

Tennessee's No Child Left Behind Waiver

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In 2012, Tennessee's application for a waiver from specific requirements of the No Child Left Behind Act was approved by the United States Department of Education (USDOE). The waiver's terms include significant changes to the state's accountability system and to the allocation of Title I funds. This document addresses what the waiver is, why the waiver was created, and how the waiver is being implemented in Tennessee.

What is the ESEA flexibility waiver (also known as the NCLB waiver)?

The USDOE created the Elementary and Secondary Education Act flexibility waiver in 2011 to provide states with an option for obtaining relief from certain requirements of the 2001 No Child Left Behind Act.^A

- The waiver offers states relief from the most prominent requirement contained in the No Child Left Behind Act: that all students, including all designated subgroups, be proficient in grade-level math and reading/language arts by 2014.
- The waiver also modifies how states and districts must address low performing schools and provides School Improvement Grants that must be allocated to schools identified as "priority" and "focus" (see [appendix](#)) under the accountability system created by the waiver.
- The waiver loosens Title I funding regulations, allowing states increased flexibility in transferring funds among certain ESEA programs.^{B, 1}

In exchange for the relief and flexibility granted under the waiver, states must develop plans to improve the academic achievement of all students, close achievement gaps between designated subgroups of students, and increase equity, among other commitments.

A state's waiver application must consider four key principles (see [appendix](#)):

- Establishment of college- and career-ready standards for all students;
- Development and implementation of differentiated recognition, accountability, and support systems;
- Development and implementation of teacher and principal evaluation and support systems; and
- Evaluation and removal of duplicative and burdensome state reporting requirements.

Forty-five states, the District of Columbia, Puerto Rico and the Bureau of Indian Education have submitted requests for ESEA flexibility waivers.

^A For more information on NCLB see the Offices of Research and Education Accountability report, *The Alignment of Tennessee's Education Initiatives: Public Chapter 529, 2011*, March 2012, <http://www.comptroller.tn.gov/>.

^B Schools that fall into one of the new accountability categories created by the waiver – "priority schools" or "focus schools" – may operate school-wide programs under Title I without having 40 percent or more of the student body eligible for free and reduced price lunch. In addition, 21st Century Community Learning Centers programs may use funds to expand learning opportunities during the regular school hours, rather than being limited to before or after school programs. Increased flexibility is allowed for the use of ESEA funds to rural districts. Also, state education agencies may use funds reserved through the waiver to provide financial rewards to high performing Title I schools.

Forty-two states, including Tennessee, the District of Columbia, and Puerto Rico have been approved for waivers.²

Why was the waiver created?

Since the passage of NCLB in 2001 there has been growing concern over several aspects of the law, particularly the requirement that all students attain proficiency by 2014. Thirty-eight percent of schools nationwide failed to meet AYP in 2010, and this percentage was predicted to increase significantly with each passing year.³ In 2011-12, the Tennessee Department of Education (TDOE) estimated that “without a waiver . . . about 80 percent of schools and at least 40 percent of districts would fail AYP.”⁴

NCLB has been due for reauthorization since 2007. Congress has made several attempts to rewrite the law, but has yet to reach a final vote. In lieu of legislative action to reauthorize NCLB, the USDOE announced it would award states waivers providing relief from specific tenets of NCLB in exchange for the adoption of certain education reforms.

What are the conditions of Tennessee’s waiver?

The USDOE waiver application includes four key principles that all state applications must consider:

1. College- and career-ready expectations for all students;
2. State-developed differentiated recognition, accountability, and support;
3. Development and implementation of teacher and principal evaluation and support systems; and
4. Evaluation and removal of duplicative and burdensome state reporting requirements.

The following section describes how Tennessee’s waiver application addresses the first three principles. Final provisions from the USDOE did

The No Child Left Behind (NCLB) Act of 2001 reauthorized the 1965 Elementary and Secondary Education Act (ESEA). The four key principles of NCLB are accountability, flexibility and local control, parental choice, and research-based practices. NCLB also aims to raise academic achievement among all students and close achievement gaps between designated subgroups of students through Adequate Yearly Progress (AYP) (see appendix) requirements. These gaps are addressed primarily through the distribution of federal Title I grants to districts and schools with disadvantaged students.

