

## FACT SHEET

### ***HIGHLY QUALIFIED TEACHER WAIVER: PROVIDING FLEXIBILITY TO SCHOOLS TO PLACE EFFECTIVE TEACHERS***

When the federal *No Child Left Behind Act of 2001* (NCLB) was originally enacted, provisions pertaining to “highly qualified teachers” (HQTs) were included in an effort to ensure that all students had access to credentialed teachers. Over the course of implementation and reauthorization of the Act, as well as implementation of recent programs offering flexibility from some of the Act’s provisions, it has become clear that, despite improvements in the general availability of HQTs, access to these teachers has not necessarily improved student outcomes. In an effort to deploy teachers in a manner that improves student achievement, PED recently requested flexibility from federal HQT requirements. Citing research that indicates teaching credentials, alone, do not necessarily predict increased student achievement, PED requested this flexibility to ensure all students had access to an effective teacher, rather than to a “highly qualified” one, as defined by federal requirements.

#### *Background*

NCLB included the goal that all students be taught by “highly qualified teachers” by the end of school year 2005-2006. Reflecting the idea that teacher quality is one of the most important factors in improving student achievement, the Act defined an HQT as a teacher who:

- holds at least a bachelor’s degree;
- has obtained full state certification; and
- has demonstrated knowledge in the core academic subjects that he or she teaches.

By the beginning of school year 2005-2006, a letter from the US Department of Education (USDE) indicated that, while local school districts were taking steps to improve teacher quality, they were not on track to ensure that HQTs were equitably distributed among both affluent and disadvantaged schools by the end of that school year. After acknowledging evidence of continued improvement, USDE nevertheless noted that, in 2008, states were still struggling to place their most effective teachers with their neediest students.

In September 2011, USDE offered states the opportunity to obtain flexibility from certain provisions of the *Elementary and Secondary Education Act* (ESEA), including from some provisions affecting HQTs; in early 2012, New Mexico became one of the first states in the nation to be granted this flexibility package. While this waiver program offered flexibility from requirements that local education agencies (LEAs) undertake improvement plans when HQT requirements were not met with sufficient progress, the basic HQT requirements, such as the term’s definition, remained. Under this ESEA flexibility, state educational authorities were to use their new teacher evaluation support systems to identify qualified teachers; PED developed the NMTEACH Educator Effectiveness system to meet both the original ESEA HQT provisions, as well as satisfy the requirements of the new flexibility program.

### HQT Waiver Request

Earlier this year, PED requested additional flexibility from USDE regarding provisions of the ESEA related to HQTs. In its request, PED noted that federal requirements pertaining to HQTs focus on a teacher's credentials to determine whether a teacher is highly qualified. However, PED noted such "input" qualifications only weakly predict a teacher's classroom effectiveness, while emphasis on student outcomes, as exemplified in the current New Mexico Teacher Evaluation Advisory Council (NMTEACH) evaluation system, is a much better indicator of teacher quality. Wishing to be better able to deploy the state's effective teachers to areas where they are most needed, PED offered examples of how LEAs might more effectively employ teachers, by allowing LEAs to assign qualifying teachers to different, but related subjects and grade levels other than those they currently teach. For example:

- qualified secondary science, technology, engineering and math (STEM) teachers might teach similar subjects for which they do not have an endorsement, or teach in fifth or sixth grade, something they normally would not be permitted to do;
- qualified special education teachers might be permitted to teach both special needs students and general education students in their content areas; and
- secondary humanities teachers who qualify would, like STEM teachers, be permitted to teach cross-curricular subjects within the humanities, as well as teach fifth and sixth grades.

In a letter dated May 11, 2015, USDE granted PED's request for this flexibility.

### Flexibility for Highly Qualified Teachers Provisions in New Mexico

The US Secretary of Education granted New Mexico's request for additional flexibility by granting the state a waiver from a portion of the federal definition of a "highly qualified teacher" that includes reference to previous teacher evaluation systems. Instead of the federal provision that defines HQTs, New Mexico may use the NMTEACH system to identify teachers as "highly qualified." While it is unclear if other states have applied for or been offered this waiver, New Mexico is the only state, thus far, that has been granted this flexibility, which would allow LEAs to apply to PED to use the term "highly qualified teacher" to refer to an individual teacher who:

- receives a prior-year rating of "effective" or better; and
- earns at least 50 percent of possible student achievement points.

This flexibility was granted subject to the following limitations and requirements:

- if a teacher under this flexibility, after one year, fails to achieve a rating of "effective" or higher, the LEA where the teacher is employed will not be able to continue to utilize this flexibility for that teacher;
- LEAs under this flexibility must offer professional development to help teachers transition to new content areas;
- PED must commit to annual reporting requirements, including:

- the total number of teachers under this flexibility, by school and LEA, and the number of teachers in an LEA who maintained their rating of “effective” or better, by May 1; and
  - a list of the LEAs using this flexibility, and the number of teachers who maintained a rating of “effective” or better in a number of subject areas, as well as the number of such teachers moving from high school to middle school, or vice versa, by July 31; and
- PED and LEAs and schools must continue to meet ESEA highly qualified teacher requirements for all teachers not working under this flexibility.

According to PED, as of November 13, 2015, seven school districts and charters have successfully applied for this waiver for one or more teachers, five were granted waivers for some teachers, but denied for others, and one was denied in full.

School districts and charters that were granted HQT waivers for all teachers for whom they applied include:

- Alma d’ Arte Charter High School;
- Public Academy for Performing Arts;
- Anansi Charter School;
- Santa Rosa Consolidated Schools, for four teachers;
- Texico Municipal Schools;
- Roswell Independent School District; and
- Mesa Vista Consolidated Schools.

School districts and charters that were granted flexibility for one or more teachers, but not for every teacher for whom they applied, include:

- Albuquerque Institute for Math and Science (AIMS), which received flexibility for seven teachers;
- Eunice Municipal Schools;
- Raton Public Schools;
- Taos Academy, which received flexibility for two teachers; and
- Las Vegas City Schools, which received flexibility for two teachers.

Taos International Charter School applied for flexibility for one or more teachers, but was denied.

An application filed by the School of Dreams Academy remains pending, as of November 13, 2015.

PED indicates waiver applications included teachers crossing curriculums in the humanities, math and sciences, secondary teachers expanding into middle school grades, and special education teachers expanding into general education. While the waiver program requires the school district or charter school to offer appropriate professional development to help teachers with their new content areas or grade levels, the details and mechanics of these professional

development plans are distinct to their respective school districts or charter schools, and will be reviewed individually by the department. Moreover, if teachers under this flexibility maintain their effectiveness rating after one year, they may continue without reapplying; if they maintain effectiveness for two years, they will have the opportunity to obtain permanent endorsement in their new content area, obviating the need to apply for this flexibility again, if they:

- qualify for this flexibility with a summative rating of “effective” or better, and achieve 50 percent of their student achievement measures;
- apply for the additional credential; and
- receive support and professional development from their LEA.

PED does not anticipate placing limits on the number of teachers for whom school districts and charter schools might seek flexibility, as the program encourages educated decisions based on data to apply for the flexibility and place teachers and facilitates more equitable distribution of effective teachers. The department also indicated that they are mindful of the risk that some teachers may be taking by working outside their accustomed content areas, and will consider this issue when making licensing decisions, to try to avoid penalizing teachers for attempting this flexibility.