

State Implementation of Supplemental Educational Services under the No Child Left Behind Act

A report in the series, *From the Capital to the Classroom: Year*

of the No Child Left Behind Act

Key Findings

- **Limited capacity to monitor.** Many states (38) are unable to monitor “to a great extent” the quality and effectiveness of SES providers; only 10 states reported being able to do so. The greatest capacity challenges for states in meeting this federal SES monitoring requirement are insufficient numbers of staff and inadequate federal funding.
- **Use of criteria in law.** Almost all (between 47 and 49) of the state education agencies we surveyed reported using the criteria required by NCLB law and federal guidance to review and approve applications from potential supplemental service providers. These criteria are intended to ensure that providers are financially sound, have a record of effectiveness, use research-based strategies, provide services consistent with district instruction, and adhere to health, safety, and civil rights laws.
- **Frequent updating.** NCLB requires states to promote maximum participation of SES providers so that parents have as many choices as possible. Therefore, it is important for states to provide parents and school districts with a current and accurate list of SES providers that they can choose from. On our survey, 20 states said they review new SES provider *applications* more often than once a year (the minimum required by the NCLB law), and 22 states reported updating their SES provider *lists* more than once a year.
- **Different reapplication policies.** The reapplication process varies widely by state. In 13 states, SES providers never have to formally reapply, and in 12 states, SES providers have to reapply every year.

Introduction

The No Child Left Behind (NCLB) Act requires Title I schools that have not made adequate yearly progress (AYP) in raising student achievement for three or more consecutive years to offer supplemental educational services (SES) to low-income students. (Title I schools are those that receive federal funds to educate disadvantaged children through Title I of the Elementary and Secondary Education Act as amended by NCLB.) Supplemental services include tutoring, remediation, and other academic interventions designed to increase student achievement. These services must be provided outside of the regular school day and typically take the form of before- or after-school small group instruction.

State agencies in charge of education play an important role in identifying and approving organizations that are qualified to provide supplemental services, as well as in monitoring the quality and effectiveness of the providers. To learn more about the state role in overseeing supplemental services, the Center on Education Policy (CEP) included several questions about these services in our annual survey of NCLB implementation, which we have admin-

istered since 2002 to all 50 states.¹ The survey, which was conducted in the fall of 2006, focused on state implementation of SES in the current school year, 2006-07. Specifically, we asked states which criteria they use to review and approve potential SES providers, and how often they review SES provider applications, require providers to reapply, and update their approved provider lists. We also asked about the extent to which states are able to monitor the quality and effectiveness of SES providers. This report describes our survey findings.

Monitoring the Quality and Effectiveness of SES Providers

A key question about supplemental educational services is whether providers are helping to increase student achievement. Toward this end, NCLB law requires states to monitor the quality and effectiveness of approved SES providers in raising achievement. Our survey asked states about the extent to which they have been able to carry out this monitoring. Only 10 states responded that they are able to monitor the quality and effectiveness of providers “to a great extent.” As shown in **Figure 1**, more than two-thirds of the states said they are either somewhat or minimally able to monitor quality and effectiveness, and three indicated they are “not at all” able to do this monitoring.

Figure 1. Extent to Which States Are Able to Monitor the Quality and Effectiveness of SES Providers’ Services

