

# Days of Reckoning

*Are States and the Federal Government  
Up to the Challenge of Ensuring a  
Qualified Teacher for Every Student?*

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and William L. Taylor

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This is an interim report on federal and state enforcement of the teacher quality and equity provisions in the No Child Left Behind Act of 2001. The Citizens' Commission plans to publish a final report on the subject in the fall of 2006.

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# Summary and Recommendations

**Improving the quality and equitable assignment of teachers** is a paramount civil rights issue for school children in this century. A growing body of research tells us that teacher quality is the most significant educational variable that influences student achievement. Yet, in many communities, low-income and minority students are assigned less-qualified teachers than their more affluent and white peers in neighboring schools and school districts.

In 2001, Congress took bold steps to ensure that all children in our public schools are taught by qualified teachers. The No Child Left Behind Act (NCLB) requires, among other things, all teachers to be “highly qualified” within four years of the law’s enactment, and states and districts to remedy the disproportionate and inequitable assignment of less-experienced and less-qualified teachers to low-income students and students of color.

By July 7, 2006, all states are required to submit to the U.S. Secretary of Education Margaret Spellings revised plans stating exactly what they plan to do during the 2006-2007 school year in order to meet the teacher quality requirements of the law. States also must include written plans detailing steps they will take to ensure that “poor and minority students are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers.”

**These revised plans are needed** because earlier this year the U.S. Department of Education announced that no state had met all of the teacher quality provisions in the law.

**From early 2002 through the end of the 2004-2005 school year**, both the states and the U.S. Department of Education amassed a dismal track record when it came to ensuring compliance with the teacher quality provisions of the law.

**Starting midway through 2004**, however, site visits conducted in each state by the U.S. Department of Education for monitoring purposes often contradicted the rosy and incomplete data being reported by the states. Forty of these reports have been reviewed for this paper.

**The Bush Administration has signaled its intention to make a mid-course correction** and, under Secretary Spellings, has begun to devote serious attention to NCLB’s teacher quality provisions. Halfway through 2005, the Department finally began taking action to enforce the teacher quality provisions of the law, including the teacher equity provision that had been all but ignored in previous years. The Department’s actions included publishing expanded policy guidance, signaling states that compliance with these provisions is required, and — more controversially — giving states that had made a “good faith” effort to comply with the law an extra year to meet the law’s goals.

**In the weeks and months following** the states’ submissions of their July 7<sup>th</sup> plans, there are several key issues that Congress, advocates, educators, and the press should be sure to track, including: (a) exactly how states say they will address the teacher quality provisions of the law during the upcoming year, (b)

how carefully the Department of Education evaluates and enforces the revised state plans during 2006-2007, and (c) whether states take meaningful action to address the law's requirements or continue their patterns of resistance, delay, and misreporting.

**Increased scrutiny during 2006-2007 is necessary** because states, districts, and the U.S. Department of Education have over the past four years demonstrated high levels of inattention and, in some instances, deep-seated resistance to the law's teacher quality provisions. (Already, some states, like Utah, have indicated in the press that they plan to ignore the July 7<sup>th</sup> date and submit their revised plans in the fall.)

**Providing qualified teachers for low-income children** is one of the most important and challenging elements of the law. The likely consequence of a continued lack of state and federal enforcement is clear. The most significant national effort to date to reform and improve public schools will be deemed a failure, not because it had been tried and found wanting, but because it had really not been tried at all. And the losers will be children.

## Recommendations

### Transparency and Open Records

1. The Department of Education should immediately post on *www.ed.gov* the state teacher equity plans that were reviewed by its staff in connection with Title II site visits and compliance reviews.
2. The Department should immediately post on *www.ed.gov* all state revised teacher quality plans it receives. The teacher equity plans required by Sec. 1111(b)(8) and all other supporting documents should be posted as well.
3. States should also post these plans on their own state education agency websites.

### Data Quality

4. All self-reported data from states and school districts should be subject to verification and audit. The Inspector General should immediately begin spot-checking data submitted by the states to demonstrate compliance with Sections 1119 and 1111(b)(8). The Department should not accept state data at face value until it knows (a) what definitions were used and (b) whether data are reported correctly by teacher, by classes taught, and by classes not taught.
5. States found to have submitted incomplete, inaccurate, or fraudulent data should be penalized appropriately.
6. The Department and the states should seek advice and assistance from data-quality experts and a range of education stakeholders in identifying the data collection needs and challenges with respect to evidence needed to demonstrate compliance with Sections 1111(b)(8) and 1112(c)(1)(L). The Department should report these challenges to Congress and the public and take steps to provide immediate technical and other assistance to states and school districts to ensure that needed information is collected, examined and disseminated.

### Fostering Innovation

7. The Department should continue to encourage, support and disseminate innovative ways that districts and states can move quickly toward meeting the teacher equity provision of the law. This could include, e.g., examining the merits of: a) various alternative certification programs, along with alternate routes to the teaching profession such as Teach for America, Troops to Teachers, and mid-career transfers, and b) additional compensation, loan forgiveness, pay-for-performance, and other incentives needed to attract and retain highly qualified teachers to the schools with the highest needs and greatest shortages. The Department should also consult with teachers and principals in high-achieving, high-poverty schools and disseminate

information about best practices in school leadership and management.

### Enforcement

8. The Department should resolve to review all state teacher equity plans under a familiar and time-tested standard in the educational equity field. In landmark cases enforcing its 1954 decision *Brown v. Board of Education*, the Supreme Court emphasized in 1968 and again in 1971 the duty of education officials to produce a plan “that promises realistically to work now.” The Court further declared that a remedial plan should “be judged by its effectiveness.”\*
9. The Department should require states to demonstrate that they have and will utilize a process to enforce compliance by school districts with the requirements of Section 1112(c)(1)(L).
10. The Department should begin to impose sanctions — including withholding of funds or other legal action — against states that cannot demonstrate full compliance with the teacher equity provisions of the law.  
The Department should take these actions against states that a) do not submit detailed equity plans that meet the requirements of Sec. 1111(b)(8) by July 7, 2006, b) are not making significant progress in closing the teacher-quality gap both within districts and on an interdistrict basis within the state, or c) do not demonstrate a probability of taking effective steps to remedy inequities in the distribution of teachers during or before the end of the 2006-2007 school year.
11. The Department should seek the advice and counsel of a broad range of stakeholders including representatives of parents, educators, and civil rights organizations.

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\**Green v. County School Board*, 1968; *Swann v. Charlotte-Mecklenburg Board of Education*, 1971.

## Section I

# Introduction

### Teacher Equity

The Citizens' Commission on Civil Rights believes every child has the right to an education that will prepare her or him for postsecondary education, meaningful work and full participation in our democracy. We believe in the role of public schools as the "great equalizer" in providing opportunity for academic success to the children of rich and poor alike. Finally, as a natural extension of the principles of *Brown v. Board of Education*, we have long endorsed a strong federal role to ensure that our nation's public school systems live up to our national demands for both equity and excellence.

The evidence convinces us that improving the quality and equitable assignment of teachers is a paramount civil rights issue for school children in this century. A growing body of research tells us that teacher quality is the most significant educational variable that influences student achievement. Yet, in many communities, low-income and minority students are assigned less qualified teachers than their more affluent and white peers in neighboring schools and school districts. Perhaps the most significant initiatives needed to close race and income-based achievement gaps are those aimed at ensuring both that *all* students have qualified teachers and, more specifically, that so-called "teacher quality gaps" between poor and minority students and other students are closed.

In this report, we examine the new provisions on teacher quality contained in the 2001 Amendments to Title I of the Elementary and Secondary Education Act of 1965. These provisions are a bold step by the federal government to level the educational playing field

between schools enrolling significant numbers of minority and low-income children and other schools. If states and school districts can comply — with strong leadership from Washington — with both the letter and spirit of the teacher-quality parts of the law, children's opportunities to succeed will increase exponentially. If education officials at any level lack the political will to ensure all students have capable teachers, we can anticipate that large numbers of our most vulnerable children will continue to fall behind.

### The Problem: A Gaping Teacher Quality Gap

When Congress debated and eventually adopted the teacher quality provisions of No Child Left Behind, it was aware of a persistent "teacher quality gap" across the United States. That is, that minority and low-income students are disproportionately taught by less qualified teachers, including those who have not obtained full state certification, who are teaching out-of-field, or who are new to the profession and inexperienced.

Since the law's enactment, even more evidence has been gathered on the widespread teacher quality gap.

Earlier this summer, a report from the Education Trust, *Teaching Inequality*, provided additional evidence that low-income children in particular are being denied access to their fair share of highly qualified teachers.

