

Affirmative Action Policy for Ethnic Minorities and Women

Adopted by the 1997 Representative Assembly

Preamble

*Because the effects of ethnic and gender discrimination by particular employers and by society in general cannot be remedied simply by ending discriminatory practices and utilizing employment practices that treat people equally regardless of ethnicity or gender, affirmative action may be necessary to achieve true equal employment opportunity.**

Definitions

For purposes of this Policy Statement, the following definitions apply:

1. The term “affirmative action” means any measure, beyond simply terminating and prohibiting discriminatory practices, that may be used to increase or maintain the percentage of ethnic minorities or women in an educational employer’s workforce, or a particular segment of an educational employer’s workforce.

2. The term “discrimination” means denying an employment opportunity or benefit, or taking any adverse employment action, against ethnic minorities or women solely on the basis of their ethnicity or gender.

3. The term “diversity” means the inclusion of a specified percentage of ethnic minorities or women in an educational employer’s workforce, in order to obtain the educational benefits of an ethnically

or sexually diverse workforce, to provide ethnic minority or female role models for all students, or to alleviate the effects of societal discrimination.

4. The term “education employee” means a person employed in a professional

* NEA’s current policies reflect a concern with the fact that there traditionally has been a disproportionately low percentage of men employed as teachers in elementary schools, and support the use of affirmative action to cure such underrepresentation. The failure to address this concern in this Policy Statement does not in any sense mean that NEA is altering its position in this regard. To the contrary, it remains the position of NEA that, in appropriate circumstances, affirmative action should be used to increase the percentage of male elementary school teachers. However, because the historical and legal variables involved in the underrepresentation of male elementary school teachers are so markedly different from those involved in regard to ethnic minorities and women, NEA believes that the problems should not be dealt with in the same Policy Statement.

or education support position by an educational employer.

5. The term “educational employer” means a public school district, a college or university, or any other public entity which employs education employees.

6. The term “ethnic minority” means those persons designated as ethnic minority by statistics published by the United States Bureau of the Census. This designation shall specifically include American Indian/Alaska Native, Asian, Native Hawaiian or other Pacific Islander, Black, and Hispanic.

7. The term “qualified” means that the person meets the legal requirements for holding the position, and has the skills necessary to perform the functions of the position.

8. (a) When affirmative action is used to cure the effects of past ethnic or sexual discrimination by a particular educational employer, the term “underrepresented” means that the percentage of ethnic minorities or women in an educational employer’s workforce is significantly below the percentage of qualified ethnic minorities or women in the relevant labor market;

(b) When affirmative action is used to achieve or maintain diversity in an educational employer’s workforce, the term “underrepresented” means that the percentage of ethnic minorities or women in an educational employer’s workforce is significantly below the percentage that is necessary to achieve the educational and societal benefits of ethnic or sexual diversity.

Principles

1. NEA reaffirms its strong support for the use of affirmative action in educational employment (a) to cure the effects of past ethnic or gender discrimination by the particular educational employer involved, and (b) to achieve or maintain ethnic or gender diversity in an educational employer’s workforce.

2. When necessary for the above purposes, affirmative action should be used with regard to recruitment, training, employment, assignments, transfers, promotions, layoff, recall, and other aspects of the educational employment relationship.

3. The employment of a non-ethnic minority or male education employee should not be terminated solely for the purpose of curing the effects of past discrimination by the particular employer involved, or achieving or maintaining diversity in an educational employer’s workforce. When a fiscal exigency, a reduction in student enrollment, or other bona fide factor requires a reduction in an educational employer’s workforce, affirmative action may be appropriate to maintain—but not to increase—the pre-existing percentage of ethnic-minority or female employees in the workforce.

4. Affirmative action should be used, in certain circumstances, to make choices among qualified individuals. An ethnic-minority or woman applicant who is not qualified for the position in question should not, on the basis of ethnicity or gender, be given preference over a qualified non-minority or male applicant. An educational employer should be allowed to use

affirmative action training programs and take other ethnic- or gender-conscious actions in order to expand the pool of qualified ethnic-minority or female applicants for educational employment positions.

5. The use of affirmative action is appropriate when ethnic minorities or women are underrepresented in an educational employer's workforce as a whole, or when they are underrepresented in the professional educator, education support, or administrator/supervisor categories of an educational employer's workforce. Whether the use of affirmative action is appropriate to deal with the underrepresentation of ethnic minorities or women at a school building, in an operational department, or in some other segment of an educational employer's workforce should be determined on a case-by-case basis after assessing all of the relevant factors.

6. (a) Decisions as to the use of affirmative action in educational employment—including decisions as to the relationship between affirmative action and seniority—should be made voluntarily by the educational employer and the local employee organization through collective bargaining or other form of bilateral decision making.

(b) Although NEA urges its affiliates to support the use of affirmative action in educational employment as recommended in this Statement of Policy, affiliates are

free to decide for themselves what positions to take in this regard. Accordingly, the NEA will not deny support to an affiliate that is seeking to enforce contractual or statutory employment rights solely because those rights are contrary to positions recommended in this Statement of Policy.

7. (a) Whether NEA participates in litigation involving affirmative action will be determined on a case-by-case basis after considering all of the relevant factors, including, among others, the NEA policy on the issue presented, the position (if any) taken by NEA affiliates, and the precedential effect of the litigation.

(b) NEA will participate in litigation involving the relationship between affirmative action and seniority only with the approval of an NEA governing body (i.e., Representative Assembly, Board of Directors, or Executive Committee).

(c) A court should have the power to impose an affirmative action remedy that is contrary to the seniority rights of education employees only when there has been a judicial finding that the underrepresentation of ethnic minorities or women in the workforce is attributable to unlawful discrimination by the particular educational employer involved, and then only to the extent that the remedy is necessary to cure the effects of the unlawful discrimination.

Privatization and Subcontracting Programs

Adopted by the 2000 Representative Assembly, amended 2011

Preamble

Certain forms of private sector involvement have the potential to adversely affect public education and impair NEA's ability to achieve its organizational goals and objectives. This Policy Statement (1) sets forth the criteria that are used by NEA in order to determine whether and under what circumstances it will oppose or support private sector involvement in public education, and (2) based upon those criteria, indicates the position taken by NEA with regard to certain commonly-used forms of such involvement.¹

Definitions

For purposes of this Policy Statement, the following definitions apply:

1. The term “public school” means a pre-K program, an elementary school, or a secondary school that is supported by tax dollars; that is under the jurisdiction of and subject to comprehensive regulation by a governmental entity; that, subject to reasonable pedagogically-based distinctions, provides access to all resident students; that is financially and educationally accountable to the public or its elected representatives; and that seeks to inculcate in its students basic values that are rooted in the democratic and egalitarian traditions of our country;

2. The term “privatization program” means a private school tuition voucher program, a private school tax credit/deduction program, or other program pursuant to which public funds are used-directly or

indirectly-to subsidize pre-K through 12 private school education;

3. The term “subcontracting program” means an arrangement pursuant to which private sector entities are used to perform functions-either support or professional-that traditionally have been performed by public elementary and secondary school employees and public higher education employees;

4. The term “private school tuition voucher program” means a program pursuant to which public funds are used to pay, in whole or in part, the tuition for a student to attend a private school—either

¹ This Policy Statement does not deal with all forms of private sector involvement in public education. Thus, for example, charter schools are not addressed. The position that NEA takes with regard to charter schools is set forth in the Policy Statement on Charter Schools adopted by the 2001 Representative Assembly.

by direct payment to a private school, or as reimbursement to a student's parents;

5. The term "private school tuition tax credit/deduction program" means a program that provides a tax advantage—either in the form of a credit against income tax, or a deduction in computing income tax—to persons who pay for, or contribute to, the cost of private education;

6. The term "sectarian private school" means a private school that is affiliated with a religious group, institution, or organization, or that includes a religious component in its educational program; and

7. The term "economic security" means the right to continued employment in the same or a substantially equivalent position, with the same or substantially equivalent compensation and working conditions.