Sources: National Education Association, *No Child Left Behind Act (NCLB) ESEA*, <http://www.nea.org/> (accessed October 2, 2013).
Education Week, Research Center, *No Child Left Behind*, <http://www.edweek.org/> (accessed October 2, 2013).
Education Week, Research Center, *Title I*, <http://www.edweek.org/> (accessed, December 5, 2013).

not require specific language in the waiver application as to how a state would address the fourth principle. Tennessee is committed to this principle although it is not specifically addressed in the waiver application.

ESEA Flexibility Waiver Principle 1: College- and career-ready expectations for all students

Tennessee’s application indicates the state has addressed this principle through past efforts by adopting more rigorous standards through its involvement with the American Diploma Project (see appendix) and by setting higher graduation requirements designed to ensure students graduate from high school equipped to succeed in postsecondary education and the workforce.^C More recent efforts include the adoption of the Common Core State Standards in 2010, and the state’s participation in the Partnership for the

^C In conjunction with the adoption of higher standards through the Tennessee Diploma Project, the tests that comprise the Tennessee Comprehensive Assessment Program (TCAP) (see appendix) were revised accordingly to measure student performance against the new standards.

Assessment of Readiness for College and Careers (PARCC), which is creating new Common Core-aligned assessments that will replace the TCAP tests for reading/language arts and math beginning with the 2014-15 school year.

Other state efforts related to this principle include increasing the number of students taking college-level courses, such as Advanced Placement courses, in high school. Tennessee’s waiver application signals the state’s intent to provide incentives to school districts that work with their local institutions of higher education to increase dual enrollment and dual credit options.

Principle 2: State-developed differentiated recognition, accountability, and support

Tennessee has addressed this waiver principle by redesigning the K-12 accountability system. Under the new system both districts and schools are held responsible for achieving two primary goals:

1. growth for all students, every year, and
2. closing achievement gaps, by ensuring faster growth for those students who are furthest behind.⁵

In place of the AYP requirements of NCLB, which required all districts and schools to meet uniform targets (e.g., all students proficient by 2014), districts and schools now set Annual Measurable Objectives (AMOs) for student achievement and achievement gap closure. TDOE is responsible

for setting statewide AMOs for overall student achievement and for achievement gap closure. Statewide overall achievement targets require the percentage of students whose test scores place them in either the “below basic” or “basic” category to be reduced by half over eight years.^{D,6} Achievement gaps between underperforming subgroups of students and their higher-performing peers must also be decreased by half over eight years.^{E,7} Schools and districts that are the farthest behind will be expected to progress at a faster rate in order to meet these targets. *District-level* AMOs must mirror the statewide AMOs set by TDOE, but *school-level* AMOs may be modified as long as the targets in the aggregate meet or surpass the AMOs set by the state.

TDOE is responsible for holding districts accountable for achieving district-level AMOs, while districts are responsible for identifying and responding to schools that fail to meet school-level AMOs. Districts are placed in one of the following three categories based on AMO performance:

- Exemplary:
 - Included on list of exemplary districts
 - District may plan without TDOE approval

^D Percent of students scoring basic or below basic must be reduced by half by the conclusion of the 2018-19 school year.

^E Achievement gaps between groups of students must be reduced by half by the conclusion of the 2018-19 school year.

Exhibit 1: Tennessee’s Timeline for Common Core State Standards Implementation

	2011-2012	2012-2013	2013-2014
Grades K-2	Math and English Language Arts		
Grades 3-8		Math (partial)	Math (full) and English Language Arts
Grades 9-12			Math and English Language Arts

Source: Tennessee Department of Education, *ESEA Flexibility Request*, Jan. 2012, pp. 18-19, <http://www2.ed.gov/> (accessed Nov. 21, 2013).

