

ESEA Alert

January 13, 2003

California Teachers Association

New Federal Regulations Clarify ESEA Requirements for State and Local Agencies

On November 26, 2002, the U.S. Department of Education released the final regulations for Title I of the ESEA. Approximately 140 interested parties (including NEA and CTA) submitted over 700 comments to the Department. In response to these comments, the DOE made numerous changes to the proposed regulations.

The final regulations have been characterized as limiting state flexibility, especially as they relate to Adequate Yearly Progress (AYP) and public school choice. However, state actions related to teacher and paraprofessional quality issues will still have broad-ranging implications.

States have until January 31, 2003 to submit their plans that address the regulatory requirements to the U.S. Department of Education. Both the CA State Board of Education and the CA Department of Education are busy working to complete the federal requirements.

Public reaction to the regulations was immediate and varied. The *Los Angeles Times* quoted Bush administration officials, "we are turning up the heat on public schools to stop making excuses and start implementing the new law that lets children escape bad schools while giving them better teachers."



The *New York Times* focused on provisions related to parents' rights to transfer their children from an underperforming school to a better school within the district, even if that school is already full.

The *Washington Post* reported that state school leaders are urging flexibility and have complained that the new rules may result in far too many of the nation's public schools being designated as failures.

Collective Bargaining Challenge Fizzles

The controversial proposed DOE regulation (§200.54) that would have limited contractual protections to teachers under ESEA has been dropped.

In a major victory for NEA, CTA, as well as many other state affiliates, the final Department of Education regulations makes no reference to limiting the scope or authority of local collective bargaining agreements. Thus, Sec. 1116(d) of the statute, protecting the rights and remedies afforded to teachers under locally bargained contracts, remains in effect.

Sec. 1116(d) of the law deals with the accountability portion of the Act. It specifies various sanctions for schools identified as needing improvement but not making adequate yearly progress for a number of consecutive years.

These sanctions might include school choice and supplemental services for parents, replacement of the school staff, extension of the school day or school year or restructuring of the school's curriculum.

NEA believes it has secured important protections for collective bargaining rights and contracts in that a school district may not implement any sanction which violates the contract.

Presumably this section would also prevent a school district in California from using ESEA sanctions as an excuse to unilaterally change working conditions, wages, or hours.

Chapter leaders are advised to consult with their CTA primary contact staff to evaluate their current contract language to insure that adequate protections are in place for their teachers.

Overview of Final Regulations

The major provisions of the United States Department of Education's final Title I regulations include:

- * State Accountability Systems
- * Adequate Yearly Progress (AYP)
 - * Schoolwide Programs
- * LEA and School Improvement
- * Qualifications of Teachers and Paraprofessionals
- * Participation of Eligible Children in Private Schools
 - * Allocations to LEAs
 - * Fiscal Requirements

See other side for additional details related to the final ESEA regulations

California Teachers Association

www.cta.org

For More Information:

The National Education Association (NEA) has additional information regarding ESEA regulations. Go to their website: www.nea.org/esea/
OR
see the U.S. Education Dept. information: www.ed.gov



The Road Ahead...

The new federal Title I regulations are more than 370 pages long. Combine that with the 1,000 plus pages of the law itself and you have what has been called by some "the biggest federal intrusion ever into local education."

California educators are working locally and statewide to make sense of these new mandates. We urge your local Association to raise ESEA issues with your school district administrators and to work collaboratively with them to address the many challenges presented by the law.

Please keep your CTA primary contact staff informed of any local activities related to ESEA implementation.

WORD FROM WASHINGTON



The NEA has worked closely with the federal officials responsible for drafting final ESEA regulations. The following CTA analysis was based on a summary prepared by NEA's Government Relations Department.

COLLECTIVE BARGAINING

DOE's decision to back off from attempting to limit collective bargaining agreements and other mutually agreed upon labor management policies is a great victory for teachers. Thus, any sanction under AYP must not reduce the rights or remedies of employees under federal, state, or local law or collective bargaining agreements.

PUBLIC SCHOOL CHOICE

The federal government argued that lack of capacity should not limit parental choice. We had disagreed with the proposed regulations which said that neither class size limits nor school capacity (other than health and safety code limits) could prevent schools from being designated as receiving schools for choice. The final regulations were not changed, and thus, parental choice will trump class size limits in states. Unknown is the impact on local agreements with their own class size limits. Also, over NEA's objections, school choice must start immediately, even if schools are notified after the start of the school year of failure to make AYP.

SUPPLEMENTAL SERVICES

The final federal regulations make it clear that supplemental services providers must accommodate all students with disabilities who seek services, as well as students with limited English proficiency. Also, states may require supplemental services providers to demonstrate that their programs are based on scientifically-based research. The regulations prohibit states from requiring that supplemental service providers must use only highly qualified teachers. There is also no mention in the regulations of a prohibition on supplemental services providers related to discrimination in employment on the basis of religion.

ADEQUATE YEARLY PROGRESS

Final regulations include a new provision that requires if a student takes the required state assessment more than once, the score from the first test must be the one used for AYP. Also, the DOE will seek additional public comment on the appropriate use of alternative achievement standards in determining AYP for students with disabilities. However, the regulations make clear that the same grade level academic content and achievement standards applied to all public school students in the state will be applied to alternate assessments.

TEACHER QUALITY

Teachers enrolled in alternative route programs can be deemed highly qualified prior to completing their program. However, the regulations provide that these teachers be mentored and achieve full certification within three years. These teachers must also meet all competency requirements. More clarification is needed regarding whether special education teachers must meet the "highly qualified" standards of the law. One issue to be dealt with is the requirement that if special education teachers are teaching any core subject, they must meet the standards (including passing a test and having a degree) in each of the academic subjects they teach.

FUNDING

NEA has been strongly arguing that current and proposed federal budgets are not sufficient to allow states, LEAs and schools to comply with these regulations and ESEA.