

The Abell Report

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Sending Out An S.O.S. For SES (Supplemental Educational Services)

No Child Left Behind's "free" tutoring program for poor children costs the public millions, but is it working in Baltimore City and Maryland schools?

By Joan Jacobson

Each year, under the federal program called Supplemental Educational Services (SES), the Baltimore City Public School System (City Schools) pays educational vendors millions of public dollars to tutor thousands of its poorest students in its lowest achieving schools. Established in 2002 by the federal No Child Left Behind Act, SES was created to improve academic achievement for students whose math and reading scores are among the lowest in the nation's public schools. Like other large urban districts, Baltimore City Public Schools is a prime beneficiary of this federal program.

However, despite this large expense in public funds, the Maryland State Department of Education (MSDE), like other state education agencies across the country, has no credible evidence that SES is making a difference. As required by federal law, City Schools has spent \$55 million on the program over the last nine years.¹ In the 2010-11 school year alone, City Schools was required to allocate \$12 million for SES tutoring to serve 5,769 students in 41 schools.

This study finds that although the federal law expects the SES program to improve academic performance, it neither sets standards for evaluating students' progress nor does it require state

education agencies or local school systems to provide evidence of improvement to the U.S. Department of Education or to the public.²

In Maryland, state education officials have declined to annually analyze standardized test scores of SES students in order to evaluate the program's effectiveness, arguing that the tutoring is too varied – both in number of hours and type of instruction – and the sample size of tutored students is too small to adequately measure progress.³

Instead, Maryland instructs SES tutoring providers – for-profit and non-profit vendors who rely on public funding – to perform their own evaluations of student progress. This autonomy 'to self-evaluate' is one of the most disconcerting facets of SES.

During the same decade when public schools across the country, including those in Baltimore and Washington D.C., have been investigated for falsifying standardized test results, MSDE allows SES providers in Baltimore (and throughout Maryland) to not only test students with assessments of their choosing, but to also administer them without public educators present, and then report the results on an honor system that does not require school officials to see the original tests.⁴ Although this "self-evaluation" system is allowed by federal law, it is not mandated and is hardly an ideal, objective assessment of a multimillion dollar program.

"We have to assume people tell the truth," says one state official.⁵

There was no evidence during the course of this study that SES providers falsified their test results. However, a financial motivation to do so is nevertheless present. According to federal law, SES providers that do not show academic progress for two years on their "self-evaluations" are disqualified from the program, thus threatening a potentially lucrative business for some.

Officials at MSDE say Maryland's private SES providers always 'self-report' test results that, not surprisingly, show academic improvement. These 'self-reported' results, however, are refuted by University of Memphis researchers who studied Maryland SES student test scores from 2005 to 2007, and found that any improvement "rarely reached statistical significance." In trying to analyze Maryland's standardized tests, known as the Maryland State Assessments (MSA), the researchers were also skeptical of detecting improvement based on only 20-30 hours of SES tutoring.⁶ As a point of reference, Baltimore SES students received an average of 36 hours of tutoring during the 2008-09 school year.

MSDE has never "fired" an SES vendor for failing to show academic progress (though they have been disqualified for other reasons, such as failing to obtain liability insurance). To do

continued on page 2

so, say Maryland's SES administrators in the Division of Student, Family and School Support, would infringe on the vendor's right to conduct business.⁷

This study also found that while city and state school officials are attempting to monitor SES, the federal law is designed to give autonomy to tutoring providers, giving them almost free rein to set hourly fees, administer academic tests without school supervision, and hire tutors without specified academic qualifications. The federal law even warns state education agencies that their focus "should not be on micro-managing the SES marketplace."⁸

In addition, despite the fact that SES is a program based on parental choice (parents choose which provider will tutor their child), neither the state nor City Schools is proactively helping families make informed decisions about tutoring. Maryland does not provide all the pertinent public information – such as a "report card" that reviews the performance of each SES provider – that is needed for parents to decide which provider could best tutor their children. State officials say they are not allowed to limit the number of tutoring providers vying for SES funds, quoting the federal law requirement to promote "maximum participation by providers to assure...that parents have as many choices as possible." As a result, Baltimore City's program has become unwieldy, mushrooming from two to 29 providers in nine years, with some of the largest tutoring companies potentially grossing more than \$1 million a year, if all of the sessions are completed. Each fall, recruiters aggressively compete "like used car salesmen" (as described by one

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former school employee), to sign up parents whose children are eligible. The city program is so popular and cumbersome that the tutoring doesn't begin until late December or early January, after school officials sift through nearly 8,000 applications.⁹

The large number of tutoring companies makes it all the more difficult for the city and state to scrutinize the program because federal SES funding cannot be allocated for program monitoring. Officials at both MSDE and City Schools use other public funds to pay for teams of educators to observe tutoring sessions of each provider and check student work plans, a requirement of the program. These monitoring visits, however, can result in minimal oversight on that day. For example, one company that registered 1,285 students for the 2009-10 school year, was evaluated during its annual site visit while only three students were being tutored.¹⁰ State reports for each provider are supplemented by more frequent monitoring conducted by school districts. Nevertheless, the law does not require daily

supervision by school officials, even though most of the tutoring sessions take place in public schools.

Further, from a standpoint of financial accountability, the program lacks adequate safeguards to assure that providers are accurately paid for hours tutored, and the law does not directly address consequences for providers who overbill the system. Invoices are accompanied by attendance sheets, signed only by children, if tutored at school (or by parents of students, if tutored at home). Although there is no evidence of overpayment, these are documents that even providers admit can easily be forged.

The policing of attendance for thousands of students is a difficult and expensive task: City Schools spent an extra \$166,836 in the 2010-11 school year to send attendance monitors to 41 schools with SES programs. While school officials say the monitors take head counts and check sign-in sheets, this study found that in past years attendance monitors were often not present during tutoring sessions to scrutinize the accuracy of time sheets. In addition, City Schools has no system for validating attendance sheets of more than 1,000 students tutored online or at home during the 2010-11 school year; in fact, the city has no full accounting of the exact number of students tutored outside school. This lack of financial accountability is a serious concern, especially in light of the recent criminal conviction and 18-month jail sentence of the owner of a tutoring company who stole more than \$150,000 from a different federally funded Baltimore tutoring program for special education students, which used a similar time-sheet system for verifying payments to vendors.