Principles²

A. Criteria

NEA reaffirms its strong and historical commitments to (1) promoting the cause of public education, (2) preserving the principle of separation of church and state, (3) protecting the economic security of public education employees, and (4) achieving racial integration in the public schools and preventing resegregation. Consistent with these commitments, NEA is opposed to any privatization or subcontracting program that:

1. Has the potential to reduce the resources that otherwise would be available to achieve and/or maintain a system of quality public education, or the potential to otherwise negatively impact on public education;

2. Allows public funds to be used for religious education or other religious purposes, or otherwise weakens the wall of separation between church and state;

3. Places the economic security of public education employees at risk, without regard to individual job performance, so that the services in question can be performed by private sector employees; or

4. Has the purpose or effect of causing or maintaining racial segregation in the public schools.

B. Application of Criteria

1. Private School Tuition Voucher Programs

a. NEA opposes private school tuition voucher programs that pay for students to attend private schools *in order to obtain educational services that are available to them in public schools to which they have reasonable access*. Such programs reduce the resources that otherwise would be available for public education, and otherwise impair the ability of the affected school districts to provide a quality public education.

NEA also opposes the foregoing type of private school tuition voucher programs because they have the potential to reduce the student population in the affected school districts, which in turn could result in the displacement of public education employees. This places

² These Principles are set forth in summary terms. The underlying analysis, and the rationale for the positions taken, are contained in the May 2000 Report of the NEA Special Committee on Educational Privatization.

the economic security of public education employees at risk, without regard to individual job performance, so that the services in question can be performed by private sector employees. To the extent that sectarian private schools participate in voucher programs of this type, public funds are used to pay for religious education and other religious activities. NEA opposes such participation because it weakens the wall of separation between church and state.

b. NEA does not take a categorical position for or against private school tuition voucher programs that pay for students to attend private schools *in order to obtain educational services that are not available to them in public schools to which they have reasonable access*—such as, for example, secondary schools for students who reside in school districts that operate only elementary schools, or specialized services for disabled students.

If the unavailable services are provided by sectarian private schools, NEA would oppose the program to the extent the public funds are used to pay for religious education and/or other religious activities.

If the participating private schools are not sectarian, or if the funds made available to sectarian private schools are used only for secular purposes, the acceptability of the program would depend on whether it is feasible for the public schools to provide the services in question, related actions of the school district, and other such factors. Because these factors can best be assessed in context, NEA

defers to the judgment of the relevant state and local affiliates.

2. Tuition Tax Credit/Deduction Programs

Because tax credits/deductions have the same potential financial impact on public education as the direct payment of public funds, tuition tax credit/deduction programs are the functional equivalent of tuition voucher programs. Accordingly, the position that NEA takes with regard to tuition tax credit/deduction programs is the same as the position that it takes with regard to tuition voucher programs.

3. Privatization Programs Pursuant to Which Public Funds are Used to Provide Services, Materials, and/or Other Assistance to Private Schools or to Students Who Attend Such Schools

NEA does not oppose the use of public funds to provide services, materials, and/or other assistance to private schools or to students who attend private schools in all circumstances. Such assistance may be acceptable if the services, materials, and/or other assistance (a) are not part of the basic educational program that is provided by the private school, but are ancillary to that program, (b) as a general matter, do not in and of themselves provide an incentive for public school students to transfer to private schools,³ (c) are not so costly as to negatively impact on the ability of public schools to implement their own

³ The qualification “as a general matter” is necessary because the result might be otherwise in a particular case. Thus, for example, a student might attend a private as opposed to a public school if publicly funded transportation were available.

educational programs, and (d) are secular in nature and are incapable of diversion to religious use—such as bus transportation or secular library books, as opposed to tape recorders, computers, etc. NEA's position with regard to programs of this type will be determined on a case-by-case basis, after considering the structure and operation of the program in question.

4. Subcontracting Programs Pursuant to Which Private-Sector Entities Are Used to Provide Services for Public Schools

NEA will oppose specific subcontracting programs under which private-sector entities are used to provide education support or professional services for public schools and higher education institutions if it determines that the programs have a negative impact on public education, or if—because sectarian entities are used to provide the services—they weaken the wall of separation between church and state. NEA's position with regard to programs of this type will depend in most cases on whether they place the economic security of public education employees at risk, without regard to individual job performance, so that the services in question can be performed by private-sector employees.

On this latter basis, NEA opposes the use of private-sector transportation companies if it results in the displacement of publicly-employed school bus drivers, the use of private-sector food service companies if it results in the displacement of publicly-employed school cafeteria workers, and any other program that simply replaces public education employees with private-sector employees.

NEA's position with regard to subcontracting programs under which the use of private-sector entities do not result in the displacement of public education employees because the services in question have not traditionally been performed by public education employees cannot be determined in the abstract. The acceptability of such programs can best be determined in context—after considering such factors as the economic and programmatic feasibility of using public education employees to provide the services, related actions of the school district, the nature and track record of the particular private-sector entity involved, and whether the local association has been consulted. NEA does not take a categorical position for or against programs of this type, but defers to the judgment of the relevant state and local affiliates.

Charter Schools

Adopted by the 2001 Representative Assembly, amended 2009

Introduction

NEA Resolution A-1 expresses NEA's strong belief "that public educational opportunities for every American must be preserved and strengthened." Consistent with this belief, NEA "supports innovation in public education," NEA Resolution A-32, including education reform mechanisms that promote decentralized and shared decision making, diverse educational offerings, and the removal of onerous administrative requirements. The core assumptions that inform the charter school¹ concept—i.e., innovation, autonomy, and accountability—indicate that charter schools have the potential to facilitate these reforms and be positive change agents by developing new and creative methods of teaching and learning that can be replicated in mainstream public schools. Whether charter schools in fact will fulfill this potential—or instead simply relieve the pressure for genuine reform, and provide a gateway for further privatization—depends on how the charter schools are designed and implemented.

This Policy Statement sets forth certain criteria that NEA believes should be used to determine whether a charter school law—and the charter schools that are established pursuant to that law—are acceptable.² For purposes of discussion, these criteria are grouped into three categories, relating to (1) the granting of charters, (2) the design and operation of the

charter schools themselves, and (3) certain core organizational values of NEA that apply to all educational programs in all contexts.³

Criteria

1. The Granting of Charters

a. In order for charter schools to fulfill their intended purposes, they should be designed to (1) serve as experimental laboratories for field-testing curricular and instructional innovations, with an eye to whether those innovations can be incorporated into "mainstream" public schools,

¹ As used in this Policy Statement, the term "charter school" means a publicly funded elementary or secondary school that has been freed from some of the rules, regulations, and statutes that apply to other public schools in exchange for some type of accountability for producing certain results.

² It would be preferable if all of the criteria were included in a charter school law, but that is not essential. As long as the law does not provide otherwise, a requirement could be imposed by the implementing regulations or the chartering agency itself. In the final analysis, the determinative question is whether a particular charter school meets the criteria.

