

States' Perspectives on Waivers: Relief from NCLB, Concern about Long-term Solutions



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Introduction and Key Findings

On February 9, 2012, U.S. Secretary of Education Arne Duncan granted 10 states waivers of key accountability requirements of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind (NCLB) Act. One year later, applications for this ESEA flexibility, also known as NCLB waivers, had been approved for an additional 24 states and the District of Columbia. States that receive waivers have the flexibility to depart from some of NCLB's most significant requirements, such as judging school performance against a goal of 100% of students reaching reading and math "proficiency" by 2014 and implementing specific interventions in schools that fall short of performance targets. States with approved waiver applications must meet several new requirements, described below, that relate to standards and assessments, accountability systems, teacher and principal evaluation, and reductions in administrative burden.

This report by the Center on Education Policy (CEP) at The George Washington University describes states' early experiences in applying for waivers and their plans for implementing the new systems outlined in their applications. The findings are based on a CEP survey administered in the fall of 2012. A total of 38 states responded to the survey, including 32 states with approved waiver applications (counting D.C. as a state) and 6 states whose applications were still pending as of February 2013.

Several key findings emerged from the survey results:

- **States believe that the waivers address several of the problems they see with the NCLB accountability requirements.** For example, 37 states agreed that NCLB set an unrealistic goal of 100% of students reaching proficiency by 2014 and mandated consequences for schools in improvement that did not always increase student achievement. Most of the states surveyed anticipate that the accountability system in their waiver application will satisfy or somewhat satisfy their concerns about NCLB. For example, 35 states expect their waiver accountability system to do at least a somewhat better job than NCLB at identifying schools in need of improvement.
- **States are optimistic that the waivers will improve student learning.** A large majority of the states surveyed expect the waiver requirements for college- and career-ready standards and for growth-based teacher and principal evaluation systems to improve student learning to a great extent, and a majority agreed that differentiated accountability systems will increase learning to a great or some extent.
- **Waivers have shaped state policies and accelerated some reforms.** Although many states had already put in place or intended to carry out several of the policies required for a waiver before they applied, the waiver requirements have spurred several states to modify existing plans or to adopt policies they would not otherwise have implemented. For example, ten states reported amending their plans for new teacher evaluation systems due to the waiver. A dozen states reported they had not intended to implement differentiated recognition systems for districts and schools in their states before applying for a waiver.
- **Changes in teacher and principal evaluation systems are well underway, despite resistance in some states from teachers.** Twenty-nine of the 38 states surveyed are either piloting or implementing new teacher evaluation and support systems, and 11 of these states are using the results for personnel decisions. A similar number are piloting or implementing principal evaluation and support systems. However, many survey states reported experiencing resistance to their teacher evaluation and support systems from teachers, teachers' unions, and administrators.
- **States have mixed views about whether implementing the various aspects of the waivers will cost more than implementing similar NCLB provisions.** In particular, half or more of the states surveyed projected that college- and career-ready standards and differentiated recognition and accountability systems will cost about the same to implement as the systems implemented under NCLB requirements. But more than half of the survey

states indicated that the teacher evaluation and support systems required by the waiver will cost more to implement than comparable NCLB provisions.

- **Many state officials are concerned about what will happen to the programs and policies in their waiver plans if ESEA is reauthorized.** A majority of states were apprehensive about the confusion the transition to amended ESEA requirements would cause, the costs and disruption involved in implementing yet another accountability system, and the loss of credibility that might ensue among educators, parents, and other stakeholders. At the same time, some states were more neutral or optimistic that a reauthorized ESEA might be consistent with their waiver plans or might allow them to continue similar policies.

Background on NCLB Waivers and the CEP Survey

On September 23, 2011, President Obama and Secretary Duncan announced a policy that would allow states to request flexibility in complying with certain provisions of ESEA, as amended by NCLB, if they agreed to implement particular reform measures.¹ While states have always been able to apply for waivers of some aspects of ESEA, this Obama Administration policy was remarkable for a few reasons. First, it was motivated largely by the failure of Congress to pass a bill to reauthorize ESEA and give states and school districts relief from some widely criticized requirements that the Administration asserted were “stifling reform” (U.S. Department of Education, 2011a & 2011b; The White House, 2011a). Second, it targeted some of the most central accountability provisions of NCLB and placed no limits on the number of states that could qualify for the waivers. Third, while the waiver policy freed states from many existing federal requirements, it also imposed a new set of reform-related requirements, or “principles,” on states with approved waivers. These principles, described in **box A**, include adopting “college- and career-ready” standards; implementing systems that differentiate accountability requirements, recognition, and support for different types of districts and schools; implementing teacher and principal evaluation systems that take into account students’ growth in achievement; and reducing administrative burden.

The U.S. Department of Education (ED) released guidance with policy details for this flexibility and set deadlines for two rounds of review of formal waiver applications: November 14, 2011, and February 28, 2012. A deadline of September 6, 2012, for a third round of applications was added later. As of February 2013, 44 states and the District of Columbia had submitted requests for waivers, and ED had approved applications from 34 states and DC (U.S. Department of Education, 2012b).

More information about NCLB waivers—including a map showing the status of state waiver applications, an analysis of major accountability themes in state applications, and answers to frequently asked questions—can be found in the NCLB/ESEA Waivers section of the CEP website (www.cep-dc.org).

The CEP survey was administered in the fall of 2012 to officials in all states with approved or pending waiver applications. The survey was completed by 38 respondents—most commonly deputy chief state school officers—including 32 states (counting DC) with approved waivers and 6 states with pending waiver applications. Survey respondents were promised confidentiality to encourage frank answers, so the report provides only the aggregate number of responses and does not give information for individual states. More detailed information about the survey development, administration, data collection, and analysis is included in the study methods appendix at the end of this report.

¹ For more background information on ESEA flexibility and waivers, see <http://www2.ed.gov/policy/elsec/guid/esea-flexibility/index.html>.

The findings in this report are based on responses to our survey. In addition, we have included a final section summarizing information from six states that were not among the 38 states responding to CEP's survey but had unique experiences with or reactions to the waiver process: Iowa, Texas, Vermont, Pennsylvania, California, and Illinois. Officials in Iowa and Texas were interviewed by CEP staff for this report, and information on the other states was collected from a variety of public and media sources.

BOX A. FOUR PRINCIPLES REQUIRED UNDER ESEA FLEXIBILITY

In order to receive an NCLB waiver, states must address four major principles:

1. **Establish college- and career-ready standards for all students.** States must adopt college- and career-ready standards in at least reading/language arts and mathematics (which may include the Common Core State Standards or other standards and assessments developed by states that meet certain conditions); aligned, high-quality assessments; and achievement standards that measure student achievement growth (i.e., the change in achievement for an individual student between two or more points in time) in at least grades 3-8 and once in high school.
2. **Develop and implement differentiated recognition, accountability, and support systems.** States must establish ambitious but achievable annual measurable objectives (AMOs) that could include different targets for different districts, schools, or student groups; identify two groups of low-performing schools ("priority schools" for the lowest-performing schools in the state and "focus schools" for schools with the lowest level of performance for specific subgroups or with the largest gaps in achievement) and develop and implement appropriate interventions for schools in both groups; and recognize Title I schools with high performance or progress ("reward schools").
3. **Develop and implement teacher and principal evaluation and support systems.** These systems must be used for continual improvement of instruction; differentiate performance with a minimum of three performance levels; use multiple measures, including student achievement growth data and other measures of practice (including observations, portfolios, and parent and student surveys) to determine performance; evaluate teachers and principals on a regular basis; provide clear, timely, and useful feedback; and be used to inform personnel decisions.
4. **Evaluate and remove duplicative and burdensome state reporting requirements.**

Source: U.S. Department of Education, 2012b.

Reasons Why States Applied for Waivers and Potential Impact on Learning

When asked why they applied for a waiver, 27 states cited doubts about whether ESEA would soon be reauthorized and the need to give districts and schools flexibility in implementing NCLB/ESEA.