Both city and state school officials have expressed concern about the educational quality of the federal SES program, but say they are prevented by the federal law from increasing control or making major changes. The law, however, allows an entire school system in good standing to apply to the state to become a provider, enabling it to compete with external providers to tutor its own students. Baltimore school officials are considering doing just that, as a way to have more control over the academic quality of the program.¹¹

Despite the shortcomings found in this study, Maryland is considered ahead of other states that lack even rudimentary monitoring systems for SES. One national report praised the state for its “exemplary” program based on its system of screening providers before they are hired, monitoring them once tutoring begins, and for its online data collection system.¹²

City Schools has also been successful in enrolling eligible students and spending its annual allocation of SES funds, far outperforming school systems across the country that have had a poor showing of students signing up. Because there is not enough money to cover all eligible students in Baltimore (only 8,228 of 18,871 students eligible were served in 2009-10), there is a fluctuating waiting list of elementary and middle school students. Baltimore high schools do not receive Title I SES funds and therefore students in grades 9-12 are not eligible for SES services.¹³

While the federal law has mandated a flawed program in SES, the Maryland State Department of Education and the Baltimore City Public School System still have opportunities to increase the effectiveness of millions of public dollars with better academic evaluation, financial oversight, and communication with parents.

State Department of Education Responsibilities:

- Recruit, approve, and when necessary, remove providers
- Establish ethical and business standards for providers
- Review providers’ educational curriculum
- Monitor quality and effectiveness of services by provider to determine renewal or removal. Services provided:
 - are aligned with district/state standards
 - address students’ individual needs
 - increase academic proficiency
- Review parent feedback and other evaluation results
- Monitor school district implementation of SES
- Ensure participation of special education students
- Require that providers give SES parents individual academic progress reports

Local School District Responsibilities:

- Determine eligible students
- Make arrangements for eligible students to receive services:
 - Set up opportunities for providers to recruit students
- Make sure parents have access to descriptions of SES providers and obtain SES applications
- Process applications and assign students to providers
- Contract with each provider chosen by parents: Create work plans with parents and providers to set achievement goals for students, monitor progress, and set timetable
- Provide space in school for after school SES tutoring
- Pay providers for hours tutored

Summary of the U.S. Department of Education’s Title I, Part A Regulations C.F.R. 34 Section 200

Problems With the Federal Law

The Supplemental Educational Services, or SES, tutoring program is part of the No Child Left Behind (NCLB) Act of 2001, which was a reauthorization of Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA).¹⁴

Lesser known publicly than other programs of NCLB, SES is an after-school tutoring program for low income children attending Title I schools (designated based on high percentages of children receiving free and reduced-price meals) that have not made adequate yearly progress (AYP) on state tests for three consecutive years.¹⁵ In order to be eligible for SES, students in these designated schools

must also qualify for free lunch as determined by the Free and Reduced Priced Meal (FARM) application for the current year.

The goal, according to the federal law, is for SES to provide “high quality, research-based” instruction that will increase student academic achievement.¹⁶

A unique element of the program is that NCLB gives control to parents to choose the companies (called providers) that will tutor their children.

Funding for SES is determined based on a federally mandated formula equal to 20 percent of Title I funds granted to school districts by the U.S. Department of Education. (The amount includes money used to transport students who select the “School

Choice Transfer” option to move from their underperforming school to a more effective school within the district.)¹⁷

No Child Left Behind outlines how the SES program is to be administered and monitored, and divides responsibilities between state education agencies and local school districts.

Perhaps the deepest flaw in the federal law is that SES does not require a sufficient amount of tutoring to produce significant improvement. The law offers no guidance for the number of tutoring hours, tutor-student ratios, and the types of instructional programs that could be expected to produce an acceptable amount of progress. And, while the law outlines an oversight role by the state (and in some cases the local school district), in practice, the program gives wide latitude to providers. Given a per child SES allotment from the participating school district, these providers can set the number of hours they will tutor, establish their own hourly rates, and choose when and where to conduct tutoring sessions that do not require supervision by school personnel.

The law also addresses options for evaluating academic achievement - although some are too weak to make a reliable accounting of student performance - and describes the rights of parents seeking tutoring services for eligible children.

While the law requires a state to monitor for improved achievement, it does not mandate how students should be tested, or require that overall SES results be shared with the U.S. Department of Education, parents, or even local school officials.

Instead, the law relies on the state education agency to evaluate achievement by choosing from mandated state assessment tests, local school district tests, unspecified tests administered by providers, “or other measures to assess the academic achievement gains of stu-

dents receiving SES.” A state may choose to mandate a particular assessment and may also elect to share performance results of its providers with the federal government and the public.

The law requires no professional guidelines for tutors (and in fact bans any requirement that a tutor be a ‘highly qualified’ teacher) and does not allow the local school district to approve tutors before they are hired.

One particularly glaring omission in the law, however, is its failure to provide extra funds to monitor either the academic component of the program, or the financial portion, to assure that children learn and hours billed by providers are in fact accurate.

Gauging Academic Achievement

The key goal of SES is to improve academic achievement, but measuring success is the program’s biggest challenge. Without federal evaluation funds to study academic performance, state education agencies often leave the job to private providers to ‘self-evaluate’ versus mandating specific testing. Though legally permissible, it’s hardly an objective process.

Independent of school systems and state education agencies, academic researchers have completed numerous studies on the SES program, facing the daunting task of evaluating students who receive a varied number of tutor-

ing hours (SES students typically receive 30-40 hours of tutoring per year), and are instructed by diverse teaching methods not easily comparable. Researchers have also grappled with incomplete records of tutoring vendors that do not provide accurate accounting of the exact hours attended by each student.

A 2008 study of Tennessee’s SES program by Ross et al. at the Center for Research on Educational Policy (CREP) at the University of Memphis¹⁸ sums up the dilemma:

“Determining the impact of 30-40 (hours) of tutoring on a child’s academic performance is highly challenging. Add to the mix a lack of funding for evaluation, personnel, and expertise and it is little wonder that most states have been slow to monitor and evaluate provider effectiveness in accord with NCLB (2001) requirements.”

Ross, et al. also note that “it remains an open and critically important question, both scientifically and educationally, as to whether SES programs, in individual states and nationally, are positively impacting student achievement.”

Two researchers who have studied SES extensively, Carolyn J. Heinrich, of the University of Wisconsin, Madison, and Patricia Burch, of University of Southern California (USC), recently released a paper analyzing their own research, as well as SES studies by other academics.¹⁹

They found Chicago Public Schools saw gains for SES students receiving at least 40 hours of tutoring in grades 4 through 8 (between 2003 and 2008), while Los Angeles students had low SES participation and little academic improvement. Studies in Minneapolis (2007) and Milwaukee (2010) found low attendance with no improved academic achievement.

Heinrich and Burch note the frustration in local school districts where administrators cannot control the quality of tutoring or evaluate its effectiveness.

