

**WHAT ESEA FLEXIBILITY MEANS FOR STUDENTS, TEACHERS, AND PARENTS:  
ANSWERING THE PUBLIC'S QUESTIONS**  
September 2011

**Q: Why is President Obama providing States with flexibility from some NCLB requirements?**

NCLB has been the law for almost 10 years. Over the past few years, States and districts have adopted bold and comprehensive reforms to support the academic achievement for all students. These reforms are improving teacher and principal evaluation and support, turning around low-performing schools, and expanding access to high-quality schools. We are hearing from teachers, parents, and students that the NCLB is broken and needs to be fixed to support reforms focused on improving student learning and increasing the quality of instruction. The President and Secretary Duncan are acting because Congress is four years late in rewriting the law. The President sent Congress his Blueprint for reauthorization 18 months ago, but Congress hasn't made significant progress on a comprehensive bill to reauthorize NCLB.

We are still hopeful that Congress will pass a bipartisan bill. But students, schools, districts, and States can no longer wait. This process is essentially a bridge from the broken system we have today to the much more effective, thoughtful, and responsible approach of tomorrow.

The President and Secretary Duncan are ready to work with Congress to fix NCLB in a bipartisan way. But the U.S. House and Senate need to act now to support teachers, parents, and students in their commitment to reforming schools and preparing the next generation for success in college and careers.

**Q: How will this flexibility address some of the challenges of NCLB?**

NCLB helped States and districts shine a bright light on the achievement gap and increased accountability for groups of high-need students. But it also encouraged some States to set low academic standards, failed to recognize or reward growth in student learning, and did little to elevate the teaching profession or recognize the most effective teachers. America's educators have worked under a flawed law for 10 years and it is increasingly becoming a barrier to State and local reforms. To support State and local innovation aimed at increasing the quality of instruction and improving student achievement, the Obama administration will provide flexibility for States and districts that are moving forward with these efforts. This flexibility will:

- Protect Students: Our solemn responsibility is to protect students – especially those most at risk, including low-income students, students with disabilities, and English Learners. One of the things NCLB got right was transparency around achievement gaps – and we absolutely maintain that transparency as well as the pressure to close those gaps. This is not a retreat from accountability but a commitment to be smarter and more focused in how we require low-performing schools and schools with achievement gaps to improve.
- High Bar: This flexibility rewards States that are showing the courage to raise their expectations in their academic standards. These States are being honest with students and parents, and instead of an arbitrary (and often low) standard of proficiency, they've committed to setting an honest and necessary standard – college and career-ready. We're challenging States and districts to show growth with every child, every year, toward our 2020 goal that the U.S. once again leads the world in the proportion of college graduates.
- Flexibility: More than anything else, NCLB's requirements have become barriers to State and local implementation of forward-looking reform, and States and districts are desperate for

relief. They want the opportunity to innovate and develop locally tailored solutions to the unique educational challenges of every State, district, school and child.

**Q: What will this flexibility mean for students?**

No one suffers more than students when the curriculum narrows and educators devote precious classroom time teaching to the test. Under ESEA flexibility, States will begin to move beyond the bubble tests and dumbed-down standards that are based on arbitrary standards of proficiency. By measuring student growth and critical thinking, new assessments will inspire better teaching and greater student engagement across a well-rounded curriculum. By setting standards based on college- and career-readiness, States will challenge students to make progress toward a goal that will prepare them for success in the 21<sup>st</sup> century knowledge economy. In addition, the new systems of differentiated recognition, accountability, and support will ensure accountability for all students, including English Learners and students with disabilities, by requiring States to improve their lowest performing schools and close achievement gaps.

**Q: What will this flexibility mean for teachers?**

NCLB has put too much emphasis on a single standardized test on a single day. This is teachers' biggest complaint about the law. They feel pressure to prepare students for those tests, leading to an unintended narrowing of the curriculum and an emphasis on the basic skills measured by standardized tests. NCLB's accountability system doesn't help drive and shape a well-rounded curriculum that challenges students to excel academically.

