

109TH CONGRESS
2D SESSION

S. 3869

To improve the quality of, and access to, supplemental educational services
in an effort to increase student achievement.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 7 (legislative day, SEPTEMBER 6), 2006

Mrs. CLINTON introduced the following bill; which was read twice and referred
to the Committee on Health, Education, Labor, and Pensions

A BILL

To improve the quality of, and access to, supplemental edu-
cational services in an effort to increase student achieve-
ment.

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 “Improving the Quality
5 of and Access to Supplemental Educational Services Act”
6 or the “IQ Act”.

7 **SEC. 2. FINDINGS.**

8 Congress makes the following findings:

9 (1) In a study on supplemental educational
10 services for the 2005–2006 school year, the Govern-

1 ment Accountability Office found that 85 percent of
2 State educational agencies and an estimated 70 per-
3 cent of local educational agencies reported a lack of
4 capacity to effectively evaluate supplemental edu-
5 cational services. A deficiency in capacity for State
6 educational agencies and local educational agencies
7 causes challenges in monitoring the effectiveness of
8 providers of supplemental educational services, and
9 has resulted in only a few States completing an eval-
10 uation addressing the effect of supplemental edu-
11 cational services providers on improving student aca-
12 demic achievement.

13 (2) A study of the 2005–2006 school year con-
14 ducted by the Center on Education Policy found
15 that only 20 percent of the students who were eligi-
16 ble to receive supplemental educational services
17 under title I of the Elementary and Secondary Edu-
18 cation Act of 1965 (20 U.S.C. 6301 et seq.) partici-
19 pated in such services.

20 (3) An obstacle to realizing the goal of supple-
21 mental educational services is the lack in capacity of
22 the providers to offer services that are adequate to
23 fulfill the needs of all students served by the local
24 educational agencies. The Center on Education Pol-
25 icy also found that in 42 percent of local educational

1 agencies surveyed, none of the providers of supple-
2 mental educational services could serve students
3 with disabilities, and in 51 percent of the local edu-
4 cational agencies, none of the providers of supple-
5 mental educational services could serve students who
6 are limited English proficient.

7 (4) Unfortunately, many students served by
8 rural local educational agencies have to traverse
9 hundreds of miles to receive supplemental edu-
10 cational services. The Government Accountability
11 Office found that 20 percent of local educational
12 agencies required to offer supplemental educational
13 services under title I of the Elementary and Sec-
14 ondary Education Act of 1965 (20 U.S.C. 6301 et
15 seq.) had no students receiving such services, and a
16 majority of those local educational agencies were
17 rural or had less than 2,500 enrolled students.

18 **SEC. 3. PURPOSE.**

19 The purpose of this Act is to improve the quality of,
20 and access to, supplemental educational services in order
21 to increase student academic achievement.

1 **TITLE I—PROMOTING HIGH**
 2 **QUALITY ACADEMIC IN-**
 3 **STRUCTION**

4 **SEC. 101. PROVISION OF SUPPLEMENTAL EDUCATIONAL**
 5 **SERVICES.**

6 (a) SENSE OF THE SENATE.—It is the sense of the
 7 Senate that the additional administrative funds available
 8 to States and local educational agencies as a result of the
 9 amendments made by subsections (c) and (d) should be
 10 used—

11 (1) by the States to establish and implement an
 12 effective evaluation system for supplemental edu-
 13 cational services providers that meets the require-
 14 ments of section 1116(e)(4)(C) of the Elementary
 15 and Secondary Education Act of 1965 (as amended
 16 by this Act) (20 U.S.C. 6316(e)(4)(C)); and

17 (2) by the local educational agencies to effec-
 18 tively implement supplemental educational services
 19 under section 1116(e) of the Elementary and Sec-
 20 ondary Education Act of 1965 (as amended by this
 21 Act) (20 U.S.C. 6316(e)).

22 (b) SERVICES PROVIDED AFTER IDENTIFICATION.—
 23 Section 1116(b)(5) of the Elementary and Secondary
 24 Education Act of 1965 (20 U.S.C. 6316(b)(5)) is amend-
 25 ed—

1 (1) in the matter preceding subparagraph (A),
2 by striking “In the case” and all that follows
3 through “paragraph (1),” and inserting “In the case
4 of any school served under this part that is identi-
5 fied for school improvement under paragraph (1), by
6 the beginning of the full school year following the
7 identification,”; and

8 (2) in subparagraph (A), by striking “continue
9 to”.

