

Division of Special Education/Early Intervention Services

Highly Qualified Teachers

The reauthorized Individuals with Disabilities Education Act (IDEA) of 2004 was signed into law December 3, 2004, by President George W. Bush. The provisions of the Act regarding “highly qualified teacher” took effect upon the signing of the Act. The other provisions of the Act take effect July 1, 2005. This is one in a series of documents, prepared by the Division of Special Education/Early Intervention Services, Maryland State Department of Education (MSDE), that cover a variety of high-interest topics to support local school systems, local Infants and Toddlers Programs, and other public agencies in preparing to implement the new requirements. This document only addresses the changes in the provisions regarding highly qualified that took effect upon the signing of the Act. It does not address any changes that may be made in the final federal regulations or potential changes to state statutes or regulations.

1. What is the new definition of Highly Qualified in IDEA 2004?

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**, 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)]

* IDEA 2004 references the Elementary and Secondary Education Act (ESEA) 1965. ESEA is also known as the No Child Left Behind (NCLB). References to either Elementary and Secondary Education Act (ESEA) 1965 or NCLB within this document are synonymous.
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2. What are the guiding principles behind the highly qualified requirements?

- Students with disabilities are expected to meet the same academic standards as their non-disabled peers;
- Teachers who deliver instruction to students with disabilities must have content knowledge in the core academic subjects taught;
- Students with disabilities must receive instruction in core academic subjects from a teacher who is highly qualified in those subject areas;
- The definitions of “Core Academic Subjects” and “Highly Qualified Teacher” from No Child Left Behind (NCLB) (Section 9101) are explained in detail in Achieving “Highly Qualified” Status Under No Child Left Behind, A Guide for Maryland Teachers, Using Maryland’s HOUSSSE, High Objective, and Uniform State Standards of Evaluation (March 2005);
- All special education teachers must meet the state’s special education certification standards for the grade level they teach and hold at least a bachelors degree; and
- Teachers of students with disabilities holding certification that has been waived on an emergency, temporary or provisional basis do not meet the requirements of the NCLB Act of 2001 or the IDEA of 2004.

3. Which special education teachers are required to meet the highly qualified requirements?

The following must meet the highly qualified requirements:

- The special education teacher that is the primary teacher providing instruction to students with disabilities in core academic subjects;
- The special education teacher that provides instruction in two or more core academic subjects to students with disabilities; and
- The elementary and secondary special education teacher that teaches core academic subjects exclusively to students with disabilities who are assessed against alternate achievement standards (ALT-MSA).

The following special education teachers **are not** required to meet the highly qualified requirements:

- Special education teachers who provide consultative/support services (e.g. adapting curricula, modifying instructional methods, using behavioral supports and

interventions, and/or selecting or providing appropriate accommodations to a NCLB highly qualified general education teacher of core academic subjects. A special education teacher who provides only consultative services to a highly qualified general education teacher shall be considered a highly qualified special education teacher if the teacher meets the state's special education certification requirements for the grade level he/she is assigned to teach; and

- The special education teacher that provides direct instruction to students with disabilities on non-core academic subjects such as community-based instruction, transition services, adaptive physical education, health education, and computer literacy.

4. What are the specific 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*;
- 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)]

5. Do special education teachers teaching to alternative standards (ALT-MSA) have special requirements?

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

* In Maryland, charter school teachers must meet the same requirements as public elementary and secondary teachers.
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- 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.

Maryland's HOUSSE allows teachers who had teaching experience prior to the first day of the 2002-2003 school year and who only teach students participating in ALT-MSA to be considered highly qualified if they hold an Advanced Professional Certificate and a Severely and Profoundly Disabled endorsement.

[602(10)(C)]

6. What are the requirements for special education teachers who are 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)]

7. Do these requirements create a right of action on behalf of an individual student or class of students?

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)]

8. Will the State be required to establish additional policies?

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.

In implementing Section 612(a)(14) of IDEA, a state shall adopt a policy that includes a requirement that local school systems and public agencies 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.

[Sec. 612(a)(14)(A); Sec. 612(a)(14)(C); and Sec. 612(a)(14)(D)]

9. What are the 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 this part to be used to assist in the provision of special education and related services to children with disabilities.

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

10. What is the timeline for special education teachers to meet the highly qualified requirements?

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 in elementary school, middle school, or secondary school is highly qualified by the end of the 2005-2006 school year.

[1119(a)(2) of ESEA; Sec. 612(a)(14)(C) of IDEA 2004]

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This document was developed and produced by the Division of Special Education/Early Intervention Services, IDEA Part B Grant #HO27A040035A funded by the U.S. Department of Education, Office of Special Education and Rehabilitative Services. The views expressed herein do not necessarily reflect the views of the U.S. Department of Education or any other Federal agency and should not be regarded as such. The Division of Special Education/Early Intervention Services receives funding from the Office of Special Education Programs, Office of Special Education and Rehabilitative Services, U.S. Department of Education. This information is copyright free. Readers are encouraged to copy and share it but please credit the Division of Special Education/Early Intervention Services, Maryland State Department of Education.