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A Snapshot of SES in Baltimore City

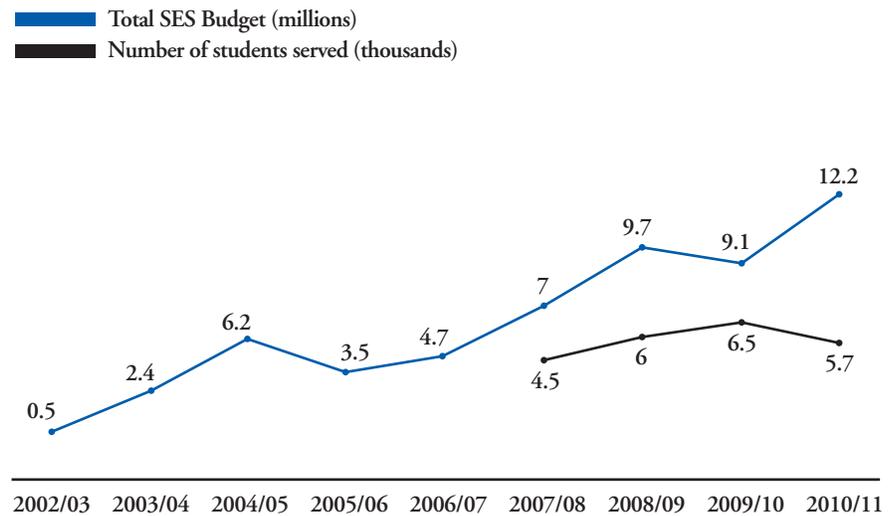
With the largest number of failing schools, City Schools reaps the bulk of Maryland's Title I SES funds, with 90 percent of state funds allocated to city students in 2009-10.²¹ The city's annual SES allotment has increased significantly over the years, from \$500,000 in 2002-03 to \$12 million in 2010-11.²²

While the number of students served in the past four years has also grown overall, the 2010-11 school year indicates a rapidly escalating budget serving fewer students.

The number of City Schools participating in SES has fluctuated only slightly in the past four years.²³ Yet while nearly 19,000 students were eligible for SES last year, only 30 percent of those eligible for SES actually received services.

With thousands more students eligible for SES than funds available, Baltimore has had no trouble spending most of its SES funds each year.

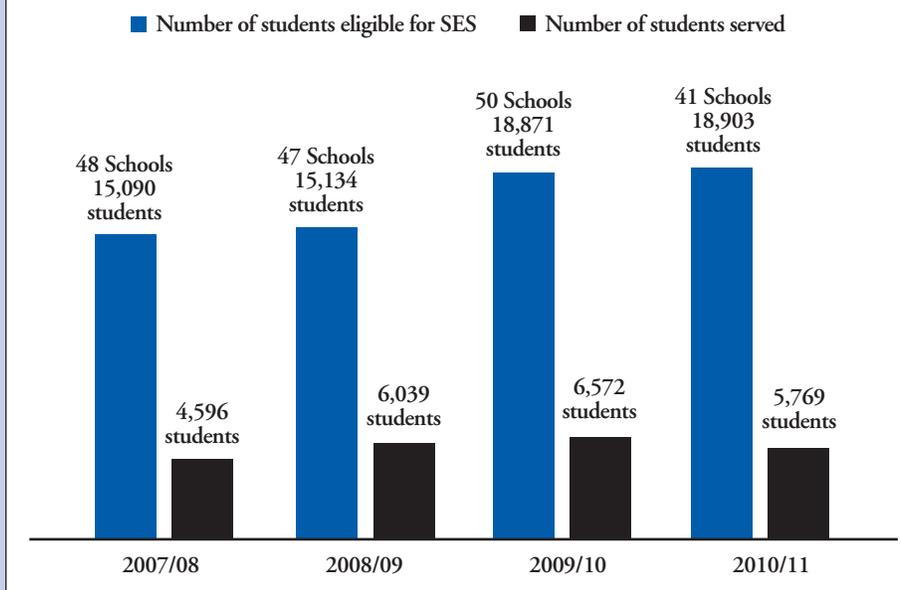
Baltimore City Public Schools SES by Total Budget Allocated 2002/03 – 2010/11



When a parent chooses an SES provider, each child is assigned to a set number of tutoring hours, depending on the hourly rate charged by the provider and the annual allotment available for each student, called the “per pupil allocation.” Baltimore City’s allocation for each tutored student has increased over recent years, and stood at \$2,554 per child in 2010-11, a 30 percent increase in cost over four years.

The average number of hours offered to each student was 51 in 2008-09, but the average number of hours completed was only 36.²⁴ Because students often do not attend all of their assigned sessions, money is reassigned to tutor other eligible children. As a result, Baltimore City over-enrolls in order to serve more students. Still, the average billing per student was less than the per pupil allotment.²⁵

Baltimore City Public Schools SES Schools/Students eligible and served 2007/08 – 2010/11



“Because the law intentionally offers SES providers wide-ranging flexibility in the design of their programs, assessing program fidelity is a somewhat elusive task,” they write.

They called the self-reported information that states require of providers “relatively feeble data gathering efforts.”

The pair of researchers found that state educational agencies have been lax in evaluating providers, setting minimum standards for tutoring quality, and failing to request information needed to monitor quality. They also found that state agencies failed to follow up on local school district complaints about provider incompetence or misconduct.

“The best available evidence to date suggests that SES has been minimally effective, producing only small effects for a relatively small fraction of students, primarily elementary-aged, who get a sufficient number of hours of tutoring. If SES is to continue and to do a better job of increasing student achievement in reading and math, participating students not only need to get more hours of instructional time, but they also need to receive higher quality and appropriately differentiated instruction,” Heinrich and Burch write.

In her book, *Hidden Markets: The New Education Privatization*, Burch, an associate professor of education at USC, spent two years studying a large school district and raised serious concerns about how privatization stymies public educators from monitoring academic progress.²⁰

“SES policy places new limits on government authority to monitor the activity of private firms and to ensure highly vulnerable populations’ basic rights,” she writes.

Burch also concludes, “The theory of government contracting is that competition and choice bring innovation and change. Based on my analysis, however, the changes that may matter

most for students have not occurred, at least not yet.”

Maryland’s SES Evaluation Program

Officials at MSDE have declined to analyze the performance of SES students on an annual basis using the Maryland State Assessment (MSA) scores or those from another assessment, even though they cited an “ongoing concern of the effectiveness of the program” says assistant state superintendent Dr. Ann E. Chafin.²⁶ According to Chafin, sample sizes from different providers are not big enough to use in a bona fide research study. She says, “I do not believe we have a structure in place with enough kids getting identical services” to evaluate SES. In addition, if MSA scores improve, it is hard to determine if SES is the reason. “I don’t know if it’s SES or the weekend program at the Y or a wonderful teacher in the classroom,” adds Chafin.

