

## **States Punch Reset Button With NCLB Waivers**

### **Many revise subgroup goals**

By **Michele McNeil**

Given the flexibility to revise their academic goals under the No Child Left Behind Act, a vast majority of the states that received federal waivers are setting different expectations for different subgroups of students, an *Education Week* analysis shows. That marks a dramatic shift in policy and philosophy from the original law.

The **waivers** issued by the U.S. Department of Education let states abandon the goal of 100 percent proficiency in reading and mathematics for all students and instead hold schools accountable for passing rates that vary by subgroup—as long as those schools make significant gains in closing gaps in achievement.

The leeway to set the new academic goals tacitly acknowledges that the 100 percent goal is unrealistic. But it also means that members of racial and ethnic minorities, English-language learners, and students with disabilities will fail to master college- and career-readiness standards by the end of the 2016-17 school year at greater rates in most waiver states.

Offered the new flexibility, only eight states—Arizona, Colorado, Michigan, Missouri, Nevada, New Mexico, South Carolina, and Oregon—set the same targets for all students, according to the Education Week analysis of the 34 **new state accountability plans**. (Wisconsin has the same goal in 2017 for all students, but sets different targets until then.)

"The big benefit of NCLB was always that the goals were the same for all subgroups and all schools. I'm not sure we are even

beginning to understand what the implications are for what the [federal] department has allowed," said Candace Cortiella, the director of the Advocacy Institute, a Marshall, Va.-based group that works on behalf of students with disabilities. Her group has fought against varying expectations spelled out in her state's waiver plan.

"I think it is sending a bad message," Ms. Cortiella said.

Although virtually all observers agree now that the NCLB law's demand of 100 percent proficiency for all students is unworkable, many also say the message was important—that schools should be able to get all students to achieve at grade level in math and reading within 12 years after the law took effect. Now, the message is different, and seemingly more realistic: Academic goals can vary, even by subgroup, as long as states significantly close achievement gaps.

### **Achievement-Goal Scorecard**

The U.S. Department of Education is allowing states that receive waivers under the No Child Left Behind Act to set different goals for different groups of students so long as they cut the achievement gap in half, at a minimum. Some, but not all, waiver states have taken that flexibility. New goals have some states set for the end of the 2016-17 school year and how they vary by subgroup include:

#### **States setting goals that vary by subgroup for cutting the achievement gap in half:**

**Delaware** Goals include: 74.7 percent proficiency in English-language arts for black students, 70.7 percent of English-learners, and 87.3 percent of white students.

**District of Columbia** Goals include: 94 percent proficiency in math for white students, 77 percent for Hispanic students, and 71 percent for black students.

**Georgia** Goals include: 98 percent proficiency in reading for white students in elementary and middle grades, 94 percent for black students, and 95 percent for Hispanic students.

**Minnesota** Goals include: 82 percent proficiency in 11th grade math for white students, 62 percent for black students, and 66 percent for

Hispanic students.

**Mississippi** Goals include: 90 percent proficiency in reading/language for white students, 85 percent for Hispanic students, and 80 percent for black students.

**New Jersey** Goals include: 93 percent proficiency in math for white students, 78 percent for black students, and 83 percent for Hispanics.

**North Carolina** Goals include: 91 percent proficiency in reading for white students in grades 3-8, 79 percent for low-income students, and 70 percent of students with disabilities.

**Utah** Goals include: 76 percent proficiency in math in grades 3-8 for black students, 91 percent for white students, and 83 percent for low-income students.

**States setting goals that are the same for all students:**

**Nevada** Goals include: 81 percent proficiency in elementary-school reading and 89 percent in elementary-school math.

**Wisconsin** Goals include: 50 percent proficiency in reading and 65 percent in math.

SOURCE: U.S. Department of Education, individual state waiver applications

Among the examples of the new goals:

- In the District of Columbia, by the end of the 2016-17 school year, the goal for reading is 70 percent proficiency among black students and 94 percent among white students.
- In Georgia, the goal for elementary and middle school math is 79 percent proficiency for students with disabilities and 92 percent for the all-student average.
- In New Jersey, the goal for math proficiency for English-learners is 73 percent; for white students, it's 93 percent.

"We never and won't intend this to be the end of the journey. This is what people are supposed to do in five years," said Amy Wilkins, the vice president for government affairs and communications of the Education Trust, a Washington-based group that advocates on behalf of disadvantaged children. Her group, which supports that element of the waivers, studied

schools with the biggest academic gains and determined that expecting schools to cut the achievement gap in half was both realistic and ambitious.

"We want more growth for the kids who are furthest behind," she said.

### **Wave of Flexibility**

President Barack Obama announced plans for the waivers last year as Congress continued to stall in rewriting the Elementary and Secondary Education Act, whose latest version, NCLB, was signed into law by President George W. Bush in January 2002. Now, 33 states and the District of Columbia have won flexibility in meeting parts of the law, and 11 other states have waiver applications pending.

The waivers require states to adopt standards for ensuring students are college- and career-ready, and tie state tests to those standards; adopt differentiated accountability systems that focus on 15 percent of the most troubled schools; and craft guidelines for teacher and principal evaluations that will be based partly on students' academic growth and be used for personnel decisions.

