



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234
Office of Elementary, Middle, Secondary and Continuing Education

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TO: District Superintendents, Superintendents and Principals of Public Schools, Charter School Principals, and NYS Approved Supplemental Educational Services (SES) Providers

FROM: Shelia Evans-Tranumn, Associate Commissioner

SUBJECT: Fingerprinting and General Supervision by a NYS Certified Teacher of Supplemental Educational Services (SES) Online Tutors

The continuing emergence of new communication technologies has greatly enhanced the ways instruction can be presented to today's students. These technologies have created new and innovative ways to provide online instruction and distance learning opportunities. Unfortunately, these new technologies have also created an environment where predators can lure our children into dangerous and harmful situations. New York Code Rules and Regulations, Title 8, Section 120.4 (d)(2)(iii)(viii) requires that all Supplemental Educational Service (SES) instruction be provided under the general supervision of a NYS certified teacher and that all individuals employed by, or associated with, an approved SES applicant, who will have direct contact with eligible students, shall be subject to the fingerprint and criminal history record check requirements contained in education law. These requirements were created as a way to protect our children from those who would abuse their position of authority over them.

In NYS, online SES tutors who provide instruction to eligible students are considered to be in direct contact with those students, and as such are subject to the general supervision and fingerprinting requirements described in 8 NYCRR 120.4, regardless of the physical location of the approved SES provider and/or supervisor, or physical location of the tutor(s).

Based on existing standards, fingerprinting and criminal background checks of citizens from other countries, living outside of U.S. borders, by the Federal Bureau of Investigation (FBI), or the NYS Division for Criminal Justice Services (DCJS), would not yield useful, if any, information on these individuals. Until further review and amendments to current SES law and regulations, applicants seeking to become employed as SES tutors, who are not U.S. citizens or resident aliens, are not eligible to become an SES tutor.

Supervising online tutors that may or may not be physically located near the home office presents its own unique set of challenges. The requirements under 8 NYCRR 120.4 (d)(2)(iii) for the general supervision of instruction, by a NYS certified teacher still apply. New York State law

does not specify the types of supervision strategies approved SES providers must take. Supplemental Educational Services (SES) providers and supervisors might wish to consider such internal control strategies as purchasing and using filtering hardware and software that gives access to a tutor's computer to check for inappropriate communications or other suspicious activity. Consideration could be given to the placement of satellite offices closer to the tutors' location. When possible, annual evaluations should be conducted face-to-face not only with staff but with school personnel, parents and students. When face-to-face meetings are not an option the use of telephone interviews should be considered.

It is the State Education Department's belief that these requirements, which have always been in place, should not interfere with an approved SES provider's ability to provide safe, effective, high-quality, online instruction to eligible students.

Questions regarding the above requirements can be directed to Leon Hovish, at LHovish@mail.nysed.gov, or by calling 1-(518)-473-0295.