As shown in **table 1**, many survey respondents also reported that their state applied for a waiver because too many schools were being inappropriately identified as needing improvement under NCLB (25 states) or because they believed the reforms in their waiver applications would increase the state's capacity to assist schools and districts in

need of improvement (25). Twenty-one states said that a waiver could afford more local control over education than the NCLB policies would, and the same number reported that they wanted a unified accountability system instead of a dual state and federal system. Eleven states responded that the waiver offered political leverage for reforms they already wanted to implement. A few states cited other reasons for applying.

	Number of states
We doubt that ESEA will be reauthorized in the next year and districts and schools in our state need flexibility in meeting some of its provisions	27
Too many schools in our state were inappropriately identified as needing improvement under NCLB	25
We believe that the reforms described in our application will result in increases in the state education agency's capacity to assist schools and districts needing improvement	25
We believe that a waiver could afford more local control of education than the policies in place under NCLB	21
We wanted a unified accountability system instead of a state system and federal system	21
The waiver offered political leverage for reforms we already wanted to implement	11
Other	3
We believe that the policies described in our application will result in reduced costs for the state	2
We were under pressure from districts and/or the community to apply for a waiver	1

Table reads: Twenty-seven of the 38 survey respondents reported that their state applied for a waiver because they doubt that ESEA will be reauthorized in the next year and districts and schools in the state need flexibility in meeting some of its provisions.

States are generally optimistic about the extent to which they expect new waiver-related requirements for college- and career-readiness standards, educator evaluation systems, and differentiated accountability systems to improve student learning.

Figure 1 shows states' responses about the extent to which they expect the four major principles outlined in box A to lead to improvements in student learning. A strong majority of survey respondents expect the requirements for college- and career-ready standards (30 states) and for teacher and principal evaluation systems based on student growth (30) to improve student learning to a great extent. A majority of respondents (23) agreed that the requirement for a differentiated accountability system will improve learning to a great extent, and 13 said this would occur to some extent.

Compared to the perceived impact of other waiver principles on student learning, states seem less convinced that reducing state administrative requirements will greatly improve achievement. A majority of respondents said this principle will improve student learning to a great extent (3 states) or some extent (23), but 5 states said this requirement would not impact student learning at all in their states.

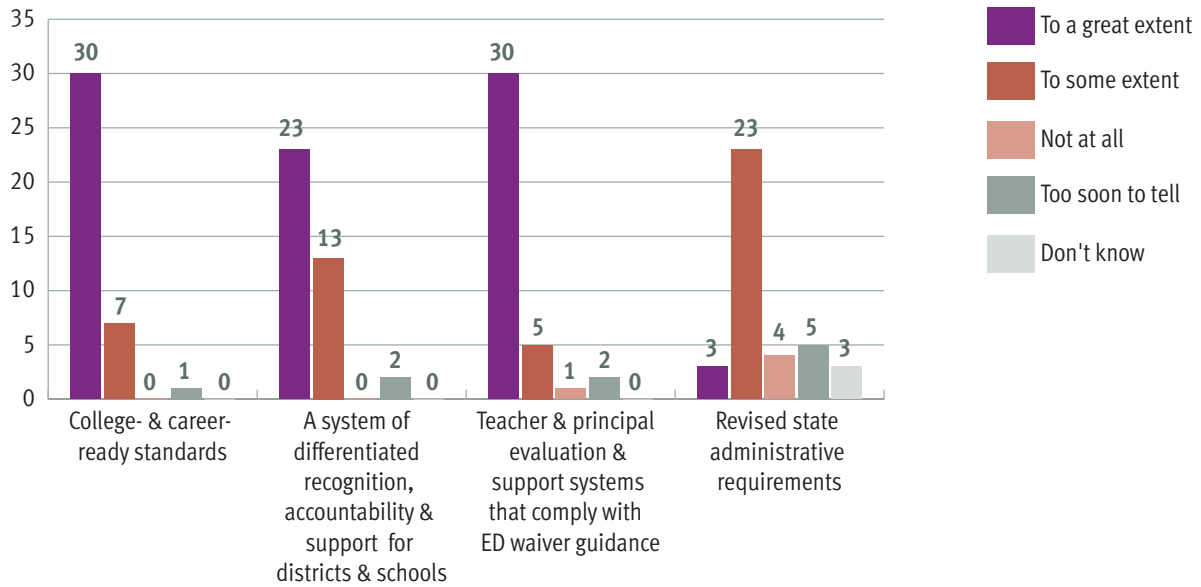
Figure 1. State expectations about impact of waiver requirements on student learning

Figure reads: Thirty states agreed that adopting college- and career-ready standards will lead to improvements in student learning to a great extent.

Many states reported that they already had in place several policies required for a waiver before they applied, or that they intended to implement these policies regardless of the waiver. Still, the waiver requirements appear to have driven policy changes in many states, especially in the areas of differentiated accountability and recognition and educator evaluations.

Our survey asked state officials which waiver-related policies and programs they had already put in place or intended to adopt prior to the waiver application and which were being amended or adopted specifically as a result of the waiver requirements. Their responses are shown in **table 2**. A large majority of states (33) reported that they had already adopted policies for college- and career-ready standards before requesting a waiver, and the remaining five intended to do so regardless of the waiver outcome. In the same vein, 20 states reported that they had already adopted policies for assessments aligned to these standards, and 18 intended to do so regardless of the waiver.

States' responses were mixed about implementing systems of differentiated recognition, accountability, and support for districts and schools in their states. While 10 or more states reported that these policies were already in place, similar numbers of states had *not* intended to implement differentiated recognition or accountability systems before applying for a waiver. Several other states said they had intended to implement some type of differentiated system but amended their plans as a result of the waiver.

Nearly all of the survey respondents had already put in place or intended to implement teacher and principal evaluation and support systems that included a student growth component and the five other elements required in ED's waiver guidance. (The requirements for these systems are described in **box B**.) Nevertheless, roughly a quarter of the 38 responding states amended their plans for evaluation systems as a result of the waiver. Thus, the waivers appear to have spurred changes in policies for educator evaluation and support systems.

Table 2. Impact of waiver requirements on state policies and programs

	Policy in place prior to requesting waiver	State intended to implement policy regardless of waiver	State intended to implement some version of policy but amended plans as a result of waiver	State had not intended to implement anything like this policy prior to applying for and being granted waiver
College- and career-ready standards	33	5	0	0
Assessments aligned with college- and career-ready standards that measure student growth	20	18	0	0
A system of differentiated recognition for districts and schools	10	5	11	12
A system of differentiated accountability for districts and schools	11	5	11	11
A system of differentiated support for districts and schools	10	10	13	5
Teacher evaluation and support systems that include the six components in ED waiver guidance	15	12	10	1
Principal evaluation and support systems that include the six components in ED waiver guidance	14	13	9	2
State evaluation and revision of administrative requirements to reduce duplication and burden on districts and schools	12	10	6	9

Table reads: Thirty-three states reported that they already had college- and career-ready standards in place prior to requesting a waiver.

Note: The number of states across each row may not total 38 because some state survey respondents left portions of the question blank.

BOX B. REQUIREMENTS FOR TEACHER AND PRINCIPAL EVALUATION AND SUPPORT SYSTEMS

The waiver guidance from the U.S. Department of Education specifies that the teacher and principal evaluation and support systems should:

- be used for continual improvement of instruction;
- meaningfully differentiate performance using at least three performance levels;
- use multiple valid measures in determining performance levels, including as a significant factor data on student growth for all students (including English language 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);

- evaluate teachers and principals on a regular basis;
- provide clear, timely, and useful feedback, including feedback that identifies needs and guides professional development; and
- be used to inform personnel decisions.

Source: U.S. Department of Education, 2012b.

State Legislative Changes and Costs Associated with NCLB Waivers

Most states did not have to make legislative changes to meet the waiver application requirements.

As shown in **table 3**, 29 states reported making no changes in state legislation to comply with the waiver conditions. Nine states with approved waivers said that legislative changes were required. Of this group, three states reported that all of the necessary changes had been made, while six said that some of the changes were still pending at the time of the survey, including policies related to teacher and principal evaluation and support systems.

