

IDEA REGULATIONS

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. The final regulations were published on Aug. 14, 2006. 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 regulatory requirements related to those topics to support constituents in preparing to implement the new regulations.¹ This document addresses significant changes from preexisting regulations to the final regulatory requirements regarding highly qualified teachers.

***IDEA* Regulations**

1. Establish requirements for special education teachers teaching core academic subjects.

For any public elementary or secondary school special education teacher teaching core academic subjects², the term “highly qualified” has the meaning given the term in section 9101 of the *ESEA*³ and 34 CFR 200.56, except that the requirements for highly qualified also include:

- The requirements for special education teachers in general described in 34 CFR 300.18(b) [see “Establishes requirements for special education teachers in general,” “Describes how a special education teacher can meet the general requirements when participating in an alternative route to certification program” and “Describes how a special education teacher who is not teaching a core academic subject can meet the requirements” in this document]; and
- The option for teachers to meet the requirements of section 9101 of the *ESEA* by meeting the requirements of 34 CFR 300.18(c) and (d) [see “Establishes requirements for special

¹ Topics in this series include: Alignment With the *No Child Left Behind (NCLB) 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; Identification of Specific Learning Disabilities; Individualized Education Program (IEP) Team Meetings and Changes to the IEP; Individualized Education Program (IEP); Local Funding; Monitoring, Technical Assistance and Enforcement; *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; Procedural Safeguards: Resolution Meetings and Due Process Hearings; Secondary Transition; State Complaint Procedures; State Funding; and Statewide and Districtwide Assessments. Documents are available on the *IDEA* Web site at: <http://IDEA.ed.gov>.

² “Core academic subjects” means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history and geography. 34 CFR 300.10.

³ For purposes of this document, *NCLB* also is referred to as the *Elementary and Secondary Education Act* of 1965, as amended (*ESEA*).

education teachers teaching to alternate achievement standards” and “Establishes requirements for special education teachers teaching multiple subjects” in this document].

[34 CFR 300.18(a)] [20 U.S.C. 1401(10)(A)]

2. Establish requirements for special education teachers in general.

When used with respect to any public elementary school or secondary school special education teacher teaching in a State, highly qualified requires 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, highly qualified means that the teacher meets the certification or licensing requirements, if any, 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.

[34 CFR 300.18(b)(1)] [20 U.S.C. 1401(10)(B)]

3. Describe how a special education teacher can meet the general requirements when participating in an alternative route to certification program.

A teacher will be considered to meet the standard in 34 CFR 300.18(b)(1)(i) [see the requirement regarding full State certification in paragraph 2 of this document] if that teacher is participating in an alternative route to special education certification program under which the teacher:

- Receives high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction, before and while teaching;
- Participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program;
- Assumes functions as a teacher only for a specified period of time not to exceed three years; and
- Demonstrates satisfactory progress toward full certification as prescribed by the State.

The State ensures, through its certification and licensure process, that the provisions in 34 CFR 300.18(b)(2)(i) are met [see the requirements regarding alternative routes to certification in this paragraph].

[34 CFR 300.18(b)(2)] [20 U.S.C. 1401(10)(B)]

4. Describe how a special education teacher who is not teaching a core academic subject can meet the requirements.

Any public elementary school or secondary school special education teacher teaching in a State, who is not teaching a core academic subject, is highly qualified if the teacher meets the requirements of 34 CFR 300.18(b)(1) [see “Establishes requirements for special education teachers in general” in this document] or the requirements of 34 CFR 300.18(b)(1)(iii) [the requirement that the teacher holds at least a bachelor’s degree] and (b)(2) [see “Describes how a special education teacher can meet the general requirements when participating in an alternative route to certification program” in this document].

[34 CFR 300.18(b)(3)] [20 U.S.C. 1401(10)(B)]

5. Establish 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 34 CFR 200.1(d), highly qualified means the teacher, whether new or not new to the profession, may either:

- Meet the applicable requirements of section 9101 of the *ESEA* and 34 CFR 200.56 for any elementary, middle, or secondary school teacher who is new or not new to the profession; or
- Meet the requirements of paragraph (B) or (C) of section 9101(23) of the *ESEA* as applied to an elementary school teacher, or, in the case of instruction above the elementary level, meet the requirements of subparagraph (B) or (C) of section 9101(23) of the *ESEA* as applied to an elementary school teacher and have subject matter knowledge appropriate to the level of instruction being provided and needed to effectively teach to those standards, as determined by the State.

[34 CFR 300.18(c)] [20 U.S.C. 1401(10)(C)]

6. Establish requirements for special education teachers teaching multiple subjects.

Subject to 34 CFR 300.18(e) [see “Provides for separate HOUSSE⁴ standards for special education teachers” in this document], 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 the *ESEA* and 34 CFR 200.56(b) or (c);
- 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

⁴ HOUSSE stands for “high objective uniform state standard of evaluation.”

for an elementary, middle, or secondary school teacher who is not new to the profession under 34 CFR 200.56(c) which may include a single 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, not later than two years after the date of employment, 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 34 CFR 200.56(c), which may include a single HOUSSE covering multiple subjects.

