



**Field Memo  
NCLB NYS #2-2004**

March 4, 2004

**To:** Charter Schools  
Deans, Directors and Chairs of Teacher Education  
District Superintendents of Schools  
New York State Standards and Practices Board for Teaching  
Nonpublic School Administrators  
Regional Certification Officers  
Superintendents of Public Schools

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Office of Higher Education  
Office of the Professions

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and Continuing Education

**Subject:** Updated Fact Sheet with Highlights of the NCLB's Requirements for Teachers and Title I Paraprofessionals in New York State

This Updated Fact Sheet provides highlights of New York State's implementation of the No Child Left Behind Act's (NCLB's) requirements for teachers and Title I paraprofessionals for use as a reference for LEAs that are preparing consolidated applications for NCLB funds for school year 2004-2005. It is accurate as of the date of its publication and supersedes the Fact Sheet issued as NCLB NYS Field Memo #02-2003.

For complete information about the NCLB's requirements for teachers and Title I paraprofessionals, please refer to other field memos available at <http://www.highered.nysed.gov>.

Please continue to send your questions about the NCLB to [nclbnys@mail.nysed.gov](mailto:nclbnys@mail.nysed.gov) and to send your questions about State certification to [tcert@mail.nysed.gov](mailto:tcert@mail.nysed.gov).

**FACT SHEET:  
Highlights of the NCLB's Requirements  
for Teachers and Title I Paraprofessionals  
in New York State  
March 2004**

This fact sheet is the New York State Education Department's (SED's) interpretation of Title I, Part A of the No Child Left Behind Act of 2001 for New York State. The interpretation is based on laws, regulations, guidance and technical assistance available at the time of its publication. It is subject to change in response to additional information.

For more detailed information about the NCLB's requirements in New York State, please refer to NCLB NYS Field Memos that are available online at <http://www.highered.nysed.gov/nclbhome.htm>. At the same site, you can find links to the federal statute, federal regulations and federal guidance. For further information about New York State certification requirements, please refer to <http://www.highered.nysed.gov/tcert/>.

This fact sheet contains the following parts:

- Part A "Highly Qualified" Teachers
- Part B "Qualified" Title I Paraprofessionals
- Part C Accountability System for Teachers and Title I Paraprofessionals
- Part D Charter Schools and Non-public Schools
- Part E Parents Right to Know
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**Part A  
"Highly Qualified" Teachers**

- A1. The NCLB requires all public school teachers of core academic subjects to be both:
  - certified by New York State for each teaching assignment (with the exception for certain charter school teachers discussed in Item D1); and
  - "highly qualified" as defined by the NCLB by the deadlines in the NCLB.
- A2. Public schools whose teachers are subject to the NCLB include: schools in school districts, Boards of Cooperative Educational Services (BOCES), County Vocational Education and Extension Boards (CVEEB), charter schools, the State schools at Batavia and Rome and Special Act School Districts defined in Section 4001 of the Education Law.
- A3. Core academic subjects for the NCLB are: English; reading; language arts; mathematics; science; history; geography; economics; civics and government; foreign languages and the arts. In New York State, the arts include the visual arts, dance, music, theater – including public speaking – and drama.

- A4. The NCLB applies to all classes covering core academic subjects, including, but not limited to:
- classes in common branch subjects in grades K through 6;
  - classes in core academic subjects in grades 7 through 12;
  - the arts, foreign language and reading in grades K through 12;
  - Career and Technical Education (CTE) classes that students may use for academic credit in core academic subjects;
  - classes in core academic subjects taught as “incidental teaching” as permitted by section 80-5.3 of the Commissioner’s Regulations;
  - classes in core subjects taught in languages other than English;
  - special education classes with K-12 instructional content in core academic subjects;
  - classes in core academic subjects in alternative education programs.
- A5. There are two deadlines for teachers to be “highly qualified.”
- Teachers of core academic subjects hired after the first day of class in school year 2002-2003 and “supported by Title I, Part A funds” must be “highly qualified” when hired.
  - All other public school teachers of core academic subjects, regardless of whether they are employed by a local education agency (LEA) that receives Title I funds, must be “highly qualified” by the end of school year 2005-2006.
- A6. A teacher “supported by Title I, Part A funds” is employed by a local educational agency (LEA) receiving Title I, Part A funds and:
- works in a “targeted assistance school” and is paid with Title I, Part A funds; or
  - works in a “schoolwide program school”; or
  - provides services to eligible private school students.