Looking at three states — Illinois, Ohio, and Wisconsin — the report found that schools with high percentages of low-income and minority students are sev-



eral times more likely to have teachers who are inexperienced, have lower basic academic skills, or are not highly qualified.

Because experienced, fully qualified, and highly trained teachers cost more than novice or probationary teachers, the teacher equity gap also creates tremendous financial inequities among schools.

In a 2004 study of Baltimore City, Baltimore County, Cincinnati, and Seattle, the difference in funds distributed by the districts to high-poverty schools ranged from \$400,000 to \$1 million per school.

According to another recent study from the Education Trust, *California's Hidden Teacher Spending Gap*, high- and low-minority schools in the ten largest school districts in California have spending gaps that range from \$64,000 to \$500,000 per school.

The study also found that, collectively, teachers serving students in schools that enroll low-income K-12 youngsters receive, on average, \$140,000 less than teachers in wealthy schools. That gap grows to \$172,000 for students in schools that serve mostly Latino and African-American students.

At least a few states have published their own data on the extent of the teacher quality gap between high-poverty and low-poverty schools. For school year 2004-2005:

- Ohio reported that 77 percent of high school teachers teaching high-poverty students were highly qualified, compared to 95 percent of those teaching low-poverty students.
- New York reported that 82 percent of its elementary school teachers teaching high-poverty students were highly qualified, compared to 98 percent of teachers working with low-poverty students.

## What Makes the Law's Teacher Quality Provisions So Challenging?

Implemented properly, the teacher quality and teacher equity provisions of the law require states, districts, and schools to make changes that rival or even exceed the changes required thus far of them under other provisions of the law. This is because, more than any other set of provisions in the law, the teacher-

quality ones contemplate new institutional arrangements in both advantaged and disadvantaged schools.

Teachers, like other professionals, tend to gravitate to employers who pay higher salaries and offer better working conditions. In most states these are school districts with an affluent population, not those with substantial numbers of poor children and children with special needs. Attracting high quality teachers is also difficult in an era when other more remunerative professional opportunities are now open to women and others once limited to teaching by discrimination.

Consequently, getting high-quality teachers into schools with the greatest needs will require rewards and incentives and perhaps differentiation in salary and status for those willing to take on the challenge of teaching students with the greatest needs. But bold initiatives to elevate teachers' status and close the gap seem in short supply.

Even the law's reporting requirements with respect to teacher quality have presented a major challenge for many states. According to *Technology Counts 2006*, only five states — Arkansas, Georgia, Louisiana, Ohio, and Tennessee — collect every form of information in the survey on both students and teachers, and are able to link their student and teacher data systems.<sup>1</sup>

In addition, the law contains potential loopholes that weaken its impact, including allowing states to provide self-reported (unaudited) teacher quality data, and not requiring states to obtain prior approval from the Department for definitions of teacher quality.

## What the Law Requires: "Highly Qualified Teachers" and Action to Close the Teacher Quality Gap

Five years ago, when Congress amended the Elementary and Secondary Education Act of 1965 to create No Child Left Behind (NCLB), it adopted as federal policy that all students must achieve their states' proficiency levels in reading and mathematics by the 2013-2014 school year.

The law contained significant new provisions in federal education law calling for strengthened state accountability systems, increased parental choice, and

other measures to close student achievement gaps. Like its predecessor, the Improving America's Schools Act of 1994 (IASA), NCLB placed unprecedented new responsibilities on educators and education officials at all levels: federal, state, district, school and even classroom.

The bulk of the early implementation efforts with respect to the law focused on the assessment and accountability provisions. These have included, for example: definitions of "adequate yearly progress," developing annual assessments in reading and math, and providing tutoring or choice options to students in low-performing schools.

Until recently, however, the law's teacher quality provisions were less prominent and not widely reported on. In short, these sections of the law require two things. First, all core academic classes must be taught by "highly qualified teachers" by the end of the 2005-2006 school year. Second, both states and school districts must ensure that "poor and minority students are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers." (See Appendix A.)

## All Teachers "Highly Qualified" (Sec. 1119)

The basic requirement for providing highly qualified teachers in all core academic subjects is found in Section 1119 of the law. Here the law requires that all teachers of academic core classes meet the federal definition of "highly qualified" by the end of the 2005-2006 school year. It also requires states to redress the disproportionate use of under-qualified teachers in high poverty and minority schools.

To be "highly qualified" teachers of core academic subjects must have (1) a bachelor's degree, (2) full state certification, and (3) demonstrated subject matter competency in the academic subject they teach. This definition pertains to all teachers in public schools, veteran and newly hired alike. And it applies regardless of whether the school receives federal Title I financial assistance, or whether the students are disabled or limited English proficient.

NCLB also requires states to adopt a definition of "highly qualified" aligned with the federal law and to report each year the progress that is being made in reaching the 100 percent "highly qualified" by the deadline. And to jump-start the process, Congress required all new teacher hires in Title I schools to be highly qualified, beginning with the first day of the 2002-03 school year.

Along with reporting this information to the U.S. Department of Education, states have to make data available to the public and to parents about the percentage of teachers in the state and by district that met the state's definition of "highly qualified."

## The Teacher Quality Gap-Closing Requirements (Secs. 1111 and 1112)

Section 1111(b)(8)(C) of Title I requires states to take steps to ensure that "poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, and out-of-field teachers." Congress required states to incorporate their teacher quality gap-closing plan, and other plans to ensure district and school capacity to carry out the Act, into the overall Title I plan each state submits to the Secretary of Education for approval. Federal approval of these plans is necessary in order to keep federal dollars flowing to the states.

Similarly, in section 1112, the law requires each local educational agency (LEA), or school district, receiving Title I funds to "ensure ... that low-income students and minority students are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers."

States are also required to establish measurable objectives for each LEA and school that, at a minimum, shall include an annual increase in the percentage of highly qualified teachers in each LEA and school to ensure that all teachers teaching in core academic subjects in each public elementary and secondary school are highly qualified not later than the end of the 2005-06 school year.

## Reporting Requirements

The law also has a number of important provisions requiring transparency and reporting of teacher quality information to parents, the public, and to the U.S. Department of Education and the Congress. For example, teacher quality information is required on state “report cards.” Parents have a right to know their child’s

teacher’s credentials to teach and whether s/he is highly qualified under the law.

The law requires each state to report on whether it has met its performance targets in its consolidated application, including indicators regarding qualified teachers and the percentage of classes being taught by highly qualified teachers in the aggregate and in high poverty schools.

## Section II

# A Dismal Track Record (2002-2005)

From the vantage point of summer 2006, it is clear that implementing these teacher quality and equity provisions of the law was not a priority for either the states or the Bush Administration for the first three years after the law was enacted.

While messages on compliance with the law generally were clear and forceful with respect to the testing and accountability requirements, the Bush Administration in its first term was relatively silent on teacher quality.

### Episodic Guidance and Lax Enforcement

The Department's non-regulatory policy guidance on teacher quality has been a moving target. Since 2002, the Department has released several drafts but still has yet to finalize the guidance, even as statutory deadlines have come and gone. Moreover, the Department has undertaken virtually no enforcement of the teacher quality equity provisions. Consequently, states and school districts were left largely to their own devices when it came to defining, implementing, and reporting progress on the teacher quality provisions of the law most needed by disadvantaged students.

In June 2002, six months after the law was enacted, the Department issued the first draft non-regulatory guidance on the Improving Teacher Quality State Grants (Title II Part A) that contained a section on highly qualified teachers. This draft guidance was subsequently revised at least four more times: December 19, 2002; September 12, 2003; January 16, 2004; and

August 15 2005. As the December 19, 2002 document announced, the guidance was designed to provide assistance to state and local program administrators as they implemented Title II Part A grants and was to be viewed as a "living document." Each successive version of the draft guidance included more issues addressed in question and answer format. The field obviously had many questions about how the new law applied to a multitude of issues, and the answers became more numerous and more expansive. The number of Q's and A's grew from 10 in June 2002 to 41 in August 2005. Still, there was no attention to the equity plans required under Section 1111 b 8 C.

According to the General Accounting Office (now the Government Accountability Office), the Department's work-in-progress was not by any means a comprehensive treatment of the requirements, nor did it assist states in aligning the federal requirements with existing state criteria. According to the GAO's analysis, for example, the Department's December 2002 draft guidance provided little more information than the plain words of the statute and failed to help states navigate some difficult compliance issues.

In the meantime, former Secretary Rod Paige had begun emphasizing additional "flexibility" for teachers in rural schools and other settings. Under his policy, teachers in rural school systems who were highly qualified in at least one subject would have up to three years to become highly qualified in the additional subjects they teach. They must also be provided professional development, intense supervision or structured mentoring to become highly qualified in those additional subjects.

