

The Waivers are Here: Grand Bargain or Dangerous Offer?

The June *Washington Education Watch* alerted you that the Obama administration was likely to move in upcoming months to provide states with waivers to many of the requirements of the no Child Left Behind Act (NCLB). We raised concerns about the precedent this would set in allowing the Secretary of Education to sidestep Congress in implementing changes to education policy. This is exactly what occurred in the last week of September. President Obama and Secretary of Education Arne Duncan issued regulatory guidance that will allow states to waive many provisions of NCLB, if they meet certain requirements.

States that receive waivers will no longer be required to hold schools accountable for making Adequate Yearly Progress (AYP), or designate schools or districts for improvement, corrective action, or restructuring. These states will also be given increased flexibility for how districts can spend some of the funding received under ESEA. Also, in these states local school districts not meeting their HQT targets would no longer have to develop improvement plans.

To receive waivers the states will need to do three things:

1. Adopt college and career ready standards in mathematics and language arts and aligned assessments that are in common with other states. In almost all cases this can only be done by adopting the common core state standards developed by the Governor's Association and the State Superintendents Association and join one of the two consortia of states that are developing assessments aligned with the common core standards.
2. Have a school accountability plan in place to identify priority schools (the lowest 5%), focus schools, (the next lowest 10%), and reward schools (the highest performing schools). They must also have a system in place to move all schools forward on meeting state determined annual measurable objectives (AMOs). The AMOs must be based on student achievement in language arts and mathematics, graduation rates and progress in closing achievement gaps.
3. Design and implement new evaluation systems for teachers and principals that are based in part on student performance on standardized tests. The results of the evaluations must be used to inform personnel decisions such as setting salary levels.

In summary, this is a grand bargain. States that get on board behind common standards and assessments, school accountability focused on the lowest fifteen percent of the schools, and educator evaluations that include student test scores, will receive in return relief from seriously flawed portions of NCLB, that in some cases were impossible to implement.

In a sense the administration is trading off the broken accountability systems of NCLB in return for states adopting their own accountability systems that meet federal requirements.

President Obama in announcing the new flexibility said, "This does not mean that states will be able to lower their standards or escape accountability. In fact, the way we've structured this, if

states want more flexibility, they're going to have to set higher standards, more honest standards that prove they're serious about meeting them."

There is much to like about these waivers. They replace the broken federally mandated accountability systems of NCLB with state adopted systems that are more likely to be effective. Moving education decisions closer to the local level is almost always a good idea. It allows for more parent involvement in the decisions about their children as well as promoting necessary variety to support the diversity of our fifty states.

But there is also a dark side to the waivers. In some ways what we have here is a slight of hand trick in which it only appears that the states are receiving more authority and autonomy to act in the best interest of the children of their state, but in reality they will have ceded much of their decision making power to the Executive Branch. They will be implementing new systems because they believe that these systems will be better than the requirements of NCLB, not because they think the new provisions are the best idea for their schools.

This would not be such a dangerous idea if it were not for the fact that under our constitution establishing education systems is a responsibility reserved for the states. Regardless of the benefits of the waivers, if states give in to the Executive Branch's coercion by adopting standards and assessments that are in common with other states, and educator evaluation systems and school accountability systems that meet the federal requirements, it is difficult to see what real authority they will have left.

Proverbs warns against being too eager to accept the offerings of those in power:

"When you sit down to eat with a ruler, observe carefully what is before you, and put a knife to your throat if you are given to appetite. Do not desire his delicacies, for they are deceptive food." (Proverbs 23:1-3, ESV)

States would be wise to consider the waivers being offered with the same measure of caution.

It will be interesting to see which states refuse to apply for the waivers. *Washington Education Watch* will keep you posted.

If you know have thoughts or comments on these waivers or other aspect of federal education policy please share them with us. You can address your thoughts and comments to

WashingtonWatch@ceai.org.