



Federal Teacher and Paraprofessional Qualification Requirements

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MEMORANDUM

DATE: Revised February 2007

TO: All Charter Schools Authorized by the State University Board of Trustees

FROM: The Charter Schools Institute

RE: Federal Teacher and Paraprofessional Qualification Requirements

The federal No Child Left Behind Act (NCLB) (20 U.S.C. § 6301 *et seq.*)¹ impacts public schools, including charter schools,² in a wide range of ways. This memo alerts you to the teacher and paraprofessional qualifications contained in NCLB, which apply to all charter schools as of June 30, 2006 (the end of the 2005-2006 school year).

¹ The NCLB is the latest incarnation of the Elementary and Secondary Education Act (ESEA), the most substantial federal education law. Title I, which provides funding for economically disadvantaged and underachieving children, is part of the ESEA.

² It is important to note that the entire NCLB only applies to those states and school districts that receive Title I funds and other funding under the Act. Of course, New York State is a recipient of these funds as is almost every State University authorized charter school. Certain obligations under NCLB attach to all New York charter schools because the state receives Title I funding; those charter schools that also receive Title I funding must meet additional requirements under NCLB as well.

In particular, it will focus on the additional requirements that charter schools must meet when they choose to hire uncertified teachers. It is very important that you read this memo carefully given that NCLB imposes additional constraints and conditions on the hiring of non-certified teachers in addition to those in the New York Charter Schools Act of 1998 (Education Law 2853(a-1)), available at <http://www.newyorkcharters.org/documents/NYSCharterSchoolsActof1998fin.pdf>.

In general, the most up to date information about the application of NCLB requirements for highly qualified teachers in New York State will be found at the State Education Department's (SED's) website at <http://www.highered.nysed.gov/nclbhome.htm>.

I. TEACHERS

A. New York State Law

As you are aware, a charter school in New York has the right to hire uncertified teachers for any subject so long as the number of uncertified teachers is not greater than 30% of the teaching staff or a total of five teachers, *whichever is less*. Each uncertified teacher hired must possess at least one of the qualifications set forth at § 2854(3)(a-1)(i)-(iv) of the New York Education Law as follows:

- i) three years of elementary, middle or secondary classroom teaching experience; or
- ii) tenured or tenure track college faculty; or
- iii) two years experience teaching in the Teach For America program; or
- iv) exceptional business, professional, artistic, athletic or military experience.

For example, he or she must have exceptional business experience or three years previous teaching experience. As explained below in greater detail, NCLB requirements apply to uncertified teachers hired under Education Law subdivision 2854(3)(a-1). These requirements impose significant additional constraints on those hires when the person will be teaching a "core academic subject" as defined by the NCLB (below).

B. NCLB Requirements for Uncertified Teachers in Charter Schools

The NCLB imposes significant requirements on charter schools when they hire teachers who are uncertified. Under the NCLB, uncertified teachers must possess certain minimum educational qualifications and credentials that are *in addition to* those imposed by subdivision 2854(3)(a-1) of New York State Education Law. A synopsis of these new requirements (which in sum require proof that a teacher is "subject matter competent") follows below.

1. All uncertified teachers in charter schools in core academic subjects must be "subject matter competent." Core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, history, geography and the arts (including visual

arts, dance, music, theater, public speaking and drama). That means that for uncertified teachers (legally hired under the New York Education Law's subdivision 2854(3)(a-1) exemption), such individuals must hold a four-year bachelor's degree and must show competence in each area in which they will provide instruction. These two requirements are in addition to meeting one of the requirements of subdivisions 2854(3)(a-1)(i)-(iv). How precisely an uncertified teacher can demonstrate his or her competence depends on what grade level he or she is teaching (K-6 or 7+) and his or her previous experience. Details are set forth below.

- For uncertified elementary school teachers who are new to the profession (teaching for the first time when they are hired) and who have been hired under Education Law's subdivision 2854(3)(a-1) exemption, the NCLB effectively requires that they must at a minimum hold a bachelor's degree and have passed the subject matter (Liberal Arts and Sciences Test (LAST)) and teaching skills tests (Assessment of Teaching Skills – Written (ATS-W)) administered by the State Education Department.
- Uncertified middle and secondary school teachers new to the profession who have been hired under Education Law's subdivision 2854(3)(a-1) exemption, must hold a bachelor's degree and have (a) either majored, obtained an advanced degree or completed course work equivalent to a major (30 credit hours) in each subject area in which they will provide instruction or have (b) passed the subject-matter tests administered by the State Education Department (NYS Teacher Certification Examination (NYSTCE) Content Specialty Test (CST)) in each such area, or a multi-subject SED test that covers the area).
- For elementary, middle and secondary school teachers hired under Education Law's subdivision 2854(3)(a-1) exemption and who are not new to the profession (at the time they were hired by the charter school), they must hold a bachelor's degree and show subject matter competency in essentially the same ways as are available to those teachers who are new to the profession (see the first two bullet points immediately above), but there are, in some cases, additional qualifying tests including various High Objective Uniform State Standard of Evaluation (HOUSSE) tests) (discussed below).

