

110TH CONGRESS
1ST SESSION

S. 1009

To amend part A of title I of the Elementary and Secondary Education Act of 1965 to improve supplemental educational services, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 28, 2007

Mr. MARTINEZ (for himself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend part A of title I of the Elementary and Secondary Education Act of 1965 to improve supplemental educational services, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Raising Achievement
5 through Improving Supplemental Education Act of 2007”
6 or the “RAISE Act”.

7 **SEC. 2. REFERENCES.**

8 Except as otherwise expressly provided, whenever in
9 this Act an amendment or repeal is expressed in terms

1 of an amendment to, or a repeal of, a section or other
 2 provision, the reference shall be considered to be made to
 3 a section or other provision of the Elementary and Sec-
 4 ondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

5 **SEC. 3. SUPPLEMENTAL EDUCATIONAL SERVICES AFTER**
 6 **THE FIRST YEAR OF IDENTIFICATION FOR**
 7 **SCHOOL IMPROVEMENT.**

8 Section 1116 (20 U.S.C. 6316) is amended—

9 (1) in subsection (b)—

10 (A) in paragraph (1), by adding at the end
 11 the following:

12 “(G) SUPPLEMENTAL EDUCATIONAL SERV-
 13 ICES.—In the case of a school identified for
 14 school improvement under this paragraph, the
 15 local educational agency shall make supple-
 16 mental educational services available consistent
 17 with subsection (e)(1).”; and

18 (B) in paragraph (5)(B), by inserting
 19 “continue to” after “shall”; and

20 (2) in subsection (e)(1), by inserting “(1),”
 21 after “in paragraph”.

22 **SEC. 4. PRIORITIZING FUNDS.**

23 Section 1116(b)(10)(C) (20 U.S.C. 6316(b)(10)(C))
 24 is amended—

1 (1) by striking “FUNDS.—If” and inserting

2 “FUNDS.—

3 “(i) PRIORITY.—Subject to clause (ii),

4 if”;

5 (2) by striking “local educational agency shall

6 give priority” and all that follows through the period

7 at the end and inserting “local educational agency

8 shall give priority—

9 “(I) first, to eligible children who

10 are low-income and low-performing, as

11 described in clauses (i) and (ii) of

12 subsection (e)(13)(A);

13 “(II) second, to low-performing

14 eligible children; and

15 “(III) third, to low-income eligi-

16 ble children.”; and

17 (3) by adding at the end the following:

18 “(ii) DOCUMENTATION.—A local edu-

19 cational agency may only prioritize in ac-

20 cordance with clause (i) after the local edu-

21 cational agency makes available to the

22 State educational agency documentation

23 providing clear and convincing evidence

24 that the funds available to provide supple-

25 mental educational services under sub-

1 section (e) are insufficient to meet the ac-
 2 tual demand by parents of eligible children
 3 for the services, as demonstrated by satis-
 4 fying the requirements of paragraph (2).”.

5 **SEC. 5. LOCAL EDUCATIONAL AGENCY RESPONSIBILITIES.**

6 Section 1116(e)(2) (20 U.S.C. 6316(e)(2)) is amend-
 7 ed—

8 (1) in subparagraph (A), by striking “at a min-
 9 imum, annual” and inserting “at a minimum, at the
 10 times specified under subparagraph (B)(i),”;

11 (2) by redesignating subparagraphs (B), (C),
 12 and (D) as subparagraphs (E), (F), and (H), re-
 13 spectively;

14 (3) by inserting after subparagraph (A) the fol-
 15 lowing:

16 “(B) establish a streamlined opportunity
 17 for eligible children to acquire supplemental
 18 educational services under this subsection,
 19 which shall include—

20 “(i) notifying eligible children served
 21 by the local educational agency and their
 22 parents of the child’s eligibility for supple-
 23 mental educational services—

24 “(I) not later than 30 days after
 25 the local educational agency obtains

1 data from the State educational agen-
2 cy indicating that the school serving
3 the child is identified for school im-
4 provement under section 1116(b)(1);

5 “(II) not later than 30 days after
6 the first day of classes at the school
7 for a school year; and

8 “(III) not later than 30 days be-
9 fore requesting the reallocation of un-
10 used funds reserved for supplemental
11 educational services under subsection
12 (b)(10)(A);

13 “(ii) holding not less than 2 opportu-
14 nities for parents of eligible children to
15 register and select a provider simulta-
16 neously through the one-step process de-
17 scribed in subparagraph (C); and

18 “(iii) using, as the application for
19 supplemental educational services under
20 this section, the State application devel-
21 oped under paragraph (4)(F);

22 “(C) create a streamlined, one-step parent
23 registration and provider selection process
24 that—

1 “(i) does not place an undue burden
2 on parents that may result in the de-
3 creased participation of eligible children in
4 supplemental educational services under
5 this subsection;

6 “(ii) provides notice to the parents of
7 the process for receiving supplemental edu-
8 cational services under this subsection;

