

Meeting the Turnaround Challenge
Strategies, Resources & Tools to transform a framework into practice

Federal and State Funding Flexibility

Targeting federal regulatory and funding flexibilities for schools within a Partnership Zone

Why Flexibility Matters to Schools

Most public schools are funded through a combination of local, state, and federal sources. Each funding stream is often accompanied by a host of regulations on how schools and districts can use the funds. Often such regulations can be highly restrictive, limiting the ability of schools to align their budgets with their instructional programs.

Given the diverse needs of schools and the fact that budget requirements often change from year-to-year, many school districts and states have advocated for greater flexibility in how to use both federal and state funding. Such flexibility allows for schools to align their programmatic needs with their budgets, rather than simply allocating money for compliance purposes. Flexibility in the use of school budgets is also a critical ingredient to the success of Partnership Zones, as it encourages innovative approaches to school turnaround.

This brief provides an overview of some of the ways school districts and states can seek greater funding and regulatory flexibility. Some of the flexibilities discussed below may change with the reauthorization of *No Child Left Behind* and/or new guidance from the U.S. Department of Education.

Federal Flexibility

The *No Child Left Behind Act* (NCLB) provides certain flexibilities for the use of federal funding. Flexibilities that have direct implications for states and districts engaged in school turnaround include:

- State Flexibility Authority
- Local Flexibility Demonstration Program
- Transferability
- Consolidation of Funding and Applications

- Secretarial Waivers

State and Local Flexibility

The State and Local Flexibility Demonstration Act (Section 6131 of NCLB) provides the Secretary of Education with authority to grant up to seven eligible SEAs and eighty eligible LEAs to consolidate and use federal funds in a flexible manner. No SEA has ever been approved under this program, and only one LEA (Seattle Public Schools) has been approved. States and districts seeking to create Partnership Zones might be good candidates to apply for such flexibilities.

To be eligible, an SEA must submit an application and propose performance agreements with not fewer than four and not more than ten LEAs, not fewer than half of which must be high-poverty LEAs. The application must include a five-year plan indicating how the SEA intends to consolidate and use funds, included in the scope of the grant of authority, in order to advance the educational priorities of the State. The State must also develop performance agreements with LEAs containing plans for the LEA to consolidate and use funds aligned with the SEA's five-year plan.

Under a grant of flexibility authority, an SEA may consolidate the following funds for any educational purpose authorized under NCLB:

- Section 1004 (State Title I administration)
- Paragraphs 4 and 5 of section 1202(d) (State administration and technical assistance for Reading First)
- Section 2113(a)(3) (State activities related to the Teacher and Principal Training and Recruiting Fund)
- Section 2412(a)(1) (State activities for State and Local Technology Grants)
- Subsections (a) (with agreement of the Governor), (b)(2), and (c)(1) of section 4112 (Safe and Drug-Free Schools)
- Paragraphs 2 and 3 of Section 4202(c) (State administration and activities for 21st Century Community Learning Centers)
- Section 5112(b) (State programs for Promoting Informed Parental Choice and Innovative Programs).

While NCLB permits significant flexibility, a 2003 study commissioned by the U.S. Department of Education identified three main factors that led to low SEA and LEA participation in state and local flexibility:

1. Competing priorities and organizational capacities to address other aspects of NCLB;
2. No clear benefits in achieving educational goals, weighed against additional costs and responsibilities (e.g., a time-intensive application process, new accounting procedures, and new expenses for administering the program); and
3. Lack of information about the program.ⁱ

In the Partnership Zone model, partner organizations could help provide technical assistance to SEAs and LEAs seeking to apply for State-Flex and Local-Flex provisions.

Transferability

Under the State and Local Transferability Act (Section 6123) of NCLB, SEAs may transfer not more than 50% of the non-administrative State funds allotted to the State for certain NCLB provisions (Title II, Technology grants, Safe and Drug Free Schools), and 21st Century Learning Communities) to its allotment under Title I. LEAs identified for improvement may transfer not more than 30% of the funds allotted to the LEA for certain federal programs (Title II, Technology Grants, Safe and Drug Free Schools, and Informed Parental Choice and Innovative Programs) to its allocation for school or district improvement activities.

Over one-third of districts not participating in transferability cited insufficient information from the state as a reason for not participating. The state education agency appeared to be the most important source of information for districts. In states that were particularly active in providing information, a much higher percentage of districts participated. As part of the state's implementation of a Partnership Zone, it should seek to ensure that all participating districts are using the federal fund transferability provisions as necessary to support the turnaround plan's implementation.