Table 3. Status of changes in state legislation needed to comply with waiver conditions

	Number of states
No changes needed	29
Changes needed, and all have been made	3
Changes needed, and some are still pending	6
Don't know	0

Table reads: Twenty-nine states reported that no legislative changes were (or will be) required at the state level to comply with the state's waiver application.

Nearly all of the states with approved waivers reported increased or level funding for K-12 education for fiscal year 2013, which should offer some financial stability as they implement waivers.

To learn more about the fiscal context in which states will be implementing waiver-related policies and programs, our survey included a question for states with *approved* waivers about the status of state funding for K-12 education in fiscal year 2013. A 2012 CEP report on state funding found that the recession-fueled downturns of previous years had begun to reverse and that funding for K-12 education had increased in 20 states and stayed about the same in 10 states (CEP, 2012a). Responses to our survey from the 32 states with approved waivers support these trends. Nineteen of these 32 states reported increases in state K-12 education funding for fiscal year 2013, while 11

expected funding to stay the same. Only one of the responding states with an approved waiver reported a decrease in K-12 education funding for fiscal year 2013, and that state did not expect the decrease to affect its implementation of the waiver.

A majority of survey states expect the costs of implementing the teacher and principal evaluation systems required by the waivers to be higher than the costs of the comparable NCLB provisions. For most other key waiver requirements, a majority of states expect the costs to be about the same as under NCLB. Several states were uncertain, however, about the cost of implementing the new assessments required by the waivers.

Our survey also asked states about the costs of implementing various policies and programs related to NCLB waivers. The responses are displayed in **table 4**.

Half of the survey respondents (19) expect the costs of implementing college- and career-ready standards to be about the same as the costs of implementing comparable NCLB provisions. State responses were more mixed, however, about the cost of developing and implementing *assessments* that are aligned with the college- and career-ready standards and that measure student growth.² This is probably because nearly all states belong to PARCC or Smarter Balanced, two state consortia that are developing common assessments aligned to the Common Core State Standards, and the final costs of the consortia's assessments for states are not yet known. Thirteen states said it was too soon to determine the cost of a college- and career-ready assessment system, while 9 states expected the new system to cost more than their assessment system under NCLB, and 11 anticipated it will cost the same.

As outlined previously in box A, states must identify two categories of low-performing schools (priority and focus schools), and then develop and implement appropriate interventions and supports for schools in each category; states must also develop a means of recognizing high-performing Title I schools.³ A majority of respondents project the costs of implementing these differentiated recognition and accountability systems (26 states) and reducing administrative burden (21 states) to be about the same as their costs under NCLB. States were less certain, however, about the costs of differentiated *support* systems for districts and schools. Sixteen states expect these support systems to cost more, 17 expect them to cost the same, while 4 states said it was too soon to tell.

A majority of the responding states (24) expect the new evaluation and support systems for teachers to cost *more* to implement than the comparable NCLB requirements, such as the NCLB requirement for teachers to be "highly qualified." Eight states estimated that the new teacher systems would cost about the same as under NCLB, and three said it was too soon to tell; no state anticipated that the new systems would cost less. Officials in three additional states gave "other" responses to the question about the costs of new teacher evaluation systems. All three explained that while these systems were likely to cost more, their states had already planned to implement the systems regardless of whether they received a waiver.

State responses about the costs of the newly required principal evaluation and support systems were very similar to those for the teacher systems.

Only a few states expected any of the waiver requirements listed in **table 4** to cost *less* than the comparable NCLB provisions. Several states said, however, that it was too soon to tell how much a particular requirement would cost or that they did not know how the costs compared with those under NCLB.

² Under NCLB, school accountability is based on the percentage of students achieving a "proficient" score on state tests. Under the waivers, states must adopt assessments that allow states to measure the achievement growth of individual students over the course of a school year. More detailed information about the specific accountability and assessment systems proposed by waiver applicants can be found in two 2012 CEP reports: *Major Accountability Themes of Second-Round State Applications for NCLB Waivers* and *Major Accountability Themes of Approved State Applications for NCLB Waivers*, both available at www.cep-dc.org.

³ Title I schools have relatively high concentrations of students from low-income families and receive funding through Title I, ESEA to help their students meet high academic standards.

Table 4. State expectations about the costs to implement waiver policies compared with the costs of implementing NCLB requirements

	The new system will cost more	The new system will cost less	The new system will cost about the same as the system under NCLB	Too soon to tell	Don't know	Other
College- and career-ready standards	7	0	19	7	0	5
Assessments that are aligned with college- and career-ready standards and measure student growth	9	1	11	13	2	2
A system of differentiated recognition for districts and schools	6	1	26	4	1	0
A system of differentiated accountability for districts and schools	6	0	26	4	2	0
A system of differentiated support for districts and schools	16	0	17	4	0	0
Teacher evaluation and support systems that include the six components specified by ED waiver guidance	24	0	8	3	0	3
Principal evaluation and support systems that include the six components specified by ED waiver guidance	23	0	9	3	0	3
State evaluation and revision of administrative requirements to reduce duplication and burden on districts and schools	3	0	21	10	1	3

Table reads: Seven states project the costs to implement college- and career-ready standards to be more than the costs of complying with NCLB requirements prior to the waiver.

Note: The number of states across each row may not total 38 because some state survey respondents left portions of the question blank.

Reservation of Funds for School Choice and Supplemental Services

In their waiver applications, nearly all of the states surveyed sought relief from the NCLB requirement to reserve funds for school choice and tutoring. Their reasons for doing so included a desire to give districts more flexibility in the use of funds and a belief that these requirements were not effective in raising student achievement.

Under NCLB, districts with Title I schools that have been identified for improvement must set aside 20% of the district's Title I funds to pay the costs of 1) allowing students enrolled in these schools to transfer to another public school, and 2) providing students in these schools with supplemental educational services, or tutoring. Many dis-

district and school officials have complained about the choice and supplemental services requirements—which are mandatory for schools in certain stages of the NCLB improvement process—because they place restrictions on scarce funds and because in most districts, very few students have taken advantage of these options.

States applying for waivers may ask to remove the 20% set-aside for choice and supplemental services, and all but a few of the survey states proposed to do so in their applications. As shown in **table 5**, only two states reported that their waiver application did *not* eliminate this set-aside requirement.

The most common reasons states gave for removing the set-aside was to allow districts additional funding flexibility to conduct school improvement activities (30 states) and serve Title I schools (22). Notably, 18 states reported removing this requirement because they did not feel that public school choice or supplemental educational services were effectively raising student achievement. Some state officials that gave “other” reasons noted that they still intended to maintain some of the public school choice requirements but planned to drop the supplemental services requirement, which they did not think was effective in improving student achievement.

Table 5. Reasons states asked to eliminate the 20% set-aside for school choice and tutoring

	Number of states
To allow districts additional funding flexibility for school improvement activities	30
To allow districts additional funding flexibility to serve Title I schools	22
Did not feel that public school choice or supplemental educational services were effectively raising student achievement	18
Other	8
Too soon to tell	0
Don't know	0
NA—The state waiver application does not remove the 20% set-aside requirement for choice and supplemental educational services	2

Table reads: Thirty states reported that their waiver application removed the mandatory set-aside for choice and supplemental educational services to allow districts additional funding flexibility for school improvement activities.

State Perceptions about New Accountability Systems

Nearly all of the state officials surveyed agreed about the flaws of key NCLB requirements. Most also noted that the accountability system outlined in their waiver application would satisfy or somewhat satisfy their concerns about NCLB.

In announcing the waiver application process, Secretary Duncan characterized NCLB as “far too punitive...far too prescriptive...It led to a dumbing down of standards” (The White House, 2011b). Our survey asked state officials whether they shared these and similar concerns about the current law. Their responses are shown in **table 6**.

The vast majority of survey respondents agreed that the following aspects of NCLB accountability were concerns:

- Mandatory consequences for schools deemed as “needing improvement” that did not always lead to improved student achievement (37 states)
- An unrealistic goal of 100% of students reaching proficiency by 2014 (37)
- A stifling of progress and reform by being overly prescriptive (35)
- Inaccurate identification of schools needing improvement (32)

State officials were divided, however, about whether they thought NCLB overemphasized standardized tests for accountability decisions and whether NCLB created a disincentive for states to set high standards.