This view is shared by Dr. Steven M. Ross, a Johns Hopkins University professor at the Center for Research and Reform in Education. Previously, Ross

was executive director of the Center for Research on Educational Policy (CREP) at the University of Memphis, where many credible SES studies have been conducted, including the 2007 and 2009 studies commissioned by MSDE that found little statistical improvement in Maryland’s program (see below).

Ross agrees that it is difficult to compare one provider’s tutoring program to another. He also notes that it is difficult to look at the effects of a limited number of SES tutoring hours for students who are already lagging behind by several grades, to compare their below-grade level tutoring with a “high stakes test” such as the MSA, which is at grade level.

For that reason he questions the fairness in using standardized tests to judge providers’ effectiveness.

“Pick your poison. On one hand we can get rid of every provider, or we can let providers report (their own) results and maybe get rid of the bad ones for another reason,” says Dr. Ross.

Despite the difficulties evaluating SES progress, CREP did study Maryland’s SES students during the years between 2005-06 and 2006-07.²⁷ In the 2005-06 Maryland study, researchers looked at small samples of the 10,985 students receiving SES tutoring from 29 providers in six school systems. Sixty-eight percent of the students were from Baltimore City. Researchers studied MSA scores before and after the tutoring season, and then compared them with scores for non-SES students.

The study found that most SES providers had a “positive or neutral effect on students served but that this effect rarely reached statistical significance. A more pervasive and substantive issue is the degree to which state assessments have adequate sensitivity to detect the contribution of only 20-30 hours of tutoring during an entire year.”

Student samples for the study were restricted for several reasons, including incomplete records and a limit to study only grades with available MSA test

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scores. The authors reported that they could only focus on students in grades 4-8 who took the MSA tests the prior year (2004-2005 in grades 3-7) as a “baseline for determining growth in 2005-06.”

The studies were disaggregated by provider, so the analysis could compare only progress among students tutored by the same private company. Though the reports concluded that there was little or no statically significant improvement in MSA scores attributed to SES tutoring, a handful of providers did show a slight improvement in scores.

These studies, along with the names of successful providers, were prepared for MSDE and shared with school districts, but they were not made publicly available to help SES parents make choices. Further, none of the data showing which providers fell short of improving academic achievement were used in deciding whether to remove a provider from the state-approved list.

Baltimore’s Internal SES Review

During the program’s early years, local school systems and state agencies scrambled to follow the complex federal rules, vet providers, and inform parents and school staffs about the program.

In Baltimore, City Schools struggled to track the program as well. In early 2004, for example, the school system’s then chief executive officer wrote to The Abell Foundation stating that City Schools’ Division of Research, Evaluation, Assessment and Accountability was about to release a report that would help parents “make more informed choices” about SES.²⁸ That report apparently was never released, and today city school officials have no records that it ever existed.²⁹

But a few years later, in 2006, the City Schools Title I office that coordi-

nates the SES program began conducting its own internal analysis of academic progress for SES students, even though the law did not require such analysis from a local school district.³⁰

The two most recent studies available, completed in school years 2007-08 and 2008-09, compare test score data of SES students with the same data for students who qualified for SES tutoring, but did not participate in the program.³¹

Unlike the CREP studies for Maryland (and numerous studies in other states), the City Schools studies for 2007-08 and 2008-09 showed that SES students generally outperformed eligible students who did not receive services. The one exception was a lower performance by SES students in grades 5-7.³²

Findings:

- **More SES participants scored in the 75th National Percentile (NP) or higher for reading and math for the two school years combined, compared to nonparticipants.** Similarly, more SES participants scored at or above the 23rd National Percentile for reading and math compared to nonparticipants (see table below).
- **Fewer SES participants scored basic in reading and math on the Maryland State Assessments.** In addition, the percentage of students scoring proficient or advanced in reading and math was higher for students participating in SES (see table below).
- **However, fewer SES-participating students in grades 5-7 scored proficient or advanced in MSA reading than nonparticipants.**

Stanford 10 Results for Grades 1 and 2 Combined: SY2008 and SY2009 Based on National Percentile (NP)

	Stanford % 23NP or higher		Stanford % 75NP or higher	
	Reading	Math	Reading	Math
SES Participants	68.20%	78.80%	18.10%	32.00%
Non-participants	66.00%	74.50%	16.70%	27.60%
Difference (SES minus non)	2.20%	4.30%	1.40%	4.40%

MSA Grades 3-8 Combined

	% Scoring Basic		% Scoring Proficient or Advanced	
	Reading	Math	Reading	Math
SY2009: SES Participants	34.1	39.7	65.9	60.3
SY2009: Non-participants	37.9	50.5	62.1	49.5
Percentage Point Difference SY2008 & SY2009:	-3.8	-10.8	3.8	10.8
SES Participants SY2008 & SY2009:	33.9	35.9	66.1	64.1
Non-participants	41.3	53.7	58.7	46.3
Percentage Point Difference	-7.4	-17.8	7.4	17.8

Because these studies do not account for prior achievement of students or selection bias (the potential for the more motivated families to sign up for SES in the first place), it is difficult to draw conclusions. More importantly, these studies were never shared outside the city school administration, either with individual school principals, parents, or MSDE.

Privatizing Within A Public System

In practice, NCLB gives wide latitude to SES providers. In addition to setting their own hourly rates (the state may only crack down on “exorbitant or unrealistically low rates”), providers can often choose when and where to conduct tutoring sessions with no required school staff supervision.

Also, while the NCLB Act requires public school teachers to be certified and highly qualified, the federal government takes the opposite view when it comes to SES tutors: The law actually bans establishing professional standards for tutors, and it does not allow state agencies or local school districts to approve tutors before they are hired by private providers.

A state education agency, states the law, “may not, as a condition of approval, require a provider to hire only staff who meet the ‘highly qualified teacher’ requirements...” of the No Child Left Behind Act.³³

The law also establishes other protections for SES providers to operate as independent businesses with minimum government oversight. For example, the law allows state agencies to “establish certain program design criteria” such as setting a “range” of tutor-student ratios, but it prohibits setting an “absolute” ratio, “so as not to unduly restrict providers’ service delivery options.”

