

NCLB WAIVER PACKAGE

FREQUENTLY ASKED QUESTIONS

September 23, 2011

Why is the U.S. Department of Education offering flexibility from NCLB?

Education Secretary Arne Duncan has received numerous requests for regulatory relief from several states and other education stakeholders, including the National Education Association. Under NCLB, increasing percentages of schools have been deemed “failing” to meet adequate yearly progress (AYP), even as the mandate of achieving 100 percent proficiency by 2013-2014 approaches. The Department recognizes that NCLB is a “slow-moving train wreck,” and that school personnel and students need a way out from under the unrealistic and counterproductive mandates of NCLB. But since the original goals of ESEA – to foster educational equity for all students – must and should still be honored, the Department is not relaxing all accountability requirements. Instead, the Department proposes a “new partnership where the federal role is to support innovation and reform in the states while maintaining a high bar for the success of all students.”

How will the waiver package help students?

Students will benefit because educators and schools will be able to focus on developing the best-possible next-generation standards and assessments – not the ineffective, NCLB-era “bubble” tests, which narrowed the curriculum and did not prepare students for college or careers.

How will the waiver package help our members?

The waiver package will remove the threat of NCLB sanctions on schools for failing to meet AYP, which will allow teachers to focus more on meeting the needs of the whole child. Successful schools will be recognized and rewarded, and struggling schools will receive more flexibility and targeted support around school improvement.

Why is the National Education Association supporting the NCLB flexibility package?

The waiver package offers the opportunity for immediate, though temporary, relief from the mandates of NCLB. At the same time, it upholds the core principles of the Elementary and Secondary Act by providing a transition to better ways of improving student achievement and closing achievement gaps. Collectively, we asked for changes to NCLB, including a transition to common-sense assessment systems, flexibility in the school improvement strategies, and acknowledgment of the special circumstances of rural educators and those who teach multiple subjects. While not perfect, this waiver package delivers on many of NEA's key requests - and allows us to begin to turn the page from the detrimental aspects of NCLB.

What are the main elements of the Secretary’s flexibility package?

A State may request flexibility through waivers of several specific provisions of NCLB. Most notably:

- Flexibility Regarding the 2013–2014 Timeline for Achieving 100 Percent Proficiency: A State will no longer have to set targets that require all students to be proficient by 2014. Instead, a State will have flexibility to establish ambitious but achievable goals in reading/language arts and mathematics to support improvement efforts for all schools and all students.
- Flexibility Regarding District and School Improvement and Accountability Requirements: States, districts, and schools will receive relief from a system that over-identifies schools as “failing” and prescribes a “one size fits all” approach to interventions. Instead, States will have the flexibility to design a system that targets efforts to the schools and districts that are the lowest-performing and to schools that have the largest achievement gaps. States will have the opportunity to tailor interventions to the unique needs of schools and districts and their students. States will also have the flexibility to recognize and reward both schools that are the highest-achieving and those whose students are making the most progress.
- Flexibility Related to the Use of Federal Education Funds: States, districts, and schools will gain increased flexibility to use several funding streams in ways they determine best meets their needs. Rural districts will have additional flexibility in using their funds. Funds to meet the needs of particular populations of disadvantaged students will be protected.

Are there conditions or “strings” attached?

To receive flexibility through these waivers of NCLB requirements, a State must develop a rigorous and comprehensive plan addressing the three critical areas that are designed to improve educational outcomes for all students, close achievement gaps and increase equity, and improve the quality of instruction.

- Transitioning to College- and Career-Ready Standards and Assessments: To request ESEA flexibility, a State must have already adopted college- and career-ready standards in reading/language arts and mathematics designed to raise the achievement of all students, including English Learners and students with disabilities. The State must then help its schools and districts transition to implementing those standards and must commit to administering statewide tests aligned with college- and career-readiness.
- Developing Systems of Differentiated Recognition, Accountability, and Support: Under ESEA flexibility, a State will establish a differentiated recognition, accountability, and support system that gives credit for progress towards college- and career-readiness. The system each State develops will recognize and reward the highest-achieving schools

that serve low-income students and those that show the greatest student progress as Reward Schools.