10 (c) AMOUNTS FOR ADMINISTRATION FOR LOCAL
11 EDUCATIONAL AGENCIES.—Section 1116(b)(10) of such
12 Act (20 U.S.C. 6316(b)(10)) is amended by adding at the
13 end the following:

14 “(E) AMOUNTS AVAILABLE FOR SUPPLE-
15 MENTAL EDUCATIONAL SERVICES ADMINISTRA-
16 TION.—Notwithstanding subparagraph (A), a
17 local educational agency may spend not more
18 than a total of 1 percent of the amount de-
19 scribed in subparagraph (A) for the administra-
20 tive costs of implementing supplemental edu-
21 cational services under subsection (e) or public
22 school choice under paragraph (1)(E).

23 “(F) STATE ADMINISTRATIVE AMOUNT.—

24 “(i) IN GENERAL.—Notwithstanding
25 any other provision of this part, in the case

1 of a local educational agency that is re-
2 quired to provide supplemental educational
3 services under subsection (e), the State
4 educational agency that serves the local
5 educational agency may reserve an amount
6 equal to not more than 1/2 of 1 percent of
7 the amount described in subparagraph (A)
8 from the local educational agency's alloca-
9 tion under subpart 2. The State edu-
10 cational agency shall use such reserved
11 amount to carry out the State's adminis-
12 trative duties assigned under parts A, C,
13 and D of this title with respect to such
14 local educational agency.

15 “(ii) INCLUSION OF FUNDS.—Any
16 amount reserved from a local educational
17 agency by a State educational agency
18 under clause (i) shall be included in calcu-
19 lating the total amount spent by the local
20 educational agency for the purposes of this
21 paragraph.”.

22 **SEC. 102. EVALUATION OF SUPPLEMENTAL EDUCATIONAL**
23 **SERVICES PROVIDERS.**

24 Section 1116(e)(4) of such Act (20 U.S.C.
25 6316(e)(4)) is amended—

1 (1) by redesignating subparagraphs (C) through
2 (E) as subparagraphs (F) through (H), respectively;
3 and

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

6 “(C) establish an evaluation system to
7 evaluate each provider of supplemental edu-
8 cational services under this subsection in the
9 State, which system—

10 “(i) shall be based primarily upon the
11 extent to which a provider improved stu-
12 dent academic achievement, as measured
13 by student progress toward meeting chal-
14 lenging State student academic achieve-
15 ment standards for all students enrolled in
16 the supplemental educational services of
17 the provider under this subsection—

18 “(I) in each subject for which the
19 provider provides supplemental edu-
20 cational services under this subsection
21 to such students;

22 “(II) regardless of whether such
23 students are in a grade level that is
24 subject to a State assessment; and

1 “(III) accounting for the length
2 of each course of supplemental edu-
3 cational services offered by the pro-
4 vider; and

5 “(ii) shall be supplemented with addi-
6 tional criteria, such as—

7 “(I) local educational agency
8 evaluations of the supplemental edu-
9 cational services provided under this
10 subsection;

11 “(II) student, parent, principal,
12 or teacher satisfaction with the pro-
13 vider, except that, if a State elects to
14 include this criterion in the State eval-
15 uation system, the satisfaction levels
16 shall be measured by a survey that
17 uniformly evaluates all such providers
18 in the State;

19 “(III) the attendance rates of the
20 students enrolled in the supplemental
21 educational services offered by the
22 provider under this subsection; and

23 “(IV) any criteria determined to
24 be necessary by the State educational
25 agency;

1 “(D)(i) by the last day of the 2008–2009
2 school year, ensure that the evaluation system
3 described in subparagraph (C)—

4 “(I) determines the value added by
5 each provider in improving the student
6 academic achievement of participating stu-
7 dents, as measured by the State assess-
8 ments required under section 1111(b)(3);
9 or

10 “(II) in the case of students partici-
11 pating in supplemental educational services
12 who are in a grade not tested by the State
13 assessments required under section
14 1111(b)(3), measures the value added by
15 each provider in improving the student
16 academic achievement of participating stu-
17 dents by—

18 “(aa) using valid and reliable
19 methods that are consistent with rel-
20 evant, nationally recognized profes-
21 sional and technical standards; and

22 “(bb) uniformly using the evalua-
23 tion system to evaluate all such pro-
24 viders in the State; or

1 “(ii) during the period preceding the last
 2 day of the 2008–2009 school year, if the State’s
 3 evaluation system described in subparagraph
 4 (C) is unable to meet the requirements of
 5 clause (i)(I), ensure that the evaluation system
 6 determines the extent to which the provider im-
 7 proved the student academic achievement of
 8 participating students through the procedures
 9 described in clause (i)(II);

10 “(E) establish a fair mechanism for the re-
 11 moval of a provider who is subject to repeat
 12 complaints submitted by parents, school per-
 13 sonnel, or the local educational agency, after a
 14 full investigation of the complaints;”.