Consolidation of Funding and Applications

In order to make federal funding less restrictive, NCLB allows high-poverty schoolsⁱⁱ to integrate Title I with other funds to support comprehensive school improvement efforts. A school participating in a Title I program is not required to distinguish among funds received from different sources when accounting for their use, and is not required to meet most of the statutory and regulatory requirements of the specific federal programs included in the consolidation. However, the school must ensure that it meets the intent and purposes of the federal programs included in the consolidation so that the needs of the intended beneficiaries are met.ⁱⁱⁱ Consolidated funds must be used to upgrade the educational program of the school, in accordance with a comprehensive strategic plan that includes a number of components that would generally align with a turnaround strategy.^{iv}

Secretarial Waiver

Section 9401 of the Elementary and Secondary Education Act (ESEA), as amended by NCLB, allows the Secretary of Education to waive any statutory or regulatory requirement of NCLB (subject to certain specified exceptions) for an SEA, LEA, or a school in order to increase the quality of instruction and improve the academic achievement of students.^v Waivers may be granted for a period not to exceed four years, and both the waiver recipient and the Secretary must provide reports on the impact of the waiver.^{vi} To date, the U.S. Department of Education

has primarily used the authority set forth in this Section to authorize various pilot programs for a limited number of states, such as: (i) a differentiated accountability pilot program; (ii) the growth model pilot; and (iii) the opportunity for various districts to offer Supplemental Education Services (SES) instead of public school choice in the first year of school improvement.^{vii} Applying for a secretarial waiver might be a good option for states seeking to create Partnership Zones in order to provide the flexibility needs for a successful turnaround policy

State Flexibility

While NCLB provides certain flexibilities for federal funding, what options do districts and states have to create flexibilities for state funding requirements? Some examples of states flexibilities that would support school turnaround include:

- Block grants to individual schools or clusters of schools;
- Waivers from educational regulations; and,
- Consolidating planning and minimizing compliance requirements

Block Grants

To further incentivize voluntary participation in the Partnership Zone, and to provide the maximum possible funding flexibility, the state could provide a turnaround "block grant" for all state funding sources delivered to the district participating in the Zone. Such block grants are similar in nature to the method most states use to allocate funding to charter-schools and are generally based on a per-pupil calculation. The "turnaround block grant" would allocate funding through the state to the participating district or school based upon a per-pupil allocation formula. Minimal reporting or programmatic requirements would apply to the turnaround block grant funds, other than the requirements generally established by the state for the Partnership Zone.

In addition to the "turnaround block grant" approach, the state could also prioritize the district/school for discretionary state grant programs related to turnaround. The state could establish a streamlined application process for Partnership Zone districts, and roll these funds into the turnaround block grant to waive ongoing reporting and programmatic requirements.

Waivers from Educational Regulations

Many states have detailed laws and education codes regulating the operational, fiscal, and instructional activities of public schools. Often such regulations restrict the ability of schools to innovate and provide the dramatic change needed in a turnaround.

Many states already have processes in place for districts who are interested in applying for a waiver from state education codes or regulations. Lead Turnaround Partners might consider

applying for a waiver from multiple codes as part of its role as an advocate on behalf of schools. Strategic Partners could help supply information and template applications to Zone schools.

Another option is for a state to incorporate waiver authority into its approval process for applications to the Partnership Zone, and allow a district or lead turnaround partner to seek waivers throughout the implementation of the turnaround plan.

While waivers could be granted to most of the regulations, states should not grant waivers for issues related to student safety and the protection guaranteed to vulnerable populations of students (special education etc.)

Consolidating Planning and Minimizing Reporting Requirements

Many school districts must currently contend with the creation of multiple and overlapping education plans, as well as a myriad of compliance and reporting documents for each funding stream. Such a focus on compliance and reporting takes away from the focus on instruction and student needs.

To the maximum extent possible, the state should consolidate all federal and state improvement planning processes within the Partnership Zone turnaround plan. Similarly, the Partnership Zone turnaround plan should be the “Single Plan” identifying each school's instructional priorities. The creation of a single plan would necessitate combining those plans required by NCLB with additional state mandated school plans. In addition to the creation of a single plan, the state should seek to consolidate all other reporting requirements and state audit and monitoring procedures into its process for overseeing turnaround implementation.

The following table highlights those states that are currently engaged in processes that grant greater regulatory and funding flexibility to schools.

Notable State Practices for Funding and Regulatory Flexibility

General Waiver Authority

Illinois: In Illinois, school districts may petition the State Board of Education for the waiver or modification of any School Code mandates or administrative rules of the State Board. The application must "demonstrate that the intent of the mandate can be addressed in more effective, efficient, or economical manner or be based upon a specific plan for improved student performance or student achievement" (105 ILCS 5/2-3.25g). The waiver request must be approved by the board at a public hearing, after a public notice is made and notice to the collective bargaining unit and state legislators is provided. Waivers of administrative rules can be approved by the State Board of Education. Waiver of school code mandates must be acted upon by the General Assembly, following a report submitted by the State Board of Education.