Like rural teachers, science teachers often provide instruction in more than one academic content area. Paige decided to allow states, using their own current certification requirements, to permit science teachers to demonstrate that they are highly qualified either in the “broad field” of science or in individual fields of science, such as physics, chemistry, or biology. Finally, he announced that states could streamline the HOUSSE for incumbent, multi-subject teachers by developing procedures that allow these teachers to demonstrate that they are highly qualified all in one process.<sup>2</sup>

### “Pie in the Sky” Reports from States

Into the void created in part by the absence of strong federal leadership, many states provided highly suspect and misleading data during the early years of the law, claiming that virtually all of their teachers had already met the law’s goals with regard to teachers’ qualifications and their equitable distribution to schools. And, in the absence of prodding by the federal government, states and districts largely conducted business as usual with respect to hiring and assigning teachers to low- and high-need schools and classrooms.

For example, when it came to filing the first data reports with the Department of Education for the 2002-2003 school year, one-fifth of all states reported that 90 percent or better of academic core classes were already taught by highly qualified teachers. Twelve states reported no data at all. The remaining states made an effort to report what data they could, even if it didn’t meet the federal requirement.

Table 1 illustrates just how incomplete and overly optimistic the initial state-provided teacher quality reporting was, considering that we now know no state met the 100 percent requirement within the allotted four-year timeframe.

At this early stage, some states could report the number and percentage of highly qualified teachers, but not the percentage of *classes taught* by highly qualified teachers.<sup>3</sup> This was and still is a critical issue. Still others were unable to report data for high and low poverty schools.

The results were much the same for 2003-2004, the second year of the law. After another year with virtu-

ally no federal oversight, even more states reported nearly-complete compliance with the 100 percent highly qualified goal that was still two years away. Of 47 reporting states, 31 reported that 90 percent or more of their academic classes were taught by “highly qualified” teachers.

It turns out that the data most states reported for the 2002-2003 and 2003-2004 school years were largely bogus.

### Ongoing USDE Failure to Question Teacher Quality Data or Heed Available Reports

Amazingly, these faulty data on teacher quality were accepted and even reported out to Congress and the public without question by the Department of Education — despite several indications that the teacher quality data might not be accurate.

During the 2002-2003 school year, the first full school year after the law’s enactment, the General Accountability Office conducted a survey of the 50 states and the District of Columbia and a sample of 830 school districts. Charged by Congress to determine whether the teacher quality provisions of the law were being implemented appropriately, the GAO concluded that any survey data of the number and percentage of academic core classes taught by highly qualified teachers “would not likely be reliable.”<sup>4</sup> In particular, the GAO report faulted the Department’s guidance on implementing the requirements.

(Of course, states could have acted on their own to implement the quality and equity provisions of the law. Even without guidance, the statutory language and accompanying regulations are more than specific enough.)

Meanwhile, the evidence contradicting the states’ rosy reports kept coming in — and kept being ignored. The Council of Chief State School Officers conducted a detailed analysis of the Department’s own data collected by the National Center for Education Statistics in the School and Staffing Survey (SASS). In October 2003, CCSSO reported that the “SASS data on certification analyzed by state indicated that many states are far from the NCLB goal of highly qualified

teaching staff in all schools and classrooms in grades 7-12.”<sup>5</sup> The problem was particularly acute in the field of teaching math. In 1994, only 12 states had over 80 percent of teachers whose main assignment was in math who had a major in math or math education. By 2000, only seven states had over 80 percent with a major in the field. Similarly, in 1994 17 states had over 80 percent of teachers whose main assignment was in a science field had a major in a science field or sci-

ence education. By 2000, that number had declined to 13 states.

A December 2003 Education Trust report analyzed state-reported data for the 2002-2003 school year regarding the distribution of highly qualified teachers and found that states largely reported unreliable or questionable data and that the Department of Education took no action to insist or to enable the states to report honest data.<sup>6</sup>

**Table 1. Percent of Core Academic Classes Taught by Highly Qualified Teachers as Reported by States for the 2002-2003 School Year**

State	State Aggregate	High-Poverty Schools	Low-Poverty Schools
Alabama	35	29	36
Alaska	Data not available	Data not available	Data not available
Arizona	95	90	100
Arkansas	Data not available	Data not available	Data not available
California	48	35	53
Colorado	86	Data not available	Data not available
Connecticut	96	95	98
Delaware	85	85	95
District of Columbia	43	37	44
Florida	91	93	92
Georgia	94	95	96
Hawaii	80	73	84
Idaho	98	99	Data not available
Illinois	98	95	100
Indiana	96	95	97
Iowa	95	95	95
Kansas	80	80	79

State	State Aggregate	High-Poverty Schools	Low-Poverty Schools
Kentucky	95	97	93
Louisiana	85	78	90
Maine	Data not available	Data not available	Data not available
Maryland	65	47	76
Massachusetts	94	88	Data not available
Michigan	95	90	99
Minnesota	Data not available	Data not available	Data not available
Mississippi	85	81	87
Missouri	95	90	97
Montana	Data not available	Data not available	97
Nebraska	90	82	93
Nevada	50	50	62
New Hampshire	86	84	88
New Jersey	Data not available	Data not available	Data not available
New Mexico	77	71	76.5
New York	Data not available	Data not available	Data not available
North Carolina	83	78	86
North Dakota	91	94	91
Ohio	82	78	97
Oklahoma	98	97	98
Oregon	82	72	86
Pennsylvania	95	93	99
Puerto Rico	Data not available	Data not available	Data not available
Rhode Island	Data not available	Data not available	Data not available
South Carolina	Data not available	Data not available	Data not available

State	State Aggregate	High-Poverty Schools	Low-Poverty Schools
South Dakota	89	79	91
Tennessee	34	35	33
Texas	76	69	81
Utah	Data not available	Data not available	Data not available
Vermont	92	93	92
Virginia	83	77	87
Washington	83	88	79
West Virginia	94	96	98
Wisconsin	Data not available	Data not available	Data not available
Wyoming	95	99	98

Source: Department of Education, *No Child Left Behind Act, Annual Report to Congress*, pp. 21-22 February 2005.

In a follow-up study conducted between November 2004 and October 2005, the GAO told Congress that “the quality and precision of state-reported data make it difficult to determine the exact percentage of core academic classes taught by teachers meeting the requirements.”<sup>7</sup> The GAO concluded that the progress states had made from the 2002-2003 to the 2003-2004 school year was due to the increased capacity to track and report data, not real improvements in teacher quality.

In each of these cases, there was no clear response from the Department, which simply passed the state data along to Congress and the public. The Department’s first report to Congress under the National Assessment of Title I republished the states’ data showing that 31 had reported 90 percent or more of classes were taught by highly qualified teachers. Only eight states reported that their percentage was below 75 percent.<sup>8</sup>

States’ claims — many of them grossly exaggerated and none of them audited — went largely unquestioned and unchallenged for another two years.

The non-governmental sector issued similarly optimistic news about states’ capacity to comply with the teacher quality requirements. The Center on Education Policy has monitored the implementation of the NCLB by all states and in selected districts for four years. The Center conducts its own surveys based on the response of educators and administrators to questionnaires. The Center reported earlier this year that its own surveys and case studies “suggest that most teachers already meet NCLB’s highly qualified requirements and that few differences exist in the proportion of highly qualified teachers among urban, suburban, and rural districts or districts of different sizes.”<sup>9</sup>



Table 2.

Exhibit 48 Percentage of Classes Taught by Highly Qualified Teachers, as Reported by States, 2003-04			
Percent		Percent	
<b>Total</b>	86%		
Alabama	77%	Michigan	92%
Alaska	--	Minnesota	99%
Arizona	96%	Mississippi	93%
Arkansas	--	Missouri	96%
California	52%	Montana	99%
Colorado	91%	Nebraska	91%
Connecticut	99%	Nevada	64%
Delaware	73%	New Hampshire	73%
District of Columbia	--	New Jersey	94%
Florida	89%	New Mexico	67%
Georgia	97%	New York	92%
Hawaii	73%	North Carolina	85%
Idaho	97%	North Dakota	77%
Illinois	98%	Ohio	93%
Indiana	96%	Oklahoma	98%
Iowa	95%	Oregon	87%
Kansas	95%	Pennsylvania	97%
Kentucky	95%	Puerto Rico	--
Louisiana	90%	Rhode Island	76%
Maine	90%	South Carolina	75%
Maryland	67%	South Dakota	93%
Massachusetts	94%	Tennessee	58%

Percent		Percent	
Texas	92%	Washington	99%
Utah	69%	West Virginia	96%
Vermont	--	Wisconsin	98%
Virginia	95%	Wyoming	99%
<p>Note: Forty-seven states provided data for this table, but the national estimate is based on 42 states that reported both a numerator and a denominator for calculating the percentage of classes taught by highly qualified teachers.</p> <p>Source: Consolidated State Performance Reports.</p>			

*Source:* U.S. Department of Education, Institute for Educational Services, Office of Planning, Evaluation, and Policy Development, *National Assessment of Title I: Interim Report, Vol. I. Implementation of Title I*, p. 75 (February 2006)

## Section III

# Site Visit Reports Provide a Reality Check

Neither the states nor the Department of Education could keep their heads in the sand forever.