More information on the NCLB is available on the SED website at <http://www.highered.nysed.gov/mword/nclb052006.doc> (Part D).

2. All uncertified teachers in all charter schools (even those not receiving Title I funds) hired pursuant to Education Law subdivision 2854(3)(a-1), must obtain a four-year bachelor degree and have demonstrated subject matter competency by the end of the 2005-06 school year.

C. NCLB Requirements for Certified Teachers (Including Certified Teachers in Charter Schools)

1. As with uncertified teachers, certified teachers must also demonstrate that they are subject matter competent. As a general rule, teachers who are certified in New York State are already required (by state law) to have demonstrated that they are subject matter competent (by both possessing at a minimum a bachelor's degree and having passed subject matter and teaching skills exams). Thus, for most certified teachers who teach only the subject in which they are certified, NCLB will not impose additional requirements above and beyond those required for certification. Nonetheless:

- There is provision in NCLB to permit a teacher to exhibit subject mastery by passing an approved examination other than the State Education Department teacher licensing exams.
- The NCLB allows veteran teachers to possess the requirements applicable to teachers new to the profession or to demonstrate competence based on a uniform state performance review standard, presumably where such a program is in place.

More information on the above is available on the SED website at <http://www.highered.nysed.gov/mword/nclb052006.doc> (Parts A.7 - A.14).

There is, however, one significant exception to that general rule which would impact some veteran teachers who received their certification before New York State's present certification requirements were in place. In certain instances, these teachers may not be able to demonstrate that they are subject matter competent (by virtue of their certification status alone). These certified teachers will thus either be required to pass the relevant certification exams or take the required coursework or demonstrate competence through alternative means). If a certified teacher suspects that he or she does not meet the NCLB requirements, he or she should contact the certification department at SED to discuss this issue at: nclbnys@mail.nysed.gov.

Please note that different requirements may apply to special education (SPED) and English as a second language (ESL) teachers, who teach multiple subjects as opposed to supplementing other highly qualified teaching. Also, the Individuals with Disabilities Education Act (IDEA) imposes certain requirements on all SPED teachers (section 612(a)(15) of the IDEA and 34 CFR § 300.136). More information is available on SED's website at <http://www.highered.nysed.gov/mword/nclb052006.doc> (Part A.4).

2. All certified teachers in all charter schools (even those not receiving Title I funds), must obtain a four-year bachelor degree and have demonstrated subject matter competency by the end of the 2005-06 school year.

D. Examples of How the NCLB Requirements Work

- Example 1

This fall, the Sunrise Charter School, a K-3 school in the second year of its charter, has ten returning teachers and two new ones who were hired over the summer. Two of the teachers, Ann and Bob, are not certified and were hired under the exemption provision in the Charter Schools Act, each having had three years previous classroom teaching experience. (See New York Education Law § 2854(3)(a-1)(i)). Of these two uncertified teachers, Bob has a B.A. and Ann does not hold a bachelor's degree. In December 2006, one of the certified teachers leaves and another uncertified teacher, Carol, who meets the requirements of subdivision 2854(3)(a-1) is hired. Under the NCLB, the following consequences will result.

As an uncertified veteran teacher (who was hired before the start of the end of the 2005-06 school year), Ann was able to teach during the 2005-2006 school year (despite the fact that she does not hold a bachelor's degree); however, she will not be able to teach in the 2006-07 school year unless she obtains a bachelor's degree and passes the K-6 subject matter (LAST) and teaching skills tests (ATS-W) before the start of that school year. The same is true for the other veteran uncertified teacher, Bob, but because he already holds a bachelor's degree he will only be required to have passed the appropriate subject matter and teaching skills exams by the end of the 2005-06 school year in order to qualified to teach beyond that date.

The certified teachers are also qualified and generally need take no further steps to remain eligible in this academic year. In general, however, teachers who have been recently certified will most likely have to take no new steps.

In order for Carol, the uncertified teacher, to be hired legally mid-year she would not only have to possess one of the qualifications required by subdivision 2854(3)(a-1), but also possess a bachelor's degree as well as demonstrate subject matter competency through passage of New York State's content and skills tests.

