

NOTICE
NEW INTERPRETATION

October 19, 2009

TO THE ADMINISTRATOR ADDRESSED:

SUBJECT: Revised USDE Guidance Related to Highly Qualified Teacher Requirements

Based on information received by the Texas Education Agency (Agency) on October 5, 2009, in the U. S. Department of Education's (USDE) *Highly Qualified Teachers and Improving Teacher Quality State Grants (ESEA, Title II, Part A) Monitoring Report* from the monitoring visit conducted on September 1-2, 2009, the USDE is requiring the Agency to review the applicability of some of the elementary teacher certification examinations for meeting the Highly Qualified Teacher (HQT) requirements as described in the attached information.

The Agency is currently in contact with USDE in order to request 1) further clarification on the timeline for implementation of the new interpretation, and 2) determine any allowable flexibility.

Unless the Agency receives some additional clarification or flexibility, the new information from USDE will mean that many elementary teachers who were new to the profession when hired for the 2009-2010 school year and demonstrated subject area competency based on passing a certification exam in a specific subject area cannot be considered Highly Qualified for elementary grades (grades PK-6) until he/she has also passed a Generalist exam that tests subject knowledge in reading, writing, mathematics, science, and social studies. In addition to the impact for these teachers, the USDE's new interpretation will have an impact on reporting of HQT and parental notification at the local level. More details on the full impact of this new interpretation are attached.

While changes to affected elementary school teachers highly qualified status are ***not being required by the Agency at this time***, there may be little or no flexibility allowed by USDE on this new interpretation. Therefore, in order to provide teachers and campuses as much time as possible to meet the new requirement, the local education agency (LEA) may choose to be proactive and begin taking steps to come into compliance with the new interpretation.

Please understand that it is in no way the Agency's intent that these new teachers be released from their teaching positions due to this new interpretation. The Agency will work with LEAs to the extent allowed by the USDE as you work through this issue. The Agency understands the inconvenience and the financial impact this new interpretation may cause the affected campus(es) and teacher(s).

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The USDE has agreed that highly qualified teacher determinations made for new elementary school teachers for the 2008-2009 and previous school years under the prior interpretation may remain valid for the teacher as long as the teacher remains in the same teaching assignment. Portability of those determinations between Texas LEAs, as long as the teacher remains in the same teaching assignment, also remains in effect for those teachers.

A webinar will be scheduled to help address any questions you may have concerning this new interpretation once final clarification and guidance is received from USDE. Information on the webinar will be shared through the *NCLB Update* listserv that is disseminated to school districts each week via electronic mail. To subscribe to the *NCLB Update*, go to <http://www.tea.state.tx.us/list> and select "No Child Left Behind" from the dropdown box and click on the "Join or Leave" button. At the second screen, enter your email address and name and click on the "Join the List" button.

If you have questions regarding the NCLB Highly Qualified Teacher requirements, HQT reporting, or parent notification, please contact Scott Lewis in the Division of NCLB Program Coordination via electronic mail at scott.lewis@tea.state.tx.us or at (512) 463-9374.

If you have questions regarding teacher certification issues, please contact Melva Cardenas in the Division of Educator Credentialing via electronic mail at melva.cardenas@tea.state.tx.us or at (512) 936-8224.

Sincerely,

Gene Lenz
Deputy Associate Commissioner
for Special Programs

Attachment

GL/cg

New Interpretation/Guidance for Elementary School Teachers New to the Profession

New Interpretation of Statute

Public Law 107-110, Section 9101(23)(B)(i) states that the term ‘highly qualified,’ when used with respect to an elementary school teacher who is new to the profession, means that the teacher—

- holds at least a bachelor’s degree; and
- has demonstrated, by passing a rigorous State test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum.

Previously, the State’s guidance had interpreted this to mean that an elementary teacher who was new to the profession and who had passed a subject-specific certification exam would have been considered Highly Qualified to teach the applicable subject area at the elementary school level.