NOTE: Teachers of core academic subjects employed by a BOCES, CVEEB, a State school or a Special Act School District are not employed by an LEA receiving Title I, Part A funds. Therefore, such teachers do not need to be “highly qualified” until the end of school year 2005-2006.

- A7. The definition of “highly qualified” depends on a teacher’s teaching assignments and “newness” to the profession of teaching.
- Teaching assignments are either:
    1. elementary, defined as grades K-6 classes in common branch subjects and special education that covers core subjects at the instructional level of grades K-6; or
    2. middle and secondary, defined as grades 7-12 and teachers of arts, foreign languages and reading at all grade levels.

- “Newness” to the profession of teaching is either:
  1. new to the profession, defined as the first year following the effective date of a teacher’s first teaching certificate, except with respect to charter school teachers who are not certified as permitted by Education Law § 2854(3)(a-1); or
  2. not new to the profession, defined as after the first year following the effective date of a teacher’s first teaching certificate, except with respect to charter school teachers who are not certified as permitted by Education Law § 2854(3)(a-1).

The first year of a teacher’s first certification ends on the first anniversary of the effective date of a teacher’s first teaching credential (other than a modified temporary license).

Please refer to Item D2 for definitions of “new” and “not new” to the profession for teachers in charter schools who are not certified as permitted by Education Law § 2854(3)(a-1).

A8. Elementary school teachers who are new to the profession (in the first year of their first certification) are “highly qualified” if they:

- have a bachelor’s or higher degree; and
- have a NYS certificate\* for their teaching assignments; and
- demonstrate subject knowledge and teaching skills by passing two New York State Teacher Certification Examinations: the Liberal Arts and Sciences Test (LAST) and the Assessment of Teaching Skills – Written (ATS-W).\*\*

\* All credentials except modified temporary licenses are acceptable. See Item D1 for a discussion of a limited exception for certain charter school teachers.

\*\*Teachers in an approved Alternative Teacher Certification program are not required to pass the ATS-W to be “highly qualified” while they are enrolled in the program.

A9. Elementary school teachers who are not new to the profession (beyond the first year of their first certification) are “highly qualified” if they meet the qualifications in A8 but they have two additional options for demonstrating their subject knowledge and teaching skills:

- passing comparable examinations, listed in Item C4 of NCLB NYS Field Memo #09-2003, that qualified them for certification; or
- passing the high objective uniform State standard of evaluation (HOUSSE), defined in A12.

A10. Middle and secondary school teachers who are new to the profession (in the first year of their first certification) are “highly qualified” if they:

- have a bachelor’s or higher degree; and
- have a New York State certificate\* for their teaching assignments; and
- demonstrate subject matter competency for all core subjects they teach with one of the following:

- a New York State Teacher Certification Examination (NYSCTE) Content Specialty Test (CST) in the subjects; or
- an undergraduate major in the subjects;
- coursework equivalent to a major (30 credits) in the subjects; or
- a New York State permanent or professional certificate in the subjects; or
- a graduate degree in the subjects.

\* All credentials except temporary licenses are acceptable. See Item D1 for a discussion of a limited exception for certain charter school teachers.

A11. Middle and secondary school teachers who are not new to the profession (beyond the first year of their first certification) are “highly qualified” if they meet the qualifications in A10 but they have two additional options for demonstrating their subject matter competency:

- passing examinations comparable to the CST, listed in Item C6 of NCLB NYS Field Memo #09-2003, that qualified them for certification; or
- passing the high objective uniform State standard of evaluation (HOUSSE), defined in A12.