ESEA flexibility will let States make accountability decisions based on student growth and progress, as well as other measures of student learning and school performance. They will consider more than a single test score measured against an arbitrary proficiency level. States will be able to look comprehensively at how schools are serving their students and communities, in areas like school climate, access to rigorous coursework, and providing a well-rounded education.

ESEA flexibility also will support States and districts in fixing the broken teacher evaluation system. States will begin to use multiple measures to evaluate teachers, including peer reviews, principal observation, portfolios, and student work. Improving teacher evaluation systems will support a learning culture where teachers can target instruction towards the needs of students, and will encourage a well-rounded curriculum. These improved evaluations will also consider student growth, to help focus on what really matters – the annual gains of students – and to recognize, reward, and learn from the schools and teachers that are accomplishing this hard work.

**Q: What will this flexibility mean for parents?**

Under NCLB, parents aren't getting a fair or accurate report on the academic progress of their children or the quality of their schools.

In many states, parents are being told that their children are proficient based on a low bar. Many of them are being lied to because their children aren't really being prepared for college and careers. Under ESEA flexibility, States will set standards based on expectations for success in college and careers. They will report to parents every year whether their children are making academic progress based on those challenging standards. Parents will finally get an honest report of students' progress toward a goal that prepares them for success in the knowledge-based economy.

NCLB also fails to give parents an honest report on the success of their children's schools. NCLB's accountability system unfairly labels schools and doesn't differentiate among the worst schools and schools that needed help in only one or a few areas. Parents don't like to see their schools labeled as failures – especially as many of their kids show steady improvements. This flexibility will let States create honest accountability and support systems that require real change in the worst performing schools, allow for locally-tailored solutions based on individual school needs, and recognize schools for success. When schools fall short, parents will know that school leaders will adopt targeted and focused strategies for the students most at risk.

The accountability system also will end the over-emphasis on testing. Parents will like this change for the same reasons that teachers will – it will promote a well-rounded curriculum while giving a fair and responsible assessment of their school's success in preparing students for college and careers.

**Q: How will schools be held accountable under ESEA flexibility?**

The ESEA flexibility will not give schools a pass on accountability. It will continue to require schools to raise the bar for performance for all students and to hold schools accountable for the academic growth and gain of all students.

NCLB set the goal of universal proficiency by 2014, and many States responded to this goal by dumbing down their definitions of proficiency. By lowering the bar, they were lying to students and parents. The flexibility will support work already underway in States to set standards based on college- and career-readiness. That's a definition that will give parents and students an honest assessment of academic achievement.

In addition to creating a perverse incentive to lower standards, NCLB required all schools that missed their targets to implement the same set of one-size-fits-all interventions, regardless of the needs of the school and whether it needs drastic reform or targeted action. ESEA flexibility would let States move forward with innovative accountability systems that consider student growth and school progress, provide recognition and support, and focus the most dramatic interventions where they are most needed. Schools will continue to report on the achievement of all of their students and all subgroups, including whether they are meeting ambitious but achievable targets set by their State, and the State will identify their lowest-performing schools and those with the largest achievement gaps for rigorous interventions to meet the needs of their students.

**Q: How will ESEA flexibility ensure low-performing schools improve and close achievement gaps?**

For all of its flaws, NCLB shined a spotlight on the achievement gap. But it doesn't force schools to create comprehensive plans to close that gap or reward them for ensuring the academic growth of students of all subgroups. Under ESEA flexibility, States will continue to disaggregate data to highlight the achievement gap. But they also will require schools with the largest gaps to adopt research-based interventions to close the gap while also increasing overall student achievement. With the combined goal of creating academic growth and closing achievement gaps, schools will be rewarded for success that matters: Ensuring the success of all students, especially those who are farthest behind.

At the same time, the flexibility will end the one-size-fits-all interventions in schools. Under NCLB, all schools that meet a States' arbitrary proficiency goals were prescribed the same interventions, including mandatory school choice or tutoring. The flexibility will ask States to identify their lowest-performing

schools and create aggressive turnaround plans that best address the individual needs of those schools, as well as identify and intervene in their schools with the largest achievement gaps.