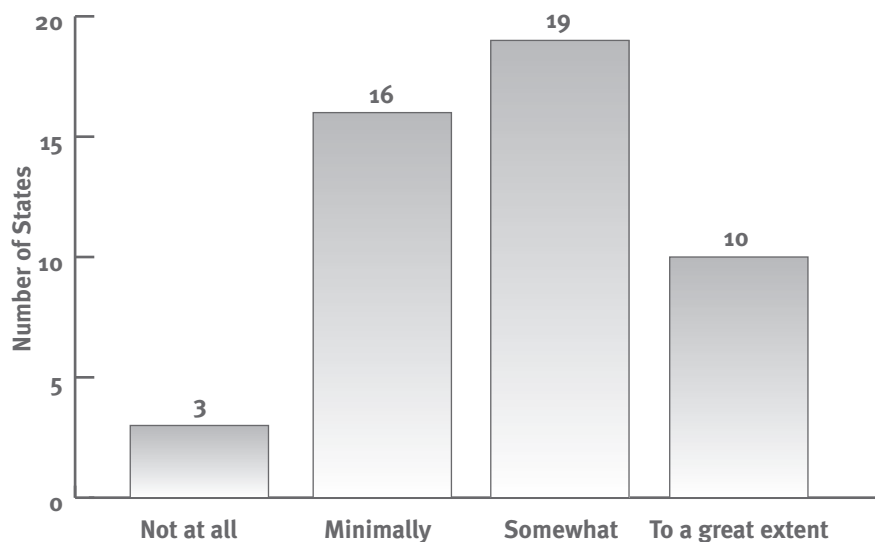


Figure reads: Of the 50 state education agencies surveyed by CEP, 19 reported that they have been “somewhat” able to monitor the quality and effectiveness of SES providers’ services, 16 said they have been “minimally” able to do this monitoring, and 10 said they have been able to do this monitoring “to a great extent.” Three states said they have not been able to do this required monitoring at all.

Source: Center on Education Policy, December 2006, state survey, item 44.

¹ While all 50 states responded to the overall survey, the response rates for the questions about SES varied from 48 to 49 states.

To better understand why many states are struggling to monitor the effectiveness of SES providers, we asked states to indicate the challenges they are facing or have faced in carrying out this monitoring. More than half the states reported that they do not have sufficient staff to implement this requirement, and half also indicated that they do not have enough federal funding. **Table 1** displays these findings and other challenges that states face in monitoring the quality of SES providers.

Our survey also yielded other interesting findings about state capacity to monitor providers:

- States varied as to whether insufficient technological capacity was a significant impediment to monitoring providers: 22 states viewed it as a moderate or great challenge, while 25 said that it was not a challenge or was minimally challenging.
- Staffing problems may stem from a lack of funding rather than an inability to attract and retain staff. While most states reported that they did not have sufficient staff to monitor providers, only a limited number of states mentioned attracting and retaining staff as a significant challenge.
- Most states reported that insufficient guidance from the U.S. Department of Education was either a minimal or moderate challenge to monitoring SES providers.

Table 1. Number of States Reporting Various Factors as Challenges to Their Capacity to Monitor SES Providers

Challenges	Not at all	Minimally	Moderately	To a great extent	Don't know
Insufficient numbers of staff to implement the requirement	2	5	14	26	2
Inadequate federal funds to implement the requirement	7	6	9	25	2
Inadequate state funds to implement the requirement	12	5	7	14	8
Insufficient technological capacity to implement the requirement	11	14	13	9	2
Insufficient guidance from the U.S. Department of Education	8	12	17	8	3
Inability to attract and retain qualified staff to implement the requirement	18	14	5	8	2

Table reads: Of the 50 state education agencies surveyed by CEP, 26 said that their capacity to monitor the quality and effectiveness of SES providers has been affected “to a great extent” by insufficient numbers of staff. Fourteen states said that insufficient staff has affected their monitoring moderately and 5 said it has affected their monitoring minimally.

Source: Center on Education Policy, December 2006, state survey, item 44a.

To delve deeper into this issue, we looked at states’ initial responses to the question, *To what extent is your state able to monitor the quality and effectiveness of approved SES providers?* We divided the states into two groups: 1) the 19 states that answered “not at all” or “minimally,” which we will call *states with less capacity*, and 2) the 29 states that answered “somewhat” or “to a great extent,” which we will call *states with more capacity*. We then examined how these two groups responded to the capacity challenges listed in table 1. For two of the capacity challenges—insufficient staff and inadequate state funding—we noticed a pattern between the two groups.

States with less capacity reported insufficient staff to be the greatest challenge in monitoring SES providers, while states with more capacity tended to see this as a moderate challenge. **Figure 2** shows the difference between the two groups.

As shown in **Figure 3**, states with less capacity reported more often than states with more capacity that inadequate state funding challenged their monitoring capacity “to a great extent.” States with more capacity reported “not at all” to the same question more often than those with less capacity. Both groups, however, identified inadequate *federal* funding as a significant capacity challenge.