Finally, in mid-2004, two and a half years after the law went into effect, federal officials began to visit states to determine whether they were complying with the teacher quality provisions.

## Compliance Reviews Provide a Reality Check

Forty of the Department's state reviews were obtained by the Citizens' Commission and analyzed for this report. This body of evidence, from the Department's own professional review teams, reveals stunning evidence of what little progress most states had made on implementing the teacher quality and teacher equity provisions of the law — as recently as this spring — and how minimally the Department has been verifying states' efforts on teacher equity until this point.

While inconsistent in depth, these site visit reports found a broad span of problems with how states were implementing the teacher quality and equity provisions of the law. They found that teachers in many states were being classified as “highly qualified” based on criteria that did not match what federal law required. Long-time teachers were simply treated as “highly qualified” because of their seniority. Veteran teachers were deemed “highly qualified” based on insufficient evidence of subject matter knowledge. State report cards did not include all required data about teachers.

## State Examples

Three states reporting the highest percentage of “highly qualified” illustrate the problems found in these visits.

### Washington State

Following a May 2005 visit to Washington State, Department of Education monitors found that the state had incorrectly reported that 99 percent of all its teachers were highly qualified because: a) new and veteran teachers were considered “highly qualified” by virtue of holding an elementary or special education degree and b) middle school social studies teachers probably lacked evidence of adequate subject-matter competency.

### Connecticut

The Department of Education monitoring team reviewed Connecticut in January of 2006. This state instituted subject-matter testing of elementary teachers in 1988, so every teacher hired on or after that date who also held a bachelor's degree and full state certification would meet the federal standard. But Connecticut considered all veteran teachers hired *prior to* 1988, as well as those with the emergency/provisional license, to be “highly qualified.” [NB: The state came to an agreement regarding veteran teachers in June 2006.]

Furthermore, the state had not yet collected teacher data from all of its 195 districts, nor did it have a state-wide data base that included “highly qualified” teacher

information. The state has a licensure and certification database and had been using these data as a proxy for its reports that 99 percent of core academic classes were being taught by teachers who were “highly qualified.”

With few exceptions, Connecticut included all certified teachers, even if the teachers had not yet demonstrated content knowledge. Though the state admitted, according to the federal monitoring report, that these teachers are not yet “highly qualified,” it nonetheless failed to count them as “*not* highly qualified” [emphasis added].

### Minnesota

During the Minnesota monitoring review in November 2005, federal officials found that the state considered all elementary teachers licensed prior to 2001 to be “highly qualified” even if they had not demonstrated subject matter competency. In addition, Minnesota did not require teachers hired after the first day of the 2002-2003 school year to take a rigorous test of subject-matter knowledge. Instead, they were permitted to use the same procedures the law prescribes only for veteran teachers. As a result, the reports that 99 percent of the states’ teachers were “highly qualified” were inconsistent with the law.

These examples from Washington, Connecticut, and Minnesota are fairly typical of the compliance issues found in states that had consistently reported near perfect compliance from the start.

Other states had far fewer citations for violations of the legal requirements. Typical of those states were issues concerning special education teachers, the use of the broad-field social studies certificate rather than a subject-specific criteria or test, and incomplete reporting of data to parents and on the state report card.

For example, the Department’s review of Arizona in the spring of 2005 found that the state’s High Objective Uniform State Standard of Evaluation (HOUSSE) standards were not consistent with the law for new and incumbent teachers with respect to determination of subject matter knowledge. Other inconsistencies included: differing criteria for special education teachers teaching an academic core class; use of broad social studies certificate; and granting provi-

sional certification to teachers from other states who have not taken the Arizona Educator Proficiency Assessment.

### Ongoing Inattention to the Teacher Equity Provision in Departmental Reviews

In Arizona’s case and elsewhere, the site reviews were meant by the Department to ascertain states’ teacher equity compliance as well.

However, given flaws and problems with states’ fundamental definitions and reporting capacities, the site reports suggest that very few could provide data like the required percentage of teachers at each grade span who met the highly qualified standards, much less break out their distribution according to student poverty or race (school performance is not a measure in the law).

In addition, these federal monitoring reviews do not seem to have given any special concern for the inequitable distribution of teachers. It was not included in all reviews. Nor do the monitoring reports provide any indication of the quality or the comprehensiveness of the state’s equity plan — merely that it existed and met the minimum statutory requirement. The standards for measuring these teacher equity plans were superficial, and neither states nor the Department have produced teacher equity plans for public review.

As a result, the site reviews frequently contain no information for teacher equity provisions.

Of the initial 31 monitoring reviews conducted, the teacher equity provision was not mentioned in 14. These states include: Arkansas, Delaware, Hawaii, Iowa, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, South Dakota, Vermont, Utah, and Wyoming.

In 13 states, the matter of the equity plan was included and the state was considered to have met the requirement.<sup>10</sup> These states include Alaska, Arizona, California, District of Columbia, Georgia, Louisiana, Maine, Michigan, Mississippi, New Jersey, New Hampshire, South Carolina, and Washington State.

Nine state reviews asked about teacher equity and cited the state for having no plan: Illinois, Ohio, Or-

egon, Tennessee, Connecticut, Florida, Idaho, Missouri, and Pennsylvania.

Another critical but frequently missing item according to the site reviews was whether the state had met

the basic requirement for a statewide plan with Annual Measurable Objectives (AMOs) and percentage increases for HQTs for each district and school in the state.

## Section IV

# Talking Tough – Or Opening the Barn Door Farther?

*“The day of reckoning is here, and it’s not going to pass.”*  
 — *Dr. Henry Johnson, U.S. Assistant Secretary of Education.\**

By the summer of 2005, it must have been clear to Department officials that their oversight of the teacher quality provisions would not withstand any reasonable scrutiny, and that states stood little chance of meeting the law’s 2006 deadline.

In response, Secretary Spellings began a belated but pragmatic-minded attempt to generate meaningful implementation of the teacher quality provisions by the states.

This strategy included developing new and much more specific requirements for states regarding the teacher quality and equity provisions of the law. At the same time, the Department determined that it would give states an extra year to meet the 100 percent requirement, assuming that the states were making a “good faith” effort to comply with the law.

Given the lack of enforcement until very recently, the Department probably had no choice but to give states more time to meet the original requirements. However, it remains to be seen whether the Department or the states will make gainful use of this additional time.

## Revised and Expanded Guidance

In August 2005, the Department issued another version of the Highly Qualified Teachers and Improving Teacher Quality State Grants Non-Regulatory Guidance. Again, the guidance was labeled a “draft.” And

yet again, there was no attention to the equity plans required under Section 1111(b)(8)(C).

As a result, on the eve of the school year in which all states and school districts needed to meet NCLB’s highly-qualified requirements, the Department still did not have guidance it considered to be finalized. Nonetheless, this version of the guidance was more detailed about the standard for evaluating the subject matter knowledge of veteran teachers, the so-called HOUSSE; how teachers in the middle grades must meet subject-matter requirements if they hold a K-8 certificate; how teachers who teach multiple subjects can demonstrate subject-matter knowledge; and what teachers must meet the federal “highly qualified” criteria.

Even at this late date, however, the guidance still failed to address the §1111 (b)(8) plan for redressing disparities based on students’ race or income in the assignment of qualified and experienced teachers.

Finally, it is noteworthy that as of the publication date of this report, neither this draft of the guidance nor any previous drafts were posted on the Department’s website. Users of ed.gov are informed only that “Highly Qualified Teachers: Title II Part A Non-Regulatory Guidance will be revised soon.”<sup>11</sup>

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\*Associated Press, May 12, 2006.

## The “Good Faith” Extension

In the fall of 2005, the Department announced that states would be given an extra year to meet all of the teacher quality requirements of No Child Left Behind, providing that they had made a “good faith” effort to comply with the law.

According to an October 21 announcement, in order to determine if it meets the good faith standard a state must (a) have a definition of “highly qualified” that is consistent with the law and is used to determine the status of all its teachers, (b) provide the public and parents with accurate and complete reports on the number and percentage of classes taught by highly qualified teachers, (c) report complete and accurate data to the Department of Education, and (d) — perhaps most important of all — have taken action to ensure that inexperienced, unqualified, and out-of-field teachers are not teaching poor and minority children at higher rates than other children.