Table 6. Number of states agreeing with common concerns about NCLB

	Yes	No	Don't know
Mandated consequences for schools in improvement that did not always lead to improved student achievement	37	1	0
Set unrealistic goal of 100% of students reaching proficiency by 2014	37	1	0
Stifled progress and reform by being overly prescriptive	35	0	3
Inaccurately identified schools needing improvement	32	3	3
Overemphasized standardized tests for accountability decisions	20	17	1
Created disincentive for states to set high standards	19	16	3

Table reads: Thirty-seven states agreed that the consequences mandated by NCLB for schools in improvement did not always lead to improved student achievement, while one state disagreed that this was a concern.

State officials that responded “yes” to signify they agreed with a particular concern in table 6 were also asked about the extent to which the accountability systems outlined in their waiver applications would satisfy that concern. As shown in **figure 2**, most survey respondents expected the system proposed in their waiver applications to satisfy or “somewhat satisfy” these concerns. For example, respondents in 24 states said that the systems in their waiver applications would satisfy their concern about NCLB setting an unrealistic goal of 100% proficiency by 2014, while 10 states said their new systems would somewhat satisfy this concern.

Figure 2. Extent to which states expect waiver systems to address their concerns about NCLB

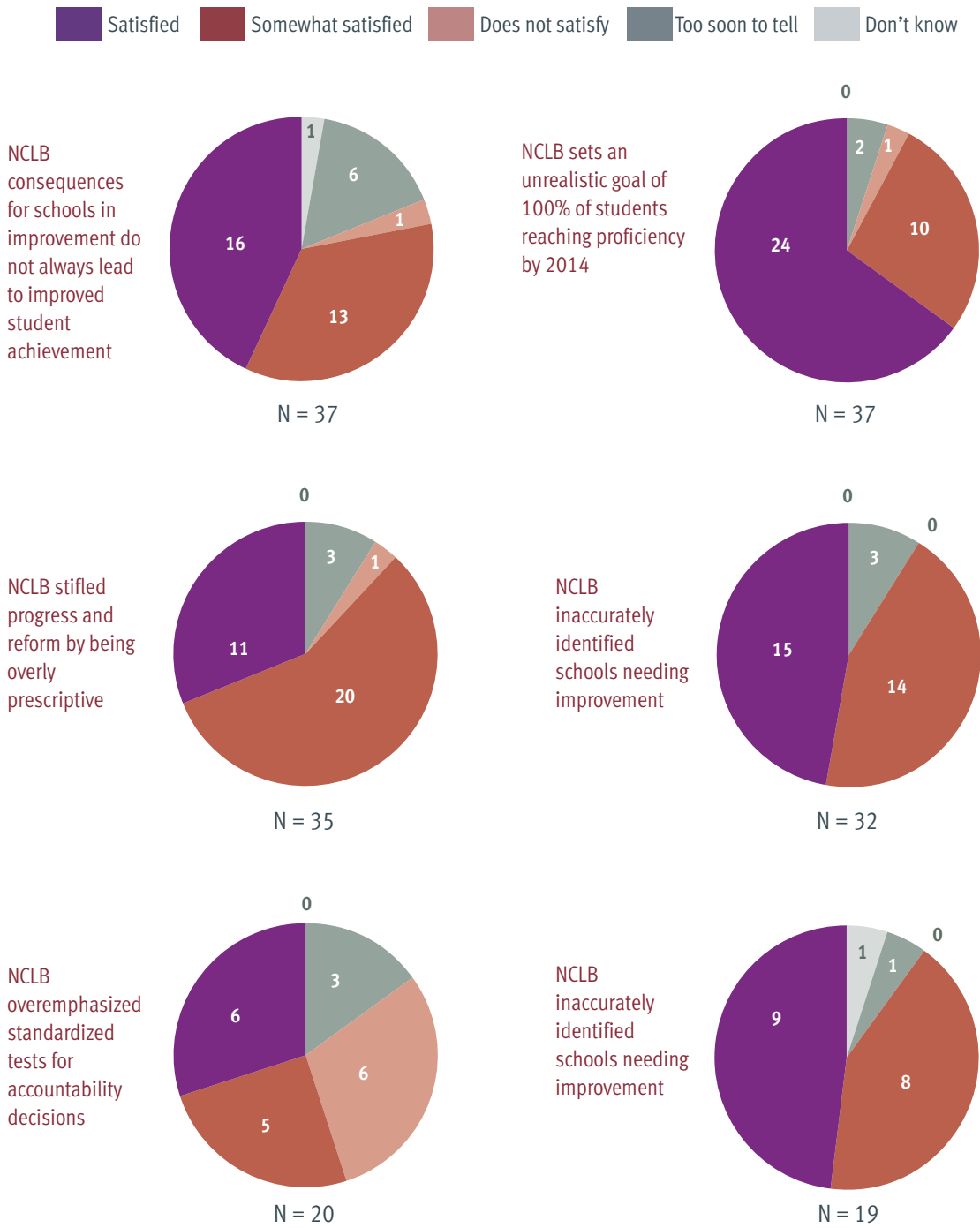


Figure reads: Sixteen states expected their waiver plans to satisfy their concern that the consequences mandated by NCLB for schools in improvement did not always lead to improved student achievement (see pie in upper left).

Note: The total number of states in each pie represents the number of states that agreed this particular issue was a concern.

Identifying Schools in Need of Improvement

The majority of states in our survey believe that the accountability system outlined in their waiver application will do a better job of correctly identifying schools in need of improvement than the NCLB requirements do.

Most waiver states will dramatically revamp their systems of determining which low-achieving schools in the state to target for extra assistance and support. As displayed in **figure 3**, most survey states reported that the accountability system in their waiver application will correctly identify schools in need of improvement either significantly better (22 states) or somewhat better (13) than NCLB requirements do. The remaining three states said it was too soon to tell; no state said its waiver system would do a worse job of identifying schools than NCLB.

Figure 3. How well will the systems in the state's waiver application identify schools in need of improvement compared with NCLB?

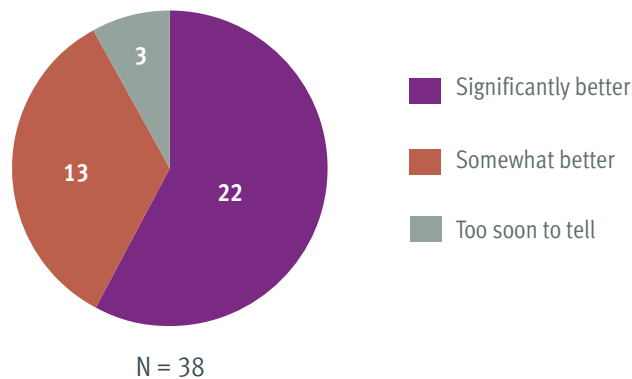


Figure reads: Twenty-two states asserted that the accountability system outlined in their waiver applications will correctly identify schools in need of improvement significantly better than the pre-waiver requirements of NCLB.

Note: No state reported that its waiver system will be somewhat worse or worse than NCLB in identifying schools for improvement, and no state said there will be no difference between the two systems in this area.

State Capacity to Assist Schools in Need of Improvement

Twenty-two of the 38 states surveyed expect the accountability systems in their waiver applications to increase the capacity of the state education agency to assist schools identified for improvement.

Many state officials have complained that the large number of schools identified for improvement under NCLB, and thus for extra state and district support, puts a strain on the capacity of state education agencies to assist these schools (U.S. Department of Education, 2013). Our survey asked states whether the systems proposed in their waiver applications are likely to improve state capacity in this area. The responses are displayed in **figure 4**.

Figure 4. Will the waiver increase the capacity of the state education agency (SEA) to assist schools in need of improvement?