- o District is given priority in consideration for any waivers granted by the Commissioner of Education
- o District is given priority in consideration for alternative teacher evaluation models
- Intermediate:
 - o Analysis of results and plans for how to achieve future goals are subject to TDOE approval
- In Need of Improvement:
 - o Included on list of districts in need of improvement
 - o Meeting with TDOE to create plan for meeting goals in coming years⁸
- In Need of Subgroup Improvement:
 - o Included on list of districts in need of subgroup improvement
 - o Meeting with TDOE to create plan for meeting goals in coming years

Schools may also be placed in one of the following three waiver-created categories:^F

- Reward schools: The top five percent of schools based on overall academic performance and the top five percent of schools based on academic growth. Reward schools receive public recognition and are eligible for competitive grants.⁹
- Focus schools: The 10 percent of schools with the largest achievement gaps between groups of students,^{G,10} focus schools are eligible for competitive grants that must be used for efforts aimed at closing achievement gaps (see [appendix](#)).¹¹
- Priority: Priority schools are the bottom five percent of schools based on overall academic performance. Priority schools face one of four interventions:
 1. Placement in the Achievement School District (see [appendix](#))

2. Turnaround in a district-led innovation zone (see [appendix](#))
3. Turnaround through one of the federal School Improvement Grant plans, as approved by the state (see [appendix](#))
4. District-led improvement, subject to intervention by the Achievement School District¹²

Principle 3: Develop and implement teacher and principal evaluation and support systems

In 2011, Tennessee implemented a new evaluation system for teachers and principals: the Tennessee Educator Acceleration Model (TEAM) (see [appendix](#)). Under this model teacher evaluations are based on observations, student growth models,^H and an achievement measure that is agreed upon between the educator and evaluator. The model for principals is based on performance on the Tennessee Instructional Leadership Standards framework, the quality of teacher evaluations they have conducted, school-wide student growth, and an achievement measure agreed upon by the administrator and the district evaluator.

How long is the waiver effective?

Tennessee's waiver application, approved by the USDOE in 2012, will expire following the conclusion of the 2013-14 school year. The USDOE has invited Tennessee, along with some other states, to request a renewal of the waiver, which would extend its provisions through the end of the 2014-15 school year. States seeking a waiver extension must submit a request form outlining the effect of the waiver on the state's

^F Not all schools qualify for one of the categories (see focus and priority schools in [appendix](#)).

^G This category also includes schools with subgroup performance below a five percent proficiency threshold and high schools with graduation rates below 60 percent that have not been identified as priority.

^H This utilizes the Tennessee Value-Added Assessment System (TVAAS) (see [appendix](#)).

educational system and how the state plans to maintain its commitment to the waiver's four key principles. If the ESEA is reauthorized by Congress prior to the end of the 2015-16 school year, waiver states will transition out of waiver status and come under the new ESEA requirements.

Endnotes

- ¹ Wayne Riddle, *Frequently Asked Questions Regarding the Secretary of Education's Waivers of Major ESEA Requirements*, Center on Education Policy, Oct. 2011, p. 3, <http://www.cep-dc.org/> (accessed Oct. 8, 2013).
- ² U.S. Department of Education, Elementary and Secondary Education, "ESEA Flexibility," <http://www2.ed.gov/> (accessed Dec. 3, 2013).
- ³ Education Week, Research Center, *No Child Left Behind*, <http://www.edweek.org/> (accessed Oct. 2, 2013).
- ⁴ Tennessee Department of Education, presentation at Grand Division Meetings, *ESEA Flexibility Waiver Regarding Accountability and Title I Provisions*, 2012, <http://www.tn.gov/> (accessed Oct. 2, 2013).
- ⁵ *Ibid.*
- ⁶ Tennessee Department of Education, *ESEA Flexibility Request*, Jan. 2012, p. 41, <http://www2.ed.gov/> (accessed Nov. 21, 2013).
- ⁷ *Ibid.*
- ⁸ Tennessee Department of Education, presentation at Grand Division Meetings, *ESEA Flexibility Waiver Regarding Accountability and Title I Provisions*, 2012, <http://www.tn.gov/> (accessed Oct. 2, 2013).
- ⁹ Tennessee Department of Education, *ESEA Flexibility Request*, Jan. 2012, p. 38, <http://www2.ed.gov/> (accessed Nov. 21, 2013).
- ¹⁰ *Ibid.*
- ¹¹ *Ibid.*, pp. 37-38.
- ¹² *Ibid.*, p. 37.

