequate Yearly Progress" (AYP), and is based on whether students achieve "proficiency" on state-administered assessments.

Further, the AYP provision of NCLB requires progress toward proficiency for designated sub-groups, to include: race, ethnicity, gender, disability status, migrant status, English proficiency, and low-income. The stated intent for the creation of sub-groups for AYP measurement is to prevent the masking of poor results for an identifiable sub-group of students within the overall success of all students in a school or school district.[6] AYP also measures the progress of schools and school districts by examining other academic indicators, such as the graduation and school attendance rates.

AYP standards are developed individually by each state. However, state definitions must reflect the NCLB objective of 100 percent of students demonstrating proficiency in reading & language arts and mathematics by the end of the school year 2013-2014. Schools that receive federal Title I funds and do not make AYP goals for two consecutive school years are identified as schools in "need of improvement." After a school is found to be in need of improvement, school officials must develop a plan to improve the performance of the children attending the school.

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[5] Senator Ted Kennedy, Press Release, Jan. 10, 2009.

[6] States, school districts, and schools may not use disaggregated data for a sub-group if the number of students in the sub-group is insufficient to yield statistically reliable information. 34 C.F.R.. 200.7(a)(b)1.

b. Poor Performing Schools Must Provide Supplemental Educational Services

If a school fails to make its AYP goals for three consecutive years and remains a school in need of improvement, attending students from low-income families must be offered "supplemental educational services (SES)." Supplemental educational services are additional academic instruction targeted towards increasing the academic achievement. SES may include tutoring, instructional remediation, and other educational interventions provided that such approaches are consistent with the content and instruction used by the school district and are aligned with the state's academic standards.

Supplemental educational services are provided outside of the regular school day and must be high quality and specifically designed to increase the academic achievement of eligible students. Eligibility for a student is not based on whether the student is a member of a sub-group that caused the school to not make AYP, but only on whether a student is from a low-income family and the school is determined to be in need of improvement.

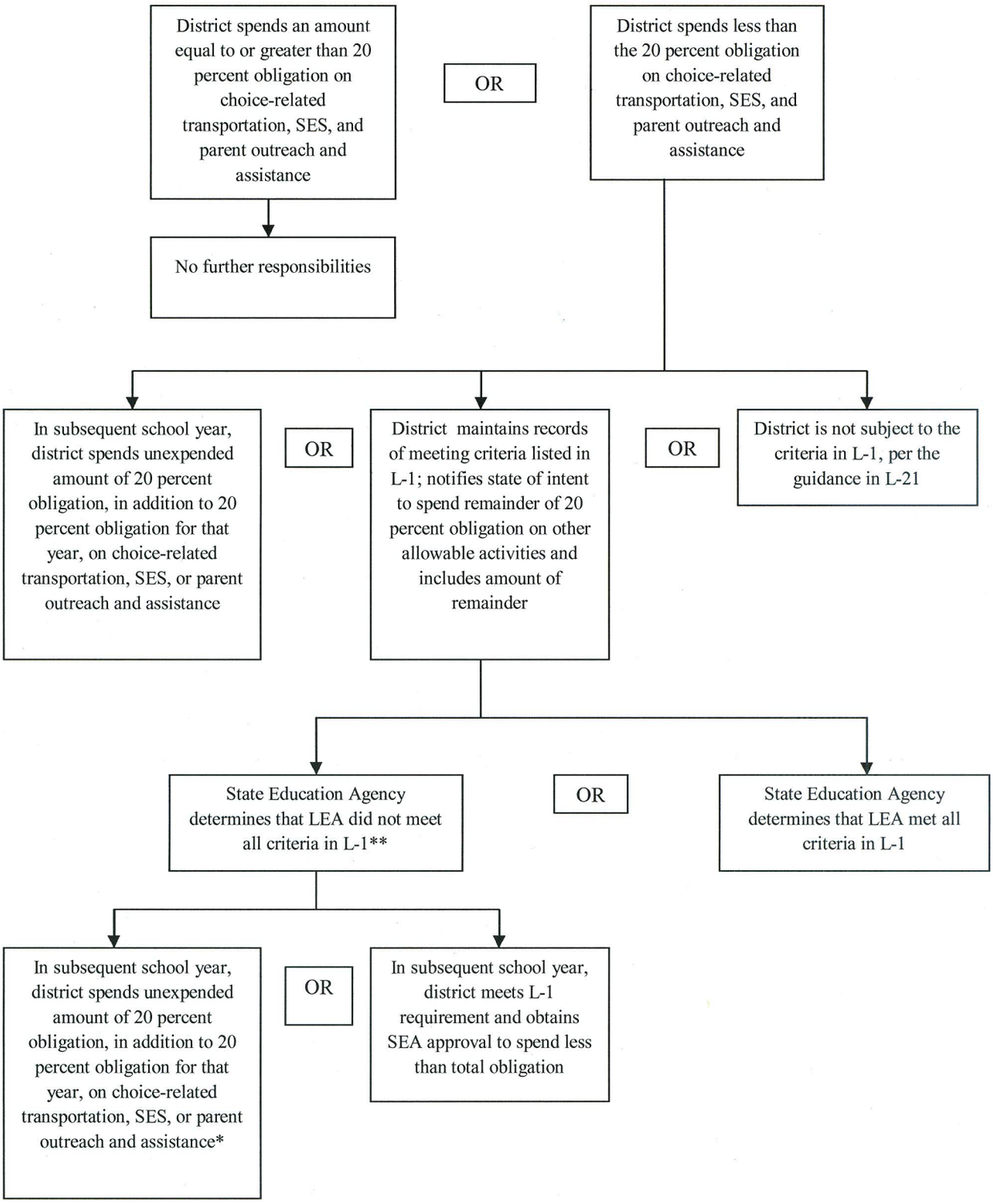
Supplemental educational services may be provided by either the public school district or private educational service providers. As such, SES providers may include nonprofit entities, for-profit entities, school districts, public schools, public charter schools, private schools, public or private institutions of higher education, educational service agencies, and faith-based organizations. Under the Title I regulations that govern SES, a district identified as in need of improvement or corrective action may not be an SES provider, though its schools that are not identified as needing improvement may.

A district must set aside an amount equal to 20 percent of its Title I allocation to fund both SES and transportation for students who elect to attend other schools under school choice. This set-aside may not be spent on administrative costs for these activities, however the district may reallocate any unused set-aside funds to other Title I activities after ensuring all eligible students have had adequate time to opt to transfer to another school or apply for SES. In addition, a school district is allowed to count costs for parent outreach and assistance toward meeting its unexpended obligation in the subsequent school year.

If a school district spends less than the 20 percent obligation on choice-related transportation, SES, and parent outreach and assistance, there are two options. First, the district may in the subsequent school year spend the unexpended amount of its 20 percent obligation in addition to its 20 percent obligation for the current year on these activities. Second, the district may notify the state education agency of its intent to spend the remainder of the 20 percent obligation on other allowable activities. In either case, the state education agency has the responsibility to determine whether a school district in the state has met the criteria of the 20 percent set-aside, and is required to do this through a regular monitoring process. The exception is that a state agency must review any district that has spent a significant portion of its 20 percent obligation on other allowable activities and has been the subject of multiple credible complaints, and must complete any such review by the start of the next school year. (See Figure 1.)