Figure 2. Extent to Which Insufficient Numbers of Staff Pose a Challenge to Monitoring SES Providers

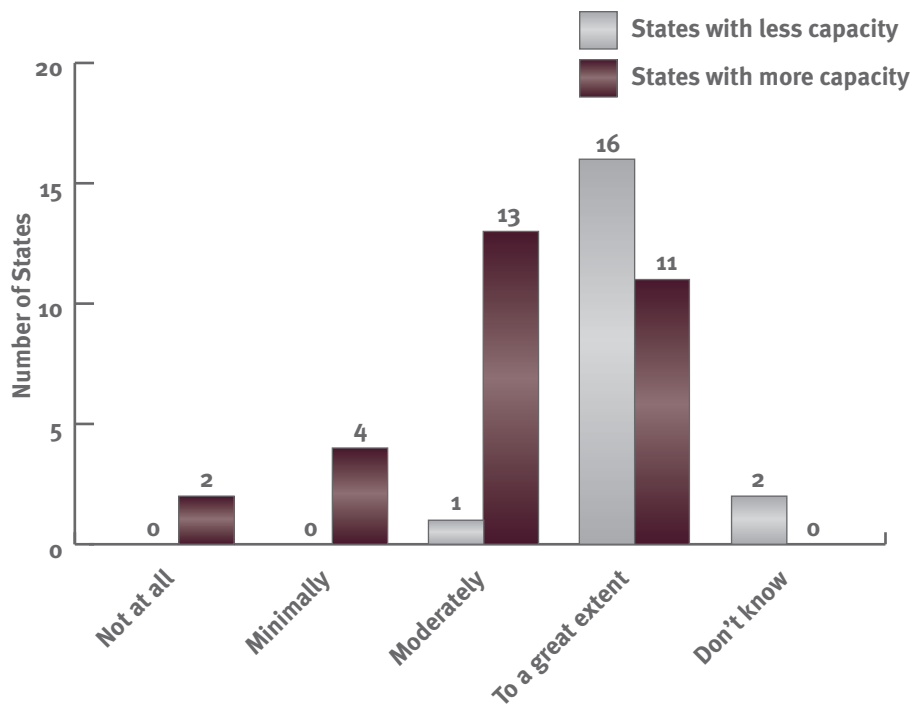


Figure reads: Among the state education agencies with less capacity to monitor SES providers, 16 reported that insufficient numbers of staff challenged their monitoring capacity “to a great extent” and only 1 said it challenged their monitoring “moderately.” Among the states with more capacity to monitor providers, 11 said that insufficient staff challenged their monitoring to a great extent and 13 said it challenged their monitoring moderately.

Source: Center on Education Policy, December 2006, state survey, item 44a.

Figure 3. Extent to Which Inadequate State Funds Pose a Challenge to Monitoring SES Providers

