

January 4, 2011

This is a public comment on R.I.G.L. 42-35-3 in response to the request posted at

<http://www.ride.ri.gov/regents/Regentsregulations.aspx>.

Thank you for the opportunity you have afforded to Rhode Island Teachers of English Language Learners (RITELL) to comment on the proposed regulations. We would like to express our concerns about the measure in general and also some concerns specific to particular sections of the proposed regulation.

In general, we are concerned that this regulation does not have a sunset clause. If this regulation was crafted to remove teachers without sufficient proficiency to be successful teachers in Rhode Island Schools, and if, in the future, all Rhode Island teachers will be assessed on their spelling, grammar and intelligibility, then this regulation should have a sunset clause that matches the date by which all Rhode Island teachers' English language proficiency will be assessed fairly and impartially by RIDE.

To assess the oral language proficiency of Rhode Island teachers is a huge undertaking and RITELL is unclear how RIDE intends to prepare the cadre of language assessment professionals that would be required to directly and even-handedly assess the oral language proficiency of each and every Rhode Island teacher.

Whereas RITELL does recognize/agree that there is a minimum level of proficiency that is required to be a successful teacher when teaching through the medium of English in Rhode Island Schools, we are also concerned with the simplistic notion of equating effectiveness with proficiency, as it has been defined in this regulation (proper spelling and grammar; intelligibility). As stated in TESOL's position paper (attached), many qualities make a teacher effective; and their effectiveness is not solely due to a specified level of English language proficiency. It is important that the regulation set a balanced portrait of teacher

effectiveness in recognition that many qualities make a teacher effective. Also, since the document does not affirm the value of multilingualism for the future of our children, it comes across as xenophobic in tone and attacking towards non-native speakers of English. This should be looked at if the document moves forward.

Our main concerns stem from the following specific sections of the regulation:

Section T-1-1 of R.I.G.L. 42-35-3 states that *the need for a teacher to have an effective command of English is so self-evident that it has long been a principle of Rhode Island public education that "no person should be considered qualified to teach in any school who cannot speak and write the English language, if not elegantly, at least correctly."* RITELL has several concerns with Section T-1-1:

- Given that his principle is to be applied to all Rhode Island teachers equally (Section T-1-3), and as noted above, this will require a substantial force of language evaluators to check on the "correctness" of all Rhode Island teachers' grammar and spelling (Section T-1-4) and intelligibility of their speech (Section T-1-4). How will inter-rater reliability be established among "qualified evaluators"? This is not even mentioned in the document.
- RITELL is concerned that the law may not be applied evenly to native and non-native speakers of English, rather we fear that it may be applied only to non-native speakers, thus targeting those teachers unfairly, while native speaking teachers with poor grammar and spelling may not be held to the same rigorous standards of language proficiency. How will this be monitored to insure even-handed application of the legislation to all Rhode Island teachers? Only by a process of "complaints" (Section T-1-6 (b))? How many complaints would trigger an evaluation? All of this needs to be defined to insure that the process is fair and impartial.
- In our 21<sup>st</sup> century world, there are more non-native English speakers than native ones. Current figures estimate 400 million native English

speakers and about five times as many who speak English as a second or foreign language. That is, for every native speaker of English there are now four or five times as many of non-native English speakers (2 billion people or a third of the world's population). Parents, students and teachers come from diverse cultural and linguistic backgrounds and this diversity should not be demeaned by a law that only values one kind of English, and does not affirm the value of multilingualism, biliteracy and cross-cultural competence among the members of the teaching force.

Section T-1-4 of R.I.G.L. 42-35-3 states the fact that *a teacher, or prospective teacher, speaks with an accent shall not be considered evidence that the teacher, or prospective teacher, is not competent in English, unless the accent is so strong that it meaningfully impairs intelligibility.* This section is of concern to RITELL members for the following reasons:

- Section T-1-4 (b) states that you will be looking at intelligibility. Intelligibility is a loose construct that has no fixed definition. Who determines whether an “accent is so strong” such that it “meaningfully impairs intelligibility?” Further, in what manner will such designations be determined? Most evaluations to determine the existence and extent of accents are not based on intelligibility, but rather on subjective perception. Put simply, a person’s ability to be understood is subjective and thus subjects non-native English-speaking teachers to the partisan judgments of the decision-maker. Will there be a process for taping the speaker and sending it to independent raters who have no connection to the teacher, or will it be done by an in-person evaluation of designated evaluators? This is not clear.
- We are concerned that this regulation could promote xenophobic and anti immigrant sentiments that marginalize and divide teachers, students and families by their country of national origin. This measure is strikingly similar to controversial efforts in Arizona - pursuant to HB-1070 – and that, as such, it could be viewed as a regulation designed to target and fire teachers who do not speak English natively. RIDE should take every measure to make sure that the regulation be

carefully worded to affirm the value of multilingualism and teacher diversity.