Schools and school districts also have the obligation to notify parents of eligible children of school choice options and available supplemental education services. While NCLB does not mandate the exact language schools may use to notify parents, it directs that parental notifications describe the services, qualifications and evidence of effectiveness for each provider, and the procedures and timelines that parents need to follow in selecting a provider to serve their child. In addition, parental notifications are required to be in language and format that is easily understandable, uniform, and—to the extent practicable—in a language the parents can understand.

Figure 1: Flowchart of Responsibilities for Meeting 20 Percent SES Obligation



Source: U.S. Department of Education.

3. Performance of South Carolina Public Schools Lags Behind National Average

There are a number of commonly used measures to report and compare the academic performance of children across states. Two of the more commonly used measures to compare performance across states are assessments from Quality Counts and student scores on the Scholastic Aptitude Test (SAT). These two measures show South Carolina ranking in the middle to the lower quartile in student academic performance, highlighting the need for supplemental educational services.

Quality Counts is an independent national assessment of educational achievement across the 50 states and the District of Columbia. *Quality Counts* uses a variety of sources for its annual evaluations, including information from the U.S. Department of Education and national standardized test results such as the National Assessment of Educational Progress (NAEP). The 2009 report assigned overall grades for states for the second time in 13 years. South Carolina's overall score was 78.9, a grade of C+ and 2.7 points above the national average of 76.2.

South Carolina received a grade of 'D' in the K-12 achievement index, which measures academic performance and gains made by students over time. The state ranked 41st overall on national reading and math scores, high school graduation rates, and results of Advanced Placement (AP) exams. The state did earn credit, however, for gains in the NAEP mathematics scores of its fourth and eighth grade students as well as for improvements in its high school graduation rates and Advanced Placement scores, but points were subtracted for a slight dip in NAEP reading scores.

The state's ranking improved slightly in the *Quality Counts* "chance for success index," a calculation aimed at predicting a child's "life prospects" from birth through adulthood given the educational and economic hurdles that he or she is likely to face. In addition to student achievement, the index includes economic and social factors such as family poverty levels, parental employment, parent education and annual income. South Carolina's grade of C was 37th out of the 50 states, but a ranking two places higher than the previous year.

The SAT is primarily used in twenty-four states and the District of Columbia as a college admissions test. The three academic sections to the SAT are critical reading, mathematics, and writing. The composite score for the SAT is a combination of the three scores. The average composite score for South Carolina students in 2008 was 1,461, the fourth lowest score in the nation. A state's overall average composite score is affected by the number of students taking the exam. The percentage of seniors who elected to take the SAT in 2008 ranged from a high of 87 percent in Maine to a low of 45 percent in Alaska. In South Carolina, 61 percent of high school seniors took the SAT.

While No Child Left Behind (NCLB) requires all students to be "proficient" in math and reading by 2014, the precedent-setting 2002 federal law also allows each state to determine its own level of proficiency. It has led to the situation in which some states achieve high proficiency results by grading their students against low standards, while other states suffer poor proficiency ratings only because they have high standards.[7]

When the Hoover Institution examined the rigor of state standards, it found that student proficiency has different meanings in different parts of the country, and at least some of the reported student gains appear to be the product of gamesmanship. For example, a "proficient" reader in North Carolina where standards are low might be in need of improvement in neighboring South Carolina, where standards are higher. According to the Hoover Institute, a handful of states continue to grade on a particularly tough curve. Massachusetts, South Carolina, Wyoming, Maine, and Missouri are all considered "tough grading" states.[8]

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[7] Hoover Institute, "Johnny can read…In Some States," http://www.hoover.org/publications/ednext/3211601.html (last accessed May 16, 2009).
[8] Ibid.

Table 1—2008 Average SAT Scores by State and Ranked by Average Composite Score

State	Percentage of Students Taking SAT	Average Composite Score
Washington	52	1568
New Hampshire	74	1555
Massachusetts	83	1552
Oregon	53	1552
Vermont	64	1549
Connecticut	83	1535
Alaska	45	1533
Virginia	68	1522
California	48	1512
New Jersey	76	1504
Maryland	69	1498
North Carolina	62	1489
Delaware	70	1487
Rhode Island	66	1486
Indiana	62	1485
Pennsylvania	71	1478
Florida	54	1474
New York	84	1473
Texas	50	1473
Georgia	70	1466
South Carolina	61	1461
Hawaii	58	1453
Maine	87	1396
District of Columbia	84	1390

Source. South Carolina Advisory Committee

No Clear Pattern Among School Districts
For State's Low SES Participation Rates

Only a small percentage of South Carolina children eligible for supplemental educational services under NCLB enroll in the program. School officials and private service providers express support for supplemental programs, but differ on reasons for low student participation. Competing federal education grants seem to play a role in low SES participation rates.

1. Only 13 Percent of Eligible Students in South Carolina Participate in SES Programs

In South Carolina only 13 percent of eligible South Carolina students took advantage of free supplemental educational services offered under NCLB in school year 2006-2007. Of greater interest to the Committee than just the low percentage of children availing themselves of supplemental education services, was the wide range in participation rates among the school districts. Participation rates among school districts in the state ranged from a high of 41 percent of all eligible children participating in one district to less than 2 percent in two other districts.

Forty-six (46) school districts in South Carolina that received Title I allocations in school year 2006-2007 had schools in need of improvement and were therefore required to offer school choice and SES. Five school districts, Chester, Dorchester 4, Georgetown, Greenville, and Richland 1, had student participation rates in supplemental educational service programs in excess of 20 percent, with participation rates of 38 percent, 22 percent, 23 percent, 29 percent, and 42 percent, respectively. In contrast, seven school districts in the state had eligible student participation rates that were less than 5 percent. These were: Beaufort (4.9 percent), Florence 3 (3.3 percent), Lexington 1 (4.2 percent), Lexington 3 (4.7 percent), Spartanburg 1 (0.8 percent), Sumter 17 (4.2 percent), York 1 (2.9 percent), and York 3 (1.4 percent). (See Table 2 for a listing of the SES participation rates for all 46 school districts.) The school choice option was even less utilized by parents, with only about 2 percent of parents opting for school choice.

Several offices within the U.S. Department of Education (Education) monitor and support the different activities of SES activity across the country as well as provide support. Education conducts SES monitoring through policy oversight and compliance reviews of states and districts. The three Education offices responsible for these activities are the Office of Innovation and Improvement (OII), the Office of Elementary and Secondary Education (OESE), and the Office of the Inspector General (OIG).[9]

OII leads SES policy development, provides strategic direction, and monitors SES policy issues primarily through what it calls "desk monitoring." This monitoring is performed at its federal office and includes the review of SES-related research and media reports. OII also conducts more intensive monitoring of specific SES implementation challenges when states, districts, and providers bring them to Education's attention. Since 2002, OII has coordinated the publication of several versions of non-regulatory SES guidance, each updated to address ongoing challenges with SES implementation. Further, OII funds the Supplemental Educational Services Quality Center, which offers schools and districts technical assistance in providing SES through tool-kits, issue briefs, and a website containing SES information.

[9] *See* GAO Report, GAO-06-758, "No Child Left Behind Act: Education Actions Needed to Improve Local Implementation and State Evaluation of Supplemental Educational Services," August 2006 (hereafter referred to as GAO Report on Supplemental Educational Services).