**Q: Will States be required to adopt the Common Core standards as part of ESEA flexibility?**

No. States will have at least two options that will allow them to demonstrate that they have adopted college- and career-ready standards. One would be to work with their State higher education institutions to verify that the academic standards are challenging enough to ensure graduates are ready for college work. Another would be to work with other States to set standards that research determines prepares students for the rigorous academic challenges of college and to enter the workforce ready to succeed.

**Q: What is in ESEA flexibility for rural education?**

The ESEA flexibility builds on the Department's efforts to better meet the unique needs of students, teachers, schools, and districts in rural locations.

The initiative provides flexibility to rural schools to use federal dollars for a variety of purposes. The new system of differentiated recognition, accountability, and support allows districts to determine local solutions based on student needs unique to rural areas for the majority of their schools.

**Q: When will schools begin to use this new flexibility?**

The Department will offer States help in preparing their applications immediately and schools may begin to feel the impact in the current school year if their state adjusts its annual assessment targets. The impact will be fully felt at the beginning of the 2012–2013 school year, when it changes how states and districts intervene in and support their schools.

**Q: Who will be eligible to apply for ESEA flexibility?**

States will be able to create flexibility plans on behalf of themselves and their districts. The flexibility is designed to support systemic reform and requires – both from a legal and practical standpoint – significant commitments at the State level. States are encouraged to work closely with their districts to ensure a comprehensive plan that truly increases the quality of instruction and improve academic achievement for all students.

**Q: How will the Department ensure fairness in the flexibility request and approval process?**

To make sure we have a fair application and approval process for States, the Department will be drawing on expertise of those in the field through a transparent, rigorous peer review process. The Department is investing heavily in the training of peer reviewers to ensure consistent review of all requests. The Department will also post all State requests for flexibility on its website after completion of the peer review process.

**Q: Why is there urgency to offer this flexibility now?**

Because Washington is already four years late in fixing NCLB, another school year is starting under this broken law, and States, districts, schools and most importantly students can't wait. Over 40 States are working to raise their standards and developing new, State-developed accountability systems, and the federal law is getting in their way. We need to provide flexibility now to allow States and local communities to move forward with reform.

**Q: How does this initiative provide the flexibility that States and districts are asking for?**

We are hearing a strong drumbeat from States and districts that they need relief from NCLB if they are going to be able to move forward with reforms that are good for kids – reforms that raise standards; support teachers; and embrace fair, flexible, and focused accountability. That means granting flexibility around some of the requirements that are obstacles to this work, such as:

- 2014 Timeline: Give States flexibility around how they set their annual targets for schools and student subgroups.
- Federal Labels and Federally-Mandated Interventions: Waive requirement that schools be labeled as failing for not making all of their AYP targets. Provide flexibility around federally-mandated “one-size-fits-all” interventions to give States and districts more flexibility to improve their schools.
- Limitations on Use of Funds: More flexibility to use funds in ways that make sense by transferring funds between funding streams, while still protecting funds for the neediest students.

**Q: What will happen to this flexibility when Congress passes the next ESEA reauthorization?**

The Secretary may terminate the waivers granted through this flexibility if they are superseded by the reauthorization of the ESEA.

**Q: Why are you requiring that States provide a plan and evidence of reform efforts as part of their request instead of just providing a blanket waiver?**

It is the Secretary’s responsibility to ensure that States and districts put in place systems that improve student learning and increase the quality of instruction whenever a provision of ESEA is waived. All States will be eligible for this flexibility – it’s not a competition. However, this isn’t blanket flexibility – it’s just for those States and school districts moving forward with reform. We expect to keep a high bar. We aren’t interested in giving flexibility in return for nothing. We will give States who agree to meet a high bar the flexibility they need to improve things on the ground for students. We will expect them to maintain rigorous accountability, including for subgroups of students.

**Q: How will you be deciding which States receive this flexibility?**

In order to make sure we are getting the best input we review State waiver requests, we will be drawing on expertise of those outside the Department through a peer review process.