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## National Center for Fair & Open Testing

### **From the Frying Pan to the Fire, While Adding Gasoline: Comments on, with Excerpts from, the Education Department's ESEA/NCLB Waiver/Flexibility Provisions**

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The Obama-Duncan plan for "flexibility" in the administration of the "No Child Left Behind" (NCLB) federal education law offers little more than a leap from the frying pan to the fire – and even adds gasoline to the fire.

The Administration offers no relief from NCLB's massive over-use of testing —more testing than in any other advanced nation. In fact, it will require more "assessments" in more subjects and grades in exchange for "flexibility." It uses test scores to hold individual educators rather than schools "accountable."

This plan will push states into adopting highly flawed and inaccurate uses of student test scores to judge teachers and principals. In these ways, the Administration is perpetuating the very same discredited policies that have so damaged American education. These policies will continue the pressure to narrow the curriculum and teach to multiple-choice tests -- pressures that have caused the recent explosion of cheating scandals. The dangers in this scheme outweigh the benefits to states of no longer having to meet unattainable "adequate yearly progress" goals.

States should reject this deal while saying they will "fail" no more schools on the basis of test scores. Congress must intervene and make the [fundamental changes to NCLB](#) that the Administration has been unwilling to make.

According to the main document on waivers/flexibility released today by the Education Department - <http://www.ed.gov/esea/flexibility> – the key requirements for obtaining a waiver are as follows. (I recommend that you read the whole thing – some of the details will matter for some groups or students or all students.) A separate document includes the state application form. I offer comments after each of 3 (of 4) parts of the 'flexibility' plan, and in summary at the end.

#### **"1. College- and Career-Ready Expectations for All Students"**

States must adopt "college and career ready standards" and assessments that include growth measures:

"To receive this flexibility, an SEA [state education agency] must demonstrate that it has college- and career-ready expectations for all students in the State by adopting **college- and career-ready standards** in at least reading/language arts and mathematics, transitioning to and implementing such standards statewide for all students and schools, and developing and administering annual, statewide, aligned, **high-quality assessments**, and corresponding

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academic achievement standards, that measure **student growth** in at least grades 3-8 and at least once in high school.” [All bolding is in original, and refers to defined terms.]

Under the definition of student growth is this:

- For grades and subjects in which assessments are not required under ESEA section 1111(b)(3) [math, reading, some science]: alternative measures of student learning and performance such as student results on pre-tests, end-of-course tests, and objective performance-based assessments; student learning objectives; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across schools within an LEA.

MN Comment: This not only maintains the over-testing of students and the notion of test-based accountability, it will cause an expansion of the amount of testing, albeit district testing. While a district might not use just district standardized tests, the odds are high many will, as Charlotte-Mecklenberg has notoriously done. The waiver deal will require so-called “growth” (or “value added”) measures, which are just another way to slice and dice the same tests, and whose growing use in judging teachers and principals is educationally dangerous (for more on that, see materials at <http://www.fairtest.org/k-12/teachers> - and the Admin’s requirements in this regard, below).

## **“2. State-Developed Differentiated Recognition, Accountability, and Support**

“To receive this flexibility, an SEA must develop and implement a system of differentiated recognition, accountability, and support for all LEAs [Local Education Authorities, or districts] in the State and for all Title I schools in these LEAs. Those systems must look at student achievement in at least reading/language arts and mathematics for all students and all subgroups of students identified in ESEA section 1111(b)(2)(C)(v)(II); graduation rates for all students and all subgroups; and school performance and progress over time, including the performance and progress of all subgroups. They may also look at student achievement in subjects other than reading/language arts and mathematics, and, once an SEA has adopted high-quality assessments, must take into account student growth. An SEA’s system of differentiated recognition, accountability, and support must create incentives and include differentiated interventions and support to improve student achievement and graduation rates and to close achievement gaps for all subgroups, including interventions specifically focused on improving the performance of English Learners and students with disabilities. More specifically, the SEA’s system must, at a minimum:

- Set new ambitious but achievable AMOs [annual measurable objectives, the basis for determining “adequate yearly progress” in at least reading/language arts and mathematics for the State and all LEAs, schools, and subgroups, that provide meaningful goals and are used to guide support and improvement efforts.
- Effect dramatic, systemic change in the lowest-performing schools by publicly identifying “priority schools” and ensuring that each LEA with one or more of these schools implements, for three years, meaningful interventions aligned with the turnaround principles in each of these schools. The SEA must also develop criteria to

determine when a school that is making significant progress in improving student achievement exits priority status.”

- [several bullets address monitoring progress and state commitments to provide “sufficient support for interventions” in identified schools]

MN Comment: Again, it is worth reading the sub-points. This section takes the Administration’s Race to the Top (RTTT) requirements and its Blueprint for ESEA reauthorization to focus on the bottom 5% (“priority” schools), and less intensively the next lowest 5% and 5% schools with wide score (“achievement”) gaps (“focus schools”). Senate Republicans had acceded to the bottom 5% provision (as seen in Sen Alexander’s recently introduced bill) but not to more than that. States will now have the option to add in other subjects in evaluating schools (under NLCB, doing so could only lead to more schools ‘failing’). On “Must take into account student growth,” see comment at 1, above, and at 3 below. What the Department will do to ensure states really provide resources to ensure effective changes at schools is not specified – and effective remains defined by test scores. Critics who do not trust the states and districts, or who believe far more than 15% of schools need extensive assistance if not interventions, may well view this as a withdrawal of federal support for improving schools, the use of the term “equity” in this document notwithstanding.