³ These criteria are set forth in summary terms. The underlying analysis, and a more complete statement of the rationale for the positions taken, are contained in the accompanying Report of the NEA Special Committee on Charter Schools. The Report also discusses many of the subsidiary points that are relevant in applying the criteria.

or (2) provide educational alternatives for students who cannot adequately be served in mainstream public schools. It follows from these purposes that a charter should be granted only if the proposed charter school intends to offer students an educational experience that is qualitatively different from what is available to them in mainstream public schools, and not simply to provide a “choice” for parents who may be dissatisfied with the education that their children are receiving in mainstream public schools.

b. Local school boards are in the best position to evaluate charter school applications for educational management capacity and related purposes, determine how a charter school will impact mainstream public schools, establish procedures to maximize the cross-pollination of ideas, and monitor the operation of charter schools on an ongoing basis. Accordingly, applications for charters should be made to the relevant local school board, which in the first instance should have the sole authority to grant or deny the application. The procedure that a school board follows must include a public hearing allowing teachers, school employees, and the community the opportunity to testify to the positive and negative impact of the charter on the authorizing school district. School boards must be authorized to deny applications that do financial harm to the authorizing school districts.

The decision of the local school board to grant or deny a charter school application should be subject to appeal to a state education agency, but the purpose of the

appeal should not simply be to second-guess the educational judgment of the local school board. The burden should be on the appellant to demonstrate that the local school board did not have reasonable grounds for its decision, and acted in an arbitrary or capricious manner.

The process outlined above also should be used with regard to decisions involving the renewal or revocation of an existing charter.

c. Because a charter school application should be judged more on the basis of what it says than on the basis of who says it, there should be few a priori restrictions on eligibility to receive a charter. The chartering agency should have broad discretion to grant a charter to any responsible group or entity that meets the relevant prerequisites, including a group of parents, a team of teachers, a community organization, a college or university, a union, etc. There should, however, be certain categorical prohibitions:

1. Private for-profit entities should not be eligible to receive a charter. Because for-profit entities have a financial obligation to their shareholders, which requires them to build a profit margin into their calculations, and because they typically lack roots in the local community, such entities should not have independent authority over the operation of a public school. Charter schools should have a limited right to contract with for-profit entities to provide management and other services—but only to the same extent, and under the same circumstances, as mainstream public schools.

2. There also should be an absolute prohibition against the granting of charters for the purpose of home-schooling, including online charter schools that seek to provide home-schooling over the Internet.⁴ Charter schools whose students are in fact home schoolers, and who may rarely if ever convene in an actual school building, disregard the important socialization aspect of public education, do not serve the public purpose of promoting a sense of community, and lend themselves too easily to the misuse of public funds and the abuse of public trust.

3. Although mainstream public schools should be eligible to convert to charter schools if they meet the relevant prerequisites, private school conversions should be prohibited. The net effect of such conversions is all too often simply the use of public money to pay for private school education. In those instances where private school conversions are allowed, there should be rigorous safeguards to ensure that the conversion to a charter school is done in more than name only. The chartering agency should direct its attention to the student body, the governing board, and the educational program of the proposed charter school, and determine the extent to which they will differ from their counterparts in the pre-conversion private school. This is a fact specific inquiry that must take place on a case-by-case basis, but a private school that converts to a charter school at the very least should not be permitted to give a preference to its former students in admission. Particularly careful scrutiny should be given to the application of

any private school with a prior religious affiliation to be sure that the principle of church/state separation is not violated.⁵

d. Consistent with the purpose of charter schools as experimental laboratories, charters should be of limited duration so that the results of the experiment can be assessed. If the goals of the charter are being met, it can be renewed; if they are not, the charter can be revoked. Although a shorter or longer duration may be appropriate in particular circumstances, five years appears to reflect an appropriate balance between accountability, the opportunity for innovation to take hold, and the capital investment that often is necessary to start a charter school.

The charter holder should not be immune from scrutiny for the period of the charter. Because the public education that is provided to children is involved, the charter school should be monitored on a continuing basis, and should be subject to modification or closure at any time if the children or the public interest is placed at risk. School districts under state receivership should be ineligible for a charter.

⁴ The latter point is intended as an interim position. Online charter schools cannot be viewed in isolation, but are part of a broader question involving distance learning in general. NEA intends to establish a special committee to address this broader question, and the position taken in this Policy Statement regarding online charter schools will be revisited by the special committee on distance learning.

⁵ If private school conversions are allowed, there should be an additional categorical prohibition against granting charters to sectarian private schools. See discussion below.

2. The Design and Operation of Charter Schools

a. In order to achieve their intended educational outcomes, it may be necessary for charter schools to be freed from some of the requirements that apply to mainstream public schools, and have increased autonomy in regard to such matters as curriculum, instruction, staffing, budget, internal organization, calendar, and schedule. In other areas, however, the status of charter schools as public schools and the strictures of accountability should predominate, and in these areas they should be subject to the same local and state statutory and administrative requirements as mainstream public schools. This would include, among other things, requirements dealing with health and safety, public records and meetings, licensure/certification of teachers and other employees, finance and auditing, student assessment, civil rights, and labor relations.

A related consequence of the fact that charter schools are public schools is that the teachers and education support professionals who work in those schools should be public employees—and, as such, should have the same constitutional and statutory rights as other similarly situated public employees. This would include, among other things, requirements dealing with health and safety, public records and meetings, licensure/certification of teachers and other employees, financing and auditing, remittance of employee and employer contributions to retirement systems, student assessment, civil rights, and labor relations.

b. According to the definition of a “public school” contained in the “NEA

Policy Statement Regarding Privatization and Subcontracting Programs” that was adopted by the 2000 NEA Representative Assembly, one of the essential characteristics of a public school is “that, subject to reasonable pedagogically-based distinctions, [it] provides access to all resident students.” It follows from this definition that students should not be charged tuition or required to pay a fee in order to attend charter schools. Moreover, because all students must be afforded an opportunity to attend a mainstream public school, students should not involuntarily be assigned to attend charter schools.

Charter schools should have some discretion in selecting or rejecting students. Like magnet and other specialty public schools, they should be allowed to serve an identified target population, such as at-risk students, students with a particular academic emphasis or interest, students with certain disabilities, and students from one educational level as opposed to others (i.e., elementary, middle or high school). But, again like mainstream public schools, there should be no screening of students on the basis of race, religion, gender, sexual orientation, English-language proficiency, family income, athletic ability, special needs, parental participation in school affairs, intellectual potential, academic achievement, or what it costs to educate particular students. Nor should charter schools be allowed to screen students indirectly. Thus, for example, no would-be student should be denied the opportunity to attend a charter school because the school is unwilling to make adequate arrangements for his or her transportation.

c. A charter school is unlikely to be successful unless the participants in the educational experiment are committed to its goals and objectives—and this is true for employees as well as students. For this reason—and because no employee should be required to work in an environment that he or she finds unacceptable—employment at charter schools should be voluntary. In the case of public school conversions, any employees at the public school who do not support the conversion should be afforded an opportunity to transfer to a comparable position at another mainstream public school.

d. Charter schools should not disproportionately divert resources from mainstream public schools. The funding formula should provide a charter school with the same amount of money for its students that would be required to educate the same mix of students in a mainstream public school. Inherent in this formula would be adjustments to reflect cost differences between elementary and secondary school students, students with disabilities and other special needs, at-risk students, etc.

