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NCLB Waivers

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Summary Points

- President Obama recently offered NCLB flexibility to states in return for high-quality comprehensive plans that are likely to promote student achievement.
- The plans must include a provision for states to adopt high-quality standards and assessments and to evaluate and support low-performing schools and teachers.
- Many Republicans have argued these waivers represent an overreach of executive power. Shortly after these waivers were announced, NCLB reauthorization appeared on Senate schedule.
- These waivers could provide an opportunity for education leaders in Arkansas to create a more meaningful accountability system

No Child Left Behind Waivers

No Child Left Behind, or the Elementary and Secondary Education Act, is long overdue for reauthorization. Speculation concerning when and how this controversial act would be reauthorized has occurred throughout the Obama administration. In a somewhat surprising move last week, President Obama unilaterally created rules for NCLB waivers. This policy brief provides a brief background, followed by a discussion on the new NCLB flexibility and how these changes could affect schools in Arkansas.

Background

The U.S. Congress missed another of the many deadlines set for the reauthorization of the infamous No Child Left Behind (NCLB) law just before this school year was set to begin. Despite ambitious claims by both Democrat and Republican legislators that NCLB would be expeditiously reauthorized, the school year began again, as it had the previous three years, with an outdated law and overdue reauthorizations. In late September, the President announced a new set of rules that would enable states to waive key aspects of NCLB in exchange for the adoption of a few high-profile educational initiatives favored by the Obama Administration.

Many in Congress, especially Republicans, claimed that this was a federal overreach that essentially resulted in a unilateral reauthorization of NCLB without input from Congress. Arne Duncan had earlier labeled Congress as

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dysfunctional in a speech in which he announced plans to bypass lawmakers and institute education reform through the waiver system. There are many legislators from both sides of the political aisle still hoping to develop a more comprehensive, bipartisan reauthorization of NCLB. For the time being, however, states are investigating what exactly these waivers entail.

Flexibility

The changes proposed by President Obama last week will enable states to request more flexibility, specifically with regard to the dreaded accountability aspects of NCLB, by submitting a comprehensive, high-quality plan describing how the state will better improve student performance through the adoption of high quality standards and assessments, the development of a differentiated accountability system, and the development of an evaluation and support system for teachers and principals. It is not the insignificant



details of NCLB that states now have freedom to design, rather it is the cornerstone pieces of the law. The first, and arguably most important, waiver is the removal of the requirement that all students be proficient in math and science by 2014. It is almost universally agreed that this controversial and unrealistic component of the law needs to be changed. The waivers also provide states freedom to set their own student-achievement goals and design their own interventions for failing schools.

In order to qualify for a waiver, states must do the following:

- **Adopt college- and career- ready expectations for all students**
- **Develop and Implement a State-Based System of Recognition, Accountability, and Support**
- **Support Effective Instruction and Leadership**

These plans will be reviewed by judges. Reviewers will answer straightforward, objective questions as well as respond to more subjective questions in determining whether to grant states requested waivers.

Standards

States must either develop college- and career- ready standards in partnership with the state institutions of higher education or adopt the Common Core State Standards to receive a waiver. These standards must be used to develop annual assessments that measure not only student performance, but also growth. Arkansas is part of a consortia of states associated with PARCC, which is in the process of developing just such an assessment aligned to Common Core State Standards.

Accountability

These standards and assessments will be used to develop a system of differentiated accountability by developing ambitious but achievable measurable objectives, based in part on current proficiency rates. These state-developed targets will enable states to develop a system that includes both rewards and support to reward high performing and high growing schools, as well as create “priority schools” and “focus schools” based on proficiency rates that fall below target. Meaningful interventions for the lowest performing schools in the state are required.

Effective Leadership and Instruction

Finally, in return for this flexibility, states must implement teacher and principal evaluations that use growth in student achievement as a factor to determine effectiveness. The waiver plan requires a pilot plan to be developed by 2013-14 and full implementation by 2014- Evaluations must “inform personnel decisions”. However, it is unclear the extent to which these evaluations must inform personnel decisions. For example, there

On the Record

“It is a reasonable federal framework focused on the right thing. That said, it gives the states a lot of running room that they’ve been clamoring for. The ball’s in their court...Will the states step up and come up with thoughtful supports and interventions for schools [that] are not at the very bottom?”

-Amy Wilkins, Education Trust

“We profoundly hope states are better prepared for this responsibility than they were in the past...Looking across the landscape and at the available data, in the case of the majority of states, we’d be lying if we said we weren’t worried.”

-Democrats for Education Reform

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is ambiguity whether schools will be required to dismiss ineffective teachers based on this information to dismiss teachers or simply provide targeted professional development.

Arkansas

As previously stated, many in Congress have raised objections to these waivers, arguing that this is a federal overreach. Regardless of one's position, it is impossible to ignore that NCLB Reauthorization was placed on the Senate's agenda within one week of this move by the President. If nothing else, this action may have spurred Congress to hasten reauthorization.

Should these waivers stay on the table, Arkansas may be well situated to take advantage of this offer of flexibility. The Board of Education recently adopted the Common Core Standards. In the spring, the 88th General Assembly passed a teacher evaluation system in which student achievement is a major factor. These small victories have placed the state on a solid footing to develop a meaningful plan to increase student performance.

This opportunity could empower Commissioner Kimbrell and other state leaders to create a more

meaningful accountability system, to hold failing schools to a higher standard, and to intervene when necessary. This is consistent with his recent request to be given more control in handling low-performing schools in the state.

The risk, however, is that states might use this flexibility to lower the bar. It is our hope that the education leaders in Arkansas will use this as an opportunity to develop a stronger support and accountability system on behalf of the students in our state.

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A Few Questions Asked by Reviewers?

This is a sample of questions reviewers will be asking when determining whether states will be granted NCLB flexibility.

- *Did the SEA describe its methodology for identifying high-performing and high-progress schools as reward schools?*
- *Did the SEA describe how the SEA will publicly recognize, and, if possible, reward high-performing and high-progress schools?*
- *Are the interventions that the SEA described aligned with the turnaround principles and are they likely to result in dramatic, systemic change in priority schools?*
- *Will [teacher evaluations] be used for continual improvement of instruction?*
- *Will [teacher evaluations] meaningfully differentiate performance using at least three performance levels?*
- *Will [teacher evaluations] be used to inform personnel decisions?*

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