Eleven States Receive First Round of NCLB Waivers

★ More Than Two Dozen States to Apply for Second Round of Waivers
★ Deadline for Third Round is September 6

President Obama and U.S. Secretary of Education Arne Duncan announced the first set of states that will be able to ignore certain parts of the Elementary and Secondary Education Act (ESEA), also known as the No Child Left Behind (NCLB) Act. On February 9, the U.S. Department of Education (Department) approved the applications of ten of the eleven states that applied for the first round of waivers, then added the eleventh state six days later.

The 11 states—Colorado, Florida, Georgia, Indiana, Kentucky, Massachusetts, Minnesota, New Jersey, New Mexico, Oklahoma, and Tennessee—are required to implement college-and-career-readiness standards and work to improve student achievement and close achievement gaps; develop and implement differentiated accountability systems that will target tailored interventions to low-performing schools and reward high-performing schools; and develop and implement teacher and leader evaluation systems based on multiple measures, including student test scores.

In return, approved states will be granted the following flexibility concerning requirements under current federal law:

- **Flexibility with 2013–2014 timeline for determining Adequate Yearly Progress (AYP):** States will no longer need to follow the procedures for setting annual measurable objectives (AMOs) to use in determining AYP. States will have flexibility to develop new ambitious, but achievable AMOs in reading/language arts and mathematics.

- **Flexibility in Implementation of School Improvement Requirements:** State education agencies (SEAs) and local education agencies (LEAs) will no longer be required to comply with requirements to identify for improvement, corrective action, or restructuring their Title I schools that fail to make AYP for two consecutive years or more, and neither the LEA nor its schools will be required to take currently required improvement actions. SEAs may require or permit an LEA to take such actions. LEAs will also be exempt from all administrative and reporting requirements related to school improvement under current law.

- **Flexibility to Support School Improvement:** SEAs will have flexibility to allocate funds to LEAs in order to serve any priority or focus school, if the state determines such schools are most in need of additional support.

- **Flexibility for Reward Schools:** SEAs will have flexibility to use reserved funds to provide financial rewards to any reward school, if the SEA determines such schools are most appropriate for financial rewards.

- **Flexibility Regarding Highly Qualified Teacher (HQT) Improvement Plans:** SEAs will be exempt from requirements regarding their role in the implementation of these plans, including the requirement that an SEA enter into agreements with LEAs on the uses of funds and the requirement that it provide technical assistance to LEAs on their plans.

- **Flexibility to Transfer Certain Funds:** An SEA and its LEAs will have flexibility to transfer up to
100 percent of the funds received under authorized programs into Title I, Part A. States will not be required to notify the Department and its participating LEAs will not be required to notify the SEA prior to transferring funds.

- **Flexibility to Use School Improvement Grant (SIG) Funds to Support Priority Schools:** SEAs will have flexibility to award SIG funds to its LEAs to implement one of the four SIG models in any priority school.

There are other flexibilities under the Department’s waiver plan for LEAs. Furthermore, if states need additional time to submit their waiver requests this year, they may request approval to freeze their AMOs, as used in their AYP determinations, based on previous school year. In return for this temporary flexibility, states are required to adopt college-and career-ready standards; link teacher, principal, and student data and provide that information to educators to improve their practices; and identify persistent achievement gaps within their boundaries that need to be closed.

**Race to the Top**

Most of the states approved from the first round of waivers are also receiving funds from the President’s signature education program, the Race to the Top (RTTT) and/or its ancillary program, the $500 million Early Learning Challenge (ELC) Fund. Florida, Georgia, Massachusetts, and Tennessee won grants under the Race to the Top Program. Massachusetts also won ELC funding. Minnesota won ELC funding. Colorado, Kentucky, and New Jersey won funding under a separate competition under RTTT for RTTT finalists to focus on strengthening science, technology, engineering, and mathematics (STEM) education in their respective states.

The Department is working on the next round of the RTTT competition ($550 million), for which only LEAs will be eligible. The President requested $850 million in his FY2013 budget request for an additional RTTT round to focus on early childhood learning.

**Second Round of Waivers**

Twenty-eight states and the District of Columbia have already indicated their intent to apply for the second round of waivers (due February 28). The Department also announced a third round deadline of September 6.

**Outlook**

The waivers are approved until the end of the 2013-2014 school year. The Department has indicated that the waivers are just a temporary fix to the problems under current federal law. The long-term solution to fixing current law—as repeatedly stressed by NASBE and other state-based education groups—is for Congress to reauthorize ESEA in a way that addresses the challenges states face in ensuring educational equity, while giving states the flexibility to innovate and adapt federal programs to meet their individual conditions.

**Resources**
