



Accountability Issues to Watch under NCLB Waivers

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Center on Education Policy

In September 2011, the Obama Administration invited states to apply for waivers of key requirements of the Elementary and Secondary Education Act (ESEA) as amended by the No Child Left Behind Act (NCLB). At that point, NCLB had been in effect for nine years—four years past its original expiration date—and many educators and policymakers agreed that its major provisions were not working as intended. Despite widespread interest in revamping the law, Congressional efforts to reauthorize ESEA had reached a stalemate amid a rancorous political climate.

The Administration's waiver initiative offers states the flexibility to move away from the flawed provisions of NCLB, including several significant requirements intended to hold schools accountable for raising student achievement. The waivers also give states a chance to design new accountability systems that incorporate the Common Core State Standards (CCSS) and common assessments being developed with the leadership and cooperation of many states. As of September 1, 2012, the U.S. Department of Education (ED) had approved waiver applications from 33 states and D.C. These waivers will remain in effect through 2013-14, and states will have to request an extension for future years.

The accountability policies designed by states with waivers depart substantially from those in the NCLB law. While the new policies address many criticisms of NCLB, they tend to be more complex and multifaceted, less transparent, and less uniform across states than the policies they are replacing.

This report by the Center on Education Policy (CEP) at The George Washington University highlights issues to watch over the next few years as states with waivers implement new accountability systems. For each of the issues discussed below, we've tried to consider the implications for public education systems, teachers, and students. The discussion must be speculative because the new systems are just getting underway, and key details have yet to be determined in some states.

Much of the information in this policy brief is drawn from a CEP companion report, *What Impact Will NCLB Waivers Have on the Consistency, Complexity, and Transparency of State Accountability Systems?* That report, available at www.cep-dc.org, contains additional details about accountability provisions in waiver states, including a comparison with the requirements in NCLB law and examples of the new accountability systems envisioned by specific states.

Issue to Watch: Goals, AMOs, and Methods for Determining Progress

Nearly all of the waiver states have replaced the NCLB goal of 100% of students reaching the proficient level on state tests by 2014 with other “ambitious but achievable” goals. Many states have chosen the goal outlined in ED waiver guidance of reducing by half the number of non-proficient students within six years, while others have set state-specific goals, such as encouraging all schools to reach a specific level of performance already attained by the state’s high-achieving schools.

Many waiver states have also established a wider range of interim performance targets (annual measurable objectives, or AMOs) that go beyond reading and math achievement. Examples include indicators of achievement in other subjects, growth in achievement, reductions in achievement gaps, college and career readiness, teacher and principal effectiveness, and school climate. Further, the AMOs in some

states will vary by student group, as well as by school or even district, rather than being uniform statewide as under the NCLB statute.

Finally, most waiver states have replaced the “either-or” approach of labeling schools as making or not making adequate yearly progress (AYP) with complex performance indexes that will be used to determine schools’ progress and identify struggling schools for interventions.

These new approaches are likely to bring some benefits. Educators will undoubtedly applaud the replacement of the 100% proficiency goal, which was widely viewed as unrealistic, with more attainable goals. The use of a broader range of indicators could mean that judgments about school performance will be based on more finely-grained data that capture more of the elements considered critical to a high-quality education. State systems that consider *growth* in achievement could reduce the temptation for schools to focus intensively on raising achievement for the so-called “bubble kids”—those scoring just below the proficiency benchmark—at the expense of higher- or lower-achieving students. The inclusion of indicators for subjects in addition to reading and math could also reduce incentives for schools and teachers to narrow the curriculum.

On the other hand, the use of different AMOs for different subgroups in some states essentially amounts to setting lower expectations for some students, such as racial/ethnic minorities, English language learners, or students with disabilities. This could affect instructional practices and equity for these students.

