



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF PLANNING, EVALUATION AND POLICY DEVELOPMENT

May 18, 2011

Deborah A. Ziegler, Ed.D.  
Associate Executive Director  
Policy and Advocacy Services  
Council for Exceptional Children  
2900 Crystal Drive, Suite 1000  
Arlington, VA 22202

Dear Dr. Ziegler,

Thank you for your letter of March 18, 2011, regarding FR Doc. 2011-3489 – “Equitable Distribution of Effective Teachers.” As described in the *Federal Register*, the purpose of this study will be to determine, among other things, how highly qualified teachers are distributed among classes of high- and low-poverty students. The study is authorized under Title I of the Elementary and Secondary Education Act, as amended (ESEA). Because of the language of the authorization, there are questions it will and will not be able to answer. However, in light of your recommendations, we are undertaking additional work to answer some of the specific questions you pose.

Title I of ESEA says that the highly qualified teacher (HQT) requirements apply to all teachers who teach core subjects, which includes all special education teachers who are teaching core subjects. As a result, the ESEA HQT data collection that is partly the subject of this study already includes data on some special education teachers (those who have responsibility for instruction in core subjects) but not others (teachers who act in support of general education teachers who provide core content instruction.) We cannot tell from the data which of the core classes are special education classes and which are not. Therefore, this particular study will only be able to fully address your first recommendation, to “expand the population of students considered by this study to include students with disabilities.”

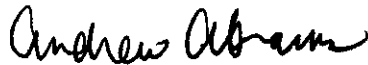
On the other hand, the Individuals with Disabilities Education Act (IDEA) has an HQT definition that applies to all special education teachers, whether they teach core content or not. According to IDEA all special education teachers, in order to be highly qualified, must have a bachelor’s degree and full State certification in special education. In addition, if a special education teacher teaches core subjects, he or she must also demonstrate subject competence. The Office of Special Education (OSEP) collects data about the highly qualified teacher status of special education teachers (in full time equivalencies), as well as the qualification status of paraprofessionals and related service personnel. The data are reported to ED at the state and district level. We are sensitive to data burden and believe current data can be mined to initiate CEC’s second recommendation about the distribution of highly qualified special education teachers, by district. We will work with OSEP to design a companion analysis of the distribution of highly qualified special education personnel using data already available. The study on the equitable distribution of teachers can then cite the findings of that separate analysis.

We do not believe we can accommodate your third and fourth recommendations, however. Your third recommendation is to “require states to report how they are monitoring how districts are meeting ESEA and IDEA’s requirement that all individuals pursuing an alternate route to certification and teaching in a school” meet certain requirements. However, individuals pursuing an alternate route to certification that meet certain basic requirements specified in the Title I regulation are considered by ED to be meeting the highly qualified teacher requirement. Therefore, they will be captured in the two sub-studies cited above.

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Your fourth recommendation concerns asking states to specifically identify how they include professionals who work with students with disabilities in measures of teacher effectiveness. This fourth recommendation falls under the general category of determining effectiveness of teachers of non-tested subjects, including teachers of English learners, the specials (art, physical education, etc.) We will try to get at this issue in our current study when we ask about how effectiveness is determined for teachers of non-tested subjects. In sum, we will integrate your first recommendation in the current study, and will address your second recommendation through an examination of the distribution of highly qualified special education teachers across districts in a companion data analysis. We will also address your fourth recommendation to some extent, but believe your third recommendation to be outside the scope of the current study. Thank you for your interest in our work and we look forward to sharing it with you as soon as possible.

Sincerely,



Andrew Abrams, Ph.D.

Policy and Program Studies Services



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May 18, 2011

Ms. Tara Kini  
Public Advocates Inc.  
131 Steuart Street  
Suite 300  
San Francisco, California 94105

Dear Ms. Kini:

Thank you for your letter of March 18, 2011, in reference to FR Doc 20110-3489, Data Collection on Teacher Quality and Equity. We thank you for your interest in this important study, which will collect information from all states and from the largest 75 districts about how they measure teacher effectiveness, ensure that there is an equitable distribution of highly qualified or effective teachers across schools in their states and/or districts, and, most importantly, identify strategies the largest districts are using to improve equity within their jurisdictions. As part of this effort, we intend to collect data on such aspects as highly qualified teacher status, years of experience, in-field teaching status and other qualifications.

In your letter, you assert that in addition to the proposed data collected, we should also collect data on "how many states relied on the loophole created by the Department's regulation that labeled individuals still participating in alternate route programs as 'highly qualified'? How many alternate route trainees are teaching in each state, and how are these trainees distributed? How are states enforcing the requirement of the Department's regulation that mandates 'highly qualified' trainees to receive high-quality professional development before and while teaching, to be intensively supervised, and to be permitted to claim this exemption for no more than three years."

As you are aware given your own role in the *Renee v. Duncan* matter still before the Court of Appeals for the Ninth Circuit, the Department has steadfastly maintained that (1) our Title I regulation reflects Congressional intent, (2) no court has issued an order directing the Department to rescind it, and (3) section 163 of the Continuing Resolution signed into law in December 2010 (Pub. L. 111-322) provides that teachers in alternative route programs who meet our regulation *shall be considered highly qualified through the end of the 2012-2013 academic year*. In other words, we believe that in asking questions about highly qualified teachers we are legally and legitimately including individuals in alternate route programs.

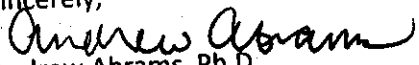
Clearly, there are many ways in which teacher effectiveness can be measured, and in order to keep this study to a manageable scope, we have had to make professional judgments about the numbers and types of variables we can reasonably ask respondents to provide for this one study. It is our judgment that asking about *years of experience* in addition to highly qualified status is a sufficient proxy for all manner of time-related variables, including teachers participating in alternate route programs, and that we do not need to supplement this question by asking further about participation in alternate route programs.

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*Our mission is to ensure equal access to education and to promote educational excellence throughout the nation.*

If you have further questions about this matter, please do not hesitate to contact us.

Sincerely,

  
Andrew Abrams, Ph.D.  
Program and Policy Services