And while the law gives a state

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agency some oversight of program design, it actually restricts local school districts from meddling in a provider’s curriculum. In fact, local school districts “may not impose requirements on providers’ program design.”³⁴

This legal restriction is particularly distressing because academic researchers have found that the SES program is disconnected from classroom instruction. One study of SES in Kentucky public schools found that “the relatively little contact and communication between providers and teachers raises some concern and would seemingly help to explain, in part, the absence of SES effects on achievement.”³⁵

It is also noteworthy that the law allows – but does not require – states to clamp down on questionable ethical practices by providers, such as offering money or gifts to encourage enrollment in their program. (Maryland chose to ban this practice and expects each district’s Title I office to enforce it.) The law goes even further to protect SES vendors by suggesting that a state education agency “consult with providers on this issue” to make sure any statewide policy “does not bar standard marketing practices.” The law, however, does prohibit an SES provider from bribing school officials.

Selection of SES Providers

Providers allowed in the SES program run a wide gamut, according to the law. They can be for-profit, non-profit, or faith-based organizations, a college or business, an individual, or even an entire school system or single public school in good standing. In Maryland, the majority of SES providers are for-profit organizations.

MSDE’s selection process for SES providers includes an annual six-hour seminar for prospective tutoring companies to discuss technical and financial criteria as well as two six-hour workshops to coordinate curricula with Maryland standards. Three-person teams (with one or two members representing local school districts) review proposals and scrutinize each applicant’s curriculum, and financial and operational capacity to run the program. By law, individual school systems, such as Baltimore City Schools, are not permitted to hire providers directly.³⁶

Although the state cannot dictate academic qualifications of tutors, MSDE does ask prospective providers applying to the SES program to describe the “minimum education level” and the kinds of instructional experiences that their (often yet to be hired) tutors may have, as well as how tutors will be trained.³⁷

Providers establish the student/tutor ratio and set their own hourly rates,³⁸ although these must ultimately be approved by MSDE. An exhaustive search of individual provider applications posted on MSDE’s website shows a wide range of rates proposed from \$33/hour for a 60-hour program to \$60/hour for a 30-hour program.³⁹ Nevertheless, because each Baltimore student comes with a set price tag of \$2,554 (in 2010-11), the higher the hourly rate charged, the fewer hours of tutoring a student receives. While the federal law claims that this level of autonomy gives parents more choices, it actually can leave parents at a disadvan-

tage; when shopping for an SES tutoring program, families are not told that some providers will offer their children fewer hours than others because of the higher fees charged.⁴⁰ The City Schools handbook of providers given to eligible parents does not show the hourly rate charged or the number of hours of tutoring provided.

Once vetted and approved by MSDE, providers are given unusual independence from public school oversight. They can choose the times they work and hire tutors without specified qualifications. Maryland requires providers to ‘self-report’ (using a state database) the results of academic achievement tests, parents’ customer satisfaction surveys, the number of tutoring hours received by each student, and whether students met their academic goals. Providers submit some of these data to the local school district, but state officials do not verify the accuracy of the information by reviewing original tests, surveys, or attendance records.

Despite questions regarding marketing and oversight of vendors, Maryland is way ahead of other states when it comes to imposing ethical standards on providers. Elsewhere, SES vendors are not prohibited from using financial incentives to get parents to sign up, or limited in rewarding a child’s good attendance record.

“We had people who were giving kids iPods for signing up or giving them \$100 if they completed their 26 hours,” says the SES director in one unnamed school district in another state that was studied in Burch’s book, *Hidden Markets: The New Education Privatization*.⁴¹

Recruiting SES Students in Baltimore City

Each school year begins with a flurry of recruiting activity as approved SES providers flood Baltimore City school fairs to compete for eligible students.

The increase over the years in the number of providers (from two to 29 vendors) has made for such intense competition that one veteran provider recalled a Baltimore principal threatening to call police on one unusually aggressive recruiter.

Another former employee of a city school where a large number of students receive SES tutoring, remembers recruiters unduly pressuring parents as they entered the school to sign up their children, then going to students’ homes, telling parents if they didn’t sign up with their company, they would be denied services.

“They came off as used car salesmen,” he says. “It was obvious their goal was to make money.”

In theory, the large number of providers should give parents more choices in selecting a tutoring program, but in reality the pressure tactics and bureaucratic complications created by so many SES tutoring agencies hamper the program and delay the start of tutoring sessions in Baltimore by several months each year. Often, eligible children do not begin actual tutoring sessions until January – halfway through the school year.

These questionable and confusing marketing practices have resulted in parents signing up their children with multiple providers. The city has even received batches of dubious SES applications with signatures of several parents in the same handwriting, all mailed from the same address, implying that several vendors are either signing up the same parents or that the dubious applications may be fraudulent. Already overburdened by nearly 8,000 applications each year, school officials are left to sort out and disqualify the duplicates and those appearing to be fraudulent.⁴²

An uneven playing field has also resulted in very small nonprofit tutors competing with large, national for-profit companies that have recruited the lion’s share of students.

During the last school year of 2010-11, for example, several Baltimore City providers signed up fewer than 20 students each, while the largest provider, the for-profit HigherSchool Tutoring company, signed up 1,249 students.⁴³ With the per student allocation of SES funds at \$2,554, HigherSchool Tutoring stood to gross more than \$3 million from tutoring Baltimore City students.

In the early days of SES in Baltimore, recruiters would harass parents in the mornings when they dropped their children off at school and offer free computers to students who signed up with them.⁴⁴

Now, fortunately, recruiters in Baltimore are permitted at schools only during specially-designated times. The state has sought to curb unscrupulous business practices by banning incentives during the recruitment period and requiring providers to sign a “Code of Professional Conduct and Business Ethics” in which they promise not to publicly criticize competing providers, host carnivals or dinners to lure students, or disseminate advertisements without prior approval of MSDE. Nevertheless, one provider reported seeing other tutoring companies offer incentives of t-shirts, Frisbees, and candy at school fairs where parents sign-up for SES. No providers have been sanctioned for these activities.

MSDE has also established a limit of \$5 on the value of any incentive, or gift, for each student after he or she is enrolled, as a reward for good attendance. However, the state’s rules do not specify how often that \$5 gift (such as school supplies or McDonald’s gift cards) can be offered to students during the school year.

Qualified Teachers as Tutors?

NCLB gives SES providers sole control over hiring their employees; providers are prohibited from establishing professional standards for tutors and do not have to report on the

credentialing of their employees. As a result, there are no data regarding qualifications of tutors available to either individual schools, districts, or the state, and there is a wide range of experience levels among the tutors.

