

IDEA–Reauthorized Statute
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 became effective on July 1, 2005, with the exception of some of the elements pertaining to the definition of a “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.¹ This document addresses only changes to the provisions of IDEA regarding highly qualified teachers that took effect on Dec. 3, 2004 and personnel qualifications that took 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) of 1965,² except that such term also:

- Includes the requirements described in Section 602(10)(B) of IDEA; and
- Includes the option for teachers to meet the requirements of Section 9101 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, “highly qualified” 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

¹ Topics in this series include: Alignment With the *No Child Left Behind Act*; Changes in Initial Evaluation and Reevaluation; Children Enrolled by Their Parents in Private Schools; Discipline; Disproportionality and Overidentification; Early Intervening Services; Highly Qualified Teachers; Individualized Education Program (IEP) Team Meetings and Changes to the IEP; Individualized Education Program (IEP); Local Funding; National Instructional Materials Accessibility Standard (NIMAS); Part C Amendments in *IDEA 2004*; Part C Option: Age 3 to Kindergarten Age; Procedural Safeguards: Surrogates, Notice and Consent; Procedural Safeguards: Mediation and Resolution Sessions; Procedural Safeguards: Due Process Hearings; Secondary Transition; State Funding; and Statewide and Districtwide Assessments. 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.

that the teacher meets the requirements set forth in the state's public charter school law;

- 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. Includes requirements for 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, “highly qualified” 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. Includes requirements for 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, “highly qualified” 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. Adds a rule of construction.

Notwithstanding any other individual right of action that a parent or student may maintain under Part A, nothing in Section 602(10) of IDEA or Part A 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 education agency (SEA) or local education agency (LEA) employee to be highly qualified. [602(10)(E) of IDEA]

6. Aligns “Highly qualified” standards in IDEA with the standards of ESEA.

A teacher who is highly qualified under Section 602(10) of IDEA shall be considered highly qualified for purposes of ESEA.³ [602(10)(F) of IDEA]

7. Adds a policy statement.

In implementing Section 612 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 Part B to children with disabilities. [612(a)(14)(D) of IDEA]

8. Adds a rule of construction.

Notwithstanding any other individual right of action that a parent or student may maintain under Part B, 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 Part B. [612(a)(14)(E) of IDEA]

9. Adds a requirement for state personnel development plans.

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]

10. Authorizes new personnel development grants 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) of IDEA, to work with infants or toddlers with disabilities, or children with disabilities, consistent with the qualifications described in Section 612(a)(14) of IDEA.
- 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.

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.

- To encourage increased focus on academics and core content areas in special education personnel preparation programs.
- To ensure that regular education teachers have the necessary skills and knowledge to provide instruction to students with disabilities in the regular education classroom.
- To ensure that all special education teachers are highly qualified.
- To ensure that preservice and in-service personnel preparation programs include training in the use of new technologies; the area of early intervention, educational, and transition services; effectively involving parents; and positive behavioral supports.
- To provide high-quality professional development for principals, superintendents, and other administrators, including training in instructional leadership; behavioral supports in the school and classroom; paperwork reduction; promoting improved collaboration between special education and general education teachers; assessment and accountability; ensuring effective learning environments; and fostering positive relationships with parents.

In carrying out Section 662(b)(1)(A) of IDEA, the secretary shall support not less than one of the following activities: ... 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)-(7) and 662(b)(2)(B) of IDEA]

11. Establishes effective dates.

- Except as noted, Parts A, B and C, and Subpart 1 of Part D of IDEA 2004 take effect on July 1, 2005.
- Section 602(10)(A) and (C)-(F) (definition of a “highly qualified” special education teacher) and Subparts 2-4 of Part D of IDEA 2004 took effect on Dec. 3, 2004 for purposes of ESEA.

[Title III, §302(a)-(b) of IDEA]

Personnel Qualifications (took effect on July 1, 2005):

12. Adds personnel qualifications to state eligibility requirements.

The SEA has established and maintains qualifications to ensure that personnel necessary to carry out Part B 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]

13. Adds requirements for 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 Part B to be used to assist in the provision of special education and related services to children with disabilities.

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

14. Qualifications for special education teachers.

The qualifications described in Section 612(a)(14)(A) of 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 2005-06 school year. [1119(a)(2) of ESEA]; [612(a)(14)(C) of IDEA].