In return, states will no longer have to face the law's deadline, the end of the 2013-14 school year, for bringing all students to proficiency in reading and math; their schools will no longer face sanctions for not making adequate yearly progress, or AYP; and districts will be freer to move around their federal Title I money for disadvantaged students.

States also got to reset their "annual measurable objectives," or AMOs, which previously had to escalate each year until they hit 100 percent at the end of 2013-14 for all students. One of the hallmark pieces of the NCLB accountability system was that all students—including smaller groups of students at risk academically—were expected to achieve grade-level proficiency, and schools were held accountable if they didn't.

"The fact is, many educators didn't take NCLB seriously because

it assumed all children start from the same place and learn at the same rate. That's just not reality," U.S. Secretary of Education Arne Duncan said in a speech at the National Press Club in Washington earlier this month.

"Personally, I am less concerned about performance targets and goals," he said, "than I am about getting results—and at the end of the day, the result that matters most is whether kids are learning and gaps are narrowing."

Under the waivers, states had three options in resetting their annual goals for each subgroup in reading and math: to reduce the achievement gap between subgroups of at-risk students and all students by half within six years; to achieve 100 percent proficiency for all subgroups by 2020; or some "other" state-designed method that was just as rigorous as the first option. Only Arizona set its goal at 100 percent proficiency by 2020, according to the *Education Week* analysis. Eleven states picked the first option, which necessarily requires setting different performance goals for different groups of students. The rest picked the "other" method and designed their own AMOs—most of which also set varying goals among the subgroups.

"Of course it bothers me," President Obama said in an NBC News interview last month when he was asked about whether it was acceptable to set different goals for different groups of students. "One of the good things about No Child Left Behind was to say all kids can learn," Mr. Obama said. "Black, white, Hispanic, doesn't matter. That everybody should be able to achieve at a certain level.

"But the problem that you had was, because it was underresourced," he said, "and because some kids were coming into school, a lot of minority kids were coming into school, already behind, the schools were not going to be meeting these standards, weren't even coming close to meeting these standards."

In Nevada, the state set reading goals that range from 81

percent proficiency in elementary school to 99 percent proficiency in high school. The trajectory for math is similar. And, state education department officials note, the goals are the same for all students.

"We don't have any need to distinguish among the subgroups. They all have got to come up," said James W. Guthrie, the state's superintendent of public instruction. "We have to push up our expectations for all students."

The waivers also changed one other aspect of the AMOs: their role in state accountability systems. The law used AMOs as the main driver that would determine which schools, and students, received interventions. Now, the waivers allow the AMO to take a back seat to states' tailor-made accountability systems.

At least 10 states are using A-F or five-star grading systems, which, for the most part, determine how schools fare.

That's potentially a problem, said Ms. Wilkins of the Education Trust. "You could set really aggressive AMOs, but if they don't determine schools' status or rewards, what impact does that have?" she asked.

### **'Safe Harbor' Provision**

Federal policy experts note that NCLB had a built-in escape hatch from universal goals for all students called "safe harbor." That provision allowed schools to make adequate progress on their goals—even if one or more of their subgroups didn't hit the AMOs—as long as those subgroups showed a certain amount of growth.

One of the biggest problems with the new waiver plans is the messaging, or "optics," said Maria Ferguson, the director of the Center on Education Policy, based at George Washington University in Washington.

"The 100 percent—that just sounded wonderful," she said. "But we saw what came of it. There's that fine line between wonderful and realistic."

Walking that fine line is proving tricky—even for the advocacy

groups that want to see significant improvement among students deemed at risk of academic failure.

"On one hand, there's so much evidence that if we set the same high expectations, that students will meet them or come farther than we think they can," said Lindsay E. Jones, the senior director for policy and advocacy services at the Arlington, Va.-based Council for Exceptional Children. "On the other hand, we were faced with this 100 percent. That doesn't make sense. It led people to play with the numbers."

In Virginia, which saw the biggest uproar so far over new AMOs, civil rights groups protested what they saw as low expectations for racial minorities and students with disabilities, and for what they viewed as an inattention to closing achievement gaps.

"We are deeply concerned when performance standards are not equal across the board," the Virginia State Conference of the NAACP said in a statement once Virginia's AMOs were released in August.

The state is now revising its AMOs so that schools must achieve 73 percent proficiency for all students by 2017.

"AMOs were never meant as aspirational goals for different subgroups," said Charles Pyle, a state education department spokesman.

But there's a bigger problem with the waivers than the message, argues Sandy Kress, a lawyer in Austin, Texas, who as an education aide to President Bush helped craft the NCLB law in 2001. The law's goal was to get students to basic, grade-level proficiency, Mr. Kress said, not to mastery of new college- and career-readiness standards.

"Why, after 12-plus years, can't we expect virtually all of our children to achieve at a basic level?" said Mr. Kress.

Changing the focus to college and career readiness standards lets states off the hook for getting over that grade-level bar, he said.

"You have to walk before you can run. If a student can't perform at the old, lower level, how can we teach them to a higher level?"

Mr. Kress said. "That's why the old goals were good ones."

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