Table 2—Number of Eligible Children for Supplemental Educational Services and Percentage Served in South Carolina, 2006-07 School Year

District	Eligible Children	Number Served	Percentage of Eligible Children Served
Aiken	2720	262	9.63%
Allendale	1095	73	6.67%
Bamberg 1	421	55	13.06%
Bamberg 2	574	47	8.19%
Barnwell 19	371	65	17.52%
Beaufort	917	45	4.91%
Berkeley	4739	404	8.53%
Calhoun	334	32	9.58%
Charleston	7352	818	11.13%
Cherokee	487	86	17.66%
Chester	262	100	38.17%
Chesterfield	1683	265	15.75%
Clarendon 1	209	17	8.13%
Colleton	1568	147	9.38%
Darlington	2186	363	16.61%
Dillon 2	1186	186	15.68%
Dorchester 4	714	157	21.99%
Fairfield	782	71	9.08%
Florence 1	2307	339	14.69%
Florence 2	603	48	7.96%
Florence 3	1615	53	3.28%
Florence 4	427	45	10.54%
Georgetown	1303	293	22.49%
Greenville	2917	834	28.59%
Greenwood 50	250	20	8.00%
Hampton 2	290	33	11.38%
Horry	2372	214	9.02%
Jasper	2099	143	6.81%
Lancaster	257	32	12.45%
Lee	421	39	9.26%
Lexington 1	1403	59	4.21%
Lexington 2	338	27	7.99%
Lexington 3	631	30	4.75%
Lexington 4	596	30	5.03%
Marion 1	1739	143	8.22%
Marlboro	2730	166	6.08%
Orangeburg 3	1191	122	10.24%
Orangeburg 4	2029	73	3.60%
Richland 1	845	351	41.54%
Spartanburg 1	246	2	0.81%
Spartanburg 7	422	68	16.11%
Sumter 2	426	44	10.33%
Sumter 17	934	40	4.28%
Williamsburg	2093	230	10.99%
York 1	436	13	2.98%
York 3	202	3	1.49%

Source: South Carolina Department of Education.

OESE oversees and supports NCLB implementation and is also involved in monitoring SES implementation through its overall monitoring of state compliance with Title I and NCLB through onsite visits. In addition to its Title I monitoring, OESE also oversees the collection of state NCLB data, including data on SES, through the annual Consolidated State Performance Report (CSPR). For the CSPR, each state is required to report the number of schools with students receiving SES, the number of students eligible for services, and the number that received services. Further, under NCLB, Education is required to present an annual summary of the CSPR data to Congress.[10]

While 0II and OESE monitoring of SES has been either limited to desk monitoring or combined with general Title I monitoring, OIG has conducted audits specifically focused on SES. These audits included an examination of district SES contracts with providers, provider services, and provider compliance with state SES regulations. Other Education offices also provide SES support through various means. For example, OESE funded the Comprehensive Centers Program through grants that established technical assistance centers across the country to help low-performing schools and districts close achievement gaps and meet the goals of NCLB. Of these, the Center on Innovation and Improvement provides support to regional centers that assist states with Education's programs, including SES. In addition, Education's Policy and Program Studies Service, within the Office of Planning, Evaluation and Policy Development, oversees several research studies that examine SES, either in whole or in part. These reports, such as the *National Assessment of Title I: Interim Report* and *Case Studies of Supplemental Services under the No Child Left Behind Act,* provide states and districts with information on SES implementation, challenges, and promising practices.[11]

Despite controversy over some aspects of the school choice and SES provisions contained in NCLB, the prospects for their continuation seem likely. Senator Edward Kennedy, a coauthor of the Act, has announced plans to strengthen the SES provision of the legislation. The purpose would be to achieve high-quality programs, better accountability for providers, and real opportunities for more students to know about and take advantage of this critical support.[12]

In addition to possible Congressional action, the GAO reports that Education has determined that the implementation of the school choice and SES provisions of NCLB have been "uneven" throughout the country. For example, audits by the OIG have found that states reviewed have failed to adequately monitor their districts for compliance. In addition, nearly all of the parental notification letters reviewed failed to include the required key components.[13]

As a result, in May 2006, Education issued a policy letter announcing the department's plans to take significant enforcement action.[14] Specifically, Education plans to use the data collected through its monitoring and evaluation efforts to take enforcement actions such as placing conditions on state Title I grants, withholding federal funds, or entering into compliance agreements. In the letter, Education noted that its monitoring activities have identified several areas of noncompliance with SES requirements.

The South Carolina Advisory Committee held a public hearing on parental notification by school districts of available supplemental educational services. Of particular interest to the Committee was hearing reasons for the low participation rates of eligible children for school choice and SES. Testimony was received from representatives of the U.S. Department of Education, the South Carolina Department of Education, as well as officials from public school districts. In addition, the Committee heard from SES providers, education researchers, teachers, and parents. While some presenters argued that the current guidelines are sufficient, others held that more stringent oversight is necessary to guarantee that federal standards being upheld and ensure greater participation in school choice and SES programs.

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[10] Ibid, p. 8.
[11] Ibid, p. 10.
[12] Senator Ted Kennedy, Press Release, Jan. 10, 2009.
[13] Ibid, p. 11.
[14] GAO Report on Supplemental Educational Services, p. 16.

One concern raised at the hearing was that the federal government does not concern itself with emphasizing high student participation in school choice and SES programs. Ann Hancock, spokesperson for the U.S. Department of Education, [15] seemed to confirm this sentiment. She stated that at the federal level Education was primarily concerned with examining how dollars were being spent because the agency is required to account for the expenditure of grant dollars allocated under NCLB. "At the federal level the (Department) comes in and audits the records, and many times lose sight of the children and students that need the services. The programs under NCLB might be compliant but allow students to fall through the crack."[16]

Hancock stressed that the primary concern of the Department of Education regarding the SES program is school district compliance with proper expenditures of grant dollars received. "The (Department of Education) is looking at dollars, which is what we are asked to do. We have got to account for that money... Was the program compliant? We sent you $117 million dollars and did you take good care of it. That is what the (federal) monitors are looking at," and not participation rates. She explained that such emphasis may be misplaced, but stated, "If we did not have that, where would we be? The complaint then would be, 'Here is our federal tax dollars being sent to South Carolina, and they are blowing $561 million dollars and nobody knows where it went.'"[17]

Upon questioning from the Committee, Hancock acknowledged that she did not have an explanation for the low participation rates in South Carolina, saying "supplemental services, at the federal level, is not something that (Education) gets actively involved in." When pressed further, she added, "One, are parents aware of it; and, two, can they get their children to it. This could be the reason participation rates are so low....You know, if you send (parents) a letter...that does not always do it. So you do a billboard, but that does not do it. I do not have an answer."[18] Hancock was also asked why the Department of Education did not publish state specific data concerning participation rates for SES, and Hancock explained "I do not know why the Department does not do it, but I will give you a guess from my experience. I suspect that there are states who do not want that published for other states to see."[19]

As for program effectiveness, Hancock expressed concerns about local providers and their selection. She stated that service providers of supplemental educational services come from a list that is generated by the state education agency over which the federal government has no say whatsoever.[20] So this puts into question the effectiveness the providers have in implementing their programs.

