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ESEA Waivers: Considerations for Policymakers and Stakeholders

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Executive Summary

On September 23, 2011, the U.S. Department of Education announced that states could request flexibility from key requirements of the Elementary and Secondary Education Act (ESEA). State applications for this ESEA flexibility must include evidence of meaningful engagement with and input from diverse stakeholders in the development of these applications. Given the complex and far-reaching implications of developing and implementing flexibility requests that adhere to the department's guiding principles, it is essential that states and their stakeholders work together to craft plans that reflect state priorities and needs while considering the long-term implications these plans may involve. This inaugural *NCPEA Policy Brief* is intended to inform policymaker efforts and stakeholder input as states develop, negotiate, and implement federal ESEA flexibility requests.

Background

The current version of ESEA¹ created sweeping changes in tracking student performance, identifying achievement gaps, and linking student performance to consequences for schools and districts. The 2014 deadline for schools to reach 100% student proficiency in reading/language arts and math is fast approaching while criticisms of the law and its consequences have grown intense and widespread. Congress has not reauthorized ESEA since the law's 2007 expiration date. Therefore the current version of the law remains in effect.

As ESEA reauthorization discussions continue, the U.S. Department of Education is allowing state education agencies (SEAs) to request waivers of key ESEA requirements. State requests must be developed and submitted on a very short timeline. Eleven SEAs submitted an application by the first deadline in November 2011. An additional 28 states, the District of Columbia, and Puerto Rico plan to submit an application by the final deadline in February. Approved waivers will last through the 2013-2014 school year with an option to extend the waiver to 2014-2015.

The U.S. Department of Education has the authority to waive certain legal and regulatory requirements. While the current ESEA flexibility application offers states regulatory relief, it is accompanied by conditions that need to be considered carefully. The waiver requests must adhere to three² guiding principles that require complex changes in a relatively short timeframe with potentially far-reaching implications for states, districts, schools, and their stakeholders. These principles reflect U.S. Department of Education priorities and current national trends in education policy and research.

The timeline for ESEA reauthorization should be considered. ESEA reauthorization will supersede approved SEA waivers. It is unclear when ESEA will be reauthorized or the impact of the Department of Education's new waiver option on the reauthorization process. The removal

¹ The current version is known as No Child Left Behind (NCLB).

² The fourth guiding principle concerns SEA efforts to reduce duplication and unnecessary reporting burdens placed on school districts and schools. This principle will not be discussed as part of this brief.

of the imminent threat posed by the 2014 deadline may reduce political pressure to reauthorize ESEA in the near future. However, when reauthorization does occur states will face changing systems to comply with a new version of ESEA in ways that are difficult to anticipate at this point.

Principle 1. College and Career Ready (CCR) Expectations for All Students

Implementing and assessing CCR expectations are major undertakings for states, districts, and schools if they are to effectively prepare students for college and work in a global economy. For the majority of states, this principle can be addressed by adoption of the internationally benchmarked Common Core State Standards.³ The 45 states⁴ that have adopted the Common Core are in the preliminary stages of implementing these standards in English/Language Arts and Math. Local school systems and educators will need to alter curriculum, instruction, and assessment in ways that ensure high school graduates possess the knowledge and skills necessary to succeed in college and the workforce as outlined in the standards. There is much work to do. Student assessment instruments are in the development stage with several consortia currently undertaking this effort.

Implementing CCR expectations has significant professional development implications for teachers, schools, districts, and preparation programs. Under CCR expectations, educators will need to support student mastery of rigorous content and application of knowledge using higher order skills. Fostering deep, widespread, and sustained changes in instruction is known to be quite difficult and often costly (Coburn, 2003; Elmore, 2004; Hatch, 2002). Waiver requests should reflect a realistic assessment of professional development needs for educators to provide instruction that substantively reflects CCR expectations.

Professional development is optimized when it is part of a coherent school plan, in an environment that is collaborative, and with opportunities for teachers to actively engage in working with new concepts and reflect on their experiences over a sustained period of time (Darling-Hammond & Richardson, 2009; Garet, Porter, Desimone, & Birman, 2001). Case analyses of state professional development policies indicate professional development is strengthened by a well-articulated state plan accompanied by monitoring for quality; requirements for mentoring and induction programs; infrastructure; resources aligned and sustained to support professional development plans; and collaboration with professional organizations and other intermediary organizations (Jaquith, Mindich, Wei, & Darling-Hammond, 2010).

³ The Common Core Standards is a state-led initiative with coordination from the National Governors Association and the Council of Chief State School Officers.

⁴ The states and territories that have not adopted the Common Core include: Alaska, American Samoa, Guam, Minnesota, Nebraska, Puerto Rico, Texas, and Virginia.

Principle 2. State-Developed Differentiated Recognition, Accountability, and Support

Under ESEA flexibility, SEAs can revise accountability plans to demonstrate steady progress towards student proficiency rather than universal proficiency by the 2014 deadline. Key tasks for SEAs involve setting criteria, identifying schools, and developing a system of rewards and supports for Title I schools identified as priority, focus, and reward as well as other Title I schools. These revised SEA accountability plans will serve as the state’s framework for making progress in student achievement, reducing achievement gaps, and improving instructional quality. The plans must outline how student achievement will be measured, with a Department of Education expectation that multiple measures be employed. SEA plans to identify schools and alter student subgroup categories will receive scrutiny from policymakers and stakeholders to ensure sufficient attention remains on academic performance for students who were placed in previously monitored student subgroups⁵ (Riddle, 2011).