9 “(iii) obtains the parent’s permission
10 to release assessment data regarding the
11 eligible child to the provider selected by the
12 parent;

13 “(iv) is as simple as possible and is in
14 the parent’s native language, where pos-
15 sible; and

16 “(v) provides each provider with the
17 names and contact information of the eligi-
18 ble children whose parents have selected
19 the provider for such services in a timely
20 manner;

21 “(D) make every effort, in carrying out the
22 duties of the local educational agency under
23 this paragraph—

1 “(i) to increase the participation of el-
 2 ible children in supplemental educational
 3 services under this subsection; and

4 “(ii) to fully utilize the funds available
 5 under subsection (b)(10)(A)(ii) for pro-
 6 viding such services to eligible children;”;

7 (4) in subparagraph (F) (as redesignated by
 8 paragraph (2)), by striking “; and” and inserting “,
 9 based on the priorities described in subsection
 10 (b)(10)(C)(i);”; and

11 (5) by inserting after subparagraph (F) (as re-
 12 designated by paragraph (2)) the following:

13 “(G) provide approved providers with ac-
 14 cess to school facilities on the same basis as
 15 other after-school and extra-curricular pro-
 16 grams (including programs operated or over-
 17 seen by the local educational agency) seeking
 18 access to the school facility; and”.

19 **SEC. 6. PROVIDER AND LEA AGREEMENT.**

20 Section 1116(e)(3) (20 U.S.C. 6316(e)(3)) is amend-
 21 ed—

22 (1) by redesignating subparagraphs (A) through
 23 (E) as subparagraphs (B) through (F), respectively;

24 (2) in the matter preceding subparagraph (B)
 25 (as redesignated by paragraph (1)), by striking “In

the case” and all that follows through “Such agreement shall—” and inserting “In the case of an approved provider selected by a parent, the local educational agency shall enter into a written agreement with such provider, not later than 45 days after the first day of the school year or 45 days after the selection by the parent, whichever occurs later. Such agreement shall—

“(A) require that the provider be available to begin providing supplemental educational services under this subsection not later than 20 days after both parties receive the names and contact information described in paragraph (2)(C)(v);”;

(3) in subparagraph (B) (as redesignated by paragraph (1))—

(A) by striking “local educational agency” and inserting “provider”; and

(B) by striking “the provider chosen by the parents” and inserting “the local educational agency”.

SEC. 7. STATE EDUCATIONAL AGENCY RESPONSIBILITIES.

Section 1116(e)(4) (20 U.S.C. 6316(e)(4)) is amended—

(1) in subparagraph (E)—

1 (A) by striking the period and inserting a
 2 semicolon; and

3 (B) by redesignating subparagraph (E) as
 4 subparagraph (F);

5 (2) in subparagraph (D)—

6 (A) by striking “and” after the semicolon;
 7 and

8 (B) by redesignating subparagraph (D) as
 9 subparagraph (G) and moving the subpara-
 10 graph so that the subparagraph follows sub-
 11 paragraph (F) (as redesignated by paragraph
 12 (1)(B));

13 (3) by inserting after subparagraph (C) the fol-
 14 lowing:

15 “(D) notify each local educational agency
 16 within the State that is required to provide sup-
 17 plemental educational services under this sub-
 18 section for a school year not later than the
 19 June 1st preceding the commencement of the
 20 school year, or if the June 1st deadline is not
 21 possible, with as much advance notice before
 22 the first day of the school year as possible;

23 “(E) include on the State educational
 24 agency’s Internet website a standard,
 25 downloadable application form for local edu-

1 educational agencies and parents to utilize in ap-
2 plying for and providing supplemental edu-
3 cational services under this subsection;” and
4 (4) by adding at the end the following:

5 “(H) provide a valid and reliable evalua-
6 tion of providers that—

7 “(i) is consistent with relevant, na-
8 tionally-recognized professional and tech-
9 nical standards;

10 “(ii) records the gains of individual
11 students by showing improvement attrib-
12 utable per hour of supplemental edu-
13 cational services instruction under this
14 subsection (especially for students whose
15 academic achievement level is several
16 grades below grade level);

17 “(iii) isolates the effects of supple-
18 mental educational services under this sub-
19 section from other possible variables that
20 might affect a student’s academic achieve-
21 ment;

22 “(iv) coordinates the collection of
23 qualitative data on parental satisfaction
24 with the supplemental educational services
25 of the provider under this subsection, and

1 the reasons for such level of satisfaction;
2 and

3 “(v) may exclude from the evaluation
4 those students who attend less than 80
5 percent of the total hours of supplemental
6 educational services scheduled for the stu-
7 dent;

8 “(I) establish safeguards against potential
9 conflicts of interest when a local educational
10 agency applies to be, or becomes, a provider of
11 supplemental educational services under this
12 subsection, and provide monitoring and evalua-
13 tion of the local educational agency’s perform-
14 ance as a provider; and