A12. In New York State, the high objective uniform State standard of evaluation (HOUSSE) is an evaluation conducted by a local educational agency after August 1, 2003 as part of (1) a pre-employment review or (2) an Annual Professional Performance Review (APPR), as required by Section 100.2(o) of the Commissioner’s Regulations, that enables teachers beyond the first year of their first certification to demonstrate that they have subject matter competency in each core academic subject they teach based on “objective, coherent information” acceptable to the Commissioner. LEAs should maintain records on each teacher’s local evaluation for the HOUSSE for at least six years from the end of the last school year in which a teacher is employed. For further information, please refer to NCLB NYS Field Memo #05-2003 (revised in January 2004) at <http://www.highered.nysed.gov/nclbhome.htm>.

A13. The NCLB does not apply to substitute teachers. However, when students in a school receiving Title I, Part A funds are assigned, or taught for four or more consecutive weeks by, a substitute teacher who is not “highly qualified,” the NCLB’s parental notification requirements apply. (See Part E.) Also, substitute teachers must meet State requirements in Part 80-5.4 of the Commissioner’s Regulations. Please see <http://www.highered.nysed.gov/tcert/part80.htm#5.4>

## **Part B**

### **“Qualified” Title I Paraprofessionals**

B1. A Title I paraprofessional is an individual who (1) has instructional support duties and (2) works in a program supported with Title I, Part A funds, as defined in B3.

B2. The NCLB adds a new requirement for individuals providing instructional support in New York State’s public schools. When such individuals are Title I

paraprofessionals, as defined in B1, they must meet both State and federal requirements. They must be:

- State certified teaching assistants (or meet applicable New York City requirements for comparable positions); and
- “qualified,” as defined by the NCLB by the deadlines in the NCLB.

An individual’s job title, which is determined by an employer, is not relevant for determining whether an individual is subject to either the State’s or the NCLB’s requirements. If an individual’s job duties include providing instructional support, the individual is serving as a “teaching assistant” (or in a comparable position in New York City) and must be certified (or meet applicable New York City requirements), unless the charter school exception discussed in D1 applies. If an individual’s job duties include providing instructional support and the individual is “working in a program supported with Title I funds,” the individual is a Title I paraprofessional and must meet both State (or New York City) and NCLB requirements.

B3. A paraprofessional “working in a program supported by Title I, Part A funds” is defined as an employee of a local educational agency (LEA) receiving Title I, Part A funds who:

- works in a “targeted assistance school” and is paid with Title I, Part A funds; or
- works in a “schoolwide program school”; or
- provides instructional support to a public school teacher who provides equitable services to eligible private school students.

NOTE: BOCES, CVEEBs, State schools and Special Act School Districts are not LEAs receiving Title I, Part A funds, so paraprofessionals employed by these entities are not subject to the NCLB, regardless of where they provide services.

B4. The NCLB permits Title I paraprofessionals to perform the following duties:

- providing instructional support services;
- one-on-one tutoring for eligible students if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher;
- assisting in classroom management;
- assisting in computer instruction;
- providing instructional support in a library or media center;
- conducting parent involvement activities; or
- acting as a translator.

B5. The NCLB requires all Title I paraprofessionals to perform their duties under the direct supervision of a “highly qualified” teacher. This means:

- the teacher must plan instructional activities that the paraprofessional carries out;
- the teacher must evaluate the achievement of the students with whom the paraprofessional is working; and
- the paraprofessional must work in close and frequent physical proximity to the teacher.

- B6. There are two deadlines for Title I paraprofessionals to be “qualified.”
- Individuals hired after January 8, 2002 must be “qualified” when hired.
  - Individuals hired on or before January 8, 2002 must be “qualified” by January 8, 2006.

NOTE: BOCES, CVEEBs, State schools and Special Act School Districts are not LEAs receiving Title I, Part A funds, so paraprofessionals employed by these entities are not subject to the NCLB, regardless of where they provide services.