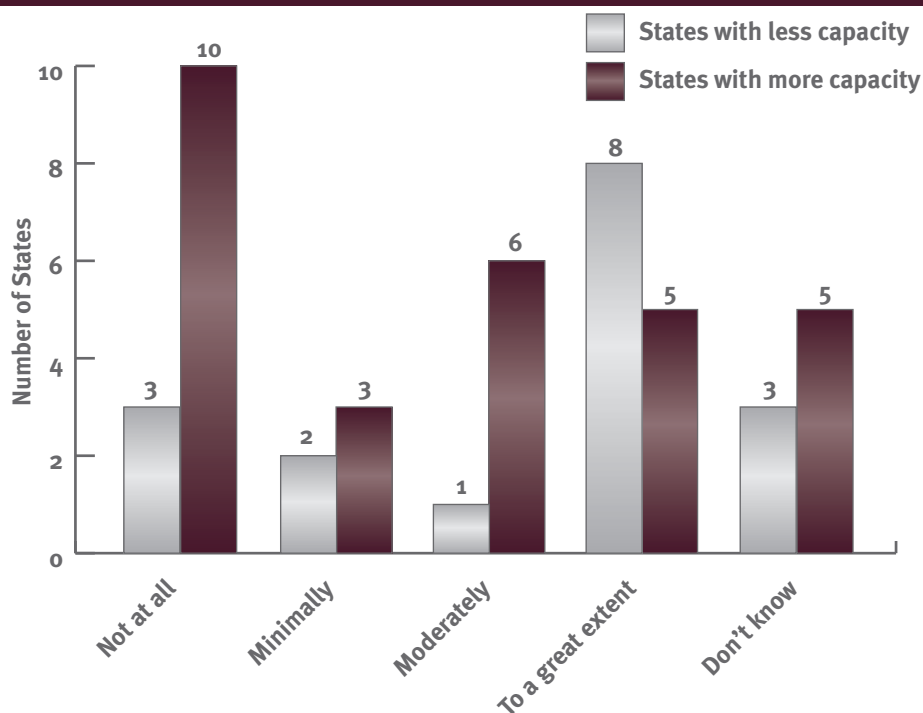


Figure reads: Among the state education agencies with less capacity to monitor SES providers, 8 reported that inadequate state funds challenged their monitoring capacity “to a great extent” and only 3 said it did not challenge their monitoring capacity at all. Among the states with more capacity to monitor providers, 5 said that insufficient staff challenged their monitoring to a great extent and 10 said it did not challenge their monitoring at all.

Source: Center on Education Policy, December 2006, state survey, item 44a.

State Criteria for Reviewing and Approving Providers

State education agencies are required by law to develop and apply objective criteria for approving potential SES providers. According to non-regulatory guidance issued by the U.S. Department of Education,² states must ensure that each approved provider meets all of the following five criteria:

1. Has a demonstrated record of effectiveness for increasing student academic achievement
2. Will use high quality, research-based strategies designed to increase student academic achievement
3. Will provide services that are consistent with school districts’ instructional programs and state content and academic achievement standards
4. Is financially sound
5. Will adhere to federal, state, and local health, safety, and civil rights laws

² These requirements are also found in the statute but are combined under one section in non-regulatory guidance published on June 13, 2005.

State education agencies must also ensure that potential SES providers are aware of the application procedures and must publish an updated list of approved SES providers. (Neither the law nor the guidance specifies how often the list must be updated.)

States must make this updated list of approved providers available to parents of eligible students who attend Title I schools that are required to offer SES because they have been identified for improvement under NCLB for two or more years. (Eligible students are those who qualify for free or reduced-price lunch.) Parents choose a provider that will serve their children from the state-approved list. Service providers vary considerably and may include public or private (non-profit or for-profit) entities such as businesses, national tutoring companies, religious or sectarian institutions, or community organizations. In 2005, more than half of the SES providers nationally were private, for-profit groups, according to data from CEP's annual state survey; school districts were the second most common type of provider.³ School districts are allowed to provide tutoring services as long as they are not identified for improvement under NCLB. The U.S. Department of Education has allowed a few exceptions to this regulation. For example, the Chicago school district was allowed to provide SES to its students even though it was identified for improvement.

Our survey asked states to indicate the criteria they use to review and approve potential SES providers. Most of the survey responses, listed in **Table 2**, address the major criteria in federal guidance as well as additional criteria states might include. As indicated in table 2, the majority of states reported that they do use the NCLB criteria to review and approve providers.

Only one state indicated that it did not consider whether a provider has a demonstrated record of effectiveness in improving student academic achievement when it reviews and approves potential SES providers. Likewise, only two states reported not considering whether the provider uses research-based strategies as a criterion, even though the NCLB statute and guidance require this. No explanations were offered by the states for these responses.

Eight states said they did not ask providers for evidence that their employees undergo background checks, although some of these states explained that the providers assure these checks are done and submit documentation to school districts. While background checks are not a specific federal requirement, they may be viewed by states as part of the health and safety requirements that SES providers must meet.

In addition to the required criteria in federal guidance, we asked states if they require potential SES providers to indicate during the approval process whether they will serve special populations of students, such as students with disabilities or English language learners. Although providers are not required to serve these groups, recent studies show that these two groups have been difficult to serve through SES.⁴ Of the 49 states that responded to this item, only 4 reported they did not use this criterion to review or approve providers. Several states offered explanations. For example, one state explained that it encourages organizations that are prepared to meet the needs of these students to become providers.