2. State Officials and Private Education Providers Offer Reasons for Low SES Participation

Nancy Busbee, Director of the Office of Federal and State Accountability for the South Carolina Department of Education, testified before the Committee concerning the state's role in ensuring compliance with SES of NCLB. Busbee told the Committee that South Carolina actively tracks participation rates and provides training to the districts. She also said that the primary concern of the federal government seemed to be with state and district compliance in terms of accounting procedures. She offered no specific explanation for the low participation rates in South Carolina, but suggested that provider location and parental interest might be possible explanations.

Regarding state support to local districts, Busbee told the Committee, "We do listen to the districts and we do follow up on problems. They even help us in monitoring, because with 71 providers in

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[15] At the time of the hearing in September 2008, Ann Hancock was the regional representative of District 4 for the United States Department of Education, appointed by President George W. Bush to be U.S. Secretary of Education Margaret Spellings' Regional Representative for Region IV of the U. S. Department of Education. Dr. Hancock served as the Secretary's envoy and spokesperson and represented the policies, initiatives, and programs of NCLB under the Bush Administration, working to implement the No Child Left Behind Act of 2001 by local school districts.

[16] Ann Hancock, Testimony before the South Carolina Advisory Committee, Sept. 22, 2008, Transcript, pp. 96-7 (hereafter referred to as NCLB Hearing Transcript).

[17] Ibid., p. 98.

[18] Ibid., p. 86.

[19] Ibid., p. 101.

[20] Ibid., p. 104.

multiple districts all around the state there is no way that our staff can be out monitoring in every location."[21] Busbee also told the Committee about training provided by the state. "We recently had a training session for new Title One District Coordinators. In our training, we communicate with our districts the rules and regulations and what they should be doing both with respect to all technical aspects as well as the spirit of the law."[22]

Regarding federal oversight, Busbee said the state and its school districts have endeavored to be compliant with federal law, but find it difficult to make the program effective when so much effort is expended on keeping up with the strict guidelines put in place at the federal level. "The guidance is very strict in many areas. The district might not do what is right, but it is only because they are not clear on the law or the regulation. The law and issued guidance are hundreds and hundreds of pages. Sometimes it is just for lack of understanding that a district is not in compliance, and we try to clear that up."[23] Busbee added that although the Department of Education claims that the state has the power to make decisions regarding school choice and SES programs, the reality is the state is really restricted in what it is allowed to do.[24]

As to low participation rates, Busbee suggested it is likely more a result of lack of parental interest than the districts not making an effort to implement the program. "I hesitate to put it out there, but the reality is that many parents have good intentions but never have their children follow through and begin the program. Parents will fill out the papers and turn everything in. The district will then notify the provider to give the parents a call. The provider will make the call, only to have the parents not follow through."[25]

3. Federal 21st Century Grant Programs Compete With SES Programs

Under Title IV of NCLB, the federal government also funds 21st Century Community Learning Center programs (21st Century Programs). The 21st Century Programs provides supplemental funding to local school districts for the creation of learning centers that provide academic enrichment opportunities during non-school hours for children, particularly students who attend high-poverty and low-performing schools. The programs help students meet state and local student standards in core academic subjects, such as reading and math; offers students a broad array of enrichment activities that can complement their regular academic programs; and offers literacy and other educational services to the families of participating children.

The 21st Century Programs centers – which can be located in elementary or secondary schools or other similarly accessible facilities – provide a range of high-quality services to support student learning and development, including tutoring and mentoring, homework help, academic enrichment (such as hands-on science or technology programs), and community service opportunities, as well as music, arts, sports and cultural activities. At the same time, centers help working parents by providing a safe environment for students during non-school hours or periods when school is not in session. Many states around the country are conducting competitions to award 21st Century Community Learning Center grants. Each eligible entity that receives an award from the state may use the funds to carry out a broad array of before- and after-school activities (including those held during summer recess periods) to advance student achievement. These activities can include:

- Remedial education activities and academic enrichment learning programs, including those which provide additional assistance to students to allow the students to improve their academic achievement, including tutoring services;
- Mathematics and science education activities;

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[21] Nancy Busbee, NCLB Hearing Transcript, p. 53.
[22] Ibid., p. 57.
[23] Ibid., p. 59.
[24] Ibid.
[25] Ibid., p. 59.

- Art and music education;
- Recreational activities;
- Programs that provide after-school activities for limited English proficient (LEP) students and that emphasize language skills and academic achievement;
- Programs that promote parental involvement and family literacy;
- Drug and violence prevention programs; and
- Character education programs.

In the 2006-2007 school year, 27 school districts were served by 21st Century Grant Programs. (The school districts and the amount of grant are listed in Table 3). The GAO noted that overlapping federal grants might impact participation rates, as there would be competition among different programs for the same pool of students. The GAO noted that several educators recommended that school districts should be allowed some flexibility in combining funds earmarked for implementation of SES programs that would also allow for other funded programs, such as 21st Century Community learning, to effectively operate.[26]

Table 3—South Carolina School Districts Receiving 21st Century Grants During 2007-08 School Year

Grantee	District(s) Served	Grant Amount
All About Kids of Kids of Sumter	Sumter 2	$200,000
Beaufort County School District	Beaufort	$170,000
Beaufort County School District	Beaufort	$140,000
Berkeley County School District	Berkeley	$198,740
Boys & Girls Clubs of the Upstate	Spartanburg 2 & 7	$299,191
Boys & Girls Clubs of the Upstate	Cherokee & Spartanburg 6	$299,970
Carolina Community Learning Center	York 4	$140,000
Charleston County School District	Charleston	$170,000
Cherokee County School District	Cherokee	$168,000
Cherokee County School District	Cherokee	$120,000
Ebenezer Missionary Baptist Church	Georgetown	$126,000
Florence School District One	Florence 1	$200,000
Galilee Baptist Church	York 1	$75,000
Have Faith Community Development	Clarendon 2	$100,187
HOPE worldwide South Carolina	Charleston	$147,000
Lexington School District One	Lexington 1	$105,000
Lexington School District Three	Lexington 2	$93,750
Life Resource Center	Spartanburg 1 & 6	$196,000
Local Org. Cmttee of Orangeburg County	Orangeburg 4	$153,282
New Beginnings Human Services Agency	Dorchester 2	$127,727
Newberry County School District	Newberry & Greenwood	$170,000
Oconee County School District	Oconee	$200,000
Orangeburg School District Five	Orangeburg 5	$200,000
Richland School District One	Richland 1	$105,000
Richland School District Two	Richland 2	$140,000

Source. South Carolina Advisory Committee from U.S. Department of Education data.

[26] GAO Report on Supplemental Educational Services, p. 35.

Ann Greene, Title I Director of the Spartanburg 1 school district, told the Committee that 21st Century Grant program participation in her school district had a noticeable effect on SES participation. Greene acknowledged that SES participation in her district was low, but added that "the low participation rate was due to the fact that in the past school year the district had a 21st Century Grant from the U.S. Department of Education. Under that grant, after-school tutoring was offered, along with child care, and free snacks were provided, and this was provided at the child's school by teachers in the district that the parents knew well and trusted."[27]

Statewide data does not seem to indicate that the presence of a 21st Century program within the boundaries of a school district is related to low student participation in SES programs. In six of the 10 school districts in the state with the lowest SES participation rates21st Century Grant programs were operating in the district. Conversely, nearly half of the districts with the highest SES participation rates also had 21st Century Grant programs operating in the district. This seems to suggest that the operation of a 21st Century Grant program in a school district does not in and of itself lower SES participation rates.