- B7. A “qualified” Title I paraprofessional has a high school diploma or a recognized equivalent when hired and meets one of the following (unless covered by an exception):
- has at least two years of college; or
  - has an associate’s or higher degree; or
  - has passed a formal State or local academic assessment.

EXCEPTIONS. Title I paraprofessionals need only have a high school diploma or a recognized equivalent to be “qualified” if their duties consist solely of:

- translating from languages other than English to enhance the participation of limited English proficient children in Title I programs; or
- conducting parental involvement activities.

- B8. The two educational options for being a “qualified” Title I paraprofessional are:
- two years of study (48 semester hours) at a public college or university (e.g., SUNY, CUNY) or an independent college or university; or
  - an associate’s or higher degree.

- B9. The assessment option for being a “qualified” Title I paraprofessional in New York State is either (1) the State assessment or (2) a local assessment that is either selected or developed by an LEA and that meets the NCLB’s statutory and regulatory requirements for addressing knowledge of, and the ability to assist in teaching, as appropriate:
- reading/language arts, writing and math; or
  - reading readiness, writing readiness and math readiness.

- B10. The State assessment – the New York State Assessment of Teaching Assistant Skills (NYSATAS) – serves both State and NCLB purposes. The NYSATAS is required for all candidates for State teaching assistant certificates who apply after February 1, 2004. For information about the NYSATAS, please refer to <http://www.highered.nysed.gov/tcert/certificate/atas.htm> or write to [HEATAS@mail.nysed.gov](mailto:HEATAS@mail.nysed.gov). Individuals who pass the NYSATAS are “qualified” as Title I paraprofessionals in every LEA in New York State.

- B11. An LEA may use an assessment developed commercially for NCLB Title I paraprofessionals. Possible options include:
- the Educational Testing Service's *ParaPro*, described at <http://www.parapro@ets.org> or (609) 771-7395; or
  - the ACT *WorkKeys Proficiency Certificate for Teacher Assistants*, described at [www.act.org/workkeys/profcert](http://www.act.org/workkeys/profcert) or (800) WORKKEY.
- B12. An LEA may use a locally developed assessment for Title I paraprofessionals provided that the LEA provides assurances that each assessment it uses addresses the knowledge and ability required by the NCLB, described in B9. Locally developed assessments may be in any format, including:
- written assessments;
  - tenure reviews;
  - performance reviews; or
  - combinations of the above; or
  - other types of assessments.
- B13. Under New York State policy, teaching assistants who are State-certified and have achieved tenure in a review conducted in accordance with Education Law sections 2509(2), 3012(2) or 2573 have met the NCLB's criteria for the local assessment option as described in Item B9 and B12 of this Fact Sheet.
- B14. Local performance reviews or other local evaluative processes can be used to satisfy the NCLB's assessment option provided that the superintendent of the local educational agency assures that the performance review or evaluative process meets the NCLB's criteria for the assessment option as described in Item B9. Performance reviews conducted at any time, even before the NCLB was enacted, can be used.
- B15. SED recommends that NCLB local assessments for Title I paraprofessionals be:
- documented;
  - signed and dated by the test taker and evaluator, as applicable;
  - consistently used for all candidates in the same school year; and
  - retained in LEA records for no less than six years from the end of the last school year in which the individual is employed.

## **Part C**

### **Accountability System for Teachers and Title I Paraprofessionals**

- C1. Each LEA receiving Title I, Part A funds must provide attestations that it is in compliance with the NCLB's requirements for teachers and Title I paraprofessionals.
- The principal of each school receiving Title I funds must attest annually, in writing, as to whether the school is in compliance.
  - Copies of the attestation must be maintained in the district office and the school and made available upon request to the public.

