

IDEA–Reauthorized Statute¹
HIGHLY QUALIFIED TEACHERS

(See also Alignment With the No Child Left Behind Act)

The reauthorized *Individuals with Disabilities Education Act* (IDEA) was signed into law on Dec. 3, 2004, by President George W. Bush. The provisions of the act will be effective on July 1, 2005, with the exception of some elements of the definition of “highly qualified teacher” that took effect upon the signing of the act. This is one in a series of documents, prepared by the Office of Special Education and Rehabilitative Services (OSERS) in the U.S. Department of Education, that covers a variety of high-interest topics and brings together the statutory language related to those topics to support constituents in preparing to implement the new requirements. This document addresses only changes to the provisions regarding highly qualified teachers of IDEA that will take effect on July 1, 2005. It does not address any changes that may be made by the final regulations.

IDEA 2004:

1. Adds a new definition.

Highly Qualified: for any special education teacher the term “highly qualified” has the meaning given the term in Section 9101 of the *Elementary and Secondary Education Act* (ESEA) 1965,² except that such term also:

- Includes the requirements described in Section 602(10)(B); and
- Includes the option for teachers to meet the requirements of ESEA by meeting the requirements of Section 602(10)(C) or (D) of IDEA.

[602(10)(A)] of IDEA.

2. Specifies requirements for special education teachers.

When used with respect to any public elementary school or secondary school special education teacher teaching in a state, such term means that:

- The teacher has obtained full state certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the state special education teacher licensing examination, and holds a license to teach in the state as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the state's public charter school law;

¹ Other topics in this series include: Disproportionality and Overidentification; Early Intervening Services; Changes in Initial Evaluations and Reevaluations; Individualized Education Program (IEP); Discipline; Statewide and Districtwide Assessments; Individualized Education Program (IEP) Team Meetings and Changes to the IEP; Part C Option: Age 3 to Kindergarten Age; Procedural Safeguards: Surrogates, Notice, Consent; Procedural Safeguards: Mediation and Resolution Sessions; Procedural Safeguards: Due Process Hearings; Alignment With the *No Child Left Behind Act*; Highly Qualified Teachers; Children Enrolled by Their Parents in Private Schools; State Funding; and Local Funding. Documents are available on the OSERS Web site at: www.ed.gov/about/offices/list/osers/index.html.

² For purposes of this document, *No Child Left Behind* (NCLB) also is referred to as the *Elementary and Secondary Education Act* (ESEA) of 1965, as amended.

- The teacher has not had special education certification or licensure requirements waived on an emergency, temporary or provisional basis; and
- The teacher holds at least a bachelor's degree.

[602(10)(B)] of IDEA.

3. Special education teachers teaching to alternate achievement standards.

When used with respect to a special education teacher who teaches core academic subjects exclusively to children who are assessed against alternate achievement standards established under the regulations promulgated under Section 1111(b)(1) of ESEA, such term means the teacher, whether new or not new to the profession, may either:

- Meet the applicable requirements of Section 9101 of ESEA for any elementary, middle or secondary school teacher who is new or not new to the profession; or
- Meet the requirements of Section 9101(23)(B) or (C) of ESEA as applied to an elementary school teacher, or, in the case of instruction above the elementary level, has subject matter knowledge appropriate to the level of instruction being provided, as determined by the state, needed to effectively teach to those standards.

[602(10)(C)] of IDEA.

4. Special education teachers teaching multiple subjects.

When used with respect to a special education teacher who teaches two or more core academic subjects exclusively to children with disabilities, such term means that the teacher may either:

- Meet the applicable requirements of Section 9101 of ESEA for any elementary, middle or secondary school teacher who is new or not new to the profession;
- In the case of a teacher who is not new to the profession, demonstrate competence in all the core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle or secondary school teacher who is not new to the profession under Section 9101(23)(C)(ii) of ESEA, which may include a single, High Objective Uniform State Standard of Evaluation (HOUSSE) covering multiple subjects; or
- In the case of a new special education teacher who teaches multiple subjects and who is highly qualified in mathematics, language arts, or science, demonstrate competence in the other core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher under Section 9101(23)(C)(ii) of ESEA, which may include a single, HOUSSE covering multiple subjects, not later than two years after the date of employment.