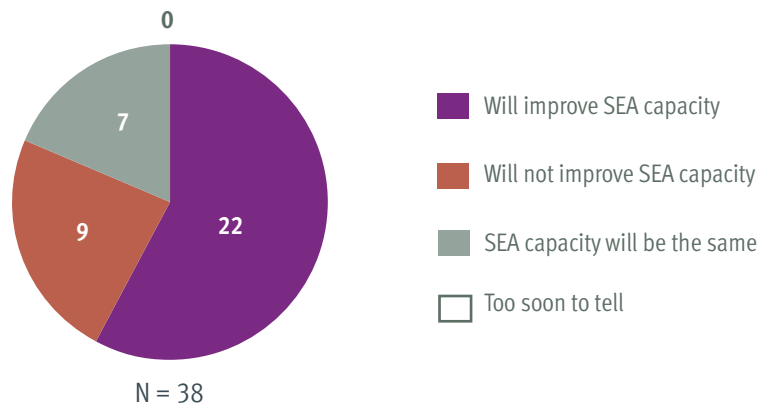


Figure reads: Twenty-two states anticipate that the accountability system outlined in their waiver application will increase the SEA's capacity to assist schools identified for improvement.

Student Subgroups and Accountability

Most of the survey states plan to base major accountability decisions on the performance of broader groups of students than those listed in NCLB. States cite various reasons for moving to these types of “super subgroups.”

Under NCLB, key accountability decisions, such as identifying which schools must undergo interventions, are based on the performance of several student subgroups listed in the statute. (See **box C** for an explanation of the NCLB subgroup requirements and how they are affected by waivers.) States that receive waivers may use fewer, more broadly defined subgroups that combine two or more NCLB statutory subgroups or that are based on recent test performance, such as the lowest-scoring 25% or 30% of students in a school or all students scoring below the proficient level.

Twelve of the 38 responding states reported that they do *not* plan to use these types of combined or performance-based subgroups upon receiving a waiver, while the remaining 26 states do plan to make this change.

The 26 states that intend to use broader subgroups cited several reasons for doing so, shown in **table 7**. For example, 20 states said this change would allow them to hold schools accountable for subgroups that would otherwise be exempted from having to meet performance targets because they fall below the state's minimum subgroup size. The same number reported that this change would enable them to address improvement of the lowest-performing students regardless of whether the students met the demographic criteria for a particular NCLB subgroup.

Some advocacy organizations and policymakers have criticized states for adopting these subgroup policies in their waiver applications, on the grounds that the policies could diminish attention to the learning needs of students from traditionally lower-achieving groups. A recent report by the Education Trust (2013) charged that the use of broader “super subgroups,” coupled with new ways of determining school progress, could undercut the goal of clos-

ing achievement gaps between racial/ethnic groups or between students with disabilities or English language learners and other students. Similarly, in a January 2012 letter to Secretary Duncan, Senator Tom Harkin and Representative George Miller expressed concerns that the super subgroup policies contained in many first-round waiver applications would mask the needs of distinct student subgroups.

Table 7. Reasons for using broader subgroups among the 26 states that plan to make this change

	Number of states
To include small subgroups below the state minimum size in accountability decisions	20
To address the improvement of the state’s lowest-performing students, regardless of their demographic characteristics	20
To more accurately identify schools in need of improvement	19
To prevent unfair consequences for schools with only one subgroup failing to meet the achievement targets	15
To address the problem of some children who belong to more than one subgroup being counted multiple times in accountability calculations	14

Table reads: Of the 26 states that plan to use combined or performance-based subgroups for accountability decisions, 20 reported making this change to include students in subgroups below the state’s minimum size in school and district accountability decisions.

BOX C. STUDENT SUBGROUPS AND NCLB WAIVERS

Under NCLB, states must track the performance of several groups of students, 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. To make adequate yearly progress in raising student achievement, schools and districts must meet performance targets not only for their overall student population, but also for *each* of these NCLB subgroups. An exception to this requirement allows states to exempt schools or districts from accountability for the performance of smaller subgroups—those in which the number of test-takers is below a state-set minimum, typically 30 to 40 students but higher in some states. The minimum subgroup size has to be large enough to give statistically reliable information and protect the privacy of test-takers but not so large that it absolves districts from accountability for subgroup performance.

Although states with waivers must still calculate progress toward performance targets for each of the student subgroups in the NCLB statute, they may base major accountability decisions, such as which schools must undergo interventions, on the performance of fewer, more broadly defined student subgroups. For a more detailed explanation of these changes, see the CEP reports, *What Impact Will NCLB Waivers Have on the Consistency, Complexity, and Transparency of State Accountability Systems?* and *Accountability Issues to Watch under NCLB Waivers*, both of which are available at www.cep-dc.org.

State Challenges in Designing New Accountability Systems

Most of the states surveyed reported that it was very challenging or somewhat challenging to design key aspects of the waiver accountability system.

Table 8 shows the extent to which states considered certain accountability-related changes to be challenging. For example, 12 states said it was very challenging to create or modify “annual measurable objectives” (AMOs), which are targets for student performance in reading and mathematics. Another 22 states viewed this task as somewhat challenging. Under NCLB, AMOs must increase over time until they culminate in the 2014 goal of 100% of students reaching proficiency on state tests. States that receive waivers must still set AMOs and use them for annual accountability determinations, but they do not have to maintain the goal of 100% proficiency by 2014 (CEP, 2012b).

Many states also considered it very challenging (10 states) or somewhat challenging (25) to determine which actions to take for schools designated as priority or focus schools—two categories of low-performing schools required by the waiver guidance—or in high-performing reward schools. As shown in table 8, the majority of states in our survey found each major aspect of designing accountability systems under waivers to be very or somewhat challenging. Relatively few states reported that a particular aspect of developing the accountability system was not at all challenging.

Table 8. Extent of challenges involved in designing various elements of accountability systems under waivers

	Very challenging	Somewhat challenging	Not at all challenging	Don’t know
Setting new (or modifying existing) AMOs	12	22	4	0
Establishing actions that will follow when a school is designated as a priority, focus, or reward school	10	25	3	0
Determining which measures of student achievement to incorporate into the accountability system	8	24	5	0
Determining the weight to give each measure of student achievement in the accountability system	7	27	2	1
Deciding how to identify priority, focus, and reward schools	7	29	2	0
Designing new performance categories for schools	6	27	2	3
Deciding how to hold schools accountable for the achievement of subgroups of students	5	32	1	0
Other	1	2	0	0

Table reads: Twelve states said that creating or modifying existing AMOs was a very challenging element of designing an accountability system that complies with the waiver requirements.

Note: The number of states across each row may not total 38 because some state survey respondents left portions of the question blank.

New Teacher and Principal Evaluation Systems

A large majority of survey states (29) are either piloting or already implementing new teacher evaluation and support systems, and many are using the results for personnel decisions.

To be eligible to receive a waiver, a state must implement teacher and principal evaluation and support systems that include the components described previously in box B. As **table 9** makes clear, most of the states surveyed have made progress in planning or piloting these systems. Several states are already implementing these systems throughout the state and using them for personnel decisions.

Table 9. Status of implementing teacher and principal evaluation and support systems

	Teacher evaluation and support systems that include the six components specified by ED	Principal evaluation and support systems that include the six components specified by ED
Planning	9	12
Piloting	18	16
Implemented throughout the state but the results <i>are not</i> being used in personnel decisions	0	1
Implemented throughout the state and the results <i>are</i> being used in personnel decisions	11	9

Table reads: At the time of the survey in fall 2012, nine states reported that they were planning teacher evaluation and support systems that include the six components specified by the U.S. Department of Education.

Table 10. Measures states plan to use, in addition to student achievement growth, in their teacher evaluation and support systems

	Number of states
Administrator observations	34
Self-evaluation/reporting	14
Teacher leader observations	14
Student surveys	13
Portfolios	12
Other	11
Peer observations	10
Parent surveys	7
Don't know	3

Table reads: In addition to student growth, 34 states reported they plan to use administrator observations as a measure in their teacher evaluation and support system.

In addition to using student achievement growth, states are incorporating administrator observations of teachers and various other factors into the teacher evaluation systems required by the waivers.