15 **SEC. 103. PROVIDING ACCESS TO SCHOOL FACILITIES FOR**
 16 **PROVIDERS OF SUPPLEMENTAL EDU-**
 17 **CATIONAL SERVICES IN EXCHANGE FOR REA-**
 18 **SONABLE RENT.**

19 (a) LOCAL EDUCATIONAL AGENCY RESPONSIBIL-
 20 ITIES.—Section 1116(e)(2) of such Act (20 U.S.C.
 21 6316(e)(2)) is amended—

22 (1) in subparagraph (C), by striking “and”
 23 after the semicolon;

24 (2) in subparagraph (D), by striking the period
 25 at the end and inserting a semicolon;

1 (3) by redesignating subparagraphs (B)
2 through (D) (as amended by this subsection) as sub-
3 paragraphs (E) through (G), respectively; and

4 (4) by inserting after subparagraph (A) the fol-
5 lowing:

6 “(B) to the extent practicable and subject
7 to subparagraph (C), permit an approved pro-
8 vider to deliver the supplemental educational
9 services under this subsection using a public
10 school facility of the local educational agency (if
11 the local educational agency allows other groups
12 not otherwise affiliated with the school to use
13 such public school facility and establishes a fair
14 mechanism of determining which providers are
15 given access to the school facilities), and may
16 charge the provider rent—

17 “(i) that is determined in a manner
18 that is fair, transparent, and objective; and

19 “(ii) in an amount that—

20 “(I) accounts for the additional
21 costs of each provider’s extended use
22 of the facility, including additional en-
23 ergy, custodial, and security costs;
24 and

1 “(II) is similar to the amount of
2 rent charged for the use of school fa-
3 cilities to similarly classified external
4 organizations that seek to use the fa-
5 cilities;

6 “(C) if a provider requests access to a pub-
7 lic school facility under subparagraph (B) for a
8 school year but has failed to improve the aca-
9 demic achievement of the students served by
10 the provider for both of the 2 preceding school
11 years, as determined by the evaluation system
12 described in subparagraphs (C) and (D) of
13 paragraph (4), deny such provider access to a
14 public school facility for the school year;

15 “(D) have the ability to enter, if the local
16 educational agency so chooses, into—

17 “(i) a multiyear agreement with an
18 approved provider of supplemental edu-
19 cational services; or

20 “(ii) an abbreviated agreement with a
21 returning provider of supplemental edu-
22 cational services after the expiration of an
23 initial agreement, if the returning provider
24 remains an approved provider;”.

1 (b) STATE EDUCATIONAL AGENCY RESPONSIBIL-
2 ITIES.—Section 1116(e)(4) of such Act (20 U.S.C.
3 6316(e)(4)) is further amended—

4 (1) in subparagraph (G) (as redesignated by
5 section 102(1)), by striking “and” after the semi-
6 colon;

7 (2) in subparagraph (H) (as redesignated by
8 section 102(1)), by striking the period at the end
9 and inserting a semicolon; and

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

11 “(I) make available to the public the re-
12 sults of the performance evaluation conducted
13 under subparagraphs (C) and (D) for each pro-
14 vider of supplemental educational services
15 under this subsection in the State, in a format
16 that clearly demonstrates the provider’s success
17 in meeting rigorous State standards;”.

18 **SEC. 104. INCREASED STUDENT PARTICIPATION.**

19 (a) LOCAL EDUCATIONAL AGENCY RESPONSIBIL-
20 ITIES.—Section 1116(e)(2) of such Act (20 U.S.C.
21 6316(e)(2)) is further amended by adding at the end the
22 following:

23 “(H) ensure that the registration process
24 for supplemental educational services under this
25 subsection is not complicated, is easily available

1 to parents, and informs the parents of eligible
2 students, in their native language (to the extent
3 possible), that supplemental educational services
4 are extra, free-of-charge, instructional tutoring
5 for their children;

6 “(I) allow students who are not receiving
7 supplemental educational services under this
8 subsection the opportunity to enroll in services
9 with any available and approved supplemental
10 educational services provider during not less
11 than 2 separate enrollment periods of not less
12 than 15 business days in each school year;

