

TEA Final Resolution Letter  
NCLB SES Complaint Investigation  
August 30, 2013

VIA EMAIL

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Subject: Dallas Independent School District  
Tutors With Computers, LLC.  
Collecting Student-identifying Information Marketing and Recruiting  
TEA Reference # 2013-04-112

This letter serves to resolve the April 12, 2013 complaint filed by **Dallas Independent School District** (district) concerning **Tutors With Computers, LLC**, (Provider). The Provider is approved to provide Supplemental Educational Services (SES) in Texas through August 31, 2013. The Texas Education Agency's (TEA) state-level investigation findings and conclusion are reported in this letter and is final. TEA did not resolve this complaint within the 60-day timeline.

**Authorities**

This investigation was conducted pursuant to and under the following authorities and provisions:

- *Federal Law: Title I, Section 1116(e) of the Elementary and Secondary Education Act, No Child Left Behind Act (NCLB).*
- *Letter, signed by the Commissioner of Education, February 19, 2013. Federal Policy: The Supplemental Educational Services (SES) Non-Regulatory Guidance, January 14, 2009.*
- *TEA SES Application and its Provisions and Assurances and Code of Professional Conduct and Business Ethics for Supplemental Educational Services Providers as amended January 8, 2008.*
- *TEA Policy: SES Complaint Procedures, To The Administrator Addressed Letter, signed by the Commissioner of Education, November 22, 2010.*
- *TEA Policy: Standards and Mechanics for the Removal of Standards and Mechanics for Removing SES Providers from the State-Approved List, To The Administrator Addressed*

## **Complaint Allegation**

The district's complaint alleges that the Provider violated marketing and recruitment activities in certain campuses in the district.

More specifically, the complaint alleges the following incidents to be in violation of state, federal, and district requirements:

1. On November 16, 2012, the Assistant Principal at Sunset High School discovered Provider representatives had filled out a "Lead Information Verification Form" which included student identifying information. School staff requested the forms from the two Provider representatives and directed them to leave the school building.
2. On November 19, 2012, the SES Campus Liaison at Skyline High School confiscated "Lead Information Verification Forms" during the lunch periods. The forms contained student identifying information.
3. On November 28, 2012, the Assistant Principal at Sunset High School reported that about six Provider representatives showed up on campus without permission with paperwork to collect student identifying information. The Provider representatives did not contact the SES Liaison about signing up to market.

The district requested the Provider respond to the three November 2012 incidents by December 4, 2013. The Provider responded to the district on December 3, 2012.

4. On December 17, 2012, a parent observed Mr. Edgar Martinez (district visitor badge number 359814) on campus collecting student identifying information from students.
5. The district's Office of Grants Management received a form for parents to fill out that encourages them to change their child's current provider to Tutors With Computers. Mr. Lonnie Hunt is the Provider's representative whose name appears on the Provider's forms.

On January 7, 2013, the district sent a letter informing the Provider of the above complaints. The district requested the Provider respond to the two December 2012 incidents by January 9, 2013. The Provider responded to the district on January 9, 2013.

6. On April 9, 2013, the district informed the Provider that through student interviews, a student assigned to the Provider confirmed that a statement at the bottom of the SES History Detail Sheet was not the student's statement. The statement stated that the student received tutoring in January 2013. The Provider representative went to the student's house and told the student to sign off on the tutoring hours.

The district requested the Provider respond to the incident by April 11, 2013. The Provider responded to the district on April 11, 2013.

## **Formal Notice of Complaint**

A Formal Notice of this complaint was sent via email to the Provider and district on May 1, 2013. The Provider replied to the agency on May 10 and May 14, 2013. During the investigation of this complaint, the agency reviewed the information submitted by the Provider and the district including:

- All Documentation
- SES Agreement and district policies or procedures
- Provisions and Assurances, and Code of Business Ethics for SES providers, included in the 2012-2013 SES Provider Application

## Regulations

State-approved SES providers and districts are required to follow all federal and state laws, rules, and policies. Further, parties are required to follow the terms of your SES Agreement (contract), the SES state application, including the Provider Provisions and Assurances and Code of Business Ethics.

State-approved SES providers and districts are subject to monitoring, investigation, and sanctions in accordance with federal and state regulations and established policies.

## Authority for NCLB Investigations

District Level Investigation: The district is required to conduct its local investigation and submit a complete report with supporting documentation to evidence its allegations. The TEA verifies that the district notified the provider of its local investigation and gave the provider an opportunity to respond and submit relevant information for the district's consideration. A local investigation must be complete before TEA accepts a complaint for a state-level investigation.