The recently released report of the Commission on No Child Left Behind, *Beyond NCLB*, included a table about the criteria states used to select SES providers in 2003-04.⁵ When we

³ For more detail on types of providers, see Center on Education Policy, *From the Capital to the Classroom: Year 4 of the No Child Left Behind Act* (Washington, DC: CEP, 2006), figure 6-A.

⁴ U.S. Government Accountability Office, *No Child Left Behind Education Act: Education Actions Needed to Improve Local Implementation and State Evaluation of Supplemental Education Services* (Washington, DC: GAO, 2006).

⁵ The report lists the source of the data as the TASSIE state survey and review of online state applications. U.S. Department of Education, Office of Planning, Evaluation and Policy Development, Policy and Program Studies Service, *Title I Accountability and School Improvement from 2001 to 2004* (Washington, DC:2006).

Table 2. Number of States Using Various Criteria to Review and Approve Potential SES Providers, 2006-07

Criteria Based on NCLB Law and/or Non-Regulatory Federal Guidance	Yes	No	Don't know
Provider has a demonstrated record of effectiveness in improving student academic achievement	48	1	
Provider will use instructional strategies that are high-quality	49		
Provider will use instructional strategies that are based on research	47	2	
Provider will use instructional strategies that are designed to increase student achievement	49		
Provider will provide instructional strategies that are consistent with the instructional program of the school district and with state academic content and achievement standards	48		
Provider is financially sound	47	1	1
Provider will provide supplemental services consistent with the applicable federal, state, and local health, safety, and civil rights laws	48		
Provider provides instruction and content that is secular, neutral, and non-ideological	49		
Additional State Criteria			
Provider will provide services to special populations of students (e.g., students with disabilities, English language learners)	45	4	
Provider has produced evidence of their employees having undergone background checks	37	8	3

Table reads: In reviewing and approving supplemental service providers, 48 of the states surveyed by CEP reported that they consider whether the entity seeking approval has a demonstrated record of effectiveness in improving student achievement (one of the criteria listed in federal guidance). Forty-nine states also reported considering whether the entity provides instruction and content that is secular, neutral, and non-ideological.

Source: Center on Education Policy, December 2006, state survey, item 39.

compared our survey data from the 2006-07 school year with the data in the Commission report from 2003-04, we noted an apparent increase over the past three years in the number of states using four of the criteria discussed above: (1) a demonstrated record of effectiveness in improving achievement; (2) secular, neutral, and non-ideological instruction and content; (3) services to special student populations; and (4) evidence of employee background checks. **Table 3** compares the numbers of states using these and other criteria as reported by CEP and the NCLB Commission.

Table 3. Number of States Using Various Approval Criteria as Reported by CEP and the NCLB Commission

Criteria Based on NCLB Law and/or Non-Regulatory Federal Guidance	CEP 2006-07	NCLB Commission 2003-04
Provider has a demonstrated record of effectiveness in improving student academic achievement	48	29
Provider will use instructional strategies that are high-quality*	49	47
Provider will use instructional strategies that are based on research*	47	47
Provider will use instructional strategies that are designed to increase student achievement*	49	47
Provider will provide instructional strategies that are consistent with the instructional program of the school district and with state academic content and achievement standards	48	48
Provider is financially sound	47	47
Provider will provide supplemental services consistent with the applicable federal, state, and local health, safety, and civil rights laws	48	46
Provider provides instruction and content that is secular, neutral, and non-ideological	49	42
Additional State Criteria		
Provider will provide services to special populations of students (e.g., students with disabilities, English language learners)	45	7
Provider has produced evidence of their employees having undergone background checks	37	33

Table reads: Forty-eight of the 50 states surveyed by CEP reported that in school year 2006-07 they considered whether an SES provider seeking state approval has a demonstrated record of effectiveness in improving student achievement, while 29 states reported considering this criteria in 2003-04 according to the NCLB Commission report.

* The NCLB Commission report combines these three criteria.

Note: The shaded rows highlight criteria with notable differences between the CEP data and Commission data.