Appendix: Definitions

Achievement School District (ASD): The Achievement School District was created by the Tennessee First to the Top Act of 2010 as a method to turn around the state's lowest performing schools. The ASD is an organizational unit within the Tennessee Department of Education that provides oversight for the operation of schools assigned to or authorized by the ASD. The ASD may directly operate these schools or may convert them to charter schools. The goal of the ASD is to move its schools from the bottom five percent to the top 25 percent in student achievement.

Adequate Yearly Progress (AYP): The primary accountability measure included in the No Child Left Behind Act. Each state is required to create its own methods and procedures for measuring AYP. Students are tested annually in reading/language arts and mathematics in grades 3-8. Students must be tested in these subjects at least once in high school. In addition states are required to administer three science assessments during grades 3-12. Test data is separated into several student subgroup categories, including race, ethnicity, poverty level, disability status, and English language proficiency in order to identify achievement gaps between student subgroups. Under AYP all students are required to reach proficiency in math and reading/language arts by the spring of 2014.

American Diploma Project (ADP): An initiative launched in 2001 by Achieve in partnership with the Education Trust and the Thomas B. Fordham Foundation. The ADP is a network of "governors, state education officials, postsecondary leaders and business executives [committed to working] together to improve postsecondary preparation by aligning high school standards, graduation requirements and assessment and accountability systems with the demands for college and careers."^A

Focus and Priority Schools: The ESEA waiver requires states to identify priority and focus schools for accountability purposes. The federal waiver guidelines allow states to award School Improvement Grant (SIG) funds under ESEA section 1003 (g) to any priority school implementing a school turnaround model. SIG funds under ESEA section 1003(a) may be awarded to any priority or focus school.

Focus Schools: At least 10 percent of the Title I schools with the largest achievement gaps in the state are classified as focus schools. A school may be identified as a focus school for the following reasons:

- the school has the largest gaps between the highest-achieving subgroup or subgroups and the lowest-achieving subgroup or subgroups or, at the high school level, has the largest within-school gaps in graduation rates; or
- the school has a subgroup or subgroups with low achievement or, at the high school level, low graduation rates.
- the school is a Title I high school with a graduation rate below 60 percent over a number of years^B that has not been labeled as a priority school.

Tennessee requires school districts to submit a plan of improvement to the Department of Education for each focus school within the district. Focus schools are eligible for competitive federal grants

^A Achieve, *Achieve & The American Diploma Project Network*, April 2012, <http://www.achieve.org/> (accessed December 4, 2013).

^B State education agencies may define "a number of years."

funded through School Improvement Grants, Race to the Top funding, and/or state funds.

Priority Schools: At least five percent of Title I schools that are the lowest performing in the state.

Schools that meet one of the following criteria may be labeled a priority school:

- the school is among the lowest five percent of Title I schools in the state based on test scores for the “all students” group and has not improved these scores over a number of years;^c
- the school is a Title I-participating or Title I-eligible high school with a graduation rate of less than 60 percent over a number of years; or
- the school is a Tier I or Tier II school under the SIG program that is using SIG funds to implement a school intervention model.

Under Tennessee’s NCLB waiver, there are four possible interventions for priority schools:

1. Placement in the Achievement School District
2. Placement in a district-run Innovation Zone
3. Approval to implement a SIG turnaround model or intervention aligned with the SIG turnaround principles without entering the ASD or an iZone
4. Undergo a district-led school improvement planning process, subject to ASD intervention in the absence of improved results.