Federal guidance requires states to use student achievement growth as one component of their teacher evaluation and support systems under waivers, but they may use other factors as well. As displayed in **table 10** on page 17, 34 states plan to use administrator observations as a component of their system. Smaller numbers of states intend to incorporate teacher leader observations (14 states), self-evaluation/reporting (14), student surveys (13), portfolios (12), and peer observations (10). In the “other” responses, many state officials noted that their state plans to allow districts flexibility to select additional measures appropriate for their schools and context.

Collaboration

Every survey state reported collaborating with at least one other entity to develop or implement its teacher and principal evaluation system.

Table 11 lists the entities with which states are collaborating as they develop and implement the teacher and principal evaluation systems required for waivers. When we analyzed the survey responses more closely, we found that all states reported collaborating with at least two other entities in either the development or implementation process; 10 states reported collaborating with seven other entities on both development and implementation.

Table 11. Entities with which states are collaborating to develop and/or implement teacher and principal evaluation systems

	Development	Implementation
Principals	38	28
Teachers	37	29
Teachers' unions	35	25
Institutions of higher education	31	20
Independent non-profit organizations	30	20
National membership organizations (such as the Council of Chief State School Officers)	27	16
Other SEAs	20	13
For-profit research organizations	12	7
Other (please explain)	4	3
Did not collaborate with any other entities	0	0
Don't know	0	0

Table reads: A majority of states reported collaborating with principals to develop (38 states) and implement (28 states) their teacher and principal evaluation and support systems.

Resistance to Evaluation Systems

Many survey states reported experiencing resistance to their teacher evaluation and support systems from teachers, teachers' unions, and administrators. Resistance from other stakeholders was much less common.

As displayed in **table 12**, 17 states reported encountering resistance from teachers to the development or implementation of their *teacher* evaluation and support systems, while 15 states experienced resistance from teachers' unions and 15 reported resistance from school administrators. Conversely, most states reported they have *not* encountered resistance from SEA personnel (28 states), the state legislature (20), or institutions of higher education (20). States' responses were mixed about whether they have met with resistance from principal associations and district personnel.

Resistance to the *principal* evaluation and support systems being developed under waivers came most often from school administrators (11 states). Fewer states reported resistance from teachers' unions (5) and teachers (4). Many states said they did *not* experience resistance to these principal systems from the other stakeholders listed in table 12.

For both the teacher and the principal systems, however, several states—from 6 to 11, depending on the stakeholder group—said it was too soon to tell if there was resistance from the groups listed. In an open response section of this survey question, a few states commented that while these groups were supportive of the evaluation and support systems in theory, they had reservations about their implementation.

ESEA Reauthorization and Waivers

The waiver guidelines state that if the Congress completes the ESEA reauthorization and the President signs it into law, the Secretary of Education may terminate the waivers if the waivers are superseded by the reauthorization provisions. Although it appears unlikely that Congress will act on ESEA any time soon, we asked states what the impact would be if they had to implement another new accountability system to comply with an amended ESEA. A total of 35 states responded to this open-ended question, and 19 states in this group expressed general concern about such issues as the confusion this situation would cause, its impact on the perceptions of stakeholders, and the potential costs of implementing yet another accountability system. Below are examples of responses from concerned states about the impact of an ESEA reauthorization:

Great confusion and resentment in the field and huge administrative burden to redesign and recommunicate another new system.

This would cause a great resource burden to our state, and would also undermine the credibility of our department of education (and potentially our state government) among districts, educators, parents and stakeholders. There has been (and is) a careful and lengthy process of communicating with those groups and gaining their input and support. To begin again with a new system would undermine the progress made towards a system built on shared values and transparency.

Two survey respondents expressed explicit concern that a new accountability system might negate the unified state and federal system they were able to attain under the NCLB waiver. For example:

Through the waiver we have finally been able to marry our state and federal accountability systems into a single, unified system. This sends a clearer message to our districts and schools about their progress and simplifies communication about accountability. One of our biggest concerns is that something in the ESEA reauthorization would force us to divorce the two systems again, which would be a great shame.

Table 12. Resistance from stakeholders to teacher and principal evaluation and support systems

	Yes	No	Too soon to tell	Don't know	Other
Teacher evaluation & support systems					
Teachers	17	9	7	0	4
School administrators	15	11	7	0	4
Teachers' unions	15	12	7	1	3
District personnel	10	8	10	3	5
Principal associations	9	14	7	3	3
State legislature	6	20	9	1	1
Institutions of higher education	1	20	10	4	1
Parents	1	17	11	5	1
SEA personnel	1	28	6	0	1
Principal evaluation & support systems					
School administrators	11	13	8	1	4
Principal associations	8	14	8	3	3
District personnel	6	13	9	4	4
State legislature	5	20	10	2	1
Teachers' unions	5	16	9	4	2
Teachers	4	17	8	4	3
Institutions of higher education	1	21	10	3	2
SEA personnel	1	25	8	1	1
Parents	0	20	10	7	1

Table reads: Seventeen states indicated they experienced resistance from teachers to the development and/or implementation of teacher evaluation and support systems.

Note: The number of states across each row may not total 38 because some state survey respondents left portions of the question blank.

Fifteen other states expressed some concern about reauthorization but noted that the impact would depend on the policy details of the reauthorization. Of this group, five states gave rather neutral responses to this question, such as the following comments:

If the reauthorized ESEA provides states flexibility to continue with provisions of the waiver and to choose to revise others, then the impact would be generally positive. If the reauthorized ESEA contained more prescriptive provisions or changed the direction of the requirements, then the impact could be quite negative.

Depending on the provisions of a reauthorized ESEA, the impact of implementing a new accountability system could vary from beneficial to detrimental.

Seven states of the 15 that were waiting to see the reauthorization details were optimistic that ESEA amendments might foster a continuation of the accountability systems in place under the NCLB waivers. For example:

Hopefully, a new ESEA authorization will contain the same components of most waivers. Therefore, little impact should be encountered other than minor alterations of policy.

Another new accountability system would be challenging to start in [our state] unless it was closely aligned with the one outlined in our flexibility request. We would hope that another new accountability system under a reauthorized ESEA would be very similar to our current one or, preferably, it would allow us to continue on the same path.

We are hoping that the work and efforts that our state has accomplished will better prepare our SEA and [local educational agencies] for the reauthorization of ESEA.

States' Comments About Waivers

Lastly, we asked states if there was anything else they would like to share about their experiences applying for flexibility through the NCLB waivers and proceeding with implementation. Five states noted that the process was challenging. The following is a sample of these responses:

Working with USED [U.S. Department of Education] was at times frustrating. The staff we dealt with was not always consistent and there was often a lack of understanding of prior conversations that slowed the process.

Not much negotiating between the SEA and USED because of the current NCLB rules and regulations that could not be waived. An issue about "n" size [minimum number of students in a subgroup] was brought up after several previous conversations with the USED when it had not been mentioned at all beforehand.

The ESEA waiver process was explained as flexibility for each state to work within common parameters. This was not our experience. We felt resistance to each request for flexibility, often finding out later that other states were awarded the flexibility we requested and were denied. States are not all the same, but they should not be provided different flexibility options. Rather, states should be given as much flexibility as possible and held accountable to showing improvement in student learning.

It became apparent in the negotiation phase that the requirements to receive approval for ESEA flexibility were more restrictive and stringent than the impression given to states in initial conversations with ED.

Six other state respondents said that the process went well, or that ED was generally helpful in working with the state on its waiver, or that the waiver process encouraged deeper collaboration within state departments of education.

The waiver process helped unify all of the different educational players across our state, and changed the way our SEA provides supports and services to [local educational agencies]. As a result of our work on the waiver, our SEA reorganized the agency to align with the first 3 principles in the waiver.

It has been a challenging experience, but the relationship between state departments of education and the staff at the U.S. Department of Education has greatly improved. USED staff have worked hard and have been very accessible to states in support of the waiver development. It has also been very helpful to have the support of other states and organizations such as the CCSSO, the Center on Education Policy, and the support of regional research organizations such as WestEd.