- C2. Each LEA receiving Title I, Part A funds must have a plan to ensure that:
- all public school teachers of core academic subjects, including teachers employed by the LEA to provide services to eligible private school students, are “highly qualified” no later than the end of school year 2005-2006; and
  - all public school teachers of core academic subjects are receiving high quality professional development, as defined in section 9101(34) of the NCLB, to enable them to become “highly qualified” and effective classroom teachers; and
  - through incentives for voluntary transfers, professional development, recruitment programs, or other effective strategies, minority students and students from low-income families are not taught at higher rates than other students by unqualified, out-of-field or inexperienced teachers.

ANNUAL MEASURABLE OBJECTIVES (AMOs). Each LEA and each school receiving Title I, Part A funds must annually increase, at a pace that will reach 100 percent by the end of school year 2005-2006, the percentage of teachers of core academic subjects that are (1) “highly qualified” for the classes they teach and (2) receiving high quality professional development. These annual increases are each LEA’s and each school’s Annual Measurable Objective (AMO).

- C3. An LEA receiving Title I, Part A funds must use such funds for professional development activities to ensure that teachers and Title I paraprofessionals meet the NCLB’s requirements.
- For each fiscal year after 2003, an LEA must use not less than 5 percent of its Title I, Part A, Subpart A funds for professional development, except as noted below.
  - An LEA is not required to spend the percentage shown above for a given fiscal year if a lesser amount is sufficient to ensure that the LEA’s teachers and Title I paraprofessionals meet the NCLB’s requirements.
  - An LEA may use additional Title I, Part A, Subpart A funds to support ongoing training and professional development to assist teachers and Title I paraprofessionals.

LEAs may also use other NCLB funds, or other funds, to provide professional development to teachers and Title I paraprofessionals.

- C4. Annual public reports must show:
- the percent of teachers of core academic subjects that are “highly qualified”;
  - the percent of classes in core academic subjects being taught by teachers that are “highly qualified” to teach the classes; and
  - the percent of teachers of core academic subjects receiving high quality professional development; and
  - the percent of Title I paraprofessionals that are “qualified”.

SED has enhanced its Basic Educational Data System (BEDS) to satisfy the NCLB’s reporting requirements. LEAs should maintain records on the qualifications and professional development of teachers and the qualifications of

Title I paraprofessionals for no less than six years from the end of the last school year in which the individual was employed.

- C5. SED must monitor the progress of each school and LEA receiving Title I, Part A funds in meeting its annual measurable objectives. SED must:
- identify LEAs and schools that are not meeting their AMOs; and
  - take required actions (e.g., improvement plans, professional development strategies, constraints on hiring of new Title I paraprofessionals).

SED requires all LEAs receiving Title I, Part A funds to increase all the percentages in C4.

- C6. LEAs failing to meet both AMOs for staff and annual yearly progress (AYP) for student achievement for three consecutive years must:
- develop a plan for meeting their AMOs; and
  - no longer use Title I funds to hire new paraprofessionals for Title I programs unless certain conditions are met.

- C7. Other sanctions for LEAs that fail to make AYP may apply to teachers and Title I paraprofessionals. However, those sanctions should not “be construed to alter or otherwise affect the rights, remedies and procedures afforded schools or school district employees under Federal, State or local laws ... or under the terms of collective bargaining agreements, memoranda of understanding or other agreements between such employees and their employers.” [NCLB Section 1116(d)]

## **Part D Charter Schools and Non-Public Schools**

- D1. The NCLB applies to individuals employed by charter schools.
- Charter school teachers must be certified to the extent required by section 2854(3)(a-1) of Education Law, which provides that all charter school teachers must be certified, except that up to thirty percent of a charter school’s teaching staff, or five teachers, whichever is less, are not required to be certified if they meet one of the following criteria: (1) at least three years of elementary, middle or secondary classroom teaching experience; (2) tenured or tenure track college faculty; (3) two years of satisfactory experience through the Teach for America program; or (4) exceptional business, professional, artistic, athletic, or military experience (“the thirty/five exception”).
  - All charter school teachers who teach core academic subjects, including those teachers retained in accordance with the “thirty/five exception,” must also meet the remaining requirements for a “highly qualified” teacher applicable to other public schools. Thus, they must: (1) have at least a bachelor’s degree; and (2) meet the applicable subject matter competency requirements described in Items A8 through A11.
  - The NCLB’s requirements for paraprofessionals apply to charter schools that receive Title I, Part A funds to the same extent as other public schools.