Source: Center on Education Policy, December 2006, state survey, item 39; and Commission on No Child Left Behind, Beyond NCLB: Fulfilling the Promise to Our Nation's Children (Washington, DC: 2007).

There are many possible reasons why CEP's recent data differ from the Commission's earlier data. Over the years, the numbers of schools and students eligible for SES have increased, and one could speculate that states saw the need to become more active in overseeing SES providers. It is also possible that states have become more knowledgeable and clear about their authority and responsibilities to oversee providers—especially since the publication of federal guidance on SES in 2005—and have become more sophisticated in their capacity to evaluate providers based on certain criteria.

Frequency of Application Reviews, Reapplication, and Updates

The NCLB law requires state education agencies to consult with parents, teachers, school districts, and interested members of the public to promote maximum participation by providers and give parents as many choices as possible. Furthermore, states must maintain an updated list of approved SES providers from which parents may select. Therefore, we asked states how often they review new SES provider applications, require approved providers to reapply, and update the approved SES provider lists.

Figure 4 shows the number of states giving various responses to the question of how often they review new provider applications. Twenty-nine states said they reviewed new applications once a year, 11 said twice a year, and 6 reported reviewing applications on a rolling basis (as they are received).

State responses also varied as to how often they require SES providers to reapply once they are approved. As shown in **Figure 5**, 13 states never require providers to reapply, 12 states require reapplication annually, and 9 require reapplication every two years. It is important to note that some states may require SES providers to submit additional documentation annually even though they may not have to formally reapply.

The remaining states have other reapplication cycles. For example, one state requires conditionally approved providers to reapply every year until full approval is granted, but fully approved providers only need to reapply every four years. Further, some states rely on other factors to determine which providers need to reapply, such as how well providers are doing according to evaluations of effectiveness and whether providers comply with applicable requirements, provide continuous services, or make changes in their programs. One state has not established a reapplication schedule, and another offered no explanation for responding “other.”

It is also important to know how often states update their SES provider list because school districts and parents rely on state education agencies for the most current information about providers that are approved to serve students. In response to our survey question, 28 states reported that they update their provider list annually. In addition, 22 states update their lists more frequently. Eight update their lists twice a year, while two do it every quarter. Nine states update their list on a rolling basis (in other words, as soon as new providers are approved), and three do it as needed to keep up with changes, such as the removal of a provider or a change in a provider's contact information.⁶

⁶ These three states include one of the 28 states that updates its list annually as well.

Figure 4. How Often Are New SES Provider Applications Reviewed by States?

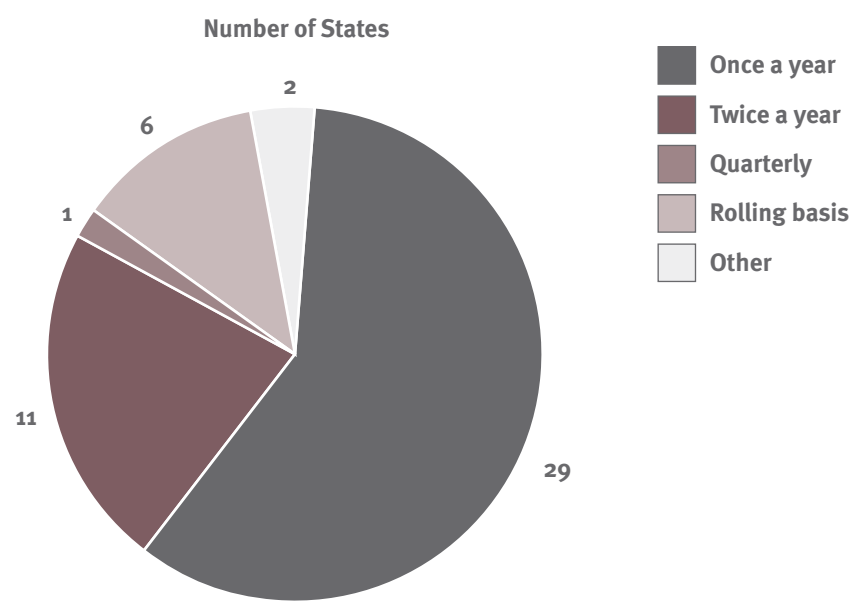


Figure reads: Twenty-nine of the 50 state education agencies surveyed by CEP reported that they review new applications from potential SES providers once a year.