13 “(J) allow students on any wait list for
14 supplemental educational services under this
15 subsection to receive services as vacancies open;

16 “(K) submit an annual report to the State
17 educational agency describing the amount spent
18 on supplemental educational services under this
19 subsection by the local educational agency (in-
20 cluding the percentage of the funds available
21 under subsection (b)(10) for the local edu-
22 cational agency that are expended for such
23 services) and the local educational agency’s
24 progress toward increasing student participa-

1 tion in supplemental educational services under
2 this subsection, which report shall contain—

3 “(i) the percentage of children eligible
4 for supplemental educational services
5 under this subsection who are enrolled in
6 supplemental educational services under
7 this subsection; and

8 “(ii) the percentage of children en-
9 rolled in supplemental educational services
10 under this subsection who attended at least
11 80 percent of the scheduled supplemental
12 educational services sessions provided
13 under this subsection;

14 “(L) ensure that supplemental educational
15 services begin as soon after the first day of the
16 school year as possible; and”.

17 (b) STATE EDUCATIONAL AGENCY RESPONSIBIL-
18 ITIES.—Section 1116(e)(4) of such Act (20 U.S.C.
19 6316(e)(4)) is further amended by adding at the end the
20 following:

21 “(J) provide—

22 “(i) guidelines to each local edu-
23 cational agency on the enrollment forms
24 used to enroll students for supplemental

1 educational services under this subsection,
2 which guidelines shall include—

3 “(I) the baseline of information
4 the local educational agency is re-
5 quired to provide to parents; and

6 “(II) a sample form for the local
7 educational agency; and

8 “(ii) technical assistance to each local
9 educational agency regarding the enroll-
10 ment process, in an effort to streamline
11 the enrollment process for parents;

12 “(K) ensure that the enrollment process is
13 fair to all providers of supplemental educational
14 services; and

15 “(L) if the State educational agency deter-
16 mines appropriate, require a local educational
17 agency to employ different methods to reach
18 students regarding the availability of supple-
19 mental educational services under this sub-
20 section, including—

21 “(i) sending enrollment forms home
22 with students;

23 “(ii) posting the enrollment form on-
24 line; and

1 “(iii) allowing parents to obtain en-
2 rollment forms at the school of the stu-
3 dents eligible for supplemental educational
4 services under this subsection;

5 “(M) ensure that all local educational
6 agencies in the State receive the results of the
7 assessments required under section 1111(b)(3)
8 and any other information needed to identify
9 schools for school improvement under sub-
10 section (b)(1)(A) in sufficient time to allow the
11 local educational agencies to complete the iden-
12 tification process and as close as possible to the
13 last day of the school year preceding the year
14 for which supplemental educational services
15 under this section are to be provided;”.

16 (c) STATE EDUCATIONAL AGENCY REPORTING.—
17 Section 1116(e)(4) of such Act (20 U.S.C. 6316(e)(4)) is
18 further amended by adding at the end the following:

19 “(N) annually publicize the cost of supple-
20 mental educational services under this sub-
21 section, the attendance data for such services,
22 and the date that students first received supple-
23 mental educational services instruction, for each
24 provider and local educational agency in the
25 State for the previous school year;

1 “(O) submit to the Secretary all reports
2 that are submitted to the State educational
3 agency by local educational agencies under
4 paragraph (2)(K);”.

5 (d) SECRETARY OF EDUCATION RESPONSIBIL-
6 ITIES.—Section 1116(e) of such Act (20 U.S.C. 6316(e))
7 is further amended—

8 (1) by redesignating paragraphs (6) through
9 (12) as paragraphs (7) through (12) and (14), re-
10 spectively; and

11 (2) by inserting after paragraph (5) the fol-
12 lowing:

13 “(6) SECRETARY RESPONSIBILITIES.—The Sec-
14 retary shall—

15 “(A) conduct a study of the impact that
16 certain factors, including the different types of
17 supplemental educational service providers (in-
18 cluding local educational agencies serving as
19 providers), the use of highly qualified teachers
20 as tutors, and the incentives offered by pro-
21 viders under this subsection, have on—

22 “(i) improving student academic
23 achievement on State student academic
24 achievement standards;

1 “(ii) ensuring continued student en-
2 rollment throughout the school year in the
3 supplemental educational services; and

4 “(iii) increasing student attendance in
5 the supplemental educational services; and

6 “(B) annually submit to Congress, and
7 post on the Department’s website, a report
8 highlighting—

9 “(i) the best State practices in the
10 monitoring and evaluation of supplemental
11 educational service providers and parental
12 notification regarding the availability of
13 supplemental educational services under
14 this subsection; and

15 “(ii) any other findings the Secretary
16 determines necessary.”.