Applicants who seek a charter to start a new school—as opposed to a mainstream public school or an existing private school that seeks to convert to a charter school—may need to acquire a building and make other capital expenditures. A charter should not be granted unless the chartering agency is satisfied that adequate start-up resources will be available. The host school districts should not be required to provide additional money from their regular budgets to fund these capital expenditures, inasmuch as this would mean that

the charter schools are disproportionately diverting resources from mainstream public schools. Nor is it particularly desirable for the additional money to come from the regular budgets of the charter schools, since this might result in their day-to-day operations being underfunded. An attempt should be made to obtain money to cover these start-up costs from some outside funding source (e.g., private non-profit foundations or the federal government).

3. NEA's Core Organizational Values

a. NEA Resolution F-5 provides that “the attainment and exercise of collective bargaining rights are essential to the promotion of education employee and student needs in society.” Consistent with this fundamental principle, charter schools should be subject to the same public sector labor relations statutes as mainstream public schools, and charter school employees should have the same collective bargaining rights—under both state law and local practice—as their counterparts in mainstream public schools.

There is no single “best” answer to the question of how charter school employees should relate to mainstream public school employees in terms of bargaining unit structure and collective bargaining agreement coverage—i.e., whether charter school employees automatically should be included in the same bargaining unit as other employees in the relevant school district and be covered by the same collective bargaining agreement, with the right to request “waivers” that could be agreed to by the union and the school district to address the charter school’s site-specific

issues, or whether they should have the right to form separate bargaining units and negotiate their own collective bargaining agreements. This determination should be made on a case-by-case basis in the same manner that other decisions as to bargaining unit structure are made under the relevant labor relations statute.

b. NEA traditionally—and vigorously—has supported the principle of separation of church and state. If public funds are made available for unrestricted use by sectarian private schools—i.e., private schools that are affiliated with a religious group, institution, or organization, and that include a religious component in their educational programs—the wall of separation is breached. Sectarian private schools, therefore, should be ineligible to become charter schools, and particularly careful scrutiny should be given to charter school applications from purportedly “secular” private schools with a prior religious affiliation. This prohibition should

not prevent a religiously affiliated institution—such as a college or university—from obtaining a charter for a school that is housed in a separate facility that has no religious trappings and that offers an educational program that is purely secular in nature.

Conclusion

As indicated at the outset of this Policy Statement, charter schools have the potential to impact positively, or negatively, on public education—and this in turn will depend on how such schools are designed and operated. In the final analysis, whether any particular charter school law—and the charter schools that are established pursuant to that law—passes muster must be determined on a case-by-case basis after considering all of the relevant factors. The criteria set forth in this Policy Statement are designed to provide an analytical framework that can be used in making that determination.

Distance Education

Adopted by the 2002 Representative Assembly

Preamble

Distance education is now widely used in elementary/secondary school education, higher education, and professional development for education employees. With the increasing sophistication of the Internet and other digital communication technologies, the use of distance education in all of these contexts undoubtedly will expand dramatically in the years ahead. NEA enthusiastically supports the continued and expanded use of distance education because it believes that distance education has the potential to improve learning opportunities for students, the quality of instruction, and the effectiveness of education employees. The positions taken in this Policy Statement are designed to ensure that distance education is used in a manner that enables it to fulfill this potential.¹

Definitions

For purposes of this Policy Statement, the following definitions apply:

1. The term “distance education” means a form of education in which courses are delivered via the Internet (or other forms of digital technologies that may evolve from the Internet that exists today) without face-to-face interaction between student and instructor;

2. The term “traditional education” means the delivery of educational services by means that involve face-to-face interaction between student and instructor; and

3. The term “intellectual property” means certain legal rights protecting original works of the human intellect. One of these legal rights is “copyright,” which means the protection given to original works of authorship, such as literary, musical, or artistic works, by conferring on the owner of a copyright the exclusive right to (a) reproduce the work, (b) distribute

or sell the work, (c) make derivative works from the work, (d) perform the work, and (e) display the work.

Criteria for Acceptability

This Policy Statement sets forth certain criteria that NEA believes should be used to determine whether the use of distance education is acceptable. These criteria are specific to distance education, and unless otherwise indicated are intended to supplement—not supplant—the criteria set forth in other NEA policies for determining the acceptability of educational programs in other contexts. For purposes of discussion, the distance education criteria are grouped into two

¹ These positions are set forth in summary terms. The underlying analysis, and a more complete statement of the rationale for the positions taken, are contained in the accompanying May 2002 Report of the NEA Special Committee on Distance Education.

categories, relating to (A) student learning and (B) educational employment.²

A. Student Learning

1. When properly used, distance education can enrich and enhance the education provided to students, but distance education is not an alternative to traditional education that can in all respects and in all contexts fulfill the mission of traditional education. In addition to providing instruction in academic subjects, a traditional education in a public elementary/secondary school is designed to prepare students for citizenship by instilling certain fundamental democratic values; to expose students to wide-ranging political, religious, and cultural views; to teach them tolerance and respect for those different from themselves; and to help students develop a sense of community. Because these purposes can be served only when students have regular face-to-face interaction with peers, teachers, and other education employees, NEA opposes—as a general matter—any arrangement pursuant to which elementary/secondary school students receive all or most of their education at home through distance education, and rarely if ever convene in an actual school building. In taking this position, NEA recognizes that exceptions may be necessary for certain students who cannot be adequately served by a traditional education program.

2. Although the importance of the face-to-face interaction component of traditional education diminishes with the age and maturity of the students involved, it remains a significant function of an undergraduate higher education. For this reason, NEA—again as a general matter, with the recognition that exceptions may be warranted in particular cases—opposes undergraduate degree programs in which all or most of the courses are provided by distance education.

3. The question of how much distance education is “too much” can best be answered in context after considering the financial and programmatic feasibility of providing the courses through traditional education, the developmental level of the students involved, whether and to what extent the use of distance education would place the economic security of education employees at risk, whether there has been collective bargaining or other bilateral decision-making between the employer and the affiliate, etc. Accordingly, with regard to the appropriate balance between the use of traditional education and distance education at the elementary/secondary school level and in undergraduate higher education, NEA defers to the judgment of the affiliates involved.

4. Because of the nature of the student body and the purpose of the educational program, the face-to-face interaction component of traditional education is less likely to be a factor at the post-graduate level or in professional development for education employees. In these contexts, distance education may in some circumstances be the preferable—and, indeed,

² Although this grouping is somewhat artificial, and there is to some extent an overlap between the two groups, this grouping contributes to the clarity of the presentation.

the only viable—way to provide educational services.

5. Once the decision to use distance education has been made—by a school district, a college or university, or a provider of professional development—the distance education should, as the NEA Standing Committee on Professional Standards and Practice put it, “enrich and enhance current Programs, not dilute their overall value.”³ Toward this end, distance education should only be used for a type of instruction that is suited to online delivery. Several factors should be considered in this regard. One factor is the subject matter of the course. Another factor is the developmental level of the students, inasmuch as young children may not have the literacy skills or maturity necessary to participate in online education, and face-to-face interaction with teachers and peers may be essential to effective learning. Because these and other relevant factors can best be assessed in context, NEA defers to the judgment of the affiliates involved.

6. Although distance education can overcome physical and geographical barriers, its reliance on high level information technology has the potential to create new barriers based on economic and social status. If distance education is used at the elementary/secondary school level, these factors must be neutralized. All eligible students must be able to participate in distance education on an equitable

basis without regard to the economic or social status of their family.

