

STATE BOARD OF EDUCATION

August 19, 2003

SUBJECT: Approval of Settlement Agreement modifying the Consent Decree in LULAC, et. al v. State Board of Education, et. al.

PROPOSED BOARD ACTION

Approval of Settlement Agreement

AUTHORITY FOR STATE BOARD ACTION

Section 1001.02(2), F.S.

BACKGROUND INFORMATION

LULAC, et. al. v. State Board of Education, et. al. settlement agreement

In August of 1990, the State Board of Education entered into a settlement agreement with the League of United Latin American Citizens (LULAC) relating to a federal lawsuit that had been filed in the Southern District of Florida alleging that the state was not providing equal and appropriate educational services to students for whom English was a second language. The settlement agreement was accepted by the Court and became a Consent Decree that is still in effect today.

On January 17, 2003, LULAC moved to enforce the terms of the decree alleging that the state was violating Section IV of the decree by allowing teachers to gain certification to teach English for Speakers of Other Languages (ESOL) by passing the subject area examination without the requirement of either a college degree in that subject or the training/education hours outlined in the decree.

The Department first allowed applicants without an ESOL degree to sit for the ESOL certification exam in July of 2002 pursuant to the legislature's enactment of Section 1012.56(4), F.S., which allowed teachers to be certified in a specific subject area by passing the subject area examination. ESOL is one of those subject areas and since the July 2002 exam there have been two more ESOL certification exams given.

After LULAC moved to enforce the consent decree, the Court ordered the parties to attempt to mediate the dispute. The parties met in Miami and were able to reach a settlement agreement to modify the consent decree with certain conditions. The agreement is attached hereto and basically provided for the state to continue to allow teachers without ESOL degrees to sit for the subject area exam and receive certification under the following conditions:

- 1) the teachers who pass the test must have had at least 120 in-service training hours within three years of certification in ESOL. Hours earned prior to the test may be a part of the 120 hours required.
- 2) The state would allow some of LULAC's designated experts to review the current tests and provide input as to their content for the upcoming review of the test.
- 3) All administrators and guidance counselors would need to have at least sixty (60) hours of in-service training hours in ESOL.

The Department believes this modification of the decree will continue to allow our districts to successfully recruit new ESOL-certified teachers, while ensuring that those teachers are properly qualified to provide educational services to all Limited English Proficient students.

Supporting Documentation Included: Settlement Agreement

Facilitators/Presenters: Daniel Woodring or Michael Kooi, Office of the General Counsel