Growth models measuring individual student academic progress over time have gained popularity in recent years (Outy, et al. (2008). Using such indicators is conceptually compelling but also complex and still not fully understood. Debate remains regarding what these types of models are able to measure and their resulting capacity to reliably inform decisions about student, educator, and school performance. SEAs should work with individuals with expertise in this area to develop growth models and examine potential ramifications of their use. Given the complexity and debate, it is particularly important to consider multiple measures of student progress that complement the potential weaknesses of growth models.

The applications must include plans to assist Title I schools designated “priority” status. Priority schools are among the lowest performing schools in the state and equal to at least 5% of the state’s Title I schools. Interventions for these schools are required to be aligned with “turnaround principles” and lead to dramatic, systemic change. Interventions that use the Department of Education’s four School Improvement Grant models (turnaround, restart, school closure, or transformation) meet these turnaround principles. Reviving any failing organization is known to be exceedingly difficult. Research thus far indicates that to turn a school around involves effective and committed leadership and staff, accelerated pace of reform, and clearly established instructional goals that are monitored on an ongoing basis (American Institutes for Research, 2011). Change is supported by school leader and staff ability to target human and financial resources where most needed. Given the crucial nature of leaders and staff in school turnaround and the low success rate of these efforts, SEAs need to incorporate strategies that attract and keep talented leaders and educators in these schools to drive desired changes and sustain progress over time.

State applications must also identify “focus” schools. These are Title I schools contributing to the achievement gap in the state. Focus schools have the largest achievement gaps among subgroups, lowest achievement among particular subgroup(s), and/or low graduation rates at the high school level. These schools will represent at least 10% of the state’s Title I schools. The

⁵ Section 1111(b)(2)(C)(c)(II) of ESEA identifies the following student subgroups: economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency. (No Child Left Behind Act of 2001, 20 U.S.C. § 6301.)

applications must commit to using interventions that have been shown to be effective in increasing student achievement in similar schools. Researchers familiar with the types of interventions under consideration can assist SEAs in identifying existing research and designing appropriate interventions and indicators of progress.

The applications also require states to identify “reward” schools. Reward schools are Title I schools in the state that either have demonstrated the highest performance on statewide assessments and/or graduation rates for all students and subgroups or have made the most improvement in student performance and/or graduation rates. State plans must detail how these schools will be acknowledged and rewarded.

Principle 3. Supporting Effective Instruction and Leadership

SEA applications must include plans to develop and adopt guidelines for local teacher and principal evaluations and a system of supports. Strong policies to support and evaluate educators will recognize and maximize those dimensions of teacher and school leader work that research indicates most impact student learning. High-performing schools exhibit leadership that is shared among school leaders, teachers, parents, and students (Louis et al., 2010).

School leaders’ influence on student learning is *indirectly* exerted through such actions as setting and articulating expectations for student achievement, motivating and supporting teacher and other stakeholder efforts to improve instruction, and creating supportive school conditions to achieve these aims (Hallinger & Heck, 1998; Louis, et. al., 2010; Marzano, Waters, & McNulty, 2005).

Researchers widely caution that reliance on a single measure of teacher or leader effectiveness provides an incomplete and inaccurate picture of an educator’s performance. Instead, multiple measures of educator effectiveness including indicators of student performance and educators’ practice provide a more comprehensive picture of performance and compensate for the weaknesses of any single measure (Clifford & Ross, 2011; Hinchey, 2010).

The purpose of the evaluations should be clear. As a formative tool, evaluations provide educators with feedback to improve practice. As a summative tool, evaluations inform personnel decisions including promotion and monetary rewards, sanctions, relocation, and termination. Existing research indicates principal evaluation systems should provide trustworthy data that informs practice; is fair, transparent, and consistently administered; is aligned with district and state systems; and includes preparation, support, and appraisals for the evaluators (Clifford & Ross, 2011).

Consequences of educator evaluations should be explored with stakeholders. By definition, low-performing schools and struggling students face greater challenges reaching identified academic goals. Effective educators are critical for these schools and students. Principal turnover poses a significant challenge to strong school leadership. A minimum of 5-7 years in these positions is considered optimal (Louis, et. al., 2010). Retention of teachers is also a longstanding challenge for the profession (Keigher, 2010). Evaluations and processes should avoid perverse incentives that dissuade talented educators from working in these schools.

Taking Stock

Until ESEA is reauthorized, the U.S. Department of Education's flexibility provisions offer a short-term mechanism to avoid looming sanctions. However, this flexibility comes with conditions that need to be carefully considered by states and their stakeholders. Discussions about each of the three principles discussed above and how these will be addressed in the state's ESEA flexibility request need to examine the short- and long-term implications for the state. In addition, policymakers should consider how any changes made to secure greater flexibility may affect alignment with state priorities and needs, and how the resulting plans will foster sustained progress in educating all children in the state.

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