### **“3. Supporting Effective Instruction and Leadership**

“To receive this flexibility, an SEA and each LEA must commit to develop, adopt, pilot, and implement, with the involvement of teachers and principals, teacher and principal evaluation and support systems that: (1) will be used for continual improvement of instruction; (2) meaningfully differentiate performance using at least three performance levels; (3) use multiple valid measures in determining performance levels, including as a significant factor data on student growth for all students (including English Learners and students with disabilities), and other measures of professional practice (which may be gathered through multiple formats and sources, such as observations based on rigorous teacher performance standards, teacher portfolios, and student and parent surveys); (4) evaluate teachers and principals on a regular basis; (5) provide clear, timely, and useful feedback, including feedback that identifies needs and guides professional development; and (6) will be used to inform personnel decisions.”

MN Comment: This will pressure states to adopt “student growth” measures as a “significant factor” in their evaluation systems. The links I provide in my comment at 1 (above) make very clear that ‘student growth’ data is far too inaccurate to play a meaningful role in fair educator evaluations. The Department does not define “significant factor,” and states that won RTTT funds have defined it quite differently, from having student’s standardized test scores comprise 50% of a teacher’s evaluation to using those scores as a means of ensuring a second check on some teachers or principals, rather than being a fixed percentage with a mandated consequence. The tests themselves are far too narrow gauges of student learning. To the extent states rely on those tests to hold educators “accountable,” they will inflict on students, teachers and schools the same harmful consequences as has “adequate yearly progress.” Out of the frying pan, into the fire. However, the language is flexible enough that, it appears, a wise state would: a) not rely on student test scores as anything more than a secondary indicator that could inform a further look at a teacher or principal; and b) use a far richer set of evidence of student learning than scores on standardized tests. The latter will require building a different sort of assessment system(s), but

Congress and the Administration have completely avoided taking up this necessary task. Lastly, evaluation systems are expensive and complex, if done well. It is not at all likely that states have the resources to do this job (the feds are not providing any funds outside of RTTT winners). An evaluation system may not be a more valuable use of limited resources than any number of other school improvement activities. Perhaps cynically, states could commit to developing this, then go slow in the absence of funding and even drop it should Congress ever actually reauthorize ESEA.

**Definitions.** The definitions themselves are worth a read. Below I have a note on the “assessment” definition. The “turnaround principles” definition attempts to turn what in RTTT and SIG are highly prescriptive into something not so prescriptive; for example, a principal must be evaluated, but not necessarily fired. Some of the points are things that schools do need to pay attention to, though doing so in ways subservient to the testing regime is not going to make good schools.

**Summary MN comments:** Duncan is moving to end AYP, a victory for all who have opposed it and its largely destructive consequences. However, the Administration remains wedded to test-based accountability and the inevitable reduction of schooling to test preparation. (The impact will vary greatly by race and class, as low income youth, for example, often do have their schooling reduced to test prep, while in wealthier areas the distortion is less.) There will remain a requirement for states to have their own test-based accountability systems, to test annually all students in grades 3-8 (something no other economically advanced nation does), to intervene in schools based primarily on the schools’ test scores, and to judge the effectiveness of interventions by those same test scores. The corruption of both indicators (test scores) and, more importantly, that which is being measured (student learning, teacher practices, schools) will continue unabated. With the educator evaluation piece, it may in some ways be more pernicious because it will be subtler, working through educators rather than openly on schools. Again, on that part, states could do this far better or worse in their implementation – and thus far, most are doing it badly.

The deeper problem is that NCLB opened a Pandora’s Box of test-related pests. Those pests have proliferated, taking the forms of more tests in more subjects, interim and benchmark tests, and, increasingly, fake formative mini-tests, usually administered by computer, that chain “teaching and learning” to multiple-choice questions, scripted curricula and constant monitoring of educators.

I note that under definitions, the Administration offers some possibly reasonable sounding points about the assessments states should have. However, FairTest’s experience is that the definitions used in testing are of a kin with Alice’s encounter in *Through the Looking Glass*:-

"When I use a word," Humpty Dumpty said in rather a scornful tone, "it means just what I choose it to mean -- neither more nor less."

"The question is," said Alice, "whether you can make words mean so many different things."

"The question is," said Humpty Dumpty, "which is to be master - - that's all."

(*Through the Looking Glass*, [Chapter 6](#))

That is, the reality will be, barring some major changes elsewhere in federal and state practice, more of the same old tests, only parading as new. (Here I am referring to the multi-state consortia tests that the Administration touts as the solution to all the problems with tests.)

While on the surface Sec. Duncan's proposal lessens the burdens – and it may do so in some schools – for the nation's most vulnerable children, the imposition of schooling as test prep will not abate at all. There is no indication, despite occasional rhetoric from President Obama, that the administration intends anything less than the perpetuation of test-focused schooling.

Finally, the other day I critiqued Sen. Alexander's recently-introduced ESEA reauthorization bills for continuing test-based accountability and thus test-based schooling. That Alexander does, but at least Alexander had the sense not to mandate that all states dedicate scarce resources to establishing unproven educator "evaluation" systems. Inadequate and bad as much of Alexander's bills are, they are less bad than the Administration's "flexibility" quid pro quo requirements.