For a State's lowest-performing schools — Priority schools, generally, those in the bottom 5 percent — a district will implement rigorous interventions to turn the schools around. In an additional 10 percent of the State's schools — Focus Schools, identified due to low graduation rates, large achievement gaps, or low student subgroup performance — the district will target strategies designed to focus on students with the greatest needs.

- Evaluating and Supporting Teacher and Principal Effectiveness: Each State that receives the ESEA flexibility will set basic guidelines for teacher and principal evaluation and support systems. The State and its districts will develop these systems with input from teachers and principals and will assess their performance based on multiple valid measures, including student progress over time and multiple measures of professional practice, and will use these systems to provide clear feedback to teachers on how to improve instruction.

What's the timeline for waiver applications and notifications?

Waiver request forms were released on Friday, September 23 and are due November 14, 2011. There will be a peer review process in early December and the Department hopes to approve some requests by January 2012. A second round of submissions will occur in February 2012 with a spring peer review process and decisions possibly by late spring. Some implementation may occur in the second half of this year, but the majority will be targeted toward next school year.

What is the process for obtaining waivers, and how will affiliates be involved?

State educational agencies (SEAs), through their chief state school officer, apply for waivers to the U.S. Secretary of Education. This is not a competition; all applications that meet the criteria set forth will be approved. States must describe how they engaged teachers and their representatives (i.e., unions), as well as diverse stakeholders and communities in the waiver process. Waiver applications will be evaluated by a peer review panel comprised of experts in the areas covered by the waiver. The waiver process will be transparent; state applications, and any revised applications, will be posted online as well as the peer reviewer notes.

What If a state needs additional time to meet the requirements for, and submit, a waiver request?

The Secretary wants to give all states the opportunity to submit an application. For those states that cannot meet all the requirements in time to receive the initial round of waivers, but are willing to commit to certain reforms, they may be able to freeze their proficiency targets, so that their goals for the 2011-2012 school year would look like those for 2010-2011.

If my state gets a waiver, does it mean that we no longer have to comply with NCLB’s system of testing, labeling, and sanctioning schools?

A state will no longer have to set targets that require all students to be proficient by 2014. Instead, a State will have flexibility to establish ambitious but achievable goals in reading/language arts and mathematics to support improvement efforts for all schools and all students. States will also, as noted above, need to distinguish between schools and respond to their needs and develop a new system of differentiated recognition, accountability and support. The existing system of penalties for schools in need of improvement would therefore be replaced. However, it appears that schools currently in the SIG program would need to continue with the same reforms and models as before.

How would the waiver package impact academic standards and student testing?

States must demonstrate that they have college- and career-ready expectations for all students by adopting college- and career-ready standards in at least reading/language arts and mathematics. The standards would not have to be common across states. States will be required to set Annual Measurable Objectives (AMO’s) in English/language arts and mathematics and implement assessment systems that measure progress toward ambitious but achievable goals. Assessment systems in alignment with college and career readiness would be piloted in 2013-14 and must be implemented in 2014-15.

What must states do with the results of the new assessments?

States must continue to report disaggregated results by student subgroups (students from major racial and ethnic groups, limited English proficiency students, students with disabilities and economically disadvantaged students) and differentiate between the achievement of schools (Priority, Reward, Focus Schools). Instead of following NCLB’s system of punishments and interventions, states must agree to:

- provide incentives and recognition for schools that are doing well (Reward Schools)
- implement rigorous interventions in the lowest-performing 5% of schools (Priority Schools)
- focus on students with the greatest needs in an additional 10 % of schools with low graduation rates, large achievement gaps, or low student subgroup performance (Focus Schools)
- identify and provide support for all Title 1 schools that are not making progress

How will teacher evaluations be impacted?