[27] Interview with Ann Greene, Title I Director of the Spartanburg 1 school district, by Peter Minarik, Southern Regional Office, Dec. 9, 2009, Southern Regional files.

Parental Notification Procedures, School Coordination with SES Providers, and School Leadership Not Found To Be Directly Related to Low SES Participation Rates

Information about SES services sent by school districts to parents is often unnecessarily wordy and program coordination between SES providers and school districts is sometimes lacking. However, neither the design of parental notification letters nor coordination with providers seem to directly affect student participation rates. Similarly, the degree of emphasis placed on SES programs by principals and superintendents is not found to be directly linked to different levels of student participation.

1. States Must Provide to Department of Education an Annual Accountability Plan

States are to provide detailed information for each of the critical elements required for state accountability systems. States should answer the questions asked about each of the critical elements in the state's accountability system. States that do not have final approval for any of these elements or that have not finalized a decision on these elements by January 31, 2003, should, when completing this section of the Workbook, indicate the status of each element that is not yet official state policy and provide the anticipated date by which the proposed policy will become effective. In each of these cases, states must include a timeline of steps to complete to ensure that such elements are in place by May 1, 2003, and implemented during the 2002–03 school year. By no later than May 1, 2003, states must submit to the Department final information for all sections of the Consolidated State Application Accountability Workbook.

South Carolina has committed its schools to the development of an accountability plan. The plan includes all schools and districts in the state. All schools are subjected to the same criteria. The plan incorporates academic achievement standards, provides information in a timely manner, and includes report cards as well as rewards and sanctions. The plan includes all students. It includes all the required student subgroups. Schools and LEAs are accountable for the progress of student subgroups. Subgroups include students with disabilities and limited English proficient students.

South Carolina has determined the minimum number of students sufficient to yield statistically reliable information for each purpose for which disaggregated data are used. The state has strategies to protect the privacy of individual students in reporting achievement results and in determining whether schools and LEAs are making adequate yearly progress on the basis of disaggregated subgroups.

It has a consistent definition of what a full academic year is. The accountability plan annually reviews the progress of schools and districts. The plan has a method of AYP determinations. The plan expects all student subgroups, public schools, and LEAs to reach proficiency by 2013–14. The plan incorporated a method for determining whether student subgroups, public schools, and LEAs made adequate yearly progress as well as a way to determine whether student subgroups, public schools, and LEAs made adequate yearly progress. The plan established statewide annual measurable objectives and intermediate goals.

The accountability plan is based primarily on academic assessments. It includes graduation rates for high schools and an additional academic indicator for elementary and middle schools. It also includes any additional indicators that are valid and reliable.

The plan holds students, schools and districts separately accountable for reading/language arts and mathematics. The accountability plan should produce reliable and valid decisions. South Carolina has a plan for addressing changes in assessment and student population. The plan has a means for calculating the rate of participation in the statewide assessment. It has a means for applying the 95 percent assessment criteria to student subgroups and small schools.

Although South Carolina outlined an accountability plan for its school system for 2008, it does not mention specific targets. It does not provide detailed information about how it will handle problems associated with low SES participation.

2. Parental Notification Packets Are Often Lengthy and Contain Excessive Amounts of Information

The GAO reported problems with parental notification letters sent by school districts. Officials in school districts told the GAO about difficulties contacting parents to inform them about SES in part because some families frequently moved and did not always update their mailing address with districts. Some SES providers indicated that confusing parental notification letters did not effectively encourage SES participation. For example, some of the providers told the GAO that some districts used confusing and poorly written letters to inform parents of SES or sent letters to parents of eligible children but conducted no further outreach to encourage participation in SES. Other providers reported that complicated district enrollment processes could discourage participation. For example, one provider said certain districts sent parents multiple documents to complete in order for their child to receive SES, such as an enrollment form to select an SES provider and a separate contract and learning plan.[28]

The Committee's survey of the ten school districts in South Carolina with the highest and lowest SES participation rates examined their parental notification procedures, and districts were requested to provide the Committee examples of their notifications. Most districts said that parental notification letters are mailed out to the parents at the beginning of each school year to notify them of their child's eligibility for SES and school choice. In addition, provider fairs were held in 9 out of the 10 districts surveyed, 9 out of 10 also announced information in the local newspapers, 5 of the 10 sent additional flyers home with the children, and all 10 districts posted the information on the district website.

Regarding parental notification procedures and the information packets sent to parents, Nancy Busbee, from the South Carolina Department of Education, expressed the opinion that oftentimes the material in parental notification letters contained too much information and was confusing. She told the Committee, "To be honest, when I prepared an information packet for a district person to be mailed, I did not want to read it. It was mammoth....I think in an attempt to give the parents the information needed that we overdo it."[29] To increase participation rates, Busbee said the state is considering using a public service announcement to get information out to parents about school choice and supplemental educational services. She also believes that word of mouth might allow for more student participation, and private providers have been more proactive in putting up billboards and notifying parents of their services.[30]

The Committee's analysis of the survey responses from the school districts generally supported the assessment of Nancy Busbee. Parental notification packets were generally several dozen pages in length. In addition, the information contained in the packets was not easy to understand or follow. These characteristics of notification letters were similar across districts, regardless of whether the district had a high or low participation rate.

The Committee found that the information packets sent to parents were weighty with provider information, but failed to clearly guide parents about the best approach for selecting a good provider for their child. For example, Chester County, 1 of the 10 schools surveyed with a high participation rate, mailed out packets containing a page of information for more than 25 providers. Similarly, Georgetown, a district with a low rate of participation, sent out packets with information with about a page of information on more than 20 providers.

In addition, the Committee found the material in the notification letters cumbersome to comprehend. Upon reading the letters from the school district to the parent about SES, the Committee thought that the language lacked simplicity in what action was required on the part of the parent. Moreover, the Committee thought that this was the general state of communication between district and parent for all surveyed districts, both those with low participation rates and high participation rates. The parental notification letter from the Rock Hill school district follows below; letters from the other nine districts were similar in length, tone, and information content.

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[28] GAO Report on Supplemental Educational Services, p. 15.
[29] Ibid. p. 16.
[30] Ibid.

Dear Parents,

According to the federal No Child Left Behind Act of 2001 (NCLB), students must be provided an opportunity to attend another school within the school district if students are enrolled in a Title I school identified as in need of improvement. A school is identified as in need of improvement based upon a school not meeting the state's definition of adequate yearly progress (A YP) for two years consecutively.

To meet AYP in South Carolina, a school must demonstrate that all students are performing at high levels of academic achievement. Therefore, test results are reviewed by categories or subgroups of students. Subgroups are defined by ethnicity, race, and economic factors, and each subgroup must contain at least 40 students. .In the case of students with disabilities or students with limited English proficiency, 50 students comprise a subgroup.