- D2. “Newness” to the profession of teaching is “new” or “not new” to the profession.
- New to the profession is defined as the first year following the effective date of a teacher’s first teaching certificate, except with respect to charter school teachers who are not certified as permitted by Education Law § 2854(3)(a-1), for whom new to the profession is the first year following the date upon which the teacher meets the applicable qualification in Education Law § 2854(3)(a-1), as determined by the charter school.
  - Not new to the profession is defined as after the first year following the effective date of a teacher’s first teaching certificate, except with respect to charter school teachers who are not certified as permitted by Education Law § 2854(3)(a-1), for whom not new to the profession is after the first year following the date upon which the teacher meets the applicable qualification in Education Law § 2854(3)(a-1) as determined by the charter school.
- D3. The NCLB’s requirements for teachers and Title I paraprofessionals do not apply to individuals employed by non-public schools.

## **Part E**

### **Parents Right to Know**

- E1. At the beginning of each school year, starting in fall 2002, LEAs receiving Title I funds must notify parents of students attending schools receiving Title I funds that the parents have a right to information about the professional qualifications of their child’s classroom teachers. Information must be provided whether or not teachers are employed directly by the LEA or under contract with another entity, such as a BOCES. Information must address:
- whether the teacher has State certification for the classes being taught; and
  - the teacher’s bachelor’s degree major and any other certifications or degrees by field or discipline; and
  - whether the child is provided services by paraprofessionals and, if so, their qualifications.
- Notices may be in any format, including newsletters that go to every parent, and must be clear and in languages parents can understand. Notices must tell parents how they can obtain the information to which they are entitled.
- E2. Each school receiving Title I, Part A funds must provide to each individual parent the following information:
- child’s performance on State academic assessments; and
  - as appropriate, timely notice that the child has been assigned, or has been taught for four or more consecutive weeks by, a teacher of a core academic subject who is not “highly qualified”.

This information must be sent to each parent individually to protect privacy, and to the extent practicable, in a language that parents can understand. LEAs must provide notice that a child has been assigned, or taught for four or more consecutive weeks by, a teacher of a core academic subject who is not “highly

qualified” even when the NCLB does not require the teacher to be “highly qualified” until the end of school year 2005-2006.

## **Part F**

### **Links to Further Information**

- F1. Further information about the NCLB’s requirements in New York State can be found online at the following sites.

PERSONNEL: <http://www.highered.nysed.gov/nclbhome.htm>

GENERAL: <http://www.emsc.nysed.gov/deputy/nclb/nclbhome.htm>

ALL QUESTIONS: [NCLBNYS@mail.nysed.gov](mailto:NCLBNYS@mail.nysed.gov)

- F2. Further information about the State’s requirements for teachers and school support personnel (also called paraprofessionals) can be found online at the following sites.

#### STATE CERTIFICATION OF TEACHERS AND TEACHING ASSISTANTS

Email: [Tcert@mail.nysed.gov](mailto:Tcert@mail.nysed.gov)

Web: <http://www.highered.nysed.gov/tcert/>

#### STATE TEST FOR TEACHING ASSISTANTS

Email: [HEATAS@mail.nysed.gov](mailto:HEATAS@mail.nysed.gov)

Web: <http://www.highered.nysed.gov/tcert/certificate/atas.htm>

Web: <http://www.nysatas.nesinc.com/> (registration, preparation)

#### ANNUAL PROFESSIONAL PERFORMANCE REVIEWS

Email: [Emscgen@mail.nysed.gov](mailto:Emscgen@mail.nysed.gov)

Web: <http://www.emsc.nysed.gov/part100/opener.html>