However, if there is no flexibility to USDE’s new interpretation of statute, while the subject-specific certification exam can be considered to have demonstrated the teacher’s knowledge of the subject area(s) tested, without passing a generalist exam, an elementary teacher who is new to the profession has no way to demonstrate subject competency, and be deemed highly qualified, in all the areas required by statute. For purposes of highly qualified at the elementary level, passing either the TExES EC-4 or EC-6 Generalist, TExES EC-4 or EC-6 Bilingual Generalist, or TExES EC-4 or EC-6 ESL Generalist will meet the new interpretation.

For example, an elementary school teacher new to the profession who has passed the TExES 4-8 Math exam would have been considered Highly Qualified to teach math at the elementary school level. However, under the USDE’s new guidance on the interpretation of statute, while this exam can be considered adequate to demonstrate the teacher’s subject knowledge in math, since it does not contain sufficient subject content to also demonstrate knowledge of reading, writing, science, or social studies the teacher would also be required to pass a generalist exam to meet the highly qualified teacher requirement.

Under the new interpretation, any elementary teacher who was new to the profession when hired for the 2009-2010 school year and whose demonstration of subject competency was based on passing one of the following exams would not be considered Highly Qualified for elementary grades until he/she has also passed a Generalist exam that tests subject knowledge in reading, writing, mathematics, science, and social studies:

- 4-8 Math
- 4-8 Science
- 4-8 Social Studies
- 4-8 Math/Science
- 4-8 ELA/Reading
- 4-8 ELA/Reading/Social Studies
- EC-12 Art
- EC-12 Music
- EC-12 Theater
- EC-12 Special Education

Because the requirements for new middle school and secondary school teachers offer more flexibility in the methods available for demonstrating subject competency, a teacher, who is new to the profession and who has passed the TExES 4-8 Math exam, would still be considered Highly Qualified in math for grades 7 and 8.

These subject exams may still be counted as demonstrating subject competency for grades 7 and 8 in the subjects covered. The All-level Art and Music exams may still demonstrate subject competency for grades 7-12. The EC-12 Special Education exam may still demonstrate subject competency in reading and math for grades 7 and 8.

2009-2010 HQT Reporting

If no flexibility is received from USDE, LEAs may in the future need to adjust their 2009-2010 Highly Qualified reports submitted to the Agency.

If this is the case, the LEA will at that time be requested to ensure that this new interpretation is implemented in the data reported for the beginning of year status for the 2009-2010 school year. In the Highly Qualified Teacher data (as of September 15, 2009) that local education agency (LEA) campuses will be reporting this fall, the LEA would review the Highly Qualified credentials of all elementary teachers who came to the LEA as teachers who were new to the profession (less than one year of credible teaching experience when hired).

Teacher Implications

If no flexibility is received from USDE, LEAs may in the future need to address the affected teachers in the LEA's Highly Qualified Teacher Continuous Improvement Plan (HQTICIP).

For any new elementary school teachers hired under the previous guidance, the LEA would ensure the teacher has a development plan on file and is included in the LEA's HQTICIP that will be due to the Agency in December (or later, depending on the final guidance from USDE). Also, the LEA would ensure that none of these teachers' salaries is being paid with federal funds and that none of these teachers is teaching in a Title I, Part A program. In order to be in compliance with what USDE is requiring under this new interpretation, LEAs with these teachers teaching in a Title I, Part A program or whose salaries are paid with federal funds would either make adjustments to come into compliance or contact the Division of NCLB Program Coordination for a corrective action plan to file with the Agency for the 2009-2010 school year.

Parent Notification

If no flexibility is received from USDE, LEAs may in the future need to notify parents of the new interpretation.

Parents of students taught by the new elementary school teachers affected by this new interpretation would be notified of the teacher's non-highly qualified teacher status after the student has been assigned to the teacher's classroom for four consecutive weeks. However, it would be clearly acceptable to state in the notification that the teacher did meet the state's requirements for highly qualified teacher status when the teacher was hired and that the notification is required due to a new federal interpretation this month. To assist LEAs, the Division of NCLB Program Coordination will post a sample parent notification letter that LEAs may use in this instance.