The Honorable Hanna Skandera  
Secretary of Education  
New Mexico Public Education Department  
300 Don Gaspar Avenue  
Santa Fe, NM 87501  

Dear Secretary Skandera:

This letter serves as a response to New Mexico Public Education Department’s (NMPED) request for a waiver from one aspect of the definition of “highly qualified teacher” (HQT) in section 9101(23) of the Elementary and Secondary Education Act of 1965, as amended (ESEA).

NMPED requested this waiver to reflect its transition toward evaluating teachers based on effectiveness and to broaden the scope of influence of NMPED’s best teachers. NMPED further explained that this waiver will enable it and its local educational agencies (LEAs) to emphasize the impact of teachers on student outcomes as a primary focus of staffing and teacher development, as well as to ensure that all students have access to effective teachers. Finally, NMPED explained that many of its small LEAs have indicated that this waiver will allow them to increase the number of course offerings available to students.

After reviewing NMPED’s request, pursuant to my authority under ESEA section 9401, I am approving NMPED’s request for a waiver of ESEA section 9101(23)(C)(ii) through the 2018–2019 school year. This waiver enables New Mexico’s LEAs to apply to NMPED to use the term “highly qualified teacher” to refer to a teacher who received a summative rating of “effective,” “highly effective,” or “exemplary” and, accordingly, has earned at least 50 percent of the possible student achievement measures in New Mexico’s teacher evaluation and support system, NMTEACH, in lieu of meeting the requirements in ESEA section 9101(23)(C)(ii) regarding subject-matter expertise. I believe this waiver will increase the quality of instruction and improve the academic achievement of students by focusing on a teacher’s effectiveness in impacting student outcomes.

I am granting this waiver subject to NMPED’s continued commitment to establishing safeguards for students and supports for educators teaching under the flexibility outlined in this waiver, including the following:

1. If a teacher taking advantage of this flexibility, after teaching for one school year, is not rated effective, highly effective, or exemplary on the NMTEACH evaluation system, the LEA in which the teacher is employed will not be granted HQT flexibility for that teacher going forward;
2. Each LEA that takes advantage of this flexibility will offer professional development and support opportunities to aid teachers transitioning to new content areas under this flexibility;
3. Principals in an LEA that takes advantage of this flexibility will ensure that professional development plans for teachers teaching under this flexibility will include targeted areas of support to ensure that a teacher is effective in his or her new content area; and
4. This flexibility applies only in the following limited contexts:
   - Science, Technology, Engineering, and Mathematics (STEM): effective teachers credentialed to teach science or mathematics are, under this flexibility, able to be designated as HQT when teaching either subject in grades 5 through 12.
Humanities: effective teachers credentialed in English/language arts or social studies are, under this flexibility, able to be designated as HQT when teaching either of those subjects in grades 5 through 12.

Special Education Teachers: effective teachers credentialed to teach special education are, under this flexibility, able to be designated as HQT when teaching general education students in the content areas in which they are eligible through traditional credentialing or the new STEM and Humanities categories, in grades 5 through 12. (Note: this flexibility does not allow teachers credentialed to teach general education to be considered HQT if teaching special education.)

Career Technical Education Teachers (CTE): effective teachers credentialed to teach CTE are, under this flexibility, able to be designated as HQT when teaching in areas relevant to their content area.

Further, NMPED must commit to the following annual reporting requirements to receive this waiver, so that parents, advocates, and policy makers can understand, learn from, and, where necessary, adjust the ways NMPED and its LEAs use the flexibility:

1. Each LEA that takes advantage of this flexibility must, by May 31st of each year, publicly report:
   (a) The total number of teachers teaching under this HQT flexibility, by school and in the LEA as a whole; and
   (b) After the first year of implementation, at the LEA level only (not by school), the number of teachers reported in (a) who maintained a rating of effective (or better) while teaching under this flexibility. This reporting requirement will only apply to LEAs with at least five teachers teaching under this flexibility in a prior year.

2. NMPED must publicly report, by July 31st of each year, a list of the LEAs that are taking advantage of this flexibility. In addition, NMPED must publicly report, at the State level, on the total number of teachers using this flexibility and, after the first year of implementation, the number of such teachers who maintained a rating of effective (or better), in the following categories:
   o Those moving within the newly defined “STEM” category.
   o Those moving within the newly defined “Humanities” category.
   o Those moving from special education to general education.
   o Those moving within the “CTE” category.
   o Those moving from high school to middle school.
   o Those moving from middle school to high school.

NMPED and New Mexico LEAs and schools must continue to meet the ESEA’s HQT requirements for all teachers who do not teach under the flexibility outlined in this waiver. Additionally, New Mexico LEAs should continue to create environments in which teachers desire to work and thrive, by providing appropriate resources and supports and competitive salaries, to ensure the highest need students are taught by effective teachers.

Thank you for the work you are doing to ensure that all students in New Mexico have access to effective educators. If you have any questions about this waiver, please contact me or please have your staff contact Lisa Sadeghi (202-453-6465) or Bryan Thurmond (202-205-4914) by phone or by email at: OSS.NewMexico@ed.gov.

Sincerely,

[Signature]

Deborah S. Delisle
Assistant Secretary

cc: Leighann Lenti