“Tutors range from college students to someone who has a Ph.D. in education,” says Dr. Tasha Franklin Johnson, Baltimore’s director of federal programs.⁴⁵

In fact, providers are allowed to hire teachers from the very low-performing schools where SES students are located to work as tutors after school. There are pros and cons to this practice. A teacher already working in a school with an SES program may be more likely to be able to coordinate a student’s tutoring program with classroom work. And the teachers are more likely higher qualified than other SES tutors, since they have to be certified, while there is no professional qualification for an SES tutor.

On the other hand, some question the rationale for hiring a teacher from an underperforming school to continue working with those same students after school. These teachers might also have an unfair advantage during the recruitment period because they potentially have a relationship with parents, making it easy to steer them to their provider.

One former employee of a city school with a large number of SES students recalls that so many teachers earned extra money (as much as \$75 an hour) after school that the principal banned SES tutoring on the one day a week when he held faculty meetings to ensure their attendance.

This same former employee questions the ethics of one teacher working as a recruiter for a provider, giving that provider an unfair advantage because the teacher could steer parents and students toward her SES employer.

MSDE reports that some Maryland districts avoid these problems by not

permitting employees in certain positions to work with vendors; others do not allow school employees to work for SES providers during the school day.

To underscore the degree of autonomy granted to providers, City Schools officials report that they do not know how many of their own teachers work as SES tutors after school. Nor are they aware of the qualifications of any of the SES tutors in their schools.

Monitoring SES in Baltimore and Maryland

NCLB requires the Maryland State Department of Education to monitor the program, spot check students’ records, pre-approve advertising used to recruit students, and make sure tutors pass criminal records checks.

A 2009 survey of state SES programs by the Center on Innovation and Improvement reported that Maryland is one of only a third of states to conduct routine monitoring visits of private providers. Those that reported a lack of monitoring blamed staff shortages.⁴⁶

That survey singled out Maryland as a state that runs a credible monitoring system with site visits for its SES program. Authors Ross, Harmon and Wong also acknowledged Maryland’s online data collection system, where providers must ‘self-report’ attendance records, parent satisfaction surveys, and provider-administered academic test

scores. This information, however, is not available to the public.

According to these researchers, “SES monitors in Maryland have easy access to continually updated records that permit review of participation, goals, and progress for the students served by each provider.”⁴⁷ Not mentioned were the unchecked veracity of the information reported by providers and the fact that this information is not made available to SES families or the public.

At the local level, City Schools is left to more closely observe the SES program, despite the fact that the school system has no legal right to oust a provider, or dictate curriculum or any other changes.

In 2006, City Schools formed teams of retired school professionals who make visits – some unannounced – at least once a month to SES tutoring sessions and review student work plans to make sure instruction matches the original plan. Like the state, they also review criminal records checks for tutors.⁴⁸

In Baltimore, thousands of SES students spent hours in tutoring sessions at 41 schools in 2010-11, but no teacher or administrator from these schools was allowed to supervise the sessions to ensure that tutoring plans were coordinated with school-time instruction, that tutors and students showed up on time, and that the ratio of tutors to students followed agreements with private providers.

In addition, SES tutoring does not have to be delivered in a school building. In Baltimore City last year, more than 22 percent of SES children received services outside the school, when providers were approved to offer services in a different location.

In such a disjointed program, the law assigns the job of monitoring the multi-million dollar program to state education officials who work outside the schools.

Each provider also gets an annual visit from a team of MSDE educators, usu-



“In such a disjointed program, the law assigns the job of monitoring the multi-million dollar program to state education officials who work outside the schools.”



VIRGINIA: Setting an Example for SES Monitoring at the District Level

Fairfax County, Virginia, has set up a decentralized, school-based model for monitoring its SES program that, school officials say, gives them more oversight of tutoring sessions, promotes higher student attendance, and assures tighter scrutiny over its payments to providers.⁵⁹

Fairfax's program, however, is much smaller and more manageable than Baltimore's. It had 1,000 students in six elementary schools, while Baltimore's program in 41 elementary and middle schools tutored 5,769 students in 2010-11.

Nevertheless, some aspects of Fairfax's program could be examples for Baltimore to consider. SES tutoring sessions take place only on Saturdays when students get free bus transportation, an additional cost to the school system. Each school is assigned a 'facilitator,' a district public school teacher acting as a 'Saturday principal.' The Fairfax County facilitator manages tutoring sessions, checks attendance of both students and tutors, and makes sure time sheets are properly documented. The facilitator also evaluates the educational quality of the tutoring sessions and does the job of Maryland and Baltimore's monitoring teams by checking student work plans to make sure they match actual work given during sessions.

Facilitators in this Virginia school district have also removed students from substandard tutors and, after consulting parents, assigned each child to a parent's next choice, says Debbie Jones, Fairfax's SES coordinator.

As for attendance, the facilitator takes note of tardy students and docks a provider's pay if a tutor is late. Attendance rosters require two signatures – the tutor's and the facilitator's - before payment can be made. (Baltimore's attendance sheets only require a student's signature or initials.) Most providers, says Jones, are honest

regarding their invoices, but the school district has encountered providers who bill the school district for tutoring that never occurred.

While Fairfax's monitoring program may keep closer tabs on its in-school tutoring program, it does not have similar controls for the small number of students tutored at home.

And like school systems across the country, the local school district has to rely on providers approved by the state and selected by local parents.

Academic achievement tests, administered to demonstrate that tutoring is improving students' performance, are also 'self-administered' by the provider without oversight from school officials.

"We are not supposed to see the tests," says Jones.

This school-based monitoring program is duplicated throughout 95 percent of Virginia's school systems, says Ann Sheehan, SES coordinator for the Virginia Department of Education.⁶⁰

School systems that don't have on-site monitors during all tutoring sessions "are struggling with billing issues and attendance. They're billed for kids who aren't there," she says.

Like Maryland and many other states, though, Virginia does not analyze standardized tests to gauge academic achievement of SES students, although CREP has completed studies of Virginia's students.

"There's not enough data to assess whether a single provider has made an impact," says Sheehan.

Unlike Maryland, Virginia does not send monitoring teams to observe tutoring sessions and check student records, leaving that job to the local schools.

ally prescheduled so providers can be prepared with management staff present, although announced visits are not required by law. The state team, say MSDE officials, has managed to keep up with the growing number of providers (from two to 47 statewide in nine years), despite the lack of federal funding set aside for monitoring. The state teams visit schools, as well as homes for those providers that offer home tutoring.⁴⁹

Some monitoring visits were completed without observing tutoring if students didn't show up or if the team

visited after the tutoring session was over. In those cases the monitoring team could only check student records, whether the curriculum matched state standards, and background check completion.⁵⁰

The state also does not monitor providers proportionally according to the number of students they tutor. A provider tutoring 15 students a year will have the same once-a-year site visit as a provider with 1,200 students. For example, in the case of one of the state's largest SES providers, which signed up 1,285

students during the 2009-10 school year in City Schools alone,⁵¹ MSDE's team observed only three SES students being tutored by that provider in that year.

