

DISTRICT FLEXIBILITY IN PRACTICE: THE USES AND LIMITS OF CHARTER SYSTEM AND SWSS FLEXIBILITY

**A Presentation to
SELDA: Special Education Leadership Development Academy
July 20, 2016**

District Flexibility Options



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- June 30, 2015 was the deadline for each local school system to notify GaDOE that it would operate as an:
 - 1. Strategic Waivers School System (was IE²)**
 - 2. Charter System**
 - 3. Title 20/No Waivers School System (was Status Quo)**

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School System Flexibility Choices



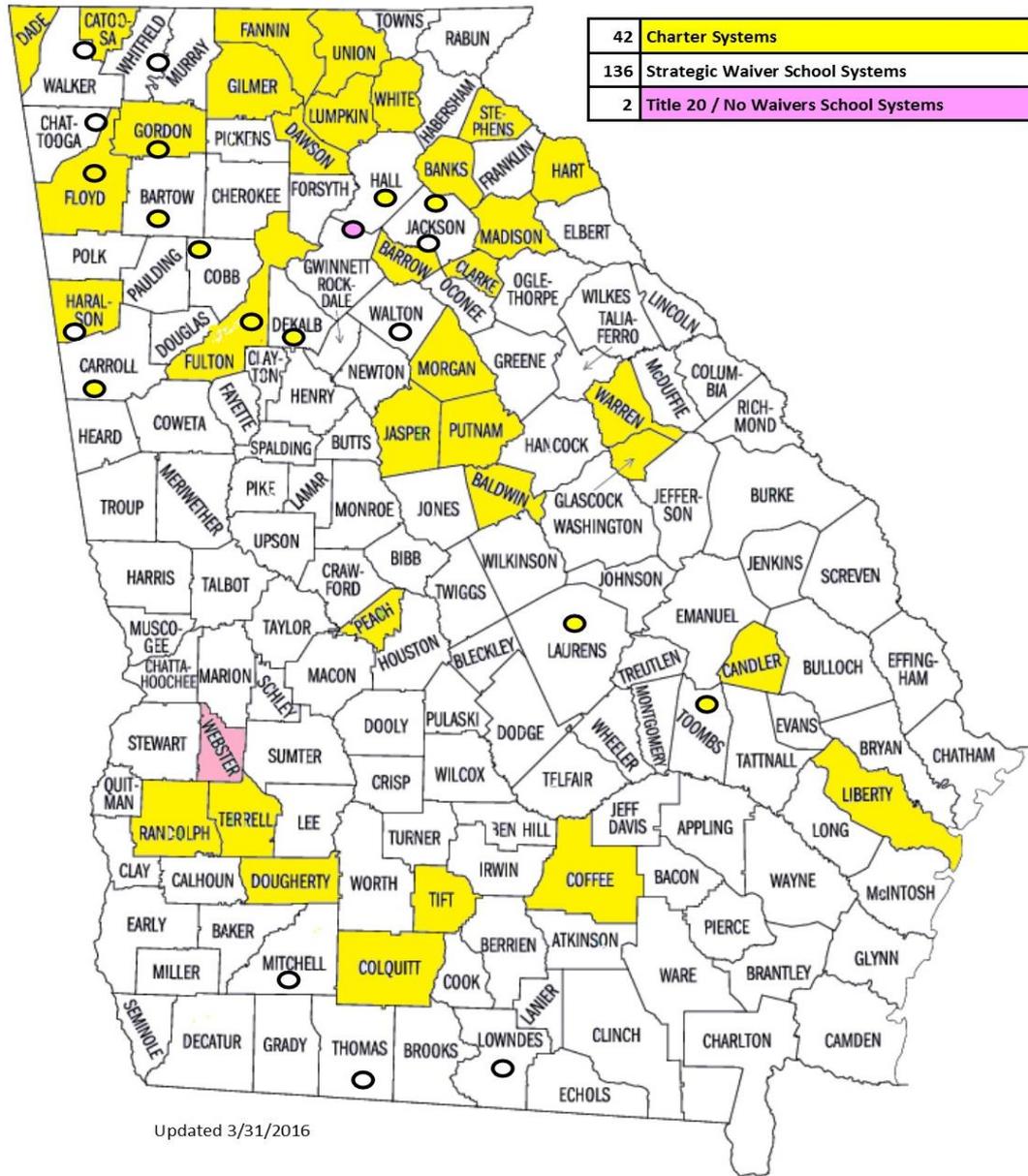
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School System Flexibility Choices		
Approved Charter Systems	40	42
Charter System Applicants	2	
Approved Strategic Waivers School Systems	136	136
Title 20/No Waivers School Systems		2
Total		180