Moreover, the performance indexes being used by several waiver states are complex and multifaceted to the point that transparency is likely to become a victim. In some states, it will be very difficult for educators, let alone parents and the public, to understand how these measures are being calculated or applied, or for principals, teachers, and other school staff to figure out what they need to do to improve their

index score. To some extent, the transparency of the new systems will depend on several factors: what types and level of detailed information states provide to districts and schools about their performance on the individual measures that comprise an index score; how well states explain these measures; and how states calculate the index scores for a given school. But even if educators had this information, one could imagine them longing for the simplicity of NCLB after a year or two of working with the complicated index systems.

Perhaps the most critical question is whether complex index systems will create an environment for subterfuge and make it easier for states to mask poor academic performance. With so many factors in the mix, and with each of them assigned different weights, it could be difficult to understand how these factors are combined into an overall index score or get a clear read on school performance. Consider, for example, the impact on graduation rates, which along with reading and math achievement are one of two main indicators of high school progress under NCLB. After years of frustration with states using wildly different methods to calculate graduation rates that often produced woefully inaccurate results, the U.S. Department of Education in 2008 required states to measure and report graduation rates based on a common formula. Under the complex indexes proposed by many states with waivers, however, graduation rates will become just one of many indicators and may be given diminished weights. And although ED guidance suggests that states must continue to adhere to the ED-endorsed method for reporting graduation rates for the NCLB statutory subgroups, it is not clear whether states will apply this same method in their accountability indexes. For these and other reasons, it is important that each of the indicators used by waiver states be valid, reliable, and transparent in its own right.

Issue to Watch: Treatment of Student Subgroups

To make AYP under the NCLB statutory requirements, a school or district must meet every AMO, not only for its overall student population but also for each of several student subgroups, including African American, Asian American, Latino, White, and (in some states) Native American students, as well as students from low-income families, English language learners, and students with disabilities. These policies tend to over-identify schools for improvement. For example, a school that falls short of just one AMO for one group for two consecutive years will be identified for improvement. Moreover, low-performing students who belong to more than one subgroup will affect the AYP status of multiple subgroups, thus increasing the chances for their school to fall short. At the same time, the performance of subgroups in which the number of students is below a state-set minimum does not count toward AYP determinations, a provision that tends to benefit small schools or schools with less diverse student populations.

Although states with waivers must still calculate progress toward AMOs for each of the student subgroups listed in the statute, they may base major accountability decisions, such as which schools must undergo interventions, on the performance of fewer, more broadly defined student subgroups. Most waiver states have chosen to base these kinds of decisions on the performance of “all students” in a school and one or two broad “disadvantaged” subgroups, such as a combined group of African American, Latino, and low-income students, a combined group of English language learners and students with disabilities, or the lowest-performing 25% of students.

This shift to “super subgroups” could make it easier for large, diverse schools to demonstrate progress because they will have fewer hurdles to surmount. At the same time, more schools will be held accountable for the performance of “disadvantaged” students because small or less diverse schools will likely surpass

their state's minimum subgroup size with the super subgroups and because every school will have a group consisting of the lowest-performing 25%.

In most of the waiver states, schools with large achievement gaps for the NCLB statutory subgroups or especially low performance for these groups will be identified as Focus schools. Generally these Focus schools must address the specific needs of the low-performing groups in their improvement plans.

But serious questions remain about how the shift to broader subgroups will affect instruction and achievement for students from different racial/ethnic minority groups, low-income students, students with disabilities, and English language learners. Putting a spotlight on the disaggregated performance of specific subgroups was one of the most explicit purposes of NCLB, but do the complex accountability systems in waiver states represent a deliberate turn away from this commitment? Will lumping subgroups together encourage schools to treat all groups the same? Will it reduce the focus on the unique needs of a particular group that may require different interventions? While waiver states will still have to report the performance of all of the subgroups listed in the NCLB statute, it remains to be seen whether these disaggregated data will spur serious interventions focused on low-performing groups.