7. Unless otherwise indicated, distance education should be subject to the same criteria that NEA has adopted for quality education generally. Because distance education presents unique concerns, certain additional criteria should be used in evaluating its quality. These additional criteria include the following:

a. Consistent with Resolution G-3 (Licensure), which provides that “[a] teaching license must be recognized as the primary requirement for employment in every primary, secondary, and adult education public and private school” teachers who provide distance education at the elementary/secondary school level should be licensed in the subject matter taught. The license need not be from the state in which the educational services are received by students because this would have the practical effect of eliminating the multi-state use of distance education, nor is there any educationally sound reason why the teacher should be licensed in the state in which the educational services originate. Because NEA does not value a teaching license from any one state over that from any other state, it should be acceptable if a teacher who provides distance education to elementary/secondary school students is licensed in any state in the subject matter being taught.

b. Although licensure in the subject matter being taught is a necessary condition for any teacher, it is not a sufficient condition for a teacher involved in distance education. Teachers who provide distance education should in addition be

³ 2000–01 Report of the NEA Special Committee on Professional Standards and Practice for the 2000–01 membership year, at p. 24.

skilled in learning theories, technologies, and teaching pedagogies appropriate for the online environment. Moreover, because of the rapidly changing technology, these skills should be continuously updated through professional development.

b. Students who take distance education courses should receive the preparation and support necessary to enable them to function effectively in an online environment. Such preparation and support should include at least the following:

- Appropriate equipment, technical support, libraries, and laboratories;
- Appropriate student services, including at the elementary/secondary school level an onsite education employee to monitor student performance and act as a liaison to the distance education instructor;
- Accurate course descriptions and clear expectations prior to enrollment;
- Individualized interaction with their instructor; and
- Opportunities for appropriate student-to-student interaction.

c. Distance education courses should be managed to ensure effective student and school participation, provide for regular interaction between students and their instructors and online classmates, and offer opportunities for appropriate offline activities. Support systems should provide resources to instructors, students, and parents that are comparable to those that would accompany face-to-face courses, as well as any additional support necessitated by the special circumstances of the online environment.

d. Because of the absence of face-to-face interaction between student and instructor, validating the authenticity of student work can be particularly challenging in distance education. Such validation can be done by the use of multiple assessment mechanisms on a regular and continuing basis throughout the course, including appropriate technological safe-guards.

e. The technological infrastructure supporting distance education should provide the necessary tools for instruction and interaction. The technology should work reliably, simply, and economically. Technical assistance should be available whenever needed by students or instructors.

The foregoing criteria are set forth in summary fashion, and do not address the many subsidiary points that would be relevant in applying them. Nor are these the only criteria that need to be considered in order to determine whether distance education meets acceptable standards of educational quality. The criteria are designed rather to establish a basic framework and provide NEA governance, staff, and affiliates with the guidance necessary to make day-to-day determinations.

B. Educational Employment

1. Because decisions as to whether (i.e., for what purposes) and how (i.e., for what types of instruction) to use distance education have an impact on the working conditions of education employees, they should be subjects of collective bargaining or other process of bilateral decision-making between the affiliate and the employer.

2. The affiliate also should be involved in determining who should provide the distance education. If the distance education is to be provided in-house (i.e., by the employer's own employees), it should, to the extent possible, be assigned on a voluntary basis pursuant to a selection process that is jointly developed by the affiliate and the employer. If an outside entity is used to provide the distance education, the primary consideration in deciding whether to use a public sector or a private sector provider should be which of the providers is best able to provide services that meet the criteria for educational quality. This choice presumably will vary from case-to-case depending on the nature and purpose of the distance education involved. All other things being equal, however, there are certain characteristics of public sector providers—such as the absence of a profit motive and public access to financial and other records—that would justify a preference in their favor.

3. Distance education should be used only to improve the learning opportunities for students, improve the quality of instruction, and/or improve the effectiveness of education employees. Although distance education may inevitably have an impact on the location and nature of educational employment, it should not be used—in whole or in part, directly or indirectly—for the purpose of eliminating traditional education employee positions or reducing the hours or compensation of such employees. Nor should distance education be used solely for the purpose of reducing costs, if such use has an

adverse effect on the economic security of education employees. Whether distance education is used for proper purposes is a fact-specific inquiry that can only be determined on a case-by-case basis, after considering financial and programmatic needs, related actions of the employer, and other local factors. Accordingly, NEA defers in this regard to the judgment of the affiliate. NEA also defers to the affiliate how best to deal with the impact of distance education on education employees, including the need for and nature of any transfers, reassignments, layoffs, and severance benefits, and NEA should provide training and other appropriate assistance to affiliates in this regard. NEA believes that any education employee who is displaced because of distance education should be eligible for retraining at the employer's expense, and the opportunity for such retraining should be made available as soon as the possibility of such displacement becomes reasonably clear.

4. It is commonplace for instructors involved in distance education to spend a substantial amount of time interacting with each student individually. With regard to this matter, the controlling NEA policy for both traditional and distance education employees is set forth in NEA Resolution B-11 (Class Size). This Resolution provides that "excellence in the classroom can best be attained by small class size" and that "[c]lass size maximums must be based on the type of students, subject area content, physical facilities, and other criteria."

The compensation that is paid to education employees who are involved in both traditional education and distance education should reflect the principles set forth in NEA Resolutions F-9 (Salaries and Other Compensation) and F-10 (Additional/Enhanced Compensation Models). Because the development of online courses is often complex and time-consuming and may require distance education instructors to invest extra time, particular attention should be given to Resolution F-8 (Basic Contract Standards), which embodies the basic principle of “extra-pay for extra-work.”

Intellectual Property

Questions involving copyright ownership of materials created by education employees, and the use of copyrighted materials of others by education employees in providing educational services to their students, arise more frequently and are more complex in distance education than in traditional education. Accordingly, this Policy Statement deals with these questions for both distance and traditional education and supersedes all other NEA policies regarding intellectual property.

A. Copyright Ownership

NEA believes that education employees should own the copyright to materials that they create in the course of their employment. Toward this end, the Copyright Act of 1976 should be amended to expressly recognize an appropriate “teacher’s exception” to the “works made for hire” doctrine,⁴ pursuant to which works created by education employees in the

course of their employment are owned by the employee. This exception should apply at both the elementary/secondary school and higher education levels, and should reflect the unique practices and traditions of academia.

In the interim—unless and until legislative action is taken—all issues relating to copyright ownership of materials created by education employees should be resolved through collective bargaining or other process of bilateral decision-making between the employer and the affiliate. In the absence of special circumstances—under which it might be appropriate for the rights of ownership to be divided between the education employee and the employer, or to make some similar arrangement—such negotiated agreements should provide that copyright ownership vests in the education employee who creates the materials and that he or she has all of the legal rights that come with such ownership.