However, it would be difficult to monitor larger providers more often than smaller providers, says an MSDE official, because MSDE often begins monitoring even before registration ends and does not know total enrollment by provider until the end of the school year despite its online reporting system.⁵²

But the director of federal programs for City Schools expresses frustration

that the city school system has so little control over the program in its schools.⁵³

“We cannot take a provider off the list,” says Franklin-Johnson, who oversees the SES program for City Schools.

“We don’t have a lot of insight to curricular tools (the providers) use (or) how they design their program.” One provider tutors a student for 60 hours and another for 100 hours, she notes. “It’s a mixed bag.”

She also expresses skepticism that all the providers’ programs are improving academic achievement, as they have reported on their self-administered tests.

“I am perplexed,” she says.

MSDE does make the monitoring reports from its site visits available on its website, but there are not reports posted for all providers.

Limited Financial Oversight: Paying Providers

The federal law does not address payment methods for providers – or acknowledge the complications of paying dozens of vendors competing for students. And while the city school administration has no legal authority to fire tutoring companies educating its students, it still shoulders the burden of paying them. Making sure tens of thousands of invoices match up with the actual hours tutored is no easy task.

Most of the tutoring in this loosely regulated program (offered in 41 Baltimore City schools in 2010-11) takes place after the regular school day, where school attendance monitors employed by the Title I office collect attendance sheets signed by participating children. Later, school officials match up the time sheets with invoices sent by providers for payments.

The monitors also have a role in making sure SES students attend their tutoring sessions. Because the federal law provides no money for a financial track-

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ing system, City Schools dips into other federal funds from its Title I program to finance the monitors, allocating \$166,836 in 2010-11 to run an attendance program that pays monitors \$16 to \$18 an hour for six hours a week. The attendance monitors go above and beyond what is required by federal law.⁵⁴

City Schools officials say the monitors may not be able to confirm the time of arrival, or length of stay for every student and tutor, but Franklin-Johnson, director of federal programs, says, “We have many internal controls to support the presumption of accuracy.” She says they perform “random scrubbing” to make sure students’ initials appear on time sheets and that the attendance sheets match invoices.

Providers interviewed say attendance monitors are doing a better job at being present during tutoring sessions this year, contrary to past years when they were not always present while tutoring was in session and would often pick up attendance sheets after sessions ended. One provider was surprised that City Schools pays providers based on initials signed by a child as young as 5

years old, a notation that can so easily be forged. There are no state requirements about sign-offs.

In the program’s early years, nearly all the SES students were tutored at school, so having a school-based attendance monitoring system made sense.⁵⁵

But now, SES tutoring takes place in homes, online, and in locations outside school, where there is no attendance monitoring system to determine the veracity of attendance sheets.⁵⁶

City Schools officials could not provide a breakdown of how many of their 5,769 SES students in the 2010-11 school year were tutored outside schools, but incomplete documentation shows it was at least 1,263 students. “We don’t have a way of validating” time sheets from home, says Franklin-Johnson, and adds that City Schools has no internal system for tracking the time students are tutored online.

This lack of a system to ensure that City Schools is not paying vendors for work they don’t perform is a serious concern, especially in light of the recent conviction of Tracy Queen, owner of Queens Mobile Education, for stealing more than \$150,000 from a different City Schools program for the tutoring of special education students. Queen pleaded guilty in April 2011 to charges of submitting false invoices with forged parents’ signatures that billed the school system for 3,966 hours of tutoring for 250 students that never occurred over a three-year period.⁵⁷ Queen had also been an approved SES provider for several years, but her business was removed from the program after criminal charges were filed in the special education case in 2009.⁵⁸ She has not been charged with stealing from the SES program. Although Queen’s fraud scheme involved a program separate from SES, the attendance record keeping of both programs is similar – and equally open to fraud. The SES time sheet system, though, is especially problematic because only students’ ini-

tials (and not parents' signatures) are required for most tutoring sessions.

Lack of Communication to Families and the Public

Despite the fact that state education departments and local school districts are required to post SES information on their websites so that parents can have easy access to program options, Maryland's communication is spotty. SES-eligible parents in Maryland are not given a provider 'report card' or another easy way to determine if a provider has a good track record.

MSDE's website includes extensive amounts of information geared primarily to providers, including advertising and ethics guidelines for providers, the state's monitoring reports from visits to tutoring sessions, and instructions for providers to 'self-report' results of achievement tests and parent evaluations into a database. Although the state posts its annual monitoring reports for most providers on its website, they are hard to locate and do not include student achievement data, the vendors' hourly rates, or total number of hours of tutoring provided. Similarly, Baltimore City's website posts a list of providers with a description of their services (written by the providers), as well as a list of eligible schools, the amount of money available, and the number of students enrolled.

Parents looking for information on the performance of individual providers, including the hourly rate, the number of tutoring hours provided, and measures of parent satisfaction will come up empty.

To its credit, in June 2011, Baltimore's Board of School Commissioners established a complaint system for parents specifically for SES.⁶¹

Findings and Recommendations

The fundamental flaw in the SES program is the federal law itself. It was created to finance an agenda that publicly funds tutoring businesses with an implementation and accountability plan misaligned to the goal of increasing academic achievement. This model has resulted in a disjointed system that hinders public educators from administering and scrutinizing millions of dollars of public school tutoring funds in Title I schools.

For now, it seems, the future of the SES program is up in the air, as Congress has yet to extend, alter, or repeal NCLB. Given the evidence, it is fair to suggest that SES, as currently configured, be ended and the funding re-appropriated.

I. FEDERAL LEVEL

Findings

- NCLB does not hold states accountable for improving academic achievement with SES, even though that is the program's stated goal. The law does not require states to submit student academic outcome data to the U.S. Department of Education. Although SES providers are required to show academic improvement over two years or face disqualification, the methods allowed to evaluate providers (e.g., self-reported results



“Given the evidence, it is fair to suggest that SES, as currently configured, be ended and the funding re-appropriated.”



of tests given without public educators present) are dubious.