[602(10)(D)] of IDEA.

5. Rule of construction.

Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this section or part shall be construed to create a right of action on behalf of an individual student or class of students for the failure of a

particular state educational agency (SEA) or local educational agency (LEA) employee to be highly qualified. [602(10)(E)] of IDEA.

6. “Highly Qualified” definitions for purposes of ESEA.

A teacher who is highly qualified under this paragraph shall be considered highly qualified for purposes of ESEA³. [602(10)(F)] of IDEA.

7. Adds personnel qualifications to state eligibility requirements.

The SEA has established and maintains qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities. [612(a)(14)(A)] of IDEA.

8. Related services personnel and paraprofessionals.

The qualifications under Section 612(a)(14)(A) of IDEA include qualifications for related services personnel and paraprofessionals that:

- Are consistent with any state-approved or state-recognized certification, licensing, registration or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services;
- Ensure that related services personnel who deliver services in their discipline or profession meet the requirements of Section 612(a)(14)(B)(i) of IDEA and have not had certification or licensure requirements waived on an emergency, temporary or provisional basis; and
- Allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with state law, regulation or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services to children with disabilities.

[612(a)(14)(B)] of IDEA.

9. Qualifications for special education teachers.

The qualifications described in Section 612(a)(14)(A) of the IDEA shall ensure that each person employed as a special education teacher in the state who teaches elementary school, middle school or secondary school is highly qualified by the end of the 2005-2006 school year. [1119(a)(2)] of ESEA; [612(a)(14)(C)] of IDEA.

³ A complete definition of the term “highly qualified” from ESEA 1965, Section 9101 (23)(A)-(C), is available on the U.S. Department of Education’s Web site at: www.ed.gov/policy/elsec/leg/esea02/pg107.html#sec9101.

10. Policy.

In implementing Section 612(a)(14) of IDEA, a state shall adopt a policy that includes a requirement that LEAs in the state take measurable steps to recruit, hire, train and retain highly qualified personnel to provide special education and related services under this part to children with disabilities. [612(a)(14)(D)] of IDEA.

11. Rule of construction.

Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in Section 612(a)(14) of IDEA shall be construed to create a right of action on behalf of an individual student for the failure of a particular SEA or LEA staff person to be highly qualified, or to prevent a parent from filing a complaint about staff qualifications with the SEA as provided for under this part. [612(a)(14)(E)] of IDEA.

12. State personnel development plans must:

Describe how the SEA will recruit and retain highly qualified teachers and other qualified personnel in geographic areas of greatest need. [653(b)(7)] of IDEA.

13. New personnel development grant authorities to improve services and results for children with disabilities.

The secretary, on a competitive basis, shall award grants to, or enter into contracts or cooperative agreements with, eligible entities to carry out one or more of the following objectives:

- To help address the needs identified in the state plan described in Section 653(a)(2) of IDEA for highly qualified personnel, as defined in Section 651(b), to work with infants or toddlers with disabilities, or children with disabilities, consistent with the qualifications described in Section 612(a)(14);
- To ensure that those personnel have the necessary skills and knowledge, derived from practices that have been determined, through scientifically based research, to be successful in serving those children;
- To encourage increased focus on academics and core content areas in special education personnel preparation programs; and ...
- To ensure that all special education teachers are highly qualified.

In carrying out Section 662, the secretary shall support developing, evaluating and disseminating innovative models for the recruitment, induction, retention and assessment of new, highly qualified teachers to reduce teacher shortages, especially from groups that are underrepresented in the teaching profession, including individuals with disabilities. [662(a)(1)-(3), (5) and 662(b)(2)(B)] of IDEA.

14. Effective dates.

- Except as noted, Parts A, B and C of IDEA 2004 take effect on July 1, 2005.

- Section 602(10)(A) and (C)-(F) of IDEA 2004 (definition of a “highly qualified” special education teacher) took effect on Dec. 3, 2004.