B. Access to Copyrighted Materials

The ownership rights of education employees who create copyrightable materials should not prevent education employees from making appropriate use of such materials in providing educational services to their students. With regard to the right of education employees in traditional education to perform, display, reproduce, and distribute copyrighted materials for educational purposes, NEA

⁴ The works made for hire doctrine is discussed in the May 2002 Report of the NEA Special Committee on Distance Education, at pages 58–60.

believes that the instructional exemption for traditional education in Section 110(1) and the “fair use” exemption in Section 107 of the Copyright Act of 1976 provide an appropriate balance between ownership and access.⁵

Because Section 110(2) of the Copyright Act of 1976—the instructional exemption for distance education—was intended to cover only the forms of distance education existing when the statute was enacted in 1976 and has limited application to educational services provided via the Internet and other digital technologies, education employees do not have adequate access to copyrighted materials under existing law in the distance education context. The Technology, Education, and Copyright Harmonization (“TEACH”) Act rewrites Section 110(2)

of the Copyright Act of 1976 for the digital age. NEA believes that the TEACH Act provides an appropriate balance between the interests of education employees who are owners of copyrighted distance education materials and the interests of education employees who seek access to such materials for educational purposes, and it supports the positions taken in the TEACH Act.⁶

⁵ Section 110(1) and the fair use exemption in Section 107 are discussed in the May 2002 Report of the NEA Special Committee on Distance Education, at pages 64-68.

⁶ For a summary of the provisions of the TEACH Act, see May 2002 Report of the NEA Special Committee on Distance Education, Attachment E. As of April 2002, the TEACH Act was pending before Congress.

Kindergarten and Pre-Kindergarten

Adopted by the 2003 Representative Assembly, amended 2004

Introduction

The term “early childhood education” is used by educators to refer to educational programs provided for children from birth through age eight. Within this eight-year span, there are four separate developmental age groups: infants and toddlers (i.e., children from birth to age three); pre-kindergarten children (i.e., children age three and up who have not yet entered kindergarten); children in kindergarten; and children in the primary grades (i.e., grades one through three). Because there are significant differences in the patterns of growth and learning of the children in each of these developmental age groups, it is appropriate to deal with each group separately rather than consider early childhood education in the aggregate. This Policy Statement sets forth NEA’s positions with regard to kindergarten and pre-kindergarten.¹ For purposes of discussion, the positions are grouped into two categories—relating to the availability and financing of kindergarten and pre-kindergarten, and the educational quality of kindergarten and pre-kindergarten.

¹ These positions are set forth in summary terms. The underlying analysis, and a more complete rationale for the positions taken, are contained in the April 2003 Report of the NEA Special Committee on Early Childhood Education.

Availability and Financing

A. Kindergarten

1. Availability

Because of the proliferation of pre-kindergarten programs, kindergarten may no longer be the primary bridge between home and formal education. But it still serves an important transitional function: in kindergarten children are expected to learn the basic academic and social skills that prepare them for the demands of first and subsequent grades. In order to ensure that this expectation is met, kindergarten attendance should be mandatory, and all states should offer a publicly-funded, free, quality kindergarten program.

Wide age spans in kindergarten classes can make it difficult for teachers to implement a curriculum that accommodates children’s substantially different levels and paces of learning. In order to reduce the age span, there should be a uniform entrance age for kindergarten. This means that there should be both a minimum and maximum cut-off date: children should not be allowed to enter kindergarten before they reach a minimum age, or if they are above a maximum age. In terms of the uniform age itself, children should be required to have reached age five at the beginning of kindergarten and should be

required to enter kindergarten not later than their sixth birthday.

The minimum and maximum entrance ages should generally be applied; however, there should be a mechanism that allows for exceptions on a case-by-case basis. This mechanism should not simply accommodate any parents who wish to enroll their children in kindergarten before they are five years of age or delay the entrance of their children until after they are six years of age. The mechanism should rather include specific criteria for determining whether an exception is warranted, and the final determination should be made by the school district after appropriate consultation with the parents and the kindergarten teacher. Because these criteria can best be determined in context, NEA defers in this regard to the judgment of its affiliates, with the following caveat: because of the problems that it generally creates for kindergarten classes, parents who seek to enroll children who are not yet five years of age should bear a particularly heavy burden of persuasion.

2. Financing

The public schools should be the primary provider of kindergarten, and—as a component part of the public school program—should be financed in the same manner as the rest of the public school program. But the money should come from “new” funding sources. This does not necessarily mean that additional taxes must be imposed, but that the funds necessary to finance mandatory full-day kindergarten—including the money to recruit and adequately compensate qualified teachers and education support

professionals—should not be obtained at the expense of other educational priorities.

NEA recognizes and respects the right of parents to send their children to private kindergarten—just as it does the right of parents to send their children to private elementary/secondary schools. The issue, however, is whether public funds should be used to pay for private kindergarten. Based upon the NEA Policy Statement Regarding Privatization and Subcontracting Programs, NEA’s answer to this question is “no.”

B. Pre-Kindergarten

1. Availability

There is no longer any serious doubt about the value of pre-kindergarten. Children who participate in quality pre-kindergarten programs perform better academically and exhibit better cognitive and social skills—on both a short-term and long-term basis—than similar children who do not participate in such programs. And, this is true for all children, not just those from disadvantaged backgrounds. NEA supports the establishment in every state of a non-mandatory “universal” pre-kindergarten for all three- and four-year-old children—i.e., all such children whose parents want them to enroll should have access to, but not be required to attend, a publicly-funded, free, quality pre-kindergarten program.²

² The reference to three- and four-year-old children assumes that when children reach five years of age they will be enrolled in kindergarten. But this is the recommended minimum entrance age for kindergarten, and some children may not enter kindergarten until after they have reached that age. Such children should be eligible to attend the pre-kindergarten program.

There are specific advantages to public as opposed to private pre-kindergarten, and the public schools should be the primary provider. Because of the realities of the current pre-kindergarten market, however, NEA does not oppose the inclusion in a state's universal pre-kindergarten program of private, non-profit, non-sectarian providers that meet specified criteria. These criteria should be designed to ensure program quality (essentially the same requirements that would apply to public school pre-kindergarten) and preserve the principle of church/state separation.

2. Financing

The existing pattern of financing for pre-kindergarten differs from K–12 education in that the federal contribution is substantially greater and exceeds that of the states. This difference derives from the fact that pre-kindergarten—including Head Start—has focused on children from disadvantaged families, and the federal government traditionally has played a special role in providing educational access and opportunity for such children. Consistent with this tradition, the federal government should provide funds sufficient to make pre-kindergarten available for all three- and four-year-old children from disadvantaged families. State (including as appropriate local) governments should be responsible for providing the additional funds necessary to make pre-kindergarten available to all three- and four-year-old children. Both the federal and state governments should use “new” money to fund pre-kindergarten—not money taken from other areas of education and childcare which also have important unmet needs.

Educational Quality

Although the positions taken with regard to early childhood education should reflect the different patterns of growth and learning for each of the four developmental age groups included within the definition of early childhood education, there is an affinity between kindergarten and pre-kindergarten with regard to the criteria for a quality education program. Accordingly, in order to avoid redundancy, this Policy Statement discusses kindergarten and pre-kindergarten together, noting as appropriate the relevant differences.

A. NEA supports full-day—as opposed to half-day—kindergarten and pre-kindergarten.³ There is ample evidence to demonstrate that the subsequent academic performance of children who attend full-day kindergarten and pre-kindergarten is better than that of similar children who attend half-day programs, and that they also make significantly greater progress in learning social skills. This is true not just for children from low-income families, but for all children. Nor is it the mere increase in hours that leads to these positive effects, but rather what children experience during the day.