Evaluation systems for principals and teachers must take into account multiple valid measures in determining performance levels, including as a significant factor data on student growth for all students (including English Learners and students with disabilities), and other measures of professional practice (which may be gathered through multiple formats and sources, such as observations based on rigorous teacher performance standards, teacher portfolios, and student and parent surveys). States and districts must implement teacher and principal evaluation and support systems that will be used to improve instruction. They must also provide clear, timely, and actionable feedback to be used to guide professional development. All teachers and

principals should be trained in the evaluation system. Observers should be trained in conducting observations against a consistent rubric, monitoring inter-rater reliability, and tracking the distribution of evaluation ratings across schools and LEAs.

When will states have to implement new teacher evaluation systems?

States and districts would not be required to fully implement teacher evaluation and support systems until the new, high-quality assessments come online in 2014-15. The Administration’s plan was designed to include time for planning and piloting stronger systems.

Will principals be evaluated?

Yes. In recognition that schools need well-qualified leadership, States and districts would be required to include principals, in addition to teachers, in evaluation and support systems.

Will there be more flexibility around Highly Qualified Teachers?

Yes. LEA’s that are not in compliance would no longer have to file improvement plans.

How will waivers impact struggling or “priority” schools?

States must implement meaningful interventions according to “turnaround principles” that provide strong leadership, ensure that teachers are effective and are able to improve instruction, re-design school time, strengthen curriculum, and use data for improvement. There will be no “rule of 9” (i.e., cap on the transformation model), and states and districts have flexibility on implementing the “turnaround principles.” Priority schools will not have to pick one of the four intervention models; they can offer a more tailored school improvement plan consistent with turnaround principles. (Note: These rules will not apply to current SIG grantees.)

What funding flexibility will be available?

States, districts, and schools will gain increased flexibility to use several funding streams in ways they determine best meets their needs. For example, schools will be able to use previously set-aside Title I SES/choice funding in more flexible ways. And rural districts will have additional flexibility in using their funds. Funds to meet the needs of particular populations of disadvantaged students will be protected.

What if a state decides not to apply for the waiver package?

NCLB remains in effect for states that do not apply for the waiver package.

Can local districts apply for a waiver even if the state doesn’t want to?

No. Only the states, through their chief state school officer, may apply.

Will the waiver package affect collective bargaining or local organizing?

The waiver package includes language indicating that it is not intended to supersede local contracts or agreements. However, states must meet the waiver package guidelines in order to obtain approval of a waiver application.

How does this impact ESEA reauthorization?

The waiver package provides temporary relief from the mandates of NCLB. It is distinct from ESEA reauthorization, which is expected to have more extensive revisions of areas such as accountability, school improvement, and teacher quality. NEA looks forward to continuing to work with Congress to get ESEA reauthorized.

How will the waivers help states transition from current standards and assessments?

In their waiver applications, states will have to demonstrate how they will transition to the new standards and assessments, including outreach, professional development and support for teachers and principals, dissemination of high-quality instructional materials aligned to the new standards, and their plan to work with teacher and principal preparation programs to better prepare incoming educators.

What should state and local associations do NOW to engage in the waiver process?

1. Let's communicate! Maintain active state-local and state-national dialogue within the Association about your opinions, questions, concerns, and plans.
2. State affiliates: ensure that your chief state school officer engages the Association during the waiver application process. Identify a point person to receive communications and attend meetings about the waiver application.
3. Set up forums to educate members about the waiver application. Stay tuned for more information from the NEA.

What technical support will be available? How can we get more information?

First, visit the Department of Education's website at www.ed.gov to find out more information about the waiver package. In addition, NEA will be hosting forums for discussion and information sharing soon. If you have any questions, please contact Donna Harris-Aikens, Director of NEA Education Policy and Practice, at dharris-aikens@nea.org.