Waiver Authority Targeted to Low-Performing Schools

North Carolina: In addition to its mandate for local flexibility, North Carolina has also provided a system to waive state laws, rules, or policies that inhibit the ability of a school in improvement status to improve student achievement (NC Gen. Stat. § 115C-105.26). Local boards of education are permitted to apply for waivers of any law, policy, or rule except those that the statute identifies as protected.

Missouri: For a limited number of schools participating in a "new schools pilot project," the "state board of education shall waive, for participating schools, such rules and regulations as it may determine" (§ 162.1010 R.S.Mo).

Consolidation of Improvement Planning and Reporting Requirements

Louisiana Recovery District: As part of the process of inclusion in the Louisiana Recovery District, all school-related plans are integrated into the "single school plan" guiding the school's operations and instructional activities.

Illinois: The State Board has consolidated multiple planning requirements across divisions to align and focus school, district, and SEA improvement efforts.

Fund Flexibility

Wisconsin: The Wisconsin Department of Education has realigned its system for awarding grants and providing services to prioritize low-performing schools. The Department's process allows schools in need of improvement to receive grants and services prior to other schools.

Education in the United States has, over time, evolved into a complex process involving multiple levels of government, each with its own funding streams and accompanying regulations. Often the funding sources are restrictive, providing schools with little ability to allocate dollars according to their students' needs.

In order to create the conditions necessary for school turnaround, districts, states, and Lead Turnaround Partners (LTPs), and Strategic Partners should work together to take advantage of flexibilities available from the federal government. States and LTPs can help bridge the communication gap with districts about NCLB flexibilities. At the same time, states can create internal flexibilities for districts by providing funding in block grants, consolidating reporting requirements, and waiving certain provisions of the state education codes.

Such flexibility will allow districts, LTPs, and school-site staff to focus less energy on compliance and reporting requirements and more on providing excellent instructional programs and supports to students. Greater funding flexibility will also allow schools more room for innovation and reform.

For More Information on School Turnaround Strategies

- This document is part of a Research & Development process led by Mass Insight and various partners.
- This series of tools, strategies and reports was developed from a year of research & development on school turnaround strategies. The goal of this R&D effort was to figure out how to “operationalize” the framework from the 2007 report, *The Turnaround Challenge*.
- The resulting series of documents from this R&D work includes:
 - Executive Summary
 - Report I: Partnership Zones: Using school turnaround as the entry point for real reform – and reinventing the district model in the process
 - Report II: A New Partnership Paradigm for Public Education
 - Compilation of dozens of other tools, templates and resources to help implement a turnaround strategy
- The Research & Development resources were generously funded by the Bill & Melinda Gates Foundation.

For more information on *The Turnaround Challenge*, please visit our website at www.massinsight.org or contact us at turnaround@massinsight.org.

Turnaround is a dramatic and comprehensive intervention in a low-performing school that a) produces significant gains in achievement within two years; and b) readies the school for the longer process of transformation into a high-performing organization. Successful turnaround requires strong partnerships and flexible operating conditions, and is best conducted across small clusters of schools in ways that can lead to whole-district redesign.

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ⁱ *Id.* at 8-9.

ⁱⁱ To be eligible, a school must serve an eligible school attendance area in which not less than 40% of the children are from low-income families, or not less than 40 percent of the children enrolled in the school are from such families. 20 USC 6314(a)(1).

ⁱⁱⁱ U.S. Department of Education Non-Regulatory Guidance, *Title I Fiscal Issues: Maintenance of Effort, Comparability, Supplement, not Supplant, Carryover, Consolidating Funds in Schoolwide Programs, Grantback Requirements*, February 2008, Question E-1, p. 50.

^{iv} 20 USC 6314(b). For example, the strategies for upgrading a school's educational program must include instructional strategies based on scientifically based research that strengthen the core academic program, increase the amount and quality of learning time, and address the needs of the lowest-achieving children as well as strategies to attract and retain highly qualified teachers, to provide professional development, and to increase parental involvement. See U.S. Department of Education Non-Regulatory Guidance, *supra* note 6, Question E-5, p. 57.

^v 20 USC 7861.

^{vi} *Id.*

^{vii} Federal Register: April 8, 2008 (Volume 73, Number 68), Page 19056-19058. Of the 35 waivers approved by the U.S. Department of Education in calendar year 2007, thirteen waived administrative cost limitations that apply to the Indian Education Formula Grant Program, eight involved flexibility relating to supplemental educational services, four related to Hurricanes Katrina and Rita, and four related to growth model pilots. In one instance in 2007, the U.S. Department of Education used its waiver authority to permit a school district in corrective action to continue to transfer up to 30% of certain federal funds to support its high school dropout prevention program.