- States are not allowed to limit the number of SES providers, in the name of fair market competition and parental choice. But, in reality, the large number of providers poses problems for individual school districts, like Baltimore. Not only is it confusing to parents, who are bombarded by competing providers, but it is also so bureaucratically complicated that tutoring is delayed for several months and doesn't begin until halfway through the school year.
- The U.S. Department of Education does not set aside funding for states or districts to evaluate academic achievement, to monitor providers, or to pay for staff to compare actual attendance of tutors and students with time sheets and invoices submitted for payment.
- The law is designed to give little educational control of providers to state education departments and local school districts. Providers can establish their own hourly rates, set up their own academic programs, choose assessment tests, and hire tutors with no credentials. State education agencies can review SES curriculum, but federal law prohibits local school systems from meddling in the tutoring methods of their own students.
- State education agencies and local school districts are not allowed to impose professional guidelines for hiring tutors. In fact, they are prohibited from requiring tutors to be “highly qualified.”

Recommendations

1. The law should establish general educational standards for SES regarding number of tutoring hours, tutor-student ratios, and research-based instructional programs that will reasonably be expected to produce academic progress.

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“The law should establish general educational standards for SES regarding number of tutoring hours, tutor-student ratios, and research-based instructional programs that will reasonably be expected to produce academic progress.”

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2. The law should require states and the U.S. Department of Education to evaluate the academic impact of SES providers on student achievement with bona-fide assessments that are monitored for accuracy by local and state educators. SES providers should no longer be allowed to ‘self-evaluate’ their progress without allowing public educators to review actual test results.
3. States should be allowed to set caps on the number of providers so that programs can be manageable for each school district to process applications quickly enough for tutoring to begin in a timely manner. This will also ensure that parents have an adequate number of choices, but are not bombarded by numerous providers seeking their business.
4. The federal government should set aside a percentage of SES funds to allow states and districts to monitor and evaluate providers, and to hire staff to ensure the veracity of providers’ invoices.

5. According to Dr. Steven M. Ross of Johns Hopkins University, the SES program should be redesigned to enable states and districts to provide intensive monitoring so that schools can connect tutors and teachers to ensure coordination between school-day and after-school instruction. Teachers and principals should also be consulted so that their views can be incorporated into the SES curriculum.

II. STATE LEVEL: MARYLAND STATE DEPARTMENT OF EDUCATION

Findings

- MSDE has expressed concerns about its ability to evaluate the quality of the SES program due to the autonomy given to providers.
- The state does its best to keep up with the growing number of providers, making annual site visits and reviewing providers’ records, but it has yet to remove a provider based on poor student outcomes because it doesn’t have a set of standards for collecting and analyzing performance data.
- The state also allows providers to ‘self-evaluate’ their own programs with a test of their choosing, hardly a professional indicator that they are improving student achievement.
- MSDE does not make achievement data from providers available to the public so it is nearly impossible for parents to make informed decisions about the best tutor for their children.
- It is questionable whether the state has complied with the requirement to dismiss providers that do not improve academic performance after two years; it has never dismissed a provider for failing to increase academic performance.

Recommendations

1. In the absence of federal funding for monitoring, the state should allocate

- adequate funding to annually monitor and evaluate the performance of each provider regarding the increase of student achievement.
2. MSDE should adopt standards for all SES providers to use approved pre- and post-assessments of academic achievement. Testing should be procured by district educators, and test scores should be reviewed by MSDE.
3. To better educate parents when choosing a tutoring company, MSDE should make publicly available a rating of each provider, based on monitoring from the previous year, so as to better educate parents when choosing a tutoring company. The District of Columbia Public Schools has done this in past years. In its “Title I Supplemental Educational Services Guide for 2009-2010,” it rated all providers who had worked in previous years on a scale from 1 to 5 (1: poor, 2: below average, 3: average, 4: above average or 5: exceeds standards). These ratings appeared under the description of each provider, making it easy for parents to review.
4. Any provider not showing academic improvement should be dismissed after two years.
5. Individual school districts should be permitted to dismiss an SES provider that routinely violates ethical standards for recruitment.

III. DISTRICT LEVEL: Baltimore City Public Schools

Findings

- The student recruitment process is at best disorganized, at worst pernicious. In the name of free market entrepreneurship, SES providers are allowed to strong-arm parents into signing up with their SES program.
- City Schools’ SES program may begin as late as January due to a backlog of applications.
- Parents are not told that providers offer a varying number of hours for

- each child, depending on the hourly rate they charge.
- City Schools teachers can be hired as SES tutors (and recruiters), raising ethical questions about giving SES providers who hire them an unfair advantage in recruiting students.
 - The financial accountability system lacks safeguards as reimbursements to providers are based on child signatures. Further, City Schools has no system to verify the accuracy of time sheets used for hundreds of students tutored at home, online or at other nonschool locations.
 - Although City Schools has conducted evaluations of academic achievement of SES students as compared to non-SES students in the past, it does not share these results with state education officials, local school principals, teachers, or parents.

Recommendations: City Schools

1. City Schools should consider its own capacity to provide SES services in order to better coordinate academic services and provide oversight.
2. City Schools should reevaluate its SES student sign-up process, be allowed to reduce the number of providers, and streamline its system so tutoring can begin earlier in the school year. According to MSDE, City Schools can also rewrite its SES contract with providers to clarify its requirements and strengthen its oversight role.
3. The financial accountability system of SES should be overhauled. Following the example of many Virginia school districts, time sheets for student attendance in a school setting should include the signature of a school employee. City Schools should immediately set up a system of verifying time sheets of students and tutors meeting at home or in another setting, by randomly calling parents to verify times and dates recorded by providers. It should also begin routinely monitoring attendance of online SES tutoring programs to verify invoices sent by online providers.
4. The School System should continue to monitor the professional conduct of SES providers during the recruitment process.
5. Information given to parents about each provider should include a report card with academic outcomes from MSDE as well as the hourly rate charged and the number of tutoring hours offered for each student.
6. City Schools teachers should be prohibited from recruiting for SES providers because parents may be unduly influenced.
7. City Schools should share the results of its annual SES academic evaluations with teachers, principals, parents, and state officials. These studies should be posted on its website.
8. Now that the Board of School Commissioners has approved an SES policy establishing a complaint system, there should be a central office (with a phone number and email address) so that parents may ask questions or file complaints about SES providers.

EDITOR'S NOTE:

A copy of the report, *Sending Out An S.O.S. For SES*, is available in "Publications" on the Abell website, www.abell.org.

Endnotes

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Joan Jacobson is a former Evening Sun and Sun reporter, now working as a freelance journalist and researcher. She recently co-wrote a series of articles for The Daily Record about Baltimore's largest redevelopment project, now stalled in East Baltimore. She is also the author of three previous Abell studies about inadequate vision screening in public schools, the demolition of Baltimore public housing and millions of dollars in uncollected taxes from illegal video gambling machines.