The Department reinforced this four-part test in a March 12, 2006 pronouncement. If a state was making substantial progress and had met the good-faith standard, it would not be required to submit a new plan. Alternatively, if a state was not making substantial progress but had shown good faith, a revised plan would be required. Finally, a state that had not made a good faith effort would be required to submit a revised plan and would be subject to possible sanctions. The Department provided the specific protocol that it would use in placing states in one of these three categories. However, the Department had already concluded that it would ask most states to submit a revised plan.

## New Prominence for Teacher Equity Provision

At roughly the same time, Secretary Spellings issued a letter to Chief State School Officers in which the steps states were taking to ensure that experienced and qualified teachers are equitably distributed was mentioned as one of the four issues by which a state’s compliance would be judged.

This was the first real indication in four years that the Department was going to take these provisions seriously. But once again, no specific guidance was mentioned, such as the measures that would be taken to evaluate and publicly report for a state plan to ensure equitable distribution of teacher talent.

## The Call for Revised Teacher Quality Plans

On May 12, 2006, the Assistant Secretary for Elementary and Secondary Education, Henry L. Johnson, announced — to the surprise of no one — that no state had succeeded in meeting all the teacher quality or equity requirements within the original timeframe.

According to the Department, 29 states had made “good faith” efforts to comply with the law. Nine states — Alaska, Delaware, Idaho, Iowa, Minnesota, Montana, Nebraska, North Carolina, and Washington — faced possible compliance agreements or partial withholding of federal funds because the Department of Education questioned their data and level of good faith in carrying out the law.

The states that were among the handful identified as not having made a good faith effort had not, for example, adopted a definition of highly qualified that was consistent with the law. The Department has threatened to withhold a portion of these states’ Title II funds.

The Department then sent letters in May and June to all of the states indicating whether they met the “good faith” requirement and identifying key elements and provisions that needed to be addressed in the revised plans. Some of this information came from the monitoring site visits conducted during 2004-2006 (described in the previous section). Each state was provided with written documentation, including a profile of each state’s progress called “Assessing State Progress In Meeting the Highly Qualified Teacher Goal.” (Appendix B provides an example from one state, New Jersey.)

## Section V

# Unanswered Questions

With these recent actions, the federal government has laid out in the most explicit and detailed fashion yet what it will require in the coming year and how state performance will be judged.

Ideally, the Department will require states to take bold action during the one-year extension in view of the law’s requirement that all children achieve the proficient standard in reading and mathematics by the 2013-2014 school year.

Some states, such as Iowa and Connecticut, have already taken some steps since May to address issues raised by the Department.

In early June, Iowa agreed to require that its new elementary school teachers take a content exam (Praxis II) as a part of the state certification process.<sup>11</sup>

The following week, Connecticut — which had previously maintained that 99% of its teachers were highly qualified — agreed to develop a HOUSSE procedure to evaluate whether roughly 13,000 veteran teachers were highly qualified or not.

### What Happens Next: Scrutinizing Revised State Plans

All of the states were asked to submit a revised plan by July 7, regardless of whether they were deemed to have acted in good faith or not. These plans must specify the actions that states agree to take to meet the teacher quality provisions of the law, including the 1111(b)(8) equity plan.

A protocol, *Reviewing Revised State Plans*, was provided along with the letter to chief state school officers. It contains six explicit requirements that a re-

vised plan must contain. These revised plans are meant to respond to letters that each state was provided in May. (See Appendix C.)

The Department announced three key issues that it would examine in the revised plans which, taken together, represent the most explicit and detailed statement to date regarding what is required in the coming year and how state performance will be judged.

First, the revised plans should be based on data, especially student achievement data. Schools and districts not making adequate yearly progress and groups of teachers, such as those in low-performing schools who remain underqualified, should receive particular attention. The Department’s review will expect to see revised plans structured around using available resources to meet the needs of these teachers.

In addition, the states must have “a detailed, coherent set of specific activities to ensure that experienced and qualified teachers are distributed equitably among classrooms with poor and minority children and those with their peers.” Several states had several strategies to address the problem but did not have a comprehensive plan. The Department has said it will expect “states to be more strategic than they have in the past in encouraging schools and districts to pay attention to how qualified teachers are assigned and take new actions to address this issue.”

Last but not least, the states must also complete implementing procedures for designating veteran teachers highly qualified, including multiple-subject teachers in rural schools, new special education teachers who are highly qualified in at least one subject at the time they are hired, and teachers who come to the United States from other countries to teach on a temporary basis.



## Unanswered Questions

It remains to be seen whether the Department’s good faith requirements and its future oversight of the teacher quality issue are stringent enough to warrant the additional time. It also remains unknown how carefully the Department will review the revised state plans, and how closely it will monitor and enforce states’ progress in following them.

“Good faith” tests have in the past proven insufficient to generate difficult actions on the part of states, and there is good reason to be concerned that the Department’s definition of good faith may not be sufficiently rigorous or that it may not carefully scrutinize states’ claims of having made a good faith effort.

Following are some questions that Congress, advocates, the press, and others should be sure to ask in the weeks and months ahead:

- *What will happen to the states that did not meet the Department’s “Good Faith” requirement?*

According to recent press accounts, some states reportedly are already off the list,<sup>12</sup> including Alaska, Delaware, Minnesota, and North Carolina. States on the verge of getting off<sup>13</sup> include Montana, Nebraska, Iowa. That leaves only Idaho and Washington.

- *What happened so fast in these states that compliance action is no longer contemplated?*
- *Will any state be fined, or see federal funding withheld?*

The press has also reported that Department officials don’t expect to restrict or hold back state funds.<sup>14</sup> However, Department officials have indicated that six unnamed states plus the District of Columbia and Puerto Rico will have “a condition placed on their grant” that will be removed when the state provides evidence that they have met their commitment to correct their deficiencies.<sup>15</sup>

- *How carefully will the department review and how vigorously will it enforce the revised plans from states?*

News accounts have already reported that Utah will not submit its revised plan on time. It is likely that other states’ plans will be incomplete.

- *Will the Department evaluate states’ equity plans under Section 1111(b)(8) based on actual or likely results, or will good intentions and piecemeal measures — whether they reduce disparities or not — be satisfactory?*
- *Will the Department take steps, including audits and other measures, to discourage states from submitting incomplete, inaccurate, and fraudulent data?*
- *Will the Department make states’ plans available to the public on its website, [www.ed.gov](http://www.ed.gov)?*

## Endnotes

<sup>1</sup> Editorial Projects in Education, *Education Week, Technology counts 2006- The Information Edge, Using Data to Accelerate Achievement*, p. 21. Correspondence with Elizabeth Klemick, Educational Projects in Education, May 9, 2006. For individualized state reports that include detailed information on the types of data each state collects, see [www.edweek.org/ew/articles/2006/05/04/35dsr.h25.html](http://www.edweek.org/ew/articles/2006/05/04/35dsr.h25.html).

<sup>2</sup> Letter from Secretary Rod Paige to Chief State School Officers, and press release, March 15, 2004.

<sup>3</sup> The data for the 2002-2003 school year was not reported to Congress until February 2005. US Department of Education, *No Child Left Behind Act, Annual Report to Congress*, pp. 21-22 (February 2005).

<sup>4</sup> Government Accountability Office, *No Child Left Behind Act-More Information Would Help States Determine Which Teachers Are Highly Qualified*, GAO-03-631 (July 2003), <http://frwebgate.access.gpo.gov/cgi-bin/useftp.cgi?IPaddress=162.140.64.21&filename=d0625.txt&directory=/diskb/wais/data/gao>

<sup>5</sup> Rolf Blank, *Meeting NCLB Goals for Highly Qualified Teachers: Estimates From State Survey Data*, Council of Chief State School Officers (October 2003). In the SASS, “highly qualified,” as defined in the NCLBA, is measured and reported for each state using full state certification in the assigned field and a college major in the assigned field. It is therefore possible to compare teachers’ preparation in each state in the academic core subjects, as this report does for mathematics, science, and English.

<sup>6</sup> The Education Trust, *Telling The Whole Truth (Or Not) About Highly Qualified Teachers*, December 2003. The initial data released by the Department of Education pursuant to Freedom of Information Act requests reveals how incomplete and sparse the raw numbers are when submitted to the federal government.

<sup>7</sup> Government Accountability Office, *No Child Left Behind-Improved Accessibility to Education’s Information Could Help States Further Implement Teacher Qualification Requirements*, p. 3. November 2005 GAO-06-25.