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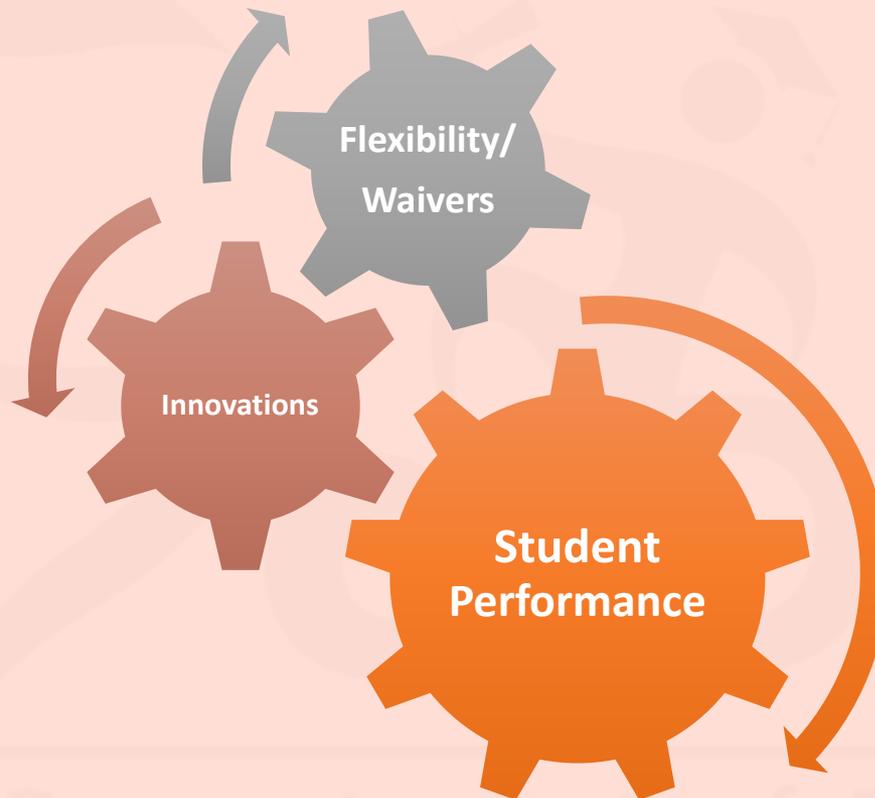


Updated 3/31/2016

Using flexibility to improve student achievement



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What is the basic flexibility bargain?



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ACCOUNTABILITY

AUTONOMY

Higher Academic Expectations
Students out-perform current level

Flexibility to Innovate
Waivers from state laws, rules, guidelines

CCRPI and Beating the Odds performance measures

Freedom from state controls

School districts and schools

Waivers and Innovation



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- Charter Systems and SWSS districts can INNOVATE without approval from the state because they can ignore the waived portions of Georgia Education Law (Title 20), State Board Rule, and GaDOE Guidelines

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Performance Contracts



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- SWSS and Charter System contracts are performance contracts
- Performance contracts have three main parts:
 1. *Academic and other targets* to which the School District is committed
 2. *Waivers* granted by the SBOE to the School District (e.g., class size, expenditure control, certification, and salary schedule requirements)
 3. *Consequences* of failure to perform
- Charter system contracts also include:
 - A list of *innovations* that the School District will implement to enable it to meet its higher academic targets
 - An agreement on the decision-making authority granted to Local School Governance Teams

What is an SWSS district?



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Definition

- A local district that has a performance contract with the SBOE (State Board of Education) granting the district freedom from specific Title 20 provisions, SBOE rules, and GaDOE (Georgia Department of Education) guidelines

Facts & Features

- Contract is between the district and the SBOE
- GOSA (Governor's Office of Student Achievement) role is target setting and performance monitoring
- District gains flexibility to innovate in exchange for increased academic accountability

Relative Advantages/ Disadvantages

- Flexibility to innovate (specific waivers)
- Financial savings possible from waivers
- Loss of governance over schools that fail to meet performance targets after five years

Federal/State Compliance

- Must comply with all federal laws and regulations
- Must comply with all state laws, rules and regulations not waived by the SWSS contract



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What waivers have been granted to SWSS districts?

Academic Program Flexibility Granted

Educational Programs

Organization of Schools; Middle School Programs; Schedule

Competencies and Core Curriculum, Online Learning

Promotion & Retention

Graduation Requirements for the purpose of substitution of equivalent or higher level requirements which will assist students in acquiring the knowledge and skills necessary to be successful as they continue their education at the postsecondary level and/or enter the workforce

Health & Physical Education Program except as prohibited by O.C.G.A. §20-2-82(e)

School Attendance, Compulsory Attendance as it relates to the attendance protocol

Educational Program for Gifted Students

Awarding Credit for the purpose of substitution of equivalent or higher level requirements which will assist students in acquiring the knowledge and skills necessary to be successful as they continue their education at the postsecondary level and/or enter the workforce

Statewide Passing Score

Public School Choice

School Councils

Instruction in social graces and etiquette may be waived

What waivers have been granted to SWSS districts?