Section T-1-5 of R.I.G.L. 42-35-3 states *"If a teacher is not competent in the use of the English language, as determined in accordance with these regulations, the employing entity must take immediate action to remove the teacher or administrator from classroom or administrative duties"*

- RITELL is concerned about the time frames mentioned in the regulation, more specifically that by attempting to act quickly, teachers' rights may be violated solely on the judgment of two individuals charged with evaluating the teacher's proficiency. Given that the regulation does not specify how these evaluators will be trained or what measures they will use to determine lack of proficiency, this is a cause for concern. The timelines in this regulation are very short and this is a cause for concern that a teacher could be removed in only 20 days time based on evaluation procedures yet to be determined. (T-1-7)

Section T-1-7 of R.I.G.L. 42-35-3 states *"...an evaluator who has been trained in evaluating such competency shall observe the classroom instruction provided by the teacher."* This section is of concern to RITELL members for the following reasons:

- This section lacks the detail to insure a fair and impartial process. What standard will be adopted? Given that each state adopts their own standards for determining the English language fluency of its teachers, RITELL is concerned about this section. In some states such as in Arizona, the Department of Education uses a Sheltered English Immersion (SEI) Classroom Observation form to check compliance. This form consists of yes or no answers to questions about an educator such as: "Teacher uses accurate pronunciation" or "Teachers uses accurate grammar." In addition to not defining these terms from a measurement perspective, the form does not require an extensive evaluation conducted over a sufficient period of time. A few grammatical or pronunciation mistakes during one observation could end the career of a talented teacher in a system such as this.

Section T-1-8 of R.I.G.L. 42-35-3 states *"If the teacher does not take the examination or if the teacher fails the Examination, the superintendent shall recommend to the school committee or to the governing board that the teacher be dismissed or suspended for cause...The superintendent may recommend that the teacher be suspended for a period of time to enable the teacher to attain competency in English."* This section is of concern to RITELL members for the following reason:

- The regulation is vague in that it does not specify the amount of time that a teacher ought to receive in order to attain competency in English. Proficiency in English is not acquired overnight and the time frames must be realistic, if all other aspects of teacher competency, but for proficiency, are exemplary. Talented teachers with important relationships with their students could be removed from teaching by a highly subjective process of language proficiency assessment or inadequate testing mechanisms.
- Section T-1-9 mentions an English Competency Exam. To RITELLs knowledge, there is no "English Competency Exam" that exists for the purpose of assessing communicative competence of a teacher in a classroom. Proficiency is made up of many elements and the definition of communicative competence has not been established in the regulation, rather only vague mentions of spelling, grammar and intelligibility. This is not a sufficient definition of proficiency, especially as it pertains to communicating effectively in a classroom and yet these vague definitions of language proficiency could be used to execute serious actions such as "suspending or annulling" a teaching certificate of an otherwise competent teacher.

Thank you for acknowledging the important opinions of all constituency groups in promulgating regulations such as on R.I.G.L. 42-35-3. We trust that you will consider the impact of this regulation on the diversity of the teaching force in Rhode Island, the views held by citizens in our state towards the value of multilingualism and language diversity, and will review the measure for all the potential problems such as those we mention above.

Sincerely,

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RITELL Advocacy Representative

Rhode Island Teachers of English Language Learners

Attachments: TESOL Position Papers:

- Joint Statement on the Teacher English Fluency Initiative in Arizona *May 2010*
- *Position Statement Against Discrimination of Nonnative Speakers of English in the Field of TESOL*

[http://www.tesol.org/s\\_tesol/seccss.asp?CID=32&DID=37](http://www.tesol.org/s_tesol/seccss.asp?CID=32&DID=37)