Issue to Watch: Categories of Schools and Differentiated Interventions

Rather than requiring all schools identified for improvement to undergo the same series of increasingly severe interventions, the new accountability systems in waiver states establish multiple categories of schools that will be subject to different types of interventions. Under ED's waiver guidelines, states must identify three categories of schools based on their performance: "reward" schools, which have high performance or high levels of progress; "priority" schools, which are among the lowest-performing schools in the state and need comprehensive and intensive

intervention to improve their performance; and “focus” schools, which have large achievement gaps between subgroups or have one or more low-performing subgroups and require targeted interventions. While some waiver states will use only these three required categories, most will place schools in as many as nine different categories, each of which will be subject to different degrees and types of interventions. In addition, waiver states do not have to select all schools that fail to make AYP, or even all schools that fail to meet the requirements of a state-specific accountability index, for improvement or other consequences.

These policies are likely to result in fewer schools being identified for interventions, which will allow states to focus limited school improvement money on a more select group of schools with the greatest needs.

For the small percentage of the lowest-performing schools within a state (the “priority” group), interventions must follow a prescriptive set of “turnaround principles” in ED’s waiver guidance. For schools in the “focus” group and other categories, waiver states will have considerably more latitude to determine interventions than they do under the NCLB statute. This differentiated approach will enable states and districts to more closely target interventions on specific areas or groups with the lowest performance. But it also means that in many states, schools that are low-achieving but are not in the priority group could escape interventions or serious improvement efforts.

Issue to Watch: Standards and Assessments

Content and student achievement standards are the one major area in which there will eventually be greater uniformity across states (including those with waivers and those without) than in the past. Waiver states must commit to adopting college- and career-ready standards, as well as assessments linked to these standards. Most waiver states will fulfill this commitment by adopting the Common Core State

Standards (as 45 states plus D.C. have already done) and choosing one of the CCSS-aligned assessments systems being developed by two state consortia.

When the common standards and assessments are fully implemented, there will be a relatively high degree of consistency across states in the content students should learn and the assessments used to measure their learning. Over time, this will likely make it easier to compare student achievement levels among states. But these assessments will not be ready for implementation until school year 2014-15, after the current waivers have expired. And the adopting states will have different timelines and policies for making the transition to new standards and assessments.

Issue to Watch: Waivers, Elections, and ESEA Reauthorization

No one knows how the 2012 election results or the potential reauthorization of ESEA will affect the implementation of new accountability systems in waiver states—or, for that matter, in states that have not applied for or received waivers and are maintaining systems that conform to NCLB statutory requirements.

A key question is whether progress in implementing redesigned accountability systems will come to a halt in the waiver states if a revamped ESEA, or a new Administration, introduces a different set of policies. Waiver states may end up devoting considerable time and energy to implementing accountability systems that are little more than interim measures, in effect for just a few years or less.

On a more optimistic note, the experiences of the waiver states could provide a treasure of information for ESEA reauthorization. In a sense, the waivers have created a laboratory in which 33 states and D.C. are experimenting with radically different approaches to some of the most difficult issues in education policy. But for these experiments to yield useful information, their results must be studied, documented, and implemented over sufficient time to assess their impact.

The Next Step: Monitoring the Implementation and Impact of Waivers

If the NCLB waivers stay in place, the next few years will be characterized by policy churn. A majority of states will be experimenting with diverse approaches to accountability using waivers, while other states will be maintaining their current systems as the 2014 timeline draws near. During this period, it will be critical for ED, states, and independent groups to monitor how well the accountability systems in waiver states are working, what unexpected issues arise, how well these systems are understood by the people they affect, and what impact they have on student achievement and school performance, among other issues.

Most importantly, it will be necessary to study how well the new systems are accomplishing the broad purposes of ESEA and NCLB, including raising achievement for students overall and for particular subgroups, reducing achievement gaps, and making schools better places to learn. With careful study, the information derived from these state experiments with accountability could be a priceless resource for shaping future ESEA policies that are workable and meaningful.

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