17 **SEC. 105. DEFINITION OF PROVIDER.**

18 The matter preceding clause (i) of section
19 1116(e)(14)(B) of such Act (as redesignated by section
20 104(d)(1)) is amended by inserting “(including a local
21 educational agency identified for improvement under sub-
22 section (c) and any school that is not identified for im-
23 provement under subsection (b))” after “agency”.

1 **SEC. 106. PARAMETERS FOR SUPPLEMENTAL EDU-**
2 **CATIONAL SERVICES DESIGN.**

3 Section 1116(e)(4) of such Act (20 U.S.C.
4 6316(e)(4)) is further amended by adding at the end the
5 following:

6 “(P) if the State educational agency deter-
7 mines appropriate, require, as a criteria to be
8 an approved provider of supplemental edu-
9 cational services under this subsection—

10 “(i) that any personnel employed by
11 the provider to deliver supplemental edu-
12 cational services under this subsection to
13 students is a highly qualified teacher; or

14 “(ii) a minimum number of hours of
15 supplemental educational services under
16 this subsection that each provider must
17 offer each student;”.

18 **SEC. 107. CIVIL RIGHTS.**

19 Section 1116(e) of such Act (20 U.S.C. 6316(e)) is
20 further amended by inserting after paragraph (12) (as re-
21 designated by section 104(d)(1)) the following:

22 “(13) CIVIL RIGHTS.—In carrying out this sub-
23 section, no State educational agency or local edu-
24 cational agency may, directly or through contractual,
25 licensing, or other arrangements with a provider of
26 supplemental educational services under this sub-

1 section, engage in any form of discrimination prohib-
2 ited by—

3 “(A) title VI of the Civil Rights Act of
4 1964;

5 “(B) title IX of the Education Amend-
6 ments of 1972;

7 “(C) section 504 of the Rehabilitation Act
8 of 1973;

9 “(D) titles II and III of the Americans
10 with Disabilities Act of 1990;

11 “(E) the Age Discrimination Act of 1975;

12 “(F) regulations promulgated under the
13 authority of the laws listed in subparagraphs
14 (A) through (E); or

15 “(G) any other Federal civil rights law.”.

1 **TITLE II—ENSURING THAT SUP-**
2 **PLEMENTAL EDUCATIONAL**
3 **SERVICES FUNDS ARE TAR-**
4 **GETED ON INSTRUCTION**

5 **SEC. 201. PROHIBITING PROVIDERS OF SUPPLEMENTAL**
6 **EDUCATIONAL SERVICES FROM USING MATE-**
7 **RIAL INCENTIVES OR AGGRESSIVE TACTICS**
8 **TO REGISTER STUDENTS.**

9 (a) PROHIBITION.—Section 1116(e)(5) of such Act
10 (20 U.S.C. 6316(e)(5)) is amended by adding at the end
11 the following:

12 “(E) Offer—

13 “(i) no incentive to any official or em-
14 ployee of a school, local educational agen-
15 cy, or State educational agency;

16 “(ii) no incentive to a parent or a stu-
17 dent in exchange for the selection of a spe-
18 cific provider of supplemental educational
19 services under this subsection; and

20 “(iii) an incentive to a student partici-
21 pating in supplemental educational services
22 under this subsection only if—

23 “(I) the purpose of the incentive

24 is—

1 “(aa) to increase student
2 academic achievement;

3 “(bb) to increase student at-
4 tendance in the supplemental
5 educational services; or

6 “(cc) to ensure continued
7 student enrollment in the supple-
8 mental educational services; and

9 “(II) the total value of any incen-
10 tives, in cash or in kind, offered to the
11 student does not exceed \$50 per
12 school year per student.”.

13 (b) DEFINITION OF INCENTIVE.—Section
14 1116(e)(14) of such Act (as redesignated by section
15 104(d)(1)) is further amended—

16 (1) by redesignating subparagraphs (B) (as
17 amended by section 105) and (C) as subparagraphs
18 (C) and (D), respectively; and

19 (2) by inserting after subparagraph (A) the fol-
20 lowing:

21 “(B) the term ‘incentive’ means anything
22 of value offered to a student, parent, or em-
23 ployee or official of a school, local educational
24 agency, or State educational agency by a pro-
25 vider of supplemental educational services

1 under this subsection to encourage a desired ac-
2 tion;”.