Attached you will find Independence's school profile, including the 2007 AYP report. While the school met AYP in 15 of 19 objectives, students in the subgroup of African American and subsidized meals did not meet performance goals in English Language Arts and Mathematics. As every subgroup must meet performance goals under No Child Left Behind, this school did not meet AYP.

According to NCLB, schools in need of improvement are required to make choice available for students. The school improvement list indicates that Independence Elementary School has been identified as a school that is required to offer public school choice for the 2007-2'008 school year with transportation provided by the district.

Attached to this letter, a School Choice Form has a list of schools to which your child will be allowed to transfer. Please be aware that not all parents may receive their first choice of schools and not all students requesting a transfer may be allowed to transfer due to limited funds available for transportation. If more students request a transfer than funds are available for transportation, priority will be given to free or reduced lunch students who are the lowest achieving. A school profile has been provided as a summary of the academic achievement of the schools of choice, as well as a summary of the academic achievement of the school your child is presently attending.

During the 2007-2008 school year, Independence will offer a variety of opportunities for all children to make improvement. The staff is working with small groups of students in after school tutoring sessions. Additional certified part-time staff have been hired to work with individual children or groups of children during the school day. Independence has recently installed the latest in technology, interactive white boards in every classroom, allowing teachers access to new and exciting resources for instruction. After school enrichment clubs, beginning in January, will be tied to the standards as well. As always, we will continue to serve our school community with a strong commitment to students and parents.

The Rock Hill School District is addressing the area of student performance by providing a coherent curriculum model, supporting teachers through on-going staff development on Late Start days, and providing extended learning opportunities to students.

Parents can help by communicating regularly with teachers, reading daily with their children, ensuring that their children receive adequate rest and by attending school functions such as PTO Meetings, School Improvement Council Meetings, and Math and Literacy Family Nights. All parents are encouraged to observe in their child's classroom and volunteer at the school.

Please complete the attached form and return it to the school office by mail or in person, no later than Wednesday, December 12, 2007, in order for the transfer to be considered.

We hope that you will be willing to continue to work with us toward achieving the best education possible for your child.[31]

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[31] York School District 03, Letter from Superintendent Lynn P. Moody, to parents of children attending Independence Elementary School about school choice options and availability of SES services, Nov. 27, 2007.

Another problem with respect to parental notification letters is timeliness. The GAO reported that despite some districts' promising approaches to encourage participation, notifying parents in a timely manner remained a challenge for school districts. The GAO estimated that about 60 percent of school districts did not notify parents that their children were eligible for school choice options or to receive SES services until after the school year had begun. The agency noted, however, that a contributing factor for lack of timeliness in parental notification may be in part due to delays in state reporting procedures identifying schools identified for improvement. According to the GAO, about half of the school districts it examined did not receive notification from the state before the start of the school year as to which schools had been identified as "in need of improvement."

State officials in South Carolina agreed that providing information to school districts with enough lead time about which schools have not met state performance goals has been a challenge. Nancy Busbee told the Committee that the state "has traditionally not received the test score results in a timely fashion. Statewide assessment scores come to the state in the summer, and this year the state was only able to release the scores received in the summer back to the districts by October 1st." [32] Busbee said that to overcome this timeliness problem some school districts have taken to use historical data, but that has not seemed to work well. That is because if there is a school that goes into improvement that is unexpected, then choice and SES options are offered to parents for their children after the school year has already begun.[33]

3. Level of Cooperation between School Districts and SES Providers Found to Be Unrelated to Student Participation

The GAO reported on a lack of coordination between school districts and SES providers. This included coordination regarding contractual agreements and poor communication between district staff and SES providers. In addition, there were coordination problems between SES providers and parents. The GAO also noted that competition between after school programs and SES services played a role in student participation.

While providers have taken steps to deliver quality services, both providers and districts reported to the GAO difficulties during the contracting process. For example, some providers said that districts imposed burdensome contract requirements on them, such as requiring substantial documentation to be submitted with invoices, limiting the marketing they could do to parents and students, or restricting the use of school facilities to deliver services. Specifically, one-third of the SES providers surveyed by the GAO experienced difficulties with districts in restricting provider access to school facilities, for example, not allowing providers to deliver services in school buildings or charging providers substantial fees to do so. Providers also told the GAO that contracting requirements were not uniform, varying from district to district and from state to state. As a result, some of the multi-state providers reported the necessity of having staff dedicated to finalizing and managing contracts with districts. These providers commented that, while they have the administrative capacity to manage this process, smaller providers might not have such capacity.[34]

The GAO also reported that contracting with SES providers was a challenge for school districts as well. Specifically, the GAO found that negotiating contracts with providers was a significant challenge for about 40 percent of districts nationwide. As part of this problem, while states have the authority to review and define program design parameters as part of the provider approval process, district officials expressed a concern about their lack of authority to set local parameters in provider contracts around costs and program design, such as tutor-to-student ratios and total hours of instructions.[35]

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[32] Busbee testimony, NCLB Hearing Transcript, p. 58.
[33] Ibid.
[34] GAO Report on Supplemental Educational Services, p. 25.
[35] Ibid, pp. 25-26.

In addition, the GAO noted that coordination of service delivery of SES services has also been a challenge, and it was a problem for all concerned—providers, districts, and schools. Most state officials reported that the level of coordination between providers, districts, and schools implementing SES was a moderate to very great challenge, and that these coordination difficulties resulted in service delays. This specifically seemed to affect registration and planning. For example, providers told the GAO about not knowing the exact number of students they would serve until enrollment forms were sent to them by district officials, and that severely hindered SES planning and delayed service delivery as they did not know how many tutors they needed to hire and train in order to deliver SES services in a school district.[36]

The GAO study also spoke of the problems that some providers encountered when communicating with parents about SES services. For example, SES providers do mail information to parents as well as meet with them in-person and over the phone about student needs and progress. However, the frequency of communication with parents varied by provider, with some providers reporting the hiring of staff dedicated in part to maintaining communication with parents. However, some providers faced difficulties when communicating with parents about SES, such as language barriers or incorrect contact information. School districts confirmed to the GAO that the degree to which providers communicated with parents varied, and in about 30 percent of school districts providers did not contact parents to discuss student needs and progress.[37]

The Committee, apart from the GAO study, conducted its own independent assessment of the effect on SES participation resulting from the practices of SES providers and its coordination with school districts. In doing this examination, the Committee heard testimony at a public hearing from SES representatives and interviewed Title I directors about their interactions with SES providers. The Committee learned that not all SES providers could attend service fairs or school registration held at the schools; that some districts did not allow SES providers to use school facilities; and, that not all districts allowed teachers to be employed by SES providers. Nevertheless, the Committee concluded that in general these conditions did not directly effect student participation levels.