<sup>8</sup> U.S. Department of Education, Institute for Educational Services, Office of Planning, Evaluation, and Policy Development, *National Assessment of Title I: Interim Report, Vol. 1: Implementation of Title I*, p. 75 (February 2006.) [www.ed.gov/rschstat/eval/disadv/title1interimreport/index.html](http://www.ed.gov/rschstat/eval/disadv/title1interimreport/index.html)

<sup>9</sup> Center on Education Policy, *From the Capital to the Classroom, Year 4 of the No Child Left Behind Act*, p. 152 (March 2006).

<sup>10</sup> Monitoring reviews only provided details about non-compliance. If a state is found to have met requirements, federal reviewers do not provide any evidence or rationale for that conclusion.

<sup>11</sup> *Des Moines Register*, <http://desmoinesregister.com/apps/pbcs.dll/article?AID=/20060616/NEWS02/60616001/1004>.

<sup>12</sup> See a Missoulian article titled “Teachers qualified, OPI says,” <http://www.missoulian.com/articles/2006/06/25/news/local/znews01.txt>.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Email from U.S. Department of Education to Alexander Russo, June 2006.

## Appendix A

# Selected Teacher Quality Provisions in the No Child Left Behind Act

### SEC. 1111. STATE PLANS.

#### (a) PLANS REQUIRED-...

(8) REQUIREMENT- Each State plan shall describe—

(A) how the State educational agency will assist each local educational agency and school affected by the State plan to develop the capacity to comply with each of the requirements of sections 1112(c)(1)(D), 1114(b), and 1115(c) that is applicable to such agency or school;

...

(C) the specific steps the State educational agency will take to ensure that both schoolwide programs and targeted assistance schools provide instruction by highly qualified instructional staff as required by sections 1114(b)(1)(C) and 1115(c)(1)(E), including steps that the State educational agency will take to ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers, and the measures that the State educational agency will use to evaluate and publicly report the progress of the State educational agency with respect to such steps; ...

#### (h) REPORTS-

##### (1) ANNUAL STATE REPORT CARD-

(A) IN GENERAL- Not later than the beginning of the 2002-2003 school year, unless the State has received a 1-year extension pursuant to subsection (c)(1), a State that receives assis-

tance under this part shall prepare and disseminate an annual State report card.

...

(C) REQUIRED INFORMATION- The State shall include in its annual State report card—

(viii) the professional qualifications of teachers in the State, the percentage of such teachers teaching with emergency or provisional credentials, and the percentage of classes in the State not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools which, for the purpose of this clause, means schools in the top quartile of poverty and the bottom quartile of poverty in the State.

### SEC. 1112. LOCAL EDUCATIONAL AGENCY PLANS.

#### (c) ASSURANCES-

(1) IN GENERAL- Each local educational agency plan shall provide assurances that the local educational agency will —

(L) ensure, through incentives for voluntary transfers, the provision of professional development, recruitment programs, or other effective strategies, that low-income students and minority students are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers;

**SEC. 1119. QUALIFICATIONS FOR TEACHERS AND PARAPROFESSIONALS.**

**(a) TEACHER QUALIFICATIONS AND MEASURABLE OBJECTIVES-**

(1) **IN GENERAL-** Beginning with the first day of the first school year after the date of enactment of the No Child Left Behind Act of 2001, each local educational agency receiving assistance under this part shall ensure that all teachers hired after such day and teaching in a program supported with funds under this part are highly qualified.

(2) **STATE PLAN-** As part of the plan described in section 1111, each State educational agency receiving assistance under this part shall develop a plan to ensure that all teachers teaching in core academic subjects within the State are highly qualified not later than the end of the 2005-2006 school year. Such plan shall establish annual measurable objectives for each local educational agency and school that, at a minimum —

(A) shall include an annual increase in the percentage of highly qualified teachers at each local educational agency and school, to ensure that all teachers teaching in core academic subjects in each public elementary school and secondary school are highly qualified not later than the end of the 2005-2006 school year;

(B) shall include an annual increase in the percentage of teachers who are receiving high-quality professional development to enable such teachers to become highly qualified and successful classroom teachers; and

(C) may include such other measures as the State educational agency determines to be appropriate to increase teacher qualifications.

(3) **LOCAL PLAN-** As part of the plan described in section 1112, each local educational agency receiving assistance under this part shall develop a plan to ensure that all teachers teaching within the school district served by the local educational agency are highly qualified not later than the end of the 2005-2006 school year.

**(b) REPORTS-**

**(1) ANNUAL STATE AND LOCAL REPORTS-**

(A) **LOCAL REPORTS-** Each State educational agency described in subsection (a)(2) shall require each local educational agency receiving funds under this part to publicly report, each year, beginning with the 2002-2003 school year, the annual progress of the local educational agency as a whole and of each of the schools served by the agency, in meeting the measurable objectives described in subsection (a)(2).

(B) **STATE REPORTS-** Each State educational agency receiving assistance under this part shall prepare and submit each year, beginning with the 2002-2003 school year, a report to the Secretary, describing the State educational agency's progress in meeting the measurable objectives described in subsection (a)(2).

(C) **INFORMATION FROM OTHER REPORTS-** A State educational agency or local educational agency may submit information from the reports described in section 1111(h) for the purposes of this subsection, if such report is modified, as may be necessary, to contain the information required by this subsection, and may submit such information as a part of the reports required under section 1111(h).

(2) **ANNUAL REPORTS BY THE SECRETARY-** Each year, beginning with the 2002-2003 school year, the Secretary shall publicly report the annual progress of State educational agencies, local educational agencies, and schools, in meeting the measurable objectives described in subsection (a)(2).

**[...REQUIREMENTS FOR PARAPROFESSIONALS- Omitted]**

(h) **USE OF FUNDS-** A local educational agency receiving funds under this part may use such funds to support ongoing training and professional development to assist teachers and paraprofessionals in satisfying the requirements of this section.

**(i) VERIFICATION OF COMPLIANCE-**

(1) **IN GENERAL-** In verifying compliance with this section, each local educational agency, at a

minimum, shall require that the principal of each school operating a program under section 1114 or 1115 attest annually in writing as to whether such school is in compliance with the requirements of this section.

(2) **AVAILABILITY OF INFORMATION-** Copies of attestations under paragraph (1) —

(A) shall be maintained at each school operating a program under section 1114 or 1115 and at the main office of the local educational agency; and

(B) shall be available to any member of the general public on request.

(j) **COMBINATIONS OF FUNDS-** Funds provided under this part that are used for professional development purposes may be combined with funds provided under title II of this Act, other Acts, and other sources.

(k) **SPECIAL RULE-** Except as provided in subsection (l), no State educational agency shall require a school or a local educational agency to expend a specific amount of funds for professional development activities under this part, except that this paragraph shall not apply with respect to requirements under section 1116(c)(3).

(l) **MINIMUM EXPENDITURES-** Each local educational agency that receives funds under this part shall use not less than 5 percent, or more than 10 percent, of such funds for each of fiscal years 2002 and 2003, and not less than 5 percent of the funds for each subsequent fiscal year, for professional development activities to ensure that teachers who are not highly qualified become highly qualified not later than the end of the 2005-2006 school year.

## Appendix B

### Assessing State Progress in Meeting the Highly Qualified Teacher (HQT) Goals

#### Protocol for Department of Education (ED) Review to Determine Which States Must Submit Revised HQT Plans

State: **NEW JERSEY**

Date of Review: **5/1/06**

**Overall Recommendation:**

- Revised Plan Not Required:** The State is making substantial progress and is not required to submit a revised HQT plan
- Revised Plan Required:** The State has shown good-faith effort in meeting the HQT goal but a revised HQT plan is required
- Revised Plan Required, Possible Sanctions:** The State has not shown good-faith effort in meeting the HQT goal. A revised HQT plan is required and the Department will consider appropriate administrative actions or sanctions

Comments to support recommendation:

- New Jersey has made significant progress in implementing its HQT definitions and procedures.
- The State has reported complete and accurate data in its 2004-05 CSPR.
- While New Jersey publishes annual report cards, the HQT data currently are not reported by the required NCLB elements. The State has a corrective action in place to address this issue, but has not done so at this time.
- New Jersey has a variety of strategies that address staffing inequities between high- and low-poverty schools. The State, however, lacks a comprehensive equity plan that would provide a statewide blueprint to ensure that all children have access to a high-quality teacher.
- While the State has made substantial gains in meeting the 2005-06 HQT goal, it still faces challenges in high-poverty elementary schools.

**Decision**

Approve  Signature Julie Coplin /s/ Date 5/11/2006

Disapprove  Signature \_\_\_\_\_ Date \_\_\_\_\_

**Requirement 1: Appropriate HQT Definitions**—A State must have a definition of a “highly qualified teacher” that is consistent with the law, and it must use this definition to determine the status of all teachers, including special education teachers, who teach core academic subjects [ESEA §9101(23); IDEA §602(10)].