- Example 2

The Moonlight Charter School, which just received a charter for a middle school set to open in the 2006-07 school year, is in the process of hiring math teachers. Dan has applied to teach 7th grade math. He has an undergraduate degree in, and is NYS certified in Spanish, and has a master's degree in calculus. Samantha

is an exceptionally talented business woman. She taught math at an elementary charter school, has a B.A. in physical education and has taken and passed the LAST and ATS-W.

Under the NCLB all of the school's teachers (even those hired under subdivision 2854(3)(a-1)) must be "highly qualified." This effectively means that each must not only hold a B.A. or B.S. (or equivalent) but must have majored in college or completed a course of study in graduate school or have 30 college credit hours in each subject they will teach, or, in the alternative, passed the relevant subject matter test(s) administered by the State Education Department.

Dan is NCLB highly qualified because he has a bachelor's degree and a master's degree in a math subject. (He also is state certified in another subject, and therefore, does not have to be counted toward the limit of five uncertified teachers per subdivision 2854(3)(a-1).)

Samantha, on the other hand, does not qualify to teach 7th grade math under federal law. Her undergraduate degree is in P.E. not math and she has no graduate degree or coursework in math.

As a result she will have to take and pass the SED content specialty exam in middle school math in order to be eligible to teach in September. (Even then she will count toward the limit of uncertified teachers in the school).

II. PARAPROFESSIONALS

The NCLB requires that all paraprofessionals in schools receiving Title I funding, regardless of hiring date, have a high school diploma or its equivalent. In addition, it requires that all paraprofessionals hired after the enactment of the NCLB (on January 8, 2002) must possess certain minimum qualifications described in the NCLB. Basically, newly hired paraprofessionals (including those hired before the 2002-03 school year but after January 8, 2002) must have:

- completed at least two years of post-secondary education; or
- obtained an associate's or higher degree; or
- demonstrated appropriate competence through performance on standardized testing.

The NCLB originally provided that except for paraprofessionals providing only translation services or parental involvement activities, all paraprofessionals hired before January 8, 2002 must have met the requirement for new hires within four years from that date. That compliance date has been extended to the end of the 2005-06 school year, the same compliance date that applies to teachers.

For information regarding New York paraprofessional qualification requirements under NCLB, see the information the State Education Department has provided at <http://www.highered.nysed.gov/mword/nclb052006.doc> (Part B). The U.S. Department of Education has also provided information and guidance at: <http://www.ed.gov/policy/elsec/guid/paraguidance.doc> and at the FAQ found at the following link:

[Note: because this link is so long, it must be copied and then pasted into your browser window]:

http://answers.ed.gov/cgi-bin/education.cfg/php/enduser/std_adp.php?p_faqid=59&p_created=1098971891&p_sid=192MeJXh&p_lva=&p_sp=cF9zcmNoPSZwX3NvcnRfYnk9JnBfZ3JpZHNvcnQ9JnBfcm93X2NudD0xMDgmcF9wcm9kcz0mcF9jYXRzPSZwX3B2PSZwX2N2PSZwX3BhZ2U9Mw**&p_li=&p_topview=1

III. PLANNING AND REPORTING

The NCLB requires each state education agency (SEA), which in New York State is the State Education Department, to develop a plan to ensure that all teachers teaching in core academic subjects are highly qualified by the end of the 2005 - 2006 school year.

SEAs must also establish annual, measurable goals for each local educational agency (LEA) (most commonly a school district, but in New York charter schools are their own LEAs for purposes of NCLB). Under the Act, each LEA must also develop a plan for ensuring that all teachers teaching in the area served by the LEA are highly qualified by the 2005 - 2006 school year, and if not, that they are making a good faith effort to have all teachers qualified by the end of the 2006-07 school year.

Each SEA and LEA must report annually on their progress towards meeting these objectives. Since New York charter schools serve as LEAs where NCLB is concerned, each school will have to develop a compliance plan and provide annual progress reports.

It is our understanding that the State Education Department will be providing you with further information on how to fulfill your obligations in this regard.

IV. UNDERSTANDING YOUR OBLIGATIONS

Charter school administrators should be aware of these requirements and take steps necessary to meet their obligations under the NCLB. You should also be aware that the State Education Department is in the process of requiring additional information on teacher qualification for the 2006-07 deadline in order to meet its own obligations under the NCLB. For more information on the NCLB generally, see the U.S. Department of Education web site devoted entirely to the Act: <http://www.nochildleftbehind.gov>.

The NCLB text concerning qualified teachers can be found online at:
<http://www.ed.gov/policy/elsec/leg/esea02/pg2.html#sec1119>.

For further information on certification tests (and certification generally), go to:
<http://www.highered.nysed.gov/tcert/certificate/index.html>.

Please feel free to contact the Institute if you have questions regarding the NCLB. We will be happy to help you understand your obligations under the NCLB and assist you in working with the State Education Department.