3 (c) CHANGES TO CONTRACT.—Section 1116(e)(3)(C)
4 of such Act (20 U.S.C. 6316(e)(3)(C)) is amended by in-
5 sserting “or the provider offers or provides an incentive
6 that violates paragraph (5)(E)” before the semicolon at
7 the end.

8 (d) CONSEQUENCES FOR INCENTIVES VIOLATION.—
9 Section 1116(e)(2) of such Act (20 U.S.C. 6316(e)(2)) is
10 further amended by adding at the end the following:

11 “(M) in the case of an approved provider
12 who offers an incentive that violates paragraph
13 (5)(E), determine if any consequences should
14 apply to the provider, such as—

15 “(i) immediately terminating the
16 agreement with the provider;

17 “(ii) placing the provider on a proba-
18 tionary status for not more than 3 years;
19 or

20 “(iii) fining the provider an amount
21 equal to not more than 25 percent of the
22 amount that the local educational agency
23 pays to the provider, in accordance with
24 the contract under paragraph (3), to pro-
25 vide supplemental educational services to

1 students served by the local educational
2 agency.”.

3 **TITLE III—ENSURING THAT ALL**
4 **CHILDREN, INCLUDING**
5 **ENGLISH LANGUAGE LEARN-**
6 **ERS, CHILDREN WITH DIS-**
7 **ABILITIES, AND CHILDREN IN**
8 **RURAL LOCAL EDUCATIONAL**
9 **AGENCIES, RECEIVE SUPPLE-**
10 **MENTAL EDUCATIONAL SERV-**
11 **ICES**

12 **SEC. 301. PROVIDER AVAILABILITY.**

13 (a) STATE EDUCATIONAL AGENCY RESPONSIBIL-
14 ITIES.—Section 1116(e)(4) of such Act (20 U.S.C.
15 6316(e)(4)) is further amended by adding at the end the
16 following:

17 “(Q) ensure that, in each area served by a
18 local educational agency in the State that in-
19 forms the State educational agency of the local
20 educational agency’s need to provide supple-
21 mental educational services under this sub-
22 section to children who are limited English pro-
23 ficient or children with disabilities, the list of
24 approved providers includes a choice of 2 or
25 more providers with sufficient capacity to pro-

1 vide effective services for children who are lim-
2 ited English proficient or children with disabil-
3 ities, respectively; and

4 “(R) if the State educational agency deter-
5 mines appropriate, use a portion of the funds
6 available under subsection (b)(10) to provide,
7 on behalf of rural local educational agencies
8 that serve schools required to offer supple-
9 mental educational services under this sub-
10 section, incentives for providers to provide sup-
11 plemental educational services under this sub-
12 section to students in rural local educational
13 agencies, including—

14 “(i) providing technical assistance to
15 providers, including those offering supple-
16 mental educational services through dis-
17 tance learning; and

18 “(ii) providing assistance to commu-
19 nity based organizations with the approval
20 process to become supplemental edu-
21 cational services providers, as well as with
22 the contracting process with local edu-
23 cational agencies.”.

1 (b) PROVIDER REQUIREMENTS.—Section 1116(e)(5)
 2 of such Act (20 U.S.C. 6316(e)(5)) is further amended
 3 by adding at the end the following:

4 “(F) Prepare and submit to the State edu-
 5 cational agency, as part of the application pro-
 6 cess to become an approved provider—

7 “(i) in the case of a provider that is
 8 unable to serve students with disabilities or
 9 students who are limited English pro-
 10 ficient, a written explanation detailing the
 11 provider’s incapacity to serve such stu-
 12 dents; or

13 “(ii) in the case of a provider that can
 14 service students with disabilities or stu-
 15 dents who are limited English proficient, a
 16 written explanation detailing the provider’s
 17 capabilities to meet the educational needs
 18 of such students.”.

19 **TITLE IV—CONFORMING**
 20 **AMENDMENTS**

21 **SEC. 401. CONFORMING AMENDMENTS.**

22 Section 1116(e) of such Act (20 U.S.C. 6316(e)) is
 23 further amended—

1 (1) in the matter preceding subparagraph (A)
2 of paragraph (5), by striking “paragraph (4)(C)”
3 and inserting “paragraph (4)(F)”; and

4 (2) in paragraph (11)(A)(i) (as redesignated by
5 section 104(d)(1)), by striking “paragraph (4)(C)”
6 and inserting “paragraph (4)(F)”.

○