Y/N/U	Evidence
Y	Does the State have an appropriate HQT definition in place?
Y	Do the definitions apply to all teachers of core academic subjects, including special education teachers?
Y	Has the State used these definitions to determine the HQ status of all teachers?
N	If the State has established HOUSSE procedures, has it completed its review of teachers who are not new to the profession?

Y=Yes; N=No; U=Undecided

Finding:

Requirement 1 has been met

Requirement 1 has been partially met

Requirement 1 has not been met

Additional information needed to make determination

Date Requested  Submission Deadline\*

Supporting Narrative:

- The U.S. Department of Education (ED) conducted an NCLB Title II, Part A, monitoring review of New Jersey and is satisfied that the State has implemented the correct HQT definitions and procedures.
- New Jersey is in the process of conducting its final HOUSSE review of its veteran teachers.

Source: SEA Monitoring Protocol, Monitoring Report for the April 11-12, 2005 visit (6/24/05), New Jersey State Response (8/12/05), ED Resolution Letter (10/31/05).

\* In general, the submission deadline for additional information will be 30 business days after the date of the request.



**Requirement 2: Public Reporting of HQT Data**—A State must provide parents and the public with accurate, complete reports on the number and percentage of classes in core academic subjects taught by highly qualified teachers. States and districts must provide these data to parents through school, district, and State report cards. Parents of students in schools receiving Title I funds must be notified that they may request information regarding the professional qualifications of their children’s teachers, and they must be notified if their children have been assigned to or taught for four or more consecutive weeks by a teacher who is not highly qualified [ESEA §1111(h)(6) and §1119(i)].

Y/N/U	Evidence
N	Does the State have an Annual State Report Card that contains required information on the qualifications of teachers, including the percentage of classes not taught by highly qualified teachers?
Y	Does the State have annual report cards for all of its LEAs and schools that contain required information on the qualifications of teachers, including the percentage of classes not taught by highly qualified teachers?
Y	Does the State assure that all report cards are available to the public?
Y	Does the SEA assure that principals in all Title I schools send the required notification to parents when children are taught by teachers who are not HQ? Does the SEA have evidence that notification occurs in a timely way?
Y	Does the SEA ensure that parents of students in Title I districts are notified that they may request information regarding the professional qualifications of their children’s teachers?

Y=Yes; N=No; U=Undecided

Finding:

Requirement 2 has been met

Requirement 2 has been partially met

Requirement 2 has not been met

Additional information needed to make determination

Date Requested

Submission Deadline

Supporting Narrative:

Website link to report cards: <http://education.state.nj.us/rc/nclb04/index.html>

The most recent report card data are for the 2004 year.

Were HQT data included in the report cards? Yes

Other information (if available):

- While New Jersey produced an annual State and LEA report with HQT information, the 2004 report cards display the percentages of classes taught by HQTs and not the inverse. Additionally, the State report card does not disaggregate the data by school poverty. The

State indicated that these issues would be corrected with the 2005 report cards. The 2005 version has not been posted on the SEA’s website.

- New Jersey received a finding on Title I hiring, but submitted a corrective action plan that satisfies the compliance issue.

Source: SEA Monitoring Protocol, Monitoring Report for the April 11-12, 2005 visit (6/24/05), New Jersey State Response (8/12/05), ED Resolution Letter (10/31/05).

**Requirement 3: Data Reporting to ED—States must submit complete and accurate data to the U.S. Secretary of Education on their implementation of the HQT requirements as part of their Consolidated State Performance Report (CSPR). In addition to reporting the number and percentage of core academic classes being taught by highly qualified teachers in all schools, States must report on the number and percentage of core academic classes being taught in “high-” and “low-poverty” schools [ESEA §1111(h)(4)(G) and §9101(23)]. States must also provide additional information in the CSPR that describes, for classes taught by non-HQ teachers, the reasons why the teachers are not highly qualified.**

Y/N/U	Evidence
Y	Did the State submit complete HQT data in the 2004-05 CSPR?
Y	Are the submitted HQT data reported at the classroom level?
Y	Were data disaggregated for elementary and secondary schools?
Y	Were data disaggregated by high- and low-poverty elementary schools and high- and low-poverty secondary schools?
Y	Did the State provide specific information describing the reasons why teachers are not highly qualified?

Y=Yes; N=No; U=Undecided

Finding:

- Requirement 3 has been met
  - Requirement 3 has been partially met
  - Requirement 3 has not been met
  - Additional information needed to make determination
- \_\_\_\_\_ Date Requested      \_\_\_\_\_ Submission Deadline

Supporting Narrative:

- New Jersey reported complete 2004-05 HQT data in its 2006 CSPR by the required disaggregated categories.
- The State reported its greatest challenge was in meeting the HQT goal in the “other” category, which includes classes in (1) arts, (2) world language, (3) special education (resource replacement), (4) English as a Second Language, (5) English basic skills, and math basic skills (63 percent of classes not taught by HQTs).

Source: Consolidated State Performance Report, March 2006.

**Requirement 4: Equity Plans**—States must have a plan in place to ensure that poor or minority children are not taught by inexperienced, unqualified, or out-of-field teachers at higher rates than are other children [ESEA §1111(b)(8)(C)].

Y/N/U	Evidence
N	Does the State have a plan in place to ensure that poor or minority children are not taught by inexperienced, unqualified, or out-of-field teachers at higher rates than are other children?
N	Does the plan include specific strategies for addressing inequities in teacher assignment?

Y=Yes; N=No; U=Undecided

Finding:

Requirement 4 has been met

Requirement 4 has been partially met

Requirement 4 has not been met

Additional information needed to make determination

Date Requested       Submission Deadline

Supporting Narrative:

- As is evident from the State's monitoring review, New Jersey has various strategies for recruiting and retaining experienced and high-quality teachers in hard-to-staff schools. However, the State lacks a cohesive written plan to ensure that poor and minority children are not taught by inexperienced, unqualified, or out-of-field teachers at higher rates than are other children.

Source: SEA Monitoring Protocol, Monitoring Report for the April 11-12, 2005 visit (6/24/05), New Jersey State Response (8/12/05), ED Resolution Letter (10/31/05).

**Analysis of the State's Progress Toward Meeting the HOT Goal:**

Has the State made annual progress in increasing the percent of classes taught by highly qualified teachers?

**2002-03 data (from 2004 CSPR):**

School Type	Total Number of Core Academic Classes	Number of Core Academic Classes Taught by Highly Qualified Teachers	Percentage of Core Academic Classes Taught by Highly Qualified Teachers
All Schools in State	NA	NA	--
All Elementary Schools	NA	NA	NA
All Secondary Schools	NA	NA	NA
High-Poverty Schools	NA	NA	--
Low-Poverty Schools	NA	NA	NA

**2003-04 data (from 2005 CSPR):**

School Type	Total Number of Core Academic Classes	Number of Core Academic Classes Taught by Highly Qualified Teachers	Percentage of Core Academic Classes Taught by Highly Qualified Teachers
All Schools in State	301,458	284,402	94.3
All Elementary Schools	195,795	184,547	94.3
All Secondary Schools	105,663	99,855	94.5
High-Poverty Schools	59,787	52,293	87.5
Low-Poverty Schools	82,738	79,530	96.1

**2004-05 data (from 2006 CSPR):**

School Type	Total Number of Core Academic Classes	Number of Core Academic Classes Taught by Highly Qualified Teachers	Percentage of Core Academic Classes Taught by Highly Qualified Teachers
All Schools in State	341,358	319,234	93.5
<b>Elementary Level</b>			
High-Poverty Schools	58,487	49,636	84.9
Low-Poverty Schools	44,559	42,735	95.9
All Elementary Schools	211,573	195,664	92.5
<b>Secondary Level</b>			
High-Poverty Schools	18,386	16,700	90.8
Low-Poverty Schools	38,483	37,202	96.7
All Secondary Schools	129,785	123,570	95.2

**Finding:**

- The State is making annual progress in increasing the percentage of classes taught by highly qualified teachers
- The State is not making annual progress in increasing the percentage of classes taught by highly qualified teachers
- Additional information needed to make determination
- Date Requested  Submission Deadline

**Supporting Narrative:**

- New Jersey changed its data collection methods between 2003-04 and 2004-05 in order to improve data quality. The State is showing little change between the two years. The State attributes the decrease to the revisions in data collection procedures.

Source: Consolidated State Performance Reports; State follow-up to the 2004-05 CSPR data review (4/19/06).



- New Jersey has identified areas that may make it difficult to meet the 100 percent goal by 2005-06. See Requirement 3.