Tennessee’s waiver states that by 2014-15 the bottom five percent of schools will be served in one of the first three categories.

Innovation Zone (iZone): In 2012, iZones were authorized by Tennessee Public Chapter 962. The law authorizes districts:

- to develop an innovation zone for the purpose of monitoring, overseeing, and improving schools that are designated as priority schools and approved for inclusion in the innovation zone by the Commissioner of Education;
- once approved, to establish an innovation zone office; appoint an office leader with management authority to hire staff for the office as well as appoint a leader for each school placed in the innovation zone; and
- to grant iZone schools maximum autonomy over financial, programmatic, and staffing decisions.

Only districts with multiple priority schools can establish iZones. Metro Nashville Public Schools began its iZone in 2011-12; Memphis City Schools in 2012-13; and Hamilton County in 2013-14.

National Assessment of Educational Progress (NAEP): A set of nationally administered assessments given to a representative sample of students in grades 4, 8, and 12. NAEP-tested subjects include mathematics, reading, science, writing, the arts, civics, economics, geography, and U.S. history. Beginning in 2014, Technology and Engineering Literacy will also be tested. Assessments of mathematics and reading are administered every two years on the national and state level. Long-term trend assessments of math and reading are performed every four years. Assessments of other subjects are administered on a less frequent basis.

^c State education agencies may define “a number of years.”

No Child Left Behind: The four key principles of the 2001 No Child Left Behind Act are accountability, flexibility and local control, parental choice, and research-based practices.

- **Accountability:**
 - Schools and districts that fail to meet AYP for two consecutive years are subject to corrective action and sanctions including:
 - ◆ Public identification that the school is failing,
 - ◆ Required review and revision of the School Improvement Plan,
 - ◆ Required public school choice,
 - ◆ Required budget set-asides for supplemental services (including tutoring, remediation, and other academic interventions to improve student achievement),
 - ◆ Required outside technical assistance,
 - ◆ Replacement or reassignment of staff,
 - ◆ Reorganization of management structure,
 - ◆ Commissioner control of financial and personnel resources, and
 - ◆ State takeover.
- **Flexibility and Local Control:**
 - States and school districts are afforded increased flexibility in how federal funds are utilized.
- **Enhanced Parental Choice:**
 - Parents must be notified when their student's school is identified as failing for two consecutive years. Under these conditions students must be given the option to transfer to another school within the district, including any charter school. Transportation must also be provided by the district. In schools that fail to meet AYP for three consecutive years, additional academic support and programs must be offered to students from low-income families. In addition, NCLB provides funding to encourage the development of charter schools.
- **Research-Based Practices:**
 - States, districts, and schools should utilize programs that have been proven effective through research.

In addition to the four principles, the act also established several goals including:

- All students will, at a minimum, obtain proficiency or better in reading and mathematics by spring of 2014.
- All limited English proficient students will become proficient in English.
- All teachers will be highly qualified by the 2005-06 school year.
- All students will graduate from high school.

Race to the Top (RttT): In February of 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (ARRA). ARRA provided \$4.35 billion to establish a Race to the Top Fund. RttT is a federal competitive grant program that awards funds to states implementing education reforms. Tennessee's RttT reform efforts include:

- higher standards,
- using student data for improved academic instruction,
- effective teachers and principals, and
- turning around persistently low performing schools.

Tennessee was awarded \$501 million in federal RttT funds in 2010 in order to implement education reforms throughout the state. RttT funds were awarded in four-year grant periods. Tennessee's final year of grant funding is 2013-14.

School Improvement Grant (SIG) Turnaround Models: Priority schools must implement one of four SIG turnaround models in order to be eligible to receive federal SIG grants:

Transformation:

- replace the principal, incorporate student growth factors in teacher and principal evaluations, reward school staff who have increased student achievement and high school graduation rates, provide ongoing job-embedded professional development, and implement strategies to recruit and retain effective staff;
- implement comprehensive instructional reforms based on data and research, analyze student data to better differentiate instruction;
- increase learning time and promote family and community engagement; and
- provide operational flexibility and sustain support by allowing the school flexibility to implement comprehensive changes in staffing, calendars, time, budgeting, and other elements to improve student achievement and increase high school graduation rates, ensuring the schools receive ongoing, intensive technical assistance and support.