B. The curriculum and pedagogy in kindergarten and pre-kindergarten should

³ As used in this Policy Statement, the term “full-day” is not intended to refer to a specific number of school day hours, but means rather that the starting and ending times for kindergarten and pre-kindergarten are keyed to the regular school day. Implicit in our support for full-day kindergarten and pre-kindergarten is support for “full-year” programs—i.e., programs that operate for the regular school year.

foster all areas of a child's development—thinking, problem solving, and the development of social and physical skills, as well as basic academic skills. Toward this end, the curriculum and pedagogy should incorporate components of both the “child-centered” and “didactic” approaches. In an effort to avoid “curriculum shovedown” in kindergarten—i.e., an attempt to push expectations from the primary grades down into kindergarten—academic skills should be properly integrated into the overall kindergarten curriculum, and taught in a manner that is developmentally appropriate for the children involved. The curriculum and pedagogy for pre-kindergarten should not be identical to that in kindergarten, but should reflect the fact that there are developmental differences between three- and four-year-old children and five-year-old children that may tip the balance in pre-kindergarten even further away from didactic academic instruction.

C. NEA's basic position with regard to size is set forth in Resolution B-11. After opining “that excellence in the classroom can best be attained by small class size,” the Resolution states that “[c]lass size maximums must be based on the type of students, subject area content, physical facilities, and other criteria.” Consistent with this statement, NEA does not recommend any specific number as the optimum size for kindergarten and pre-kindergarten. The reference in Resolution B-11 to “an optimum class size of fifteen students” is intended to apply to classes at all educational levels, and is not tailored to kindergarten and pre-kindergarten.

As regards kindergarten and pre-kindergarten, it is relevant to note the research consensus that, in order to achieve the greatest academic gains, children should be taught in small classes at the earliest possible point in their school careers.

D. Resolution F-28 provides that all “classroom teachers should be provided with support staff to assist in the educational process.” When dealing with kindergarten and pre-kindergarten children—who because of their age require assistance in performing various life skills, pose unique health and safety concerns, etc.—the primary need is for additional adult supervision in the classroom. Accordingly, kindergarten and pre-kindergarten teachers should have the assistance of a full-time classroom aide. The purpose of this classroom aide should be to assist the classroom teacher—and, as indicated in Resolution F-28, NEA “opposes the use of education support professionals to increase class size.”

E. Assessment of kindergarten and pre-kindergarten students should be holistic, and involve all developmental domains (i.e., physical, social, emotional, and cognitive). Multiple sources of information should be used (for example, obtaining parent information as well as direct observation of the child), and children should be given an opportunity to demonstrate their skills in different ways, allowing for variability in learning pace and for different cultural backgrounds. For this reason, the use of large scale, standardized tests is inappropriate. And, because the development of young children is uneven and greatly impacted by

environmental factors, assessment results for some children may not be reliable until they are in the third grade or beyond.

The purpose of any assessment of kindergarten and pre-kindergarten students should be to improve the quality of education, by (1) providing information that will enable kindergarten and pre-kindergarten teachers to work more effectively with the children, and first grade or kindergarten teachers, as the case may be, to individualize the curriculum to facilitate learning, (2) identifying children with special needs, developmental delays, and health problems (i.e., vision and hearing), and (3) developing baseline data against which future data can be compared.

F. Teachers, education support professionals, and administrators who work in kindergarten and pre-kindergarten should be qualified to perform their functions effectively. These employees should be considered qualified if they hold the license and/or certificate that the state requires for their employment.

Although this same basic rule should apply with regard to kindergarten and pre-kindergarten teachers, the two situations are somewhat different. Because “a teaching license should signify that an individual entering the teaching profession is competent to teach,” Resolution G-3, and because all states require public school kindergarten teachers to be licensed, any concerns regarding the qualifications of teachers at the kindergarten level are adequately addressed. In many states, however, public school pre-kindergarten teachers are not required to have a state license, but can be employed

if they have some type of training in child development and obtain some type of certification in early childhood education. There should be appropriate mechanisms to ensure that pre-kindergarten teachers who do not hold a state license possess the requisite knowledge and skills and are working towards full pre-kindergarten licensure in states where such licensure exists.

Consistent with Resolution D-14, it is NEA’s belief that “continuous professional development is required for education professionals to achieve and maintain the highest standards of student learning and professional practice.” And, consistent with Resolution D-15, NEA believes that “professional development should be required throughout the career of education support professionals” to enable “these employees to gain and improve the knowledge and skills important to their position and job performance.” This professional development should be provided at school district expense.

G. Resolution A-4 expresses NEA’s belief that “parents/guardians who are active participants in the education of their children increase the likelihood of the achievement of educational excellence.” Because kindergarten and pre-kindergarten are critical transition points for children—pre-kindergarten is generally a child’s first organized educational experience, and kindergarten is the bridge to the more structured environment of first and subsequent grades—such parental involvement is particularly important at these levels. Training programs should be made available to parents/guardians to

prepare them to take an active role in the education of their kindergarten and pre-kindergarten children, and provide them with an understanding of the expectations that will be placed on their children, and the new policies and procedures that their children will experience, in kindergarten and pre-kindergarten.

This Policy Statement refers simply to kindergarten and pre-kindergarten children and makes no special mention of children with disabilities or other exceptional

needs. In Resolution B-1, NEA “advocates the establishment of fully funded early childhood special education programs,” and states that “[t]hese programs and necessary services should be readily accessible for children with disabilities and staffed by certified/licensed teachers, qualified support staff, and therapists.” Implicit in this Policy Statement is the unqualified endorsement of the foregoing positions with regard to kindergarten and pre-kindergarten.

Teacher Evaluation and Accountability

Adopted by the 2011 Representative Assembly

Introduction

Consistent with NEA's belief that the "teaching profession is a cornerstone of society," "composed of individuals who meet the highest standards" of "evaluation" and "accountability," (NEA Resolution D-1), and recognizing that evaluation and accountability systems too often leave teachers without the feedback or support needed to enhance practice and advance student learning, NEA sets forth below the criteria for the types of teacher evaluation and accountability systems necessary to ensure a high quality public education for every student.

I. High Quality Teacher Evaluation Systems

NEA believes that our students and teachers deserve high quality evaluation systems that provide the tools teachers need to continuously tailor instruction, enhance practice and advance student learning. Such systems must provide both ongoing, non-evaluative, formative feedback and regular, comprehensive, meaningful and fair evaluations. Such systems must be developed and implemented with teachers and their representatives, either through collective bargaining where available, or in partnership with the affiliate representing teachers at the state and local level.

a. All teachers should be regularly evaluated by highly trained evaluators on the basis of clear standards as to what teachers should know and be able to do. Such standards should be high and rigorous and define the rich knowledge, skills, dispositions and responsibilities of teachers. Such standards may be based on national models such as the NEA Principles of Professional Practice, the Interstate Teacher Assessment and Support Consortium Model Core Teaching Standards, the Standards developed by the National Board for Professional Teaching Standards, or statewide standards for the teaching profession.

b. Evaluations must be comprehensive—based on multiple indicators to provide teachers with clear and actionable feedback to enhance their practice—and must include all three of the following components:

i. **Indicators of Teacher Practice** demonstrating a teacher's subject matter knowledge, skill in planning and delivering instruction that engages students, ability to address issues of equity and diversity, and ability to monitor and assess student learning and adjust instruction accordingly. Such indicators may include the following indicators or others chosen by a local or state affiliate: classroom

observations, proof of practice (e.g., lesson plans, curriculum plans, student assessments, minutes from team planning meetings, curriculum maps, and teacher instructional notes), teacher interviews and self-assessments.