Source: Center on Education Policy, December 2006, state survey, item 40.

Figure 5. How Often Do Approved SES Providers Have to Reapply?

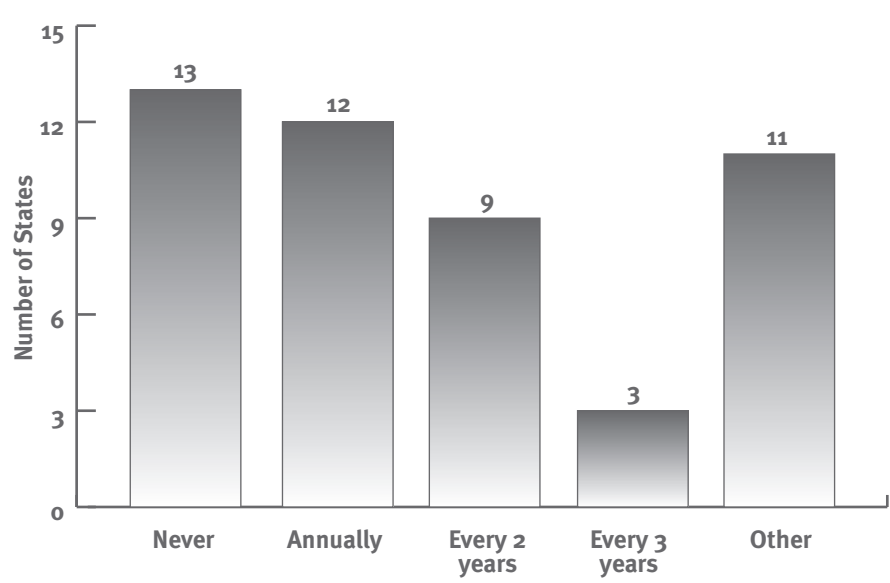


Figure reads: Thirteen of the 50 state education agencies surveyed by CEP reported that they never require SES providers to reapply for state approval.

Source: Center on Education Policy, December 2006, state survey, item 40.

Conclusion

Monitoring the quality and effectiveness of the tutoring services offered by SES providers is a capacity challenge for many states. Most state education agencies are only somewhat or minimally able to carry out this monitoring, according to our survey. The biggest challenges states face in monitoring SES providers appear to be an insufficient number of staff and inadequate federal funding.

Overall, the vast majority of state education agencies reported that they are using the criteria in the NCLB non-regulatory guidance to review and approve potential SES providers. Most states review new applications frequently, either once a year or more often, and the majority of states reported updating their approved SES provider lists once a year. However, the frequency with which SES providers had to reapply varied across states.

While this report presents information about how states are implementing SES, further research is needed in order to better understand the challenges states face. Additional information about SES program implementation and effectiveness could shed light on whether supplemental educational services are indeed contributing to higher academic achievement for disadvantaged children.

Research Methods

This report is part of a larger study examining state capacity in implementing NCLB. Our study focuses on two main research questions: In what ways are states fulfilling their responsibilities under NCLB, and to what extent do state education agencies have the capacity to implement the requirements of NCLB?

In August 2006, the Center on Education Policy staff contacted the chief state school officers in each of the 50 states and the District of Columbia requesting their participation in a survey on NCLB to be administered in fall 2006. The District of Columbia did not respond to our request to participate. We also asked each chief to designate an individual within the state education agency as the primary contact for the survey. In addition, we asked the Georgia Department of Education to pilot the survey instrument, which it did in September 2006. In October 2006, CEP staff sent the revised survey instrument, containing 64 questions, to state contacts by e-mail. States returned the surveys to CEP from October 2006 through January 2007. All 50 states returned a completed survey although some states did not complete every question or section. Thus our response rate varies by question.

Credits and Acknowledgments

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Center on Education Policy
1001 Connecticut Avenue, NW
Suite 522
Washington, D.C. 20036

tel: 202.822.8065
fax: 202.822.6008

e: cep-dc@cep-dc.org
w: www.cep-dc.org