



January 19, 2007

Ms. Jean C. Stevens, Interim Deputy Commissioner,  
Office of Elementary, Middle, Secondary and Continuing Education,  
New York State Education Department, Room 875 EBA,  
Albany, NY 12234

Dear Ms. Stevens:

On behalf of the 500 Members of the Education Industry Association (EIA), many of whom are SES providers approved and actively serving students in New York, I wish to offer the following comments that regulate the use of rewards and incentives by SES Providers.

EIA, with input from providers, first developed a set of business ethics for SES almost three years ago. These standards have now been adopted by over 10 States and the NYC Board of Education. These standards include a prohibition on any financial payment to parents, students and school personnel or employment arrangement with school personnel that may induce or otherwise promote one provider's program over another.

We strongly support your proposed rule that is consistent with these standards. We recognize that you have modeled your much of your recommendations on our standards. Incorporating a provider's use of incentives as part of their application to the State is the appropriate level of oversight. The rule should specifically limit local districts from applying additional restrictions on providers' program models and cost structure.

However, we do take strong exception with your proposed \$25 cap on performance incentives as described in your proposed rule:

*"However, nominal rewards, gifts, or incentives of less than \$25 per student per year which are directly linked to documented meaningful attendance benchmarks and/or the completion of assessment and program objectives, and which are approved by the Department as part of the Provider's instructional program, would be allowed."*

Performance incentives for students can be a powerful tool if the incentive is meaningful, within appropriate bounds, to the student. Students participating in SES in the NYC area will certainly have a different reaction to a \$25 incentive compared to a SES student in Elmira. Our approach to this issue was to limit the incentive payment to no more than 5% of the PPA that may be paid to the provider, thus taking in account some of the variations in regional differences in SES allocations. A fixed dollar cap, especially at \$25 per student per year, is simply too rigid and too low to be attractive to students. Even Senator Clinton's SES bill envisioned a higher incentive cap.

We strongly urge the State to use reasonable flexibility into its rules for student performance incentives as described in the industry standards.

If the State is interested in regulating these kinds of costs within the PPA structure, we would also encourage them to limit the facility usage fees charged on a per student basis to mirror fees charged by schools to any other organization that uses school facilities.

Thank you for your consideration of our comments and we look forward to working with the Department on this and other issues that expand education options for students.

Sincerely,

Steve Pines  
Executive Director