In accordance with the state-level NCLB-SES Provider complaint process, the TEA completed its investigation through a desk review, which included reviewing documentation provided with the district complaint such as: "Lead Information Verification Forms" collected by the Provider with student information for recruiting purposes; transfer forms and scripts encouraging parents to transfer from other providers to the Provider; student statements regarding the Provider requesting the students sign sheets confirming hours they did not actually attend; and reviewing EZSES management system data.

TEA's authority to investigate the complaint is under *Section 1116(e) of the No Child Left Behind Act (NCLB)*. As part of its state-level investigation, the TEA independently verifies the district's local investigative findings. TEA did not resolve this complaint within the 60-day timeline.

## TEA State Level Findings

1. On November 16, 2012, the Assistant Principal at Sunset High School discovered Provider representatives had filled out a "Lead Information Verification Form" which included student identifying information. School staff requested the forms from the two Provider representatives and directed them to leave the school building.

The TEA determines that the "Lead Information Verification Form" requests information identifying the students' school and grade level, parents name, home address and phone number. Since birthdates and PEIMS numbers are not part of the form, the form does not violate a state requirement.

2. On November 19, 2012, the SES Campus Liaison at Skyline High School confiscated "Lead Information Verification Forms" during the lunch periods. The forms contained student identifying information.

See answer above

3. On November 28, 2012, the Assistant Principal at Sunset High School reported that about six Provider representatives showed up on campus without permission with paperwork to collect student identifying information. The Provider representatives did not contact the SES Liaison about signing up to market.

This issue deals with the “administrative and operational” requirements in the Contact between the district and the Provider. TEA does not investigate the terms of any Contract, to include the “administrative and operational” terms of each contract made between the district and provider. TEA is not a party to the contract.

4. On December 17, 2012, a parent observed Mr. Edgar Martinez (district visitor badge number 359814) on campus collecting student identifying information from students.

See both answers above.

5. The district’s Office of Grants Management received a form for parents to fill out that encourages them to change their child’s current provider to Tutors With Computers. Mr. Lonnie Hunt is the Provider’s representative whose name appears on the Provider’s forms.

The TEA substantiates this allegation. The 2012-2013 State Application for SES providers includes a Code of Business Ethics for SES Providers. The section of *Standards Specific to SES*, number 11 specifies *that Providers shall not encourage students/parents to switch providers once enrolled. A student is considered enrolled once the District has issued the formal student/Provider selection list.*

6. On April 9, 2013, the district informed the Provider that through student interviews, a student assigned to the Provider confirmed that a statement at the bottom of the SES History Detail Sheet was not the student’s statement. The statement stated that the student received tutoring in January 2013. The Provider representative went to the student’s house and told the student to sign off on the tutoring hours. The student signed the paper even though he had not attended the hours specified.

The TEA substantiates this allegation. The 2012-2013 State Application for SES providers includes a Code of Business Ethics for SES Providers. Number 10 in the first section titled *in the conduct of business and discharge or responsibilities, Providers commit to:* specifies the Provider *Be factual and forthright in reporting and documenting attendance rates, effectiveness of their programs, and in explaining the theoretical/empirical rationale behind major elements of its programs, as well as the link between research and program design.* The TEA finds that the Provider was not factual and forthright in reporting and documenting attendance rates.

### **Conclusion**

The allegations number 5 & 6 made by Dallas ISD is substantiated. Based on the evidence, TEA determines that Tutors With computers:

1. Violated the district, state, and federal program policies and requirements described above in allegations 5 & 6.
2. Did not comply with the ethical business practices the SES providers agreed to as part of their State SES application.

Dallas ISD requests permission from TEA to terminate the SES Agreement with Tutors With Computers.

Dallas ISD may terminate its SES Agreements with the SES provider under certain conditions specified under H-21 of the Federal Guidance. (see Enclosure)

The TEA places Tutors With computers on a probationary status meaning that the TEA will carefully monitor the SES provider for the remainder of the year. Substantiated complaints and corrective actions will be considered in evaluation and process for the selection of SES providers for the 2013-2014 school year.

The State Approved SES Providers 2012-2013 Applications expire on August 31, 2013.

2013-2014 SES Provider Applications are not available on the website at this time. Therefore, from September 1, 2013 until a State Approved Provider list is issued for 2013-2014, there are no SES Providers approved to be conducting business in Texas.

### **Action for the District**

The district is required to report the agency's investigative findings at the next public meeting of the district's Board of Trustees, as a board agenda item.

### **Appeal of TEA's Decision**

The TEA's decision is final and there is no administrative appeal at TEA. The district or Provider may appeal this decision to the Secretary of Education, U.S. Department of Education. The TEA will consider these findings in the selection of providers for the next year.

### **Contacts**

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Sincerely,



Becca Marsh, School Improvement and Support Division

Enclosure: Federal and State SES Requirements

CC: Ms. Emi Johnson, *CFE, CGAP, PHR*

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