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## Obama's NCLB waivers promise more Washington interference in education

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President Obama announced on Friday that states will be granted waivers from certain provisions of the No Child Left Behind Act (NCLB) in exchange for adherence to Administration-preferred education policies, including ones that move toward a federally-approved curriculum.

Waivers are permitted under NCLB. Waivers with strings -- in the form of federal government stipulations -- are not authorized, according to at least one U.S. Senator and others.

NCLB expanded the federal government's role in public education. The NCLB Act was signed into law by President Bush in 2001 and was co-authored by Sen. Edward Kennedy, Rep. John Boehner, and others.

In a [study](#) conducted in 2007 regarding the effectiveness of NCLB, Cato Institute found that NCLB was ineffective and otherwise flawed, a view that is now widely held. Cato concluded that NCLB "oversteps the federal government's constitutional limits -- treading on a responsibility that, by law and tradition, is reserved to the states and the people." In Cato [blog post](#), Neal McCluskey argues that the Administration's conditional waivers initiative ups the unconstitutional ante and results in the president "rewriting the law all by himself."

Sen. Marco Rubio (R-FL) has constitutional issues with the conditional waivers too. In a [letter](#) to Education Secretary Arne Duncan, the senator asserts that "the Executive branch does not possess the authority to force states into compliance with administration-backed reforms instituted through the issuance of waivers" and that "nowhere does the law authorize waivers in exchange for the adoption of administration-preferred policies." Waivers-with-strings represent "an overstep of authority that undermines existing law, and violates the constitutional separation of powers."

Lindsey Burke, a senior education policy analyst at the Heritage Foundation, writes at [National Review](#) that any regulatory relief states realize in the near term via conditional waivers will be more than offset later "by the increase in Washington's authority over state and local education decisions, and the subsequent red tape that's sure to follow." The waivers, she says, "lay the groundwork for the federal government becoming involved in the content taught in local schools." Burke cited recent [testimony](#) by Professor Jay P. Greene before a House subcommittee regarding the "dangers of the national-standards push":

[A] centralized approach is mistaken. The best way to produce high academic standards and better student learning is by decentralizing the process of determining standards, curriculum, and assessments. When we have choice and competition among different sets of standards, curricula, and assessments, they tend to improve in quality to better suit student needs and result in better outcomes.

The use of NCLB waivers, with conditions to push preferred educational policies onto states, is the latest example of this Administration's circumvention of the legislative process by executive fiat. To quote a [Washington Times](#) editorial of earlier this month:

Mr. Obama has a profound resistance to the Constitution's separation of powers, whereby the legislature is the lawmaking body and the executive branch implements the laws passed on the other side of Pennsylvania Ave. He's overstepped his bounds on numerous issues already, ignoring the law to further his liberal agenda through federal agencies.

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