One of the four waiver states that was sent a CEP survey but did not submit it did share some general information about the application process over the telephone. This state official reported that the SEA appreciated the flexibility offered by ED but that the application process itself did not go so smoothly. There were multiple rounds of back and forth with ED officials that "erred on the side of ridiculous." Much of the feedback from ED was help-

ful in the beginning, the official said; however, it ultimately went “way too far in the weeds... picking apart semicolons, etc.” This caused some frustration among SEA officials. Even so, this official reported that state officials were optimistic about moving ahead with the state plan and acknowledged that many of the policies proposed in the state’s application were already underway and going well.

States Not Included in the Waiver Survey

Six states that were not among the 38 states responding to CEP’s survey had unique and informative experiences in deciding whether to apply for a waiver and, in some cases, going through the application process. Below is a brief overview of the situations in these states. This information was gathered from published news media reports and letters posted on state and federal department of education websites, as well as from personal correspondence and interviews with officials in Iowa and Texas.

Vermont decided to withdraw its initial application for an NCLB waiver in May 2012 due to certain requirements outlined in the waiver guidelines. Deputy Commissioner John Fisher was quoted in the media as saying that the Vermont Department of Education disagreed with the annual testing requirement and the use of assessment results in teacher evaluations. Therefore, Governor Peter Shumlin, the state Board of Education, and the Vermont Department of Education agreed to not pursue a waiver request (Rathke, 2012).

As of February 2013, six states had not applied for NCLB waivers. Two of these states, Pennsylvania and Texas, have indicated they will apply for some form of waiver. In November 2012, Pennsylvania Education Secretary Ronald Tomalis announced that the state would apply for flexibility as a result of the growing unlikelihood of ESEA reauthorization by 2014. Earlier that year, ED had denied the state’s request for a two-year freeze on performance targets (Niederberger, 2012).

Texas also announced its plans to submit a waiver application to ED by February 2013 under the Secretary of Education’s broad waiver authority, rather than dealing with the specific requirements of the ESEA flexibility initiative. Lizzette Gonzalez Reynolds, chief deputy commissioner of the Texas Education Agency, said in an interview with CEP researchers that the goal of their alternative waiver was to create “a streamlined accountability and assessment system that our districts can understand” and that would eliminate the dual federal and state systems currently in place. According to Gonzalez Reynolds, Texas has already addressed the remaining requirements outlined in the ESEA flexibility package, including college- and career-readiness standards that follow the NCLB waiver guidelines. When asked what the state plans to do if ED denies its request for flexibility, Gonzalez Reynolds said that there was no contingency plan and that the state would continue to work with Members of Congress to influence the ESEA reauthorization. Generally, she noted that ED officials have been “receptive” to the state’s intent to apply for some form of waiver.

Two states, Iowa and California, submitted applications for NCLB flexibility that were ultimately denied by ED. Iowa, which submitted its application in February 2012, became the first state to be formally denied a waiver in June 2012. The request was denied because the Iowa Department of Education lacked the legal authority to implement the required teacher and principal evaluation and support systems (U.S. Department of Education, 2012d; Stegmier, 2012). However, the state was soon granted a waiver under the Secretary’s general authority to freeze its reading/language arts and math performance targets for one year (U.S. Department of Education, 2012a).

In an e-mail interview with CEP researchers, Staci Hupp, communications director of the Iowa Department of Education, affirmed that the state will continue to work on its waiver application with support from Secretary Duncan and ED. The state plans to “redesign” its college- and career-readiness measures and assessment systems and include a growth model and other measures in its accountability system. In addition, Iowa will include in its application an “update” of the teacher and principal evaluation system, supplemented by a bill introduced by Governor

Terry Branstad on January 14, 2013, that “calls for the development of an evaluation framework that provides more valuable feedback and enables the state to win a waiver.” Hupp expressed hope that the legislature will provide the department with “the authority needed to meet waiver requirements relating to evaluation.” She said that while the Iowa Department of Education appreciates the support of ED during the waiver process, the state strongly encourages the reauthorization of ESEA in 2013 or 2014.

In May 2012, the California Department of Education (CDE) officially announced its intent to submit a “state-defined” waiver that would allow the state to “use its accountability system to focus improvement efforts on the lowest performing schools and provide schools greater flexibility over the use of federal funds” (California Department of Education, 2012a). On June 15, 2012, CDE submitted its application, which was then denied by ED in late December (California Department of Education, 2012b). As of February 2013, 10 districts that comprise the California Office to Reform Education (CORE), a nonprofit group, are preparing their own waiver request. These school districts (Clovis, Fresno, Garden Grove, Long Beach, Los Angeles, Oakland, Sacramento City, San Francisco, Sanger, and Santa Ana) collectively serve over one million students (Baron, 2013).

Illinois submitted an application for ESEA flexibility with the second cohort of states in February 2012. In April 2012, ED replied to the Illinois State Board of Education (ISBE) with a letter that outlined some concerns about the state’s application and changes that would have to be made before ED would approve the state’s request (U.S. Department of Education, 2012c). The ISBE resubmitted its waiver application in July 2012 (Illinois State Board of Education, 2012). At the time this report was published, the state’s revised request was still under review by ED.

Policy Implications

The CEP state survey findings provide federal and state policymakers with valuable feedback on the early impact of federal waivers on the development of state accountability systems and teacher evaluation plans, as well as on state efforts to implement college- and career-readiness standards for all students. With the waivers now fully in place in a majority of states and the fate of ESEA still unknown, these findings highlight several key policy implications that federal and state policymakers should consider in the months ahead.

Finding: A large majority of the states surveyed were concerned about NCLB’s unrealistic goal of 100% proficiency, its policies for identifying schools in need of improvement and the related consequences that follow identification, and the law’s general prescriptiveness. The waivers address all of these issues, and survey responses suggest that states believe the waivers will both ease their concerns and improve student learning. However, states also expressed concern that a newly reauthorized ESEA may dictate a sudden shift in accountability requirements, thus disrupting the state plans currently underway. Specifically, states expressed concern that such a shift in accountability policies could erode tenuous stakeholder support or possibly cost more at a time when state budgets are just starting to recover from the recession.

Policy implication: A reauthorized ESEA should take into account that federal waivers have created a wide range of state accountability systems that are diverse in their approach and requirements. Although at this point we have no idea if the policies enacted in states as a result of the waivers will have a positive impact on student achievement, states are clearly concerned that a reauthorized ESEA could dramatically upset the policies they have put in place under the waivers. Waiver states have indicated that they would like to maintain some continuity in their policies under the waivers. If ESEA is reauthorized in 2013 or 2014, careful monitoring of the impact and outcomes of these systems should be a major component of ESEA as well as triggers that end a state’s flexibility if ED finds that an accountability plan is not working.

Finding: A large majority of states expressed optimism that the waiver requirements for college- and career-ready standards and teacher and principal evaluations systems based on student growth would improve student learning.

And although many states had already begun implementing several of the policies required for a waiver, several states said the waivers did require them to modify existing plans or adopt new policies they otherwise would not have implemented. For example, 10 states reported they amended their plans for teacher evaluation and support systems as a result of the waiver. More than half of the 38 states surveyed are either piloting or implementing new teacher evaluation systems, despite resistance in some states from teachers, teachers' unions, and administrators.

Policy implication: It is fair to assume that in some cases, the waiver requirements may have provided state leaders with some political cover to put in place more stringent evaluation systems than would have otherwise been possible. But as with state accountability systems, a reauthorized ESEA has the potential to disrupt current state activities. While there is widespread agreement that teachers and school leaders should be held accountable for student achievement, there remains great disagreement among researchers, policymakers, and practitioners about how to measure teacher and leader effectiveness in a way that is both accurate and fair. Policymakers have much to learn from the myriad of teacher evaluation and support systems enacted as a result of the waivers. A reauthorized ESEA should be informed by analysis and research on what has and has not worked with the evaluation systems currently being implemented in states.

Finding: While CEP's survey shows that states are optimistic that the waivers will help ease some of the unrealistic requirements of NCLB *and* improve learning for all students, there are still concerns among civil rights groups and others that the more complex web of unique state systems under the waiver could lead to less transparency as it pertains to closing achievement gaps among student subgroups. States admitted that determining various elements of the accountability systems under the waivers were challenging. For example, 37 states reported it was at least somewhat challenging to decide how to hold schools accountable for the achievement of subgroups of students.