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Human Resources Flexibility Granted

Class-size and Reporting requirements

Personnel Required

Employment, Conditions of Employment as it relates to Duty Free Lunch

Salary Schedule Requirements

Certification Requirements

School Day and Year for Students and Employees

Instructional Extension

Use of Guidance Counselor

Media Programs

Fair Dismissal Act

Professional Learning

Multi-year Contracts

School Bus Drivers

Substitute Teachers requirements (to the extent it allows for the employment of teachers certified by another state)



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What waivers have been granted to SWSS districts?

Financial Flexibility Granted

Direct Classroom Expenditure Control

Scheduling for Instruction/Program Enrollment & Appropriations (except to the extent it relates to funding)

QBE Financing except to the extent it relates to funding

Categorical Allotment requirements, Article 6 of Chapter 2 of Title 20

Common Minimum Facility Requirements to the extent that square footage requirements are not waived in situations where the health and safety of students is jeopardized and only after consultation with Georgia Department of Education Director of Facilities Services, and to the extent that the waiver does not affect state capital outlay funding determinations

State Funded K-8 Subjects and 9-12 Course for Students Entering 9th Grade in 2008 and Subsequent Years (except as it relates to funding)

What is NOT waivable?



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O.C.G.A. §20-2-82(e)

- The state board shall not be authorized to waive or approve variances on any federal, state, and local rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection of the physical health and safety of school students, employees, and visitors; conflicting interest transactions; the prevention of unlawful conduct; any laws relating to unlawful conduct in or near a public school; any reporting requirements pursuant to Code Section 20-2-320 (*Comprehensive educational information network*) or Chapter 14 of this title (*GOSA*); the requirements of Code Section 20-2-210 (*annual performance evaluation*); the requirements of Code Section 20-2-211.1 (*Clearance Checks by PSC*); or the requirements in subsection (c) of Code Section 20-2-327 (*Individual graduation plans*).

What is a Charter System?



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Definition

- A local district that has an executed charter from the SBOE granting it freedom from almost all of Title 20, SBOE rules, and GaDOE guidelines

Facts & Features

- Charter is a contract between district and SBOE
- District gains flexibility to innovate in exchange for increased academic accountability
- Distributed leadership process

Relative Advantages/ Disadvantages

- Flexibility to innovate (broad waivers)
- Financial savings possible from waivers
- Additional per-pupil funding in QBE if appropriated
- School level governance required

Federal/State Compliance

- Must comply with all federal laws and regulations
- Must comply with all state laws, rules and regulations that cannot be waived (e.g., health and safety)

What does a Charter System contract waive?



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A charter system contract waives everything in Title 20 and related SBOE rules and guidance that is not “nonwaivable”

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What does your Charter System contract waive?



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Academic Program Flexibility Examples

- Graduation Requirements for the purpose of substitution of equivalent or higher level requirements which will assist students in acquiring the knowledge and skills necessary to be successful as they continue their education at the postsecondary level and/or enter the workforce (SBOE Rule 160-4-2-.48, 160-4-2-.47)
- Middle School Program Criteria (O.C.G.A. § 20-2-290)
- General and Career Education Programs (O.C.G.A § 20-2-151)
- Early Intervention Program (O.C.G.A § 20-2-153)
- Remedial Education Program (O.C.G.A. § 20-2-154, O.C.G.A. § 20-2-154.1)
- Language Assistance: Program for Limited English Proficient (LEP) Students (O.C.G.A. § 20-2-156)

What does your Charter System contract waive?

Academic Program Flexibility Examples

- Education Program for Gifted Students except to the extent it relates to funding (O.C.G.A. § 20-2-151)
- School Day and School Year for Students and Employees (O.C.G.A. § 20-2-151, O.C.G.A. § 20-2-160(a), O.C.G.A. § 20-2-168(c), SBOE Rules 160-4-2-.16, 160-5-1-.10, 160-5-1-.01, and 160-5-1-.02)
- Comprehensive Health and Physical Education Program except as prohibited by O.C.G.A. § 20-2-82(e) (SBOE Rule 160-4-2-.12)
- Promotion and Retention (O.C.G.A. § 20-2-283)
- Instructional Extension (O.C.G.A. § 20-2-184.1)
- School Attendance, Compulsory Attendance as it relates to the attendance protocol (O.C.G.A. § 20-2-690.2)

What does your Charter System contract waive?



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Human Resources Flexibility Examples

- Class size/Staffing (O.C.G.A. § 20-2-182)
- Certification Requirements (O.C.G.A. § 20-2-200)
- Personnel Required (SBOE Rule 160-5-1-.22)
- Employment/Conditions of Employment (O.C.G.A. § 20-2-218)
- School Day and Year for Students and Employees (O.C