Regarding school information fairs, such events generally take place during the beginning of the school year. Officials from South Carolina districts were found to generally provide opportunities to SES providers to attend school fairs for registration purposes. The Committee's survey of Title I directors learned that attendance was inconsistent. That is, at some school fairs only a few private service providers attended, while at fairs in different districts many providers were present. Regardless, the Committee found no correlation between high or low school participation rates and the presence of SES providers at school fairs. In addition, the Committee was told that provider fairs were conducted in some districts and although some providers attended, a number of providers did not. For example, the Dorchester school district—a district with a high SES participation rate—providers were not present at registration but attended the SES provider fair given.[38] In contrast, the Florence 3 School District was—a district with a low participation rate—reported having several providers available both at school registration and at the provider fair, but still a very low percentage of eligible children elected to participate.[39]

Most of those who testified at the public hearing before the Committee expressed the opinion that allowing SES providers to utilize school facilities would raise the participation levels for SES services. The Committee found, however, that a number of schools opposed allowing SES providers access to school facilities for the most part because of liability concerns. Again, however, the use of school facilities did not seem to significantly affect participation levels, and several very high participating rate districts reported that they did not permit SES providers to carry out their programs at the school and offered instead to transport students to off-campus SES facilities where the programs were offered. For

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[36] Ibid, pp. 26-27.
[37] Ibid, p. 23
[38] South Carolina Committee survey of School Districts on parental notification procedures, Dorchester School District survey, Southern Regional Office, U.S. Commission on Civil Rights files, Feb. 12, 2009, (hereafter referred to as South Carolina Committee survey).
[39] South Carolina Committee survey, Florence 3 school district, Feb. 12, 2009.

example, the Greenville School District did not allow SES providers to use school facilities, but the district was still among the highest in the state for student participation.

Regarding the employment of teachers by SES providers, the Committee found teachers in some districts were prevented from promoting the program and/or working as tutors of SES providers. Zan Williams, a representative from SES provider South Carolina Department of Issue of Learning, told the Committee, "We can not hire teachers to recruit or promote at all, in any way, shape, or form."[40] The practice varied, however, from district to district and did not appear to directly affect participation rates. Among the school districts with the highest participation rates in the state most did not allow its teachers to be employed by SES providers, and among the five districts with the lowest participation rates none had teachers working as tutors with SES provider services. For example, school district Chester reported no teachers working as SES providers but had high levels of participation, while Florence 3 had eight to ten employees working as SES providers and still was among the districts with the lowest number of participating students. In addition, the Committee found that providing effective alternatives other than teachers within districts is a challenge in part because teachers and providers might provide a different curriculum.

Regarding coordination with SES providers, Busbee said that the state does cooperate and work with private providers. "We have someone who is on the office who is designated as a supplemental service provider contact, and they work with providers on a daily basis." However, the state does allow the school district the right to decide whether supplemental instruction will be provided on school grounds. She said that some school districts do not allow supplemental services on campus grounds for fear it might interfere with other after school programs. "If you have 30 providers that are serving your school to finding space is an issue. There might not be enough space for the providers to offer tutoring.... Also, some districts are hesitant about leaving students in the care of a provider not employed by the district. It is risky and might be too much of a liability for the schools. "Dr. Busbee expresses her frustration when she concludes, "The guidance is very strict in many areas, but many times the feds will say it's your decision."

Finally, as reported by the GAO, encouraging student attendance in SES programs is a challenge because of competition from other school activities. The GAO reported low parent and student demand for SES has been a challenge in about two-thirds of districts because of this competition. For example, about one-quarter of districts reported that both competition from other after-school programs and the availability of services that are engaging to students were challenges to implementing SES. Providers and district and school officials were quick to point out to the agency that the SES program competes for students with extracurricular programs and other activities. For example, a high school official indicated that student attendance at SES sessions declined significantly as the school year progressed because of other commitments on the students' time. To address this problem, some providers have taken to offering students incentives for participation. For example, almost all providers interviewed by the GAO encouraged students to sign up for services and to regularly attend program sessions with such incentives as school supplies and gift certificates.[41]

4. Program Emphasis by Local School Officials Not Found Related to Low SES Participation Rates

Low SES participation rates have been blamed on lack of involvement by school officials and/or low emphasis for the program by district superintendents. The GAO reported that principal interest can improve student participation in SES services. The Committee surveyed the ten school districts in South Carolina with the highest and lowest SES participation rates about the importance of superintendent involvement. Overall, the Committee found that the role of the superintendent in terms of his/her direct involvement with the SES program varied between school districts, and usually it

[40] Williams testimony, NCLB Hearing Transcript, p. 151.
[41] GAO Report on Supplemental Educational Services, p. 22.

was the primary responsibility of the Title I director to push for student participation in SES programs. Emphasis by the superintendent on the SES program is not necessarily critical to high participation rates.

Regarding the role of the principal in SES participation, the GAO also reported that school officials said their lack of a clear role in administering SES has been a challenge for them getting children to participate in the program. For example, principals told the GAO that they found it difficult to manage after school activities because they did not have sufficient authority to oversee SES tutors operating in their buildings. Other problems reported by the GAO included instances where the school was not providing SES services, but students and parents still went to school officials for help when they were unclear about the schedule or when tutors failed to show up.

SES providers told the GAO that a lack of involvement by school principals can make it difficult for them to coordinate with schools to encourage student participation. A few providers also said schools contributed to this problem by restricting communication with school officials or not defining a role for schools in SES implementation. Regarding the importance of school official involvement, SES providers told the GAO that coordinating with principals about the tutoring program, involving principals in selecting the curriculum, and sending principals student progress reports served to enhance the delivery of supplement educational services.

The Committee did follow-up interviews about the effect of superintendent involvement with the ten surveyed school districts in South Carolina with the highest and lowest SES participation rates. District Title I directors were specifically queried about the involvement of superintendents in the SES program. Most Title I directors said that their district's superintendent supported and encouraged SES participation. For example, Missy Brakefield, Title I Director for the York III School District said that the superintendent is "fully aware of all provider fairs and holds meetings with the principals and district office staff to discuss transportation, personnel, and other issues. Everyone involved attends the meetings."[42]

Interviews with Title I directors showed that superintendent involvement in SES was not the driving force behind student participation in the program. For example, the Georgetown School District had one the highest SES participation rates, and Patti Hammel, Title I Director for the Georgetown School District, said the superintendent was not directly involved but that she, as Title I director, was "fully accountable to the superintendent but was given leeway in terms of taking care of Title I matters." [43] Nancy Coleman, Title I Director for the Chester County School District, another high participation rate district, expressed a similar sentiment. "It was not the responsibility of the superintendent but instead the Title I director to get children involved."[44]

Among the school districts with low participation rates, interviewed Title I directors reported that superintendent involvement varied and was not necessarily reflective of student participation rates. For example, Ann Greene, Title I Director for the Spartanburg I School District, said, "The superintendent supports getting children signed up for SES, but the work is delegated to me."[45] Martha Garrick, Title I director for the Orangeburg 04 School District, said, "The superintendent and I have meetings devoted to SES and school choice programs, and the meetings are specific in their purpose and are used to fully brief

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[42] Interview Missy Brakefield, Title I director, York III School District, by Kendra Fordham, Southern Regional office, U.S. Commission on Civil Rights, Feb. 18, 2009 (record of interview available at Southern regional office, U.S. Commission on Civil Rights).

[43] Interview with Patti Hammel, Title I director, Georgetown School District, by Christopher Upperman, Southern Regional Office, U.S. Commission on Civil Rights, Feb. 18, 2009 (record of interview available at Southern Regional Office, U.S. Commission on Civil Rights).

[44] Interview with Nancy Coleman, Title I director, Chester County School District, by Kendra Fordham, Southern Regional Office, U.S. Commission on Civil Rights, Feb. 18, 2009 (record of interview available at Southern Regional Office, U.S. Commission on Civil Rights).