Source: Consolidated State Performance Reports; State follow-up to the 2004-05 CSPR data review (4/19/06).

- **How does the State’s progress in meeting the HQT goal align with its progress in ensuring that all schools make adequate yearly progress toward the goal of improvement in student achievement in reading and mathematics?**

Y/N/UNA	Evidence
N	Does improved and exemplary statewide student achievement on NAEP or on the State assessment indicate that significant revision to the State’s HQT plan is not required, even if more than 10 percent of classes are taught by teachers who are not HQ?
	Do districts or schools that are in need of improvement or in corrective action status have higher percentages of teachers who are not highly qualified than do other schools?

Finding:

- The State is making adequate yearly progress in student achievement in nearly all of its districts and schools
- The State is not making adequate yearly progress in student achievement in a substantial number of its schools or districts
- The State is not making substantial progress in meeting the HQT goal in many of the schools and districts that are not making AYP
  - Additional information needed to make determination
  - \_\_\_\_\_ Date Requested       \_\_\_\_\_ Submission Deadline

Supporting Narrative:

# Appendix C

## Reviewing Revised State Plans

### Meeting the Highly Qualified Teacher (HQT) Goal

**State:**

**Date:**

**Overall Recommendation:**

\_\_\_\_\_ Accept HQT plan

\_\_\_\_\_ Accept HQT plan, subject to revisions described below

Comments to support recommendation:

**Decision**

Approve \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

Disapprove \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_



**Requirement 1:** The revised plan must provide a detailed analysis of the core academic subject classes in the State that are currently *not* being taught by highly qualified teachers. The analysis must, in particular, address schools that are not making adequate yearly progress and whether or not these schools have more acute needs than do other schools in attracting highly qualified teachers. The analysis must also identify the districts and schools around the State where significant numbers of teachers do not meet HQT standards, and examine whether or not there are particular hard-to-staff courses frequently taught by non-highly qualified teachers.

Y/N/U/NA	Evidence
	Does the revised plan include an analysis of classes taught by teachers who are not highly qualified? Is the analysis based on accurate classroom level data?
	Does the analysis focus on the staffing needs of school that are not making AYP? Do these schools have high percentages of classes taught by teachers who are not highly qualified?
	Does the analysis identify particular groups of teachers to which the State’s plan must pay particular attention, such as special education teachers, mathematics or science teachers, or multi-subject teachers in rural schools?
	Does the analysis identify districts and schools around the State where significant numbers of teachers do not meet HQT standards?
	Does the analysis identify particular courses that are often taught by non-highly qualified teachers?

Y=Yes; N=No; U=Undecided; NA=Not applicable

Finding:

- Requirement 1 has been met
  - Requirement 1 has been partially met
  - Requirement 1 has not been met
  - Additional information needed to make determination
- \_\_\_\_\_ Date Requested      \_\_\_\_\_ Submission Deadline

Supporting Narrative:

**Requirement 2: The revised plan must provide information on HQT status in each LEA and the steps the SEA will take to ensure that each LEA has plans in place to assist teachers who are not highly qualified to attain HQT status as quickly as possible.**

Y/N/U	Evidence
	Does the plan identify LEAs that have not met annual measurable objectives for HQT?
	Does the plan include specific steps that will be taken by LEAs that have not met annual measurable objectives?
	Does the plan delineate specific steps the SEA will take to ensure that all LEAs have plans in place to assist all non-HQ teachers to become HQ as quickly as possible?

Y=Yes; N=No; U=Undecided

Finding:

- Requirement 2 has been met  
 Requirement 2 has been partially met  
 Requirement 2 has not been met  
 Additional information needed to make determination  
 \_\_\_\_\_ Date Requested      \_\_\_\_\_ Submission Deadline

Supporting Narrative:

**Requirement 3: The revised plan must include information on the technical assistance, programs, and services that the SEA will offer to assist LEAs in successfully completing their HQT plans, particularly where large groups of teachers are not highly qualified, and the resources the LEAs will use to meet their HQT goals.**

Y/N/U	Evidence
	Does the plan include a description of the technical assistance the SEA will provide to assist LEAs in successfully carrying out their HQT plans?
	Does the plan indicate that the staffing and professional development needs of schools that are not making AYP will be given high priority?
	Does the plan include a description of programs and services the SEA will provide to assist teachers and LEAs in successfully meeting HQT goals?
	Does the plan specifically address the needs of any subgroups of teachers identified in Requirement 1?
	Does the plan include a description of how the State will use its available funds (e.g., Title I, Part A; Title II, Part A, including the portion that goes to the State agency for higher education; other Federal and State funds, as appropriate) to address the needs of teachers who are not highly qualified?
	Does the plan for the use of available funds indicate that priority will be given to the staffing and professional development needs of schools that are not making AYP?

Y=Yes; N=No; U=Undecided

Finding:

- Requirement 3 has been met  
 Requirement 3 has been partially met  
 Requirement 3 has not been met  
 Additional information needed to make determination  
 \_\_\_\_\_ Date Requested      \_\_\_\_\_ Submission Deadline

Supporting Narrative:

**Requirement 4: The revised plan must describe how the SEA will work with LEAs that fail to reach the 100 percent HQT goal by the end of the 2006-07 school year.**

Y/N/U	Evidence
	Does the plan indicate how the SEA will monitor LEA compliance with the LEAs' HQT plans described in Requirement 2 and hold LEAs accountable for fulfilling their plans?
	Does the plan show how technical assistance from the SEA to help LEAs meet the 100 percent HQT goal will be targeted toward LEAs and schools that are not making AYP?
	Does the plan describe how the SEA will monitor whether LEAs attain 100 percent HQT in each LEA and school: <ul style="list-style-type: none"> <li>• in the percentage of highly qualified teachers at each LEA and school; and</li> <li>• in the percentage of teachers who are receiving high-quality professional development to enable such teachers to become highly qualified and successful classroom teachers?</li> </ul>
	Consistent with ESEA §2141, does the plan include technical assistance or corrective actions that the SEA will apply if LEAs fail to meet HQT and AYP goals?

Y=Yes; N=No; U=Undecided

Finding:

- Requirement 4 has been met  
 Requirement 4 has been partially met  
 Requirement 4 has not been met  
 Additional information needed to make determination  
 \_\_\_\_\_ Date Requested      \_\_\_\_\_ Submission Deadline

Supporting Narrative:

**Requirement 5: The revised plan must explain how and when the SEA will complete the HOUSSE process for teachers not new to the profession who were hired prior to the end of the 2005-06 school year, and how the SEA will limit the use of HOUSSE procedures for teachers hired after the end of the 2005-06 school year to multi-subject secondary teachers in rural schools eligible for additional flexibility, and multi-subject special education who are highly qualified in language arts, mathematics, or science at the time of hire.**

Y/N/U	Evidence
	Does the plan describe how and when the SEA will complete the HOUSSE process for all teachers not new to the profession who were hired before the end of the 2005-06 school year?
	Does the plan describe how the State will limit the use of HOUSSE after the end of the 2005-06 school year to the following situations: <ul style="list-style-type: none"> <li>○ Multi-subject secondary teachers in rural schools who, if HQ in one subject at the time of hire, may use HOUSSE to demonstrate competence in additional subjects within three years of the date of hire; or</li> <li>○ Multi-subject special education teachers who are new to the profession, if HQ in language arts, mathematics, or science at the time of hire, may use HOUSSE to demonstrate competence in additional subjects within two years of the date of hire.</li> </ul>

Y=Yes; N=No; U=Undecided

Finding:

- Requirement 5 has been met
  - Requirement 5 has been partially met
  - Requirement 5 has not been met
  - Additional information needed to make determination
- \_\_\_\_\_ Date Requested      \_\_\_\_\_ Submission Deadline

Supporting Narrative:

**Requirement 6: The revised plan must include a copy of the State’s written “equity plan” for ensuring that poor or minority children are not taught by inexperienced, unqualified, or out-of-field teachers at higher rates than are other children.**

Y/N/U	Evidence
	Does the revised plan include a written equity plan?
	Does the plan identify where inequities in teacher assignment exist?
	Does the plan delineate specific strategies for addressing inequities in teacher assignment?
	Does the plan provide evidence for the probable success of the strategies it includes?
	Does the plan indicate that the SEA will examine the issue of equitable teacher assignment when it monitors LEAs, and how this will be done?

Y=Yes; N=No; U=Undecided

Finding:

- Requirement 6 has been met  
 Requirement 6 has been partially met  
 Requirement 6 has not been met  
 Additional information needed to make determination  
                     \_\_\_\_\_ Date Requested                      \_\_\_\_\_ Submission Deadline

Supporting Narrative: