



**NCLB NYS Field Memo
#06-2003**

August 29, 2003

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

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Subject: Updated Guidance on the NCLB's Requirements for Pre-Kindergarten Teachers

This guidance is an update on New York State's implementation of the requirements for teachers in the No Child Left Behind Act of 2001 (NCLB) based on the statute and on final regulations, draft non-regulatory guidance and technical assistance provided by the U.S. Department of Education (USDOE).

On July 2, 2003, we issued a revised version of NCLB NYS Field Memo #02-2003. The revised version made Pre-Kindergarten (Pre-K) teachers subject to the NCLB's teacher quality standards as teachers of core academic subjects. Subsequent NCLB NYS Field Memos also applied the NCLB's teacher quality standards to Pre-K teachers. As each Field Memo states, the guidance we give is subject to change as we obtain additional guidance and clarifications.

After receiving further technical assistance from the USDOE, we have reconsidered our guidance on Pre-K teachers. Pre-K teachers are not subject to the NCLB. The NCLB's teacher quality standards only apply to teachers in "elementary" and "middle and secondary" schools, which is based on the definition of elementary education in each state's laws. New York State Education Law does not define Pre-K as part of "elementary" education. Under section 3202(1) of Education Law, elementary education begins at age 5, when children are entitled to enter kindergarten or first grade. Section 80-1.1 of the Regulations of the Commissioner of Education defines an "elementary school" as a school organized to give instruction in grades K to 6.

This change for Pre-K teachers applies to all NCLB NYS Field Memos issued since June 1, 2003. They include #02-2003 (rev), #3-2003, #4-2003 and #5-2003.

Although Pre-K teachers are not technically subject to the NCLB, they are an essential part of the State's comprehensive early childhood education system. Therefore, we recommend, but do not mandate, that LEAs and schools expect Pre-K teachers to meet the NCLB's definition of a "highly qualified" elementary teacher. If all Pre-K teachers are "highly qualified" as elementary teachers by the end of the 2005-2006 school year they will be able to teach in the elementary grades, should they ever want or need to do so, without violating the NCLB. Their State teaching certificates already qualify them to teach in the elementary grades for State purposes.

You can find all NCLB NYS field memos about teachers and paraprofessionals at <http://www.highered.nysed.gov>.

Please continue to send your questions about the NCLB to nclbnys@mail.nysed.gov and to send your questions about State certification to tcert@mail.nysed.gov.