ii. ***Indicators of Teacher Contribution and Growth*** demonstrating a teacher's professional growth and contribution to a school's and/or district's success. Such indicators may include the following indicators or others chosen by a local or state affiliate: completion of meaningful professional development that is applied to practice; structured collaboration with colleagues focused on improving practice and student outcomes (e.g., by way of professional learning communities and grade or subject teams); evidence of reflective practice; teacher leadership in the school, district or educational community; collaborative projects with institutions of higher education; and positive engagement with students, parents and colleagues.

iii. ***Indicators of Contribution to Student Learning and Growth*** demonstrating a teacher's impact on student learning and growth. Such indicators must be authentic, reflect that there are multiple factors that impact a student's learning beyond a teacher's control, and may include the following indicators or others chosen by a local or state affiliate: student learning objectives developed jointly by the teacher and principal/evaluator; teacher-created assessments; district or school assessments; student work (papers, portfolios, projects, presentations); teacher defined objectives for individual

student growth; and high quality developmentally appropriate, standardized tests that provide valid, reliable, timely and meaningful information regarding student learning and growth. Unless such tests are shown to be developmentally appropriate, scientifically valid, and reliable for the purpose of measuring both student learning and a teacher's performance, such tests may not be used to support any employment action against a teacher and may be used only to provide non-evaluative formative feedback.

c. Evaluations must be meaningful, providing all teachers with clear and actionable feedback linked to tailored professional development. Such feedback should include regular non-evaluative formative feedback—meaning feedback that serves only to inform practice and that does not contribute to formal evaluation results—as such feedback is often the most effective way to improve teacher practice. Such non-evaluative feedback may include self-reflection, peer observation and/or teacher approved surveys of students to assess engagement and learning behaviors.

d. Evaluations must be fair, conducted by highly trained and objective supervisors or other evaluators as agreed to by the local affiliate, whose work is regularly reviewed to ensure the validity and reliability of evaluation results. If an evaluation will be the basis for any action relating to a teacher's employment, ratings by more than one evaluator must be provided in support of the action. Where a teacher believes an evaluation does not accurately reflect his or her level of practice, the

teacher must have the right to contest the evaluation, and have access to the information necessary to do so.

e. To satisfy these requirements, evaluation systems must be adequately funded and staffed, and fully developed and validated, including by training all teachers on the new systems, before they are used to make any high stakes employment decisions. NEA recognizes that our schools do not currently have enough staff trained to provide meaningful evaluative and non-evaluative feedback to teachers. To expand the number of people who can do so, the Representative Assembly directs NEA to examine existing mentorship, peer assistance and peer assistance and review programs, and report back to the October 2011 NEA Board meeting regarding those programs, their compliance with the requirements set forth in D-10 (Mentor Programs) and D-11 (Peer Assistance Programs and Peer Assistance & Review Programs), and to make programmatic recommendations as to whether to expand such programs or develop others in partnership with state and local associations.

II. High Quality Teacher Accountability Systems

NEA believes that teachers are accountable for high quality instruction that advances student learning. High quality teacher accountability systems, developed and implemented with teachers and their representatives either through collective bargaining where available, or in partnership with the affiliate representing teachers at the state and local level, should be based on the following principles.

a. All teachers are responsible for providing a high quality education to students and supporting the efforts of colleagues and their school as a whole to do the same. To fulfill that responsibility, teachers have the right to a safe and supportive working environment including ongoing non-evaluative feedback on their practice that supports teachers' efforts to innovate and the right to regular, confidential evaluations.

b. All teachers have the responsibility to continually enhance their practice and to stay current in subject matter and pedagogical approaches by reflecting and acting on feedback received, accessing professional development opportunities provided and collaborating with colleagues to enhance instruction. To fulfill that responsibility, teachers have the right to increased autonomy over instructional practices, time during the school day for collaboration with colleagues, a decision-making role in professional development, and the right to have such development tailored to enhancing skills identified as needing improvement in both non-evaluative feedback and in evaluations, as well as the ability to pursue advanced coursework and degrees as part of professional development.

c. If, through a high quality evaluation system, a teacher's practice fails to meet performance standards, a teacher should be provided with clear notice of the deficiencies and an improvement plan should be developed by the teacher, local association and employer. The improvement plan should provide the teacher with a reasonable opportunity—including

time, high quality professional development and support—to meet expectations. In addition, the teacher should receive regular and frequent feedback from the district and the local association regarding his or her progress during the support program period. What constitutes a reasonable opportunity will depend on the nature of the deficiencies identified, but in no event should an improvement plan exceed one school year. During the period in which a teacher is implementing an improvement plan, the district shall provide a support program mutually agreed upon by the district and the local association, which shall include the assignment of an accomplished teacher to assist the teacher not meeting performance standards in improving his or her practice and to ensure a quality education for that teacher's students.

d. If a teacher fails to improve despite being given a reasonable opportunity to do so, or otherwise fails to meet expectations, the teacher may be counseled to leave the profession or be subject to fair, transparent and efficient dismissal process that provides due process. Such a process should include: notice to a teacher of the basis for the dismissal; early disclosure of all evidence on which the dismissal is based; an early mandatory meeting between the teacher, employer and the teacher's representative to discuss possible resolution; and, failing such resolution, a prompt hearing before an impartial decisionmaker on the charges.

e. NEA believes that it is appropriate and fitting for accountability systems to continue to differentiate between the

rights and responsibilities of probationary teachers, meaning those teachers in their initial years of employment who may be nonrenewed upon notice at the end of a school year, and career teachers, meaning those teachers who have successfully served through the probationary period and may be dismissed only for cause as defined by state law or local agreement or policy.

- Probationary teachers should receive ongoing support for at least the first two years of their employment from locally developed and fully supported induction programs. The focus of such induction programs should be supportive and non-evaluative, designed to provide beginning teachers with the support they need to learn and thrive in the teaching profession. Districts should be encouraged to partner with colleges and universities to develop joint induction programs. No beginning teacher should go for weeks, much less years, without receiving any feedback on their practice.

- Probationary teachers should become career teachers if they meet or exceed expectations at the conclusion of their probationary employment period as defined by state law. A probationary teacher should have the right to require that the school district conduct the necessary evaluations within this time period, so that an appropriate determination can be made as to career status.

- Probationary teachers who meet or exceed expectations at the conclusion of their probationary employment period as defined by state law, and who are not granted career status, should have the

right to contest that denial before an impartial decisionmaker.

- Once a probationary teacher has attained career status, that status should not be lost and should be portable from one school district to another within a state. If a career teacher's performance fails to meet expectations, the teacher may be counseled out of the profession or dismissed pursuant to a fair, transparent and efficient dismissal procedure that provides due process.

- Career teachers have the responsibility to reflect upon and enhance their own practice and to support and enhance the practice of their colleagues, particularly probationary teachers. NEA encourages local affiliates to institutionalize opportunities for career teachers to provide such support and enhance the practice of their colleagues by way of including in collective bargaining agreements or local policies provisions supporting

professional learning communities, partnerships with local/regional institutions of higher education, mentorship and peer assistance programs.

III. The Role of the Association in High Quality Evaluation and Accountability Systems

The development, implementation and enforcement of high quality evaluation and accountability systems are top priorities of NEA and its affiliates, presenting new opportunities and work for the Association and its affiliates. The Representative Assembly therefore directs that NEA support that work by providing the training and resources (including model fair dismissal procedures and other model language) needed to develop, implement and enforce high quality evaluation and accountability systems that enhance instruction and improve student learning.