[34 CFR 300.18(d)] [20 U.S.C. 1401(10)(D)]

7. Provide for separate HOUSSE standards for special education teachers.

Provided that any adaptations of the State’s HOUSSE would not establish a lower standard for the content knowledge requirements for special education teachers and meets all the requirements for a HOUSSE for regular education teachers:

- A State may develop a separate HOUSSE for special education teachers; and
- The standards described in 34 CFR 300.18(e)(1) [see the prior bullet] may include single HOUSSE evaluations that cover multiple subjects.

[34 CFR 300.18(e)] [20 U.S.C. 1401(10)]

8. Create a rule of construction.

Notwithstanding any other individual right of action that a parent or student may maintain under Part 300, nothing in Part 300 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, or to prevent a parent from filing a complaint under 34 CFR 300.151-300.153 about staff qualifications with the SEA as provided for under Part 300.

[34 CFR 300.18(f)] [20 U.S.C. 1401(10)(E)]

9. Describe the applicability of definition to *ESEA* and clarification of “new” special education teacher.

A teacher who is highly qualified under section 602(10) of *IDEA* [20 U.S.C. 1401(10)] shall be considered highly qualified for purposes of the *ESEA*.

For purposes of 34 CFR 300.18(d)(3) [see “Establishes requirements for special education teachers teaching multiple subjects,” regarding new teachers, in this document], a fully certified regular education teacher who subsequently becomes fully certified or licensed as a special education teacher is a new special education teacher when first hired as a special education teacher.

[34 CFR 300.18(g)] [20 U.S.C. 1401(10)(F)]

10. Establish that private school teachers are not covered under the highly qualified teacher standards.

The requirements in this section do not apply to teachers hired by private elementary schools and secondary schools including private school teachers hired or contracted by LEAs to provide equitable services to parentally-placed private school children with disabilities under 34 CFR 300.138.

[34 CFR 300.18(h)] [20 U.S.C. 1401(10)]

11. Describe the responsibility of SEA regarding children with disabilities placed in or referred to a private school or facility by the SEA and LEAs.

Each SEA must ensure that a child with a disability who is placed in or referred to a private school or facility by a public agency is provided an education that meets the standards that apply to education provided by the SEA and LEAs including the requirements of Part 300, except for 34 CFR 300.18 and 300.156(c).

[34 CFR 300.146(b)] [20 U.S.C. 1412(a)(10)(B)]

12. Establish the responsibility of the SEA for personnel qualifications.

The SEA must establish and maintain qualifications to ensure that personnel necessary to carry out the purposes of Part 300 are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities.

[34 CFR 300.156(a)] [20 U.S.C. 1412(a)(14)]

13. Describe personnel qualifications regarding related services personnel and paraprofessionals.

The qualifications under 34 CFR 300.156(a) [see “Establishes the responsibility of the SEA for personnel qualifications” in this document] must 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 34 CFR 300.156(b)(1) [see prior bullet] 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 300 to be used to assist in the provision of special education and related services under Part 300 to children with disabilities.

[34 CFR 300.156(b)] [20 U.S.C. 1412(a)(14)(B)]

14. Establish a deadline for special education teachers to be highly qualified.

The qualifications described in 34 CFR 300.156(a) [see “Establishes the responsibility of the SEA for personnel qualifications” in this document] must ensure that each person employed as a public school special education teacher in the State who teaches in an elementary school, middle school or secondary school is highly qualified as a special education teacher by the deadline established in section 1119(a)(2) of *ESEA*.

[34 CFR 300.156(c)] [20 U.S.C. 1412(a)(14)(C)]

15. Require each state to adopt a policy on recruitment, training and retention.

In implementing 34 CFR 300.156, a State must 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.

[34 CFR 300.156(d)] [20 U.S.C. 1412(a)(14)(D)]

16. Create a rule of construction.

Notwithstanding any other individual right of action that a parent or student may maintain under Part 300, nothing in Part 300 shall be construed to create a right of action on behalf of an individual student or a class of students for the failure of a particular SEA or LEA employee to be highly qualified, or to prevent a parent from filing a complaint about staff qualifications with the SEA as provided for under Part 300.

[34 CFR 300.156(e)] [20 U.S.C. 1412(a)(14)(E)]

17. Establish the responsibility of the LEA for personnel development.

The LEA must ensure that all personnel necessary to carry out Part B of the Act are appropriately and adequately prepared, subject to the requirements of 34 CFR 300.156 and section 2122 of the *ESEA*.

[34 CFR 300.207] [20 U.S.C. 1413(a)(3)]