

**U.S. Senate**  
**Committee on Health, Education, Labor, and Pensions**  
**No Child Left Behind: Early Lessons from State Flexibility Waivers**  
**February 7, 2013**

**Testimony of Secretary of Education Arne Duncan**

Chairman Harkin, Ranking Member Alexander, and Members of the Committee. Thank you for inviting me here today to testify on the flexibility that the Department of Education has provided under the Elementary and Secondary Education Act of 1965 (ESEA) to empower States, districts, and schools to move forward with reforms that benefit all students. I say that we have provided flexibility under the law to States, which is true, but the guiding principle of ESEA flexibility is that it is for students.

We have worked closely with States to ensure that every State that receives flexibility from the No Child Left Behind Act (NCLB) demonstrates its commitment and ability to improve educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction. However, this is not a change from one federally mandated, top-down system to another. Congress set the standard for flexibility in the law, and each State that has received flexibility met that standard in its own way. Each State's plan addresses the unique strengths, challenges, and needs of its districts, schools, principals, teachers, and students.

No Child Left Behind was a landmark Act. Eleven years ago, Congress, with strong bipartisan support in the Senate and the House, rightly said that our schools needed to focus on all students; that for America to continue to succeed, all of our children had to succeed. That is why NCLB sought to hold every State, district, and school accountable for 100 percent of students being proficient in reading and math by the end of the 2013-2014 school year.

NCLB's goals were the right ones – holding all students to the same, challenging standards; closing achievement gaps; and providing transparency and accountability for the proficiency and graduation rates of all students. But, the closer we have gotten to 2014, the more NCLB has changed from an instrument of reform into a barrier to reform. And, the kids who have lost the most from that change are those who benefitted the most in the early years of NCLB – students with disabilities, low-income and minority students, and English learners.

Because, in practice, NCLB unintentionally encouraged States to lower their standards so that more students would appear to be proficient, even though they weren't – and many States did. NCLB also labeled every school that missed a single target as failing, including some that were making progress in educating disadvantaged students and closing achievement gaps. It mandated one-size-fits-all interventions, regardless of a school's needs, preventing critical resources from being targeted where they could do the most good for kids. The exclusive focus on tests, and disregard for other important measures of success, forced teachers to teach to the test. And, subjects such as history and the arts were pushed out.

That is why, in March 2010, the President released his *ESEA Reauthorization: A Blueprint for Reform*, and called on Congress to complete a strong, bipartisan reauthorization that served the interests of all of our children. He convened Chairman Harkin, Senator Alexander, Senator Enzi,

and other Congressional leaders at the White House to develop a plan for reauthorization. Our Administration greatly appreciates the effort that this Committee has put forth to reauthorize the law, but as you know, that has yet to happen.

So, after more than a year of working with Congress, in August 2011 – four years after ESEA was due to be reauthorized – the President directed me to develop a plan to provide states relief from some of No Child Left Behind’s outdated and burdensome provisions, in exchange for new commitments to reforms to help prepare America’s students to graduate from high school prepared for college and a career – higher standards that reflect college and career-readiness; effective accountability systems that hold schools accountable for the performance of all students and all subgroups; and ensuring that every child has a great teacher and great principal. The following month, he stood with Democrats, Republicans, and Independents, including Chairman Harkin, Governor Haslam of Tennessee, and Governor Chafee of Rhode Island, to announce the details of that package. And in February 2012, our Administration approved the first 11 states that would receive new flexibility under the No Child Left Behind Act.

This flexibility represents a new Federal-state partnership forged by our Administration, using the authority provided by the law to empower States and school districts to decide how best to meet those commitments, and supporting those efforts. Because what has become clear from the past decade of NCLB is that the goals are important, but they are only the beginning, not the end. What is most important is to create the conditions and provide States, districts, schools, principals and teachers with the tools for reforms to grow. Congress recognized that principle of continuous improvement when it provided for flexibility in NCLB but limited it to waivers that would increase the quality of instruction and improve academic achievement for students. And we have maintained that high bar, because, as Congress recognized, flexibility for flexibility’s sake does nothing for students, their families, or our country.

Almost exactly one year ago, the President announced the first group of States to receive ESEA flexibility. Today, 34 States and the District of Columbia have received flexibility - of these, 20 are led by Republicans, 14 by Democrats, and one by an Independent. Nine States, Puerto Rico and the Bureau of Indian Education have submitted requests that we are currently considering, and we expect additional States to submit requests by February 28.

States are using their flexibility to move forward with reforms that benefit all students. They are implementing more effective accountability systems that include multiple measures of school and student performance – so that when States, districts, and schools think about how best to target supports and interventions, and how to help principals and teachers improve their performance, they are looking at a range of factors that affect students, not just at a single test on a single day.

For example, Colorado has developed a system that emphasizes individual student growth and provides parents and community members with data showing whether students who aren’t meeting standards are on track to meet them within three years, and whether students already achieving at high levels are maintaining that performance. Schools are also being rated based on current achievement, graduation rates, dropout rates, and ACT scores. New York is targeting not just the specific schools where subgroups are struggling, but the districts where subgroup graduation rates or achievement are among the lowest in the State. Schools in these districts, as well as other schools that are not meeting graduation rate or achievement targets, conduct in-depth needs

assessments and develop plans to implement targeted interventions to improve achievement and graduation rates. These kinds of reforms can make a real difference in outcomes for students with disabilities, low-income and minority students, and English learners, in ways that NCLB's one-size-fits-all requirements simply could not.

States are also focused on building capacity at all levels of their education system, for long-term, continuous improvement that benefits students, instead of simply focusing on avoiding federal labels. Many States are creating State-level offices and regional centers that oversee and support low-performing schools and districts. Massachusetts's District and School Assistance Centers help districts assess their needs and plan interventions, and provide opportunities for districts and schools to learn from each other and share what works. Kentucky's Office of District 180 worked with universities to establish Centers for Learning Excellence, which place specialists in schools to work directly with the principal and teachers to help improve instruction.

These are just some examples of what States are doing with ESEA flexibility that hold great promise for our nation's children. I hope that their efforts will inform your work on reauthorization, just as they are informing all of the Department's work on education reform.

In addition to better accountability systems, flexibility is supporting improved teaching and learning across all districts and schools in these States. States are putting in place more rigorous standards, and have developed plans to ensure that all students, including students with disabilities and English learners, have access to those standards. Now, parents and teachers really will know whether their kids are on track to graduate from high school prepared for college and careers.

And, States are implementing improved support and evaluation systems to provide principals and teachers with better information about their practice and targeted professional development to improve that practice. Senator Alexander's home State of Tennessee has been a leader in this work, and is in its second year of implementing a new evaluation system that takes into account multiple measures of teacher practice and student learning and ensures that teachers receive regular feedback to inform their instruction.

Finally, we have established an unprecedented, Department-wide system of monitoring and support for States. Our job is to ensure that States are implementing their plans, and working with them to make sure that they are achieving results for kids and helping them to improve their plans where they are not. Because this isn't simply about compliance – it's about results. And, we are providing technical assistance and facilitating communities of practice among States and educators – because the greatest progress will come from educators solving new challenges and problems together.

As we move forward, we will continue to reach out to States, districts, schools, principals and teachers, parents, students, and others who care about education, to make sure that flexibility is making a difference for students – through higher standards, supports and interventions targeted to students' needs, and improved teaching and learning. We will work with States, districts, and schools to support educators as they continue to work to improve their efforts, so that all students graduate from high school ready for college and careers. America's children and families deserve nothing less, and I look forward to continuing to work with this Committee toward that goal.

Thank you, and I am happy to answer any questions that you have.