Policy implication: Whether or not a reauthorized ESEA allows states to maintain their current accountability systems (developed under the waivers), there needs to be a rigorous system of monitoring state progress on achievement for all student groups in both waiver and non-waiver states that makes public the results in a timely and transparent manner.

Finding: Finally, state survey responses indicate a general satisfaction with the waivers among a majority of states.

Policy implication: The waivers create a dilemma for members of Congress about whether they can come up with a reauthorization that would be as well received.

Conclusion: While it is still too early to draw any significant conclusions regarding the impact of the federal waivers on student achievement, CEP's survey indicates that states are moving forward with accountability plans, evaluation systems, and efforts to implement college- and career-ready standards for all students. And while the states clearly believe the systems established under the waivers are preferable to those under NCLB, more time, information and careful monitoring will be needed to determine whether the waiver systems are working and which policies should be continued.

References

- Baron, K. (2013, February 20). Superintendents in D.C. to talk district waiver with Duncan. *EdSource*. Retrieved February 20, 2013, from <http://edsources.org/today/2013/superintendents-in-d-c-to-talk-district-waiver-with-duncan/27458#.USbX-xniTW4>
- California Department of Education. (2012a). *California seeks state-defined waiver to provide relief from unworkable mandates of 'No Child Left Behind'*. Retrieved January 15, 2013, from <http://www.cde.ca.gov/nr/ne/yr12/yr12rel45.asp>
- California Department of Education (2012b). *Request for waiver of provisions*. Retrieved January 15, 2013, from <http://www.cde.ca.gov/nr/el/le/yr12ltro615.asp>
- Center on Education Policy. (2012a). *After the stimulus money ends: The status of K-12 education funding and reforms*. Available at <http://www.cep-dc.org>
- Center on Education Policy. (2012b). *Frequently asked questions regarding the Secretary of Education's waivers of major ESEA requirements*. Available at <http://www.cep-dc.org>
- Education Trust. (2013). *A step forward or a step back? State accountability in the waiver era*. Retrieved February 12, 2013, from http://www.edtrust.org/sites/edtrust.org/files/A_Step_Forward_Or_A_Step_Back.pdf
- Harkin, T., & Miller, G. (2012). Letter to Secretary of Education Arne Duncan, January 17. Retrieved January 25, 2013, from <http://www.edweek.org/media/harkinmillerwaivers-blog.pdf>
- Illinois State Board of Education. (2012). *ESEA flexibility: Illinois request resubmission July 3, 2012*. Retrieved January 14, 2013, from http://www.isbe.state.il.us/nclb_waivers/pdf/ESEA-flexibility-request-070312.pdf
- Niederberger, M. (2012, November 28). No Child Left Behind waiver to be sought by Pennsylvania. *Pittsburgh Post-Gazette*. Retrieved January 15, 2013, from <http://www.post-gazette.com/stories/news/education/no-child-left-behind-waiver-to-be-sought-by-pennsylvania-663943/>
- Rathke, L. (2012, June 4). Vermont opts out of No Child Left Behind waiver. *The Boston Globe*. Retrieved January 15, 2013, from <http://www.bostonglobe.com/metro/2012/06/03/vermont-opts-out-child-left-behind-waiver/waa8XWjz mhVLZU7AKABXWO/story.html>
- Stegmier, M. (2012, June 21). Iowa denied NCLB waiver. *Des Moines Register*. Retrieved January 15, 2013, from <http://blogs.desmoinesregister.com/dmr/index.php/2012/06/21/iowa-denied-nclb-waiver>
- U.S. Department of Education. (2011a, June 13). Obama Administration plans NCLB “flexibility” package tied to reform if Congress does not act soon on reauthorization [press release]. Retrieved January 24, 2013, from <http://www.ed.gov/news/press-releases/obama-administration-plans-nclb-flexibility-package-tied-reform-if-congress-does>
- U.S. Department of Education. (2011b, September 23). Letters from the education secretary or deputy secretary, letter to the Chief State School Officers. Retrieved January 24, 2013, from <http://www2.ed.gov/policy/gen/guid/secletter/110923.html>
- U. S. Department of Education. (2012a, June 29). Letter to Jason Glass, director of education, Iowa State Department of Education, from Deborah DeLisle, assistant secretary, Office of Elementary and Secondary Education. Retrieved January 16, 2013, from <http://www2.ed.gov/policy/eseaflex/amo-letters/ia-amo-letter.pdf>
- U.S. Department of Education. (2012b). ESEA flexibility [Website]. Retrieved January 24, 2013, from <http://www.ed.gov/esea/flexibility>
- U.S. Department of Education. (2012c, April 17). Letter to the Honorable Christopher Koch, state superintendent, Illinois Board of Education, from Michael Yudin, acting assistant secretary, Office of Elementary and Secondary Education. Retrieved January 16, 2013, from <http://www.edweek.org/media/ilapril17letter-blog.pdf>
- U.S. Department of Education (2012d, June 29). Letter to Jason Glass, director of education, Iowa State Department of Education, from Deborah DeLisle, assistant secretary, Office of Elementary and Secondary Education. Retrieved January 17, 2013, from <https://governor.iowa.gov/wp-content/uploads/2012/06/Letter-to-Iowa-re-ESEA-flexibility.pdf>

U.S. Department of Education (2013). *Continuing to expose and close achievement gaps*. Retrieved January 27, 2013, from <http://www2.ed.gov/policy/elsec/guid/esea-flexibility/resources/close-achievement-gaps.pdf>

The White House, Office of the Press Secretary. (2011a, September 23). Obama Administration sets high bar for flexibility from No Child Left Behind in order to advance equity and support reform [press release]. Retrieved January 24, 2013, from <http://www.whitehouse.gov/the-press-office/2011/09/23/obama-administration-sets-high-bar-flexibility-no-child-left-behind-orde>

The White House, Office of the Press Secretary. (2011b, August 8). Transcript of press briefing by Press Secretary Jay Carney, Domestic Policy Council Director Melody Barnes, and Secretary of Education Arne Duncan. Retrieved January 23, 2013, from <http://www.whitehouse.gov/the-press-office/2011/08/08/press-briefing-press-secretary-jay-carney-domestic-policy-council-direct>

Appendix: Study Methods

The preliminary instrument for the ESEA flexibility/NCLB waiver state survey was developed after considering information from prior CEP surveys and studies as well as other reports and media coverage about NCLB waivers. The CEP survey team also sought advice on the preliminary survey from staff at the Council of Chief State School Officers and the Alliance for Excellent Education.

In September 2012, CEP staff mailed a letter to the state chiefs/commissioners of education containing information about the CEP waiver survey and an invitation to participate in the study. We asked the chiefs to designate an appropriate primary contact person from their state education agency (SEA) to complete the survey.

In October 2012, the survey questions and response items underwent further review and systematic pretesting. The survey team obtained feedback from state-level officials in one state about the questions and response items. The survey was revised based on their input.

Later in October, CEP also sent a letter outlining the purpose and goals of the study—including the instructions for completion, time involved, and anonymity of responses—to the chief state school officers in the states (plus the District of Columbia) with approved or pending waivers. An electronic version of the survey was e-mailed to the state officials. These officials were invited to respond to the survey via e-mail, fax, or regular mail. CEP also provided a phone number to call if respondents had any questions. A total of 38 states returned completed surveys. Nearly all of the survey respondents submitted the survey to CEP by e-mail, and a handful of responses were collected by fax.

The imported data were cleaned and checked for duplicate entries or missing response items before analysis. Most of the items in the survey were closed questions, and response item frequencies were totaled and percentages calculated using the formula functions in Excel.

Some questions allowed respondents to explain their responses, and the last few questions were open-ended questions asking for additional comments or feedback about potential changes in legislation and the waivers more generally. These written responses were simultaneously uploaded to the Excel file, and researchers analyzed these items individually, then together, to extract common themes. Finally, semi-structured interviews were conducted with state officials from Iowa and Texas, which were not included in the 38 state responding to the survey. Information from these interviews was included in this report and verified by the respective interviewees prior to publication.



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