

Public | Advocates

**Statement of Jenny Pearlman
Staff Attorney, Public Advocates Inc.
On the Filing of *Renee v. Spellings***

Providing all students with qualified teachers is the only way to ensure that no child is left behind. Today, a coalition of parents, students, community groups, and legal advocates sue the U.S. Department of Education and Secretary Margaret Spellings for undermining Congress's explicit standard for "highly qualified" teachers as set forth in the No Child Left Behind Act ("NCLB"). The Department and Secretary Spellings have issued a regulation designating novice teachers-in-training as "highly qualified." This violates both the letter and spirit of NCLB to the detriment of plaintiffs in this action, hundreds of thousands of California students, and, ultimately, for the nation as a whole.

Congress recognized that teacher quality is foundational to the success of NCLB's ultimate goal that all students attain proficiency in reading and math by 2014. Thus, NCLB mandates baseline standards for teacher qualifications and requires that all children have a "highly qualified" teacher in core academic subjects.

The NCLB Act clearly defines a "highly qualified" teacher as one that "has obtained *full State certification* . . . (including certification obtained through alternative routes. . .)." In other words, the statute requires that a teacher *have already completed* full state certification through either a traditional or an alternative teacher preparation program before earning the label "highly qualified." The Department of Education's regulation, however, creates a major loophole by considering teachers still "participating in an alternative route to certification" to be "highly qualified." This means that when a teacher-in-training shows up to class on her first day in an alternative route teacher credentialing program, he/she is automatically considered "highly qualified."

To address the Department's evisceration of Congress's "highly qualified" standard, we bring an action under the federal Administrative Procedure Act ("APA"). The APA provides a private right of action for cases challenging government agency action. Here, the Department's regulation is contrary to NCLB, and thus, exceeds the scope of Defendants' authority. This, in turn, violates the APA.

The Department's mislabeling of alternative route to certification teachers as "highly qualified" permits schools, school districts, states, and the Department to defy requirements of NCLB designed to ensure, ultimately, that every core academic course is taught by a "highly qualified" teacher who has received full state certification. These include:

Public | Advocates

- The underlying mandates that every student is taught by a “highly qualified” teacher in his/her core courses by the 2006-2007 school year and that poor and minority students not be taught by inexperienced, non-“highly qualified” teachers at higher rates than other students;
- The requirement that every state and local district develop plans to deliver “highly qualified” teachers in all core academic classes and to ensure their equitable distribution;
- The directive that schools must inform individual parents when a non-“highly qualified” teacher teaches his/her child for more than four weeks; and
- Finally, the requirement that parents, students, policy makers and the public be provided with accurate information regarding the progress that schools, districts, states, and the nation as a whole are making towards meeting the Act’s “highly qualified” teacher requirements.

Thus, we are asking the Court for an order voiding the Department’s regulation and requiring the Department to inform states that they must use the definition of “highly qualified” that Congress provided in the NCLB Act itself when fulfilling their NCLB obligations and enforcing compliance by districts and schools. In addition, we are asking the Court for an order requiring the Department to base all future actions on the proper “highly qualified” standard set forth in the statute, including in fulfilling reporting obligations to Congress regarding students’ access to “highly qualified” teachers nationwide as Congress undertakes important decisions regarding NCLB reauthorization.

The Department of Education and Secretary Spellings must not be allowed to lower Congress’s standard for teachers when our children’s education is at stake.