



Christie Administration Seeks Public Input on NCLB Waiver Centered on Increasing Flexibility and Strengthening Accountability

Waiver would provide flexibility to the increasing number of schools not making Adequate Yearly Progress (AYP) and focus on turning around State's lowest-performing schools

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Trenton, NJ – The Department of Education today released a draft outline of its waiver application to the US Department of Education for relief from certain provisions of No Child Left Behind (NCLB). The Department is soliciting comment from educators and the general public on the outline through its website through Wednesday, November 9. This comprehensive waiver would allow the Department to develop a new accountability system to replace the provisions of NCLB, centered on providing support and intervention to the State's lowest-performing schools and those with the largest in-school gaps between subgroups of students.

As part of the waiver application, the Department of Education will present a plan to act on four principles, as required in the US Department's application. Those principles include 1) College and career ready expectations for all students; 2) State-developed differentiated recognition, accountability, and support; 3) Supporting effective instruction and leadership; and 4) Reducing regulatory and data collection burden on districts.

"NCLB remains an important piece of legislation because it put a renewed focus on student achievement and accountability in K-12 education and highlighted the needs of typically underperforming student populations. However, the law suffers from some significant flaws, including its failure to give credit for progress and its one-size-fits-all approach to labeling schools as failing," said Acting Commissioner Chris Cerf. "Through our waiver application, we are developing a new accountability system that allows for differentiated supports and interventions of the schools with the most pervasive and persistent achievement problems. There is no one-size-fits-all approach to school improvement which is why we must focus our resources and most significant interventions on those schools with long standing history of low performance."

Under NCLB, a school is listed as "failing" if it does not make Adequately Yearly Progress (AYP) for two years in a row. To make AYP a school must meet state benchmarks in language arts and math for the total population and all subgroups. Missing the benchmark for any subgroup in any grade span causes a school to fail to make AYP. This year, 1,231 schools, or 55.5% of schools did not make AYP for one or more years. That number is an increase over the previous year, where 1,136 schools, or 51% of schools, did not make AYP. This jump is, in part, a result of an increase in the percentage of students that must be proficient in the 2010-11 school year, with a requirement under the law for 100% of students to be proficient by 2014.

Those schools failing to make AYP for two years in a row are identified under NCLB as a School in Need of Improvement (SINI). Title I SINI schools are subject to a tiered set of sanctions, including setting aside 20% of their Title I funds for Supplemental Educational Services (SES). For the 2010-11 school year, the number of schools designated as SINI increased to 862, or 38.8% of schools. This number is an increase over the previous year, where 656 schools, or 29.4% of schools, were designated as SINI.

In developing a new accountability system, the Department will create three tiers of schools, which will be identified using both growth and absolute proficiency:

- **Priority Schools:** The Department will identify the lowest-performing five percent of Title I schools across the state using proficiency, growth, and graduation rates. Any non-Title I school that would otherwise meet the same criteria will also be designated as a Priority School.
- **Focus Schools:** The Department will identify at least 10 percent of Title I schools as Focus Schools. These schools will be selected from Title I schools that are not categorized as Priority Schools and will be identified based upon achievement gaps between subgroups and low performance or graduation rates among particular subgroups. Any non-Title I school that would otherwise meet the same criteria will also be designated as a Focus School.
- **Reward Schools:** The Department will identify Reward Schools based on high proficiency levels or high levels of growth, including progress toward closing achievement gaps. This will allow for a range of schools from across the state to attain Reward status, regardless of their absolute starting point.

The Department will create customized interventions to turnaround Priority and Focus Schools, based on their individual needs. Among others, these interventions include a focus on improving instruction, using data to drive decision making, and expanding learning time. The Department will also develop financial bonuses for Reward Schools as well as opportunities to share best practices across the state.

In addition, the application also includes support for several pending bills centered on Governor Christie's previously announced reforms that, if passed, would expand the reach and efficacy of the Department's proposed interventions.

- Two pending proposals would modify the State's tenure law, allow for differentiated pay, prohibit the practice of firing the newest – and often best – teachers first during a layoff, and require that a teacher could not be placed in a school without his consent and that of the principal. These reforms are not only consistent with the federal turnaround principles endorsed by the U.S. Department of Education in the ESEA waiver application, but also necessary to strengthen the Department's proposed interventions.
- Proposed legislation around the current charter school law, Urban Hope Act, and Opportunity Scholarship Act will increase the number of high-quality options for students in Priority and Focus Schools.

For schools that do not fall into one of these three categories, the Department will create performance targets and publicly release new and detailed performance reports, but will provide districts flexibility on the supports and interventions to improve student performance.

"Accountability systems do not exist for their own sake, but as part of an overall strategy to advance student learning and ensure that children graduate from high school ready for college and career," said Acting Commissioner Cerf. "The plan we are developing in our waiver application will not only increase accountability for school performance, but also serve as a mechanism to improve student performance. It will do that by more accurately measuring school performance by including growth in addition to absolute performance, and by providing flexibility from overly bureaucratic regulations on how to support school improvement."

To develop this outline, the Department solicited feedback on its website from educators and community members for two weeks in October. The Department also held a series of meetings with educators and the leadership of teachers unions and associations and will hold additional meetings in the coming week to finalize its application.

A copy of the NCLB waiver outline can be found at the link below, along with a form to submit public comment. Comments will be accepted through that website through Wednesday, November 9. The first opportunity to submit an application to the US Department of Education is November 14.

<https://education.state.nj.us/esea2>

A list of schools that did not make AYP can be found below.

<http://www.nj.gov/education/title1/accountability/ayp/1112/>

An overview of the required interventions for SINI schools can be found at the link below.

<http://education.state.nj.us/rc/nclb/ayp.html>