Turnaround:

- replace the principal and grant the new principal flexibility to make operational changes in staffing, calendars, time budgeting, and other areas;
- require all existing staff to reapply for their jobs and rehire no more than 50 percent of them, recruit and retain new staff with the necessary skills to meet the needs of a turnaround school, and provide ongoing job-embedded professional development;
- adopt a new governance structure, such as reporting to a state or district turnaround office;
- implement comprehensive instructional reforms based on data and research, analyze student data to better differentiate instruction;
- establish schedules that increase learning time; and
- provide social-emotional and community-oriented services and support for students.

Restart: Convert the school to a charter school or reopen it under a charter school operator, charter management organization, or education management organization. The converted or reopened school must enroll any former student who wishes to attend.

Closure: Close the school and enroll former students in other schools within the district with higher achievement scores, which may be charters or new schools for which achievement data is not yet available. The location of these schools should be reasonably close to the closed school.

Tennessee Comprehensive Assessment Program (TCAP):

A set of assessments given to all Tennessee students annually to measure students' skills and progress. The TCAP Achievement Test that is required to be given to students in grades 3-8 measures knowledge and skills in the subjects of reading, language arts, mathematics, science, and social studies. Students in grades 9-12 take TCAP End of Course exams in a number of subjects, including Algebra, English, Chemistry, and U.S. History.

Tennessee Educator Acceleration Model (TEAM): TEAM is a teacher and principal evaluation system that was a key provision of the Tennessee First to the Top Act of 2010, and was designed to improve the instructional practices of teachers and principals.

A teacher's evaluation score is based on three criteria:

- Observations conducted by trained district officials – 50 percent
- Student achievement growth data (TVAAS) – 35 percent – Teachers may choose to have TVAAS data comprise 50 percent of their evaluation.
- Another measure of student achievement, which must be mutually agreeable to the educator and evaluator – 15 percent

Experienced teachers are observed four times annually, while novice teachers are observed six times annually. Educators are rated on a one-through-five scale, from “significantly below expectations” to “significantly above expectations.”

A principal's evaluation score is based on four criteria:

- Performance on the Tennessee Instructional Leadership Standards framework – 35 percent
- Quality of teacher evaluations conducted by the principal – 15 percent
- School-wide student achievement growth data – 35 percent
- Another measure of student achievement, which must be mutually agreeable to the principal and the district evaluator – 15 percent

Principals are evaluated on a one-through-five scale, from “significantly below expectations” to “significantly above expectations.”

Tennessee First to the Top Act 2010: The General Assembly passed the Tennessee First to the Top Act in January 2010. Among the act's provisions are:

- the creation of the Achievement School District, an organizational unit of the Tennessee Department of Education that may take over persistently failing schools,
- allowing TVAAS data and teacher evaluation scores to be factored into tenure decisions,
- creating a new teacher and principal evaluation system, with the requirement that 50 percent of the evaluation criteria be based on student achievement data,
- requiring teachers and principals to be evaluated annually, and
- allowing local school districts to create their own pay schedules for teachers and principals, subject to state approval.

Tennessee Value-Added Assessment System (TVAAS): The Tennessee Value-Added Assessment System measures the academic growth of students from the beginning of the school year to the end of a school year in order to determine the impact school districts, schools, and teachers have on students' academic growth. TVAAS was developed by William L. Sanders, and the use of the measure was enacted in Tennessee statute in 1992 as part of the Education Improvement Act.

Title I: A section of the federal Elementary and Secondary Education Act (NCLB of 2001). Title I provides formula grants to local school districts and schools with high numbers or high percentages of students from low-income families to help all children meet state academic standards.

Sources:

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