[45] Interview with Ann Greene, Title I director, Spartanburg 01 School District, by Pauline Kim Eisert, Southern Regional Office, U.S. Commission on Civil Rights, Feb. 23, 2009 (record of interview available at Southern Regional Office, U.S. Commission on Civil Rights).

SES and school choice programs, and the meetings are specific in their purpose and are used to fully brief him on SES parental notification and all Title I programs. But I do not think the attention by the superintendent has any specific affect on the level of participation in the SES program."[46]

Title I directors were agreed that the superintendent played an important role in terms of accountability for what was being done to support SES programs. For example, Linwood Ling, Title I Director for the Dorchester 04 School District, said, "The superintendent is fully aware of the curriculum for all the providers. He negotiates with the school board for facilities for providers. He is also involved with the review at the end of the year for providers, getting results. He is very much involved in the process. The superintendent makes a difference in terms of accountability."[47] Dr. Mildred Rowland, Title I Director for the York I School District, said the superintendent "reported to people and parental involvement, period."[48]

5. Forces Outside School Control Affect SES Participation

The environment in which children live today has changed greatly during the past several decades. Such factors, which are outside the control of the school, can have a marked effect on academic achievement. Poverty, parental involvement, and the home environment are three such factors that play important roles in a prospect for student success in school.

Research has shown that family income is an important predictor of children's success or failure in school. Children from low-income families are more likely to experience difficulties in school. Children in poverty have been shown to be at greater risk for developmental problems resulting from poor maternal nutrition. Today, about one out of every five children in the United States lives in poverty, and for minority children the percentage is almost twice as large—approaching 40 percent. Moreover, childhood poverty is increasing. Between 1990 and 2000, the number of poor children increased by 28 percent, from 1.1 million children to almost 1.4 million.

Recent research shows that environmental deficits—such as too little cognitive stimulation and inadequate health car—undermines disadvantaged children's development and affect school performance. A 1991 study of children whose families were recipients of Aid to Families with Dependent Children (AFDC), the federal assistance program, found that two-thirds of these children did not live in home environments that stimulated their cognitive growth and did not receive sufficient emotional support from their parents. The study revealed similar findings for the children of low-income families that were not receiving AFDC.

Other factors associated with low income of families, such as minimal parent education attainment and single parenting, increase a child's risk of doing poorly in school. The parents of poor school-aged children are less educated than in the past. Between 1980 and 1990, the number of families in which neither parent had completed high school increased by 20 percent. In addition, during the 1990-91 operating year, more than 50 percent of Head Start families were headed by a single parent. Given these changes in the environment, it is not surprising that Head Start staff encounter children and families with more complex problems requiring urgent and extensive intervention. According to a 1989 report by the HHS Inspector General, the major family problems encountered by Head Start staff were substance abuse, child abuse, domestic violence, lack of parenting skills on the part of teenage parents, and crime-infested, and inadequate housing.

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[46] Interview with Martha Garrick, Title I director, Orangeburg 04 School District, by Peter Manirik, Southern Regional Office, U.S. Commission on Civil Rights, Feb. 17, 2009 (record of interview available at Southern Regional Office, U.S. Commission on Civil Rights).

[47] Interview with Linwood Ling, Title I director, Dorchester 04 School District, by Pauline Kim Eisert, Southern Regional Office, U.S. Commission on Civil Rights, Feb. 23, 2009 (record of interview available at Southern Regional Office, U.S. Commission on Civil Rights).

[48] Interview with Mildred Rowland, Title I director, York 01 School District, by Pauline Kim Eisert, Southern Regional Office, U.S. Commission on Civil Rights, Feb. 25, 2009 (record of interview available at Southern Regional Office, U.S. Commission on Civil Rights).

Findings

1. Under the No Child Left Behind Act, schools that receive federal Title I funds and do not make AYP goals for two consecutive school years are identified as schools in 'need of improvement.' After a school is found to be in need of improvement, every student in the school is to be given the option of transferring to another public school in the district that is not classified as poor performing. In school year 2006-2007 less than 2 percent of eligible children opted for a school transfer.

2. Under the No Child Left Behind Act if a school fails to make its AYP goals for three consecutive years attending students from low-income families must be offered supplemental educational services. Supplemental educational services are additional, free academic instruction targeted towards increasing academic achievement. In South Carolina only 13 percent of eligible South Carolina students took advantage of supplemental educational services offered under NCLB in school year 2006-2007.

3. Participation rates in supplemental educational services among school districts in the South Carolina vary widely. One school district has more than 40 percent of all eligible children participating, while other districts have less than 2 percent of eligible children participating.

4. School districts with schools designated 'in need of improvement' are obligated to set aside 20 percent of their Title I allocation from the federal government to fund supplemental educational services. If a school district spends less than its 20 percent obligation, the district may spend the remainder of the 20 percent obligation on other allowable activities with approval of the South Carolina Department of Education.

5. All of the South Carolina school districts surveyed by the Committee spent less than 25 percent of their Title I funds obligated for supplemental educational services on such programs.

6. The Committee specifically examined: (1) parental notification letters sent by school districts, (2) coordination between school districts and supplemental educational services providers, and (3) the interest of school officials, as to their affect on student participation in supplemental educational service programs. No direct relationship between any of these factors and higher participation rates by eligible students was found by the Committee.

7. There are challenges to participation in supplemental educational service programs that are outside the control of the public school system. Encouraging student attendance in supplemental educational service programs can be affected because of competition from other school activities as well as the level of interest on the part of parents and/or students.

8. The U.S. Department of Education has the responsibility to monitor and support the different activities of supplemental educational service programs. The Department of Education confirmed to the Committee that the Department is primarily concerned with how dollars are spent, and does not focus its monitoring activity either on participation rates in supplemental educational services or on the effectiveness of provided programs.

Recommendation

As supplemental educational services are established in the No Child Left Behind legislation for schools designated 'in need of improvement,' it is clear to the Committee that it is the opinion of The Congress that such programs can be beneficial to raising the academic achievement of low performing schools with high numbers of disadvantaged children. It is also clear to the Committee that some factors remain outside the control of the school system in inducing high participation rates in such programs—such as competition from other extracurricular activities and levels of parental interest.

Nevertheless as participation rates in South Carolina in such programs range from more than 40 percent of eligible children in some districts to less than 2 percent in other districts, clearly there are avenues for action within the public education system that can play a significant role in promoting higher participation rates in supplemental educational service programs. The Committee holds that the primary player within the public education system to achieve this end is the U.S. Department of Education.

The Committee recommends that if the Congress continues to consider supplemental educational services to be an essential component in ensuring 'no child is left behind,' then effective activities must be developed and engaged by the U.S. Department of Education that emphasize high participation in SES programs by school districts with low performing schools beyond the present accounting emphasis and passive monitoring. Such activities might well include the establishment of specific participation goals for school districts based upon the Department's monitoring.

In the opinion of the Committee, the absence of such deliberate measures by the U.S. Department of Education to compel higher participation rates will only serve to signal local school districts that compliance with the supplemental educational service provision of the No Child Left Behind is voluntary and abysmally low participation in supplemental educational services will continue to be the norm for most school districts.