15 “(J) prohibit local educational agencies
16 from reprogramming any portion of the supple-
17 mental educational services funds described in
18 subsection (b)(10)(A)(ii) for a fiscal year for
19 other purposes, unless the local educational
20 agency provides to the State educational agency
21 clear and convincing evidence, as determined by
22 the State educational agency, that—

23 “(i) the parents of all eligible children
24 in schools served by the local educational
25 agency have been notified in good faith of

the availability of supplemental educational services under this subsection;

“(ii) the local educational agency is meeting all actual demand from parents for supplemental educational services under this subsection, as determined by whether the local educational agency has opened enrollment for supplemental educational services under this section, on a monthly basis, after the initial enrollment, to parents of all eligible children without restriction until all funds available to provide supplemental educational services under subsection (b)(10)(A)(ii) are expended; and

“(iii) the local educational agency is able to meet any likely future demand for supplemental educational services for the school year for which the determination is made.”.

SEC. 8. CRITERIA FOR PROVIDERS.

Section 1116(e)(5) (20 U.S.C. 6316(e)(5)) is amended—

- (1) by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively; and

1 (2) by inserting after subparagraph (B) the fol-
 2 lowing:

3 “(C) Offer no incentives for the purpose of
 4 enticing eligible children or their parents to se-
 5 lect the provider for supplemental educational
 6 services under this subsection.

7 “(D) Offer an incentive to an eligible child
 8 only if—

9 “(i) the purpose of the incentive is to
 10 encourage the eligible child’s performance
 11 or attendance; and

12 “(ii) the value of the incentive is not
 13 more than 5 percent of the per-pupil
 14 amount for supplemental educational serv-
 15 ices described in paragraph (6)(A), as cal-
 16 culated for the local educational agency
 17 serving the student.”.

18 **SEC. 9. SPECIAL RULE FOR INEFFECTIVE LEA’S.**

19 Section 1116(e)(11) (20 U.S.C. 6316(e)(11)) is
 20 amended—

21 (1) by striking “RULE.—If” and inserting
 22 “RULES.—

23 “(A) STATE EDUCATIONAL AGENCY
 24 ROLE.—If”; and

25 (2) by adding at the end the following:

“(B) LOCAL EDUCATIONAL AGENCY

ROLE.—

“(i) IN GENERAL.—If a State educational agency determines that the local educational agency is not able, or is too unreliable, to carry out the local educational agency’s responsibilities under paragraph (2), or if there is a conflict of interest due to the local educational agency becoming a provider, the State educational agency may, from amounts described in clause (ii), enter into a contract or cooperative agreement with a nonprofit organization to enable the nonprofit organization to carry out such responsibilities with respect to the eligible children served by the local educational agency.

“(ii) REALLOCATION OF FUNDS.—

“(I) IN GENERAL.—In order to carry out clause (i) with respect to a local educational agency, the State educational agency shall reserve and utilize, from the funds allocated to the local educational agency under sub-

1 part 2, an amount equal to fifteen
2 percent of such funds.

3 “(II) ADMINISTRATIVE COSTS.—
4 A total of not more than 5 percent of
5 the reserved amount described in sub-
6 clause (I) may be used for the admin-
7 istrative costs of the State educational
8 agency and the nonprofit organiza-
9 tion.

10 “(III) INTERACTION WITH RE-
11 SERVED FUNDS.—In calculating the
12 amount spent by a local educational
13 agency for the purposes of subsection
14 (b)(10), the amounts spent on behalf
15 of a local educational agency under
16 this subparagraph shall be included.”.

17 **SEC. 10. DEFINITION OF ELIGIBLE CHILD.**

18 Section 1116(e)(12)(A) (20 U.S.C. 6316(e)(12)(A))
19 is amended to read as follows:

20 “(A) the term ‘eligible child’ means a
21 child—

22 “(i) from a low-income family, as de-
23 termined by the local educational agency
24 for purposes of allocating funds to schools
25 under section 1113(c)(1); or

1 “(ii) who is low-performing, as dem-
 2 onstrated by a score of below proficient in
 3 a required subject on the State student
 4 academic assessment, as described in sec-
 5 tion 1111(b)(3)(A), for the previous school
 6 year.”.

7 **SEC. 11. COORDINATION OF SUPPLEMENTAL EDU-**
 8 **CATIONAL SERVICES WITH AFTER-SCHOOL**
 9 **CARE.**

10 Section 1116(e) of the Elementary and Secondary
 11 Education Act of 1965 (20 U.S.C. 6316(e)) is further
 12 amended—

13 (1) by redesignating paragraph (12) (as amend-
 14 ed by section 10) as paragraph (13); and

15 (2) by inserting after paragraph (11) the fol-
 16 lowing:

17 “(12) COORDINATION WITH AFTER-SCHOOL
 18 PROGRAMS.—The Secretary shall develop, and pro-
 19 vide guidance on the implementation of, a model
 20 program for coordinating the provision of supple-
 21 mental educational services under this subsection
 22 with the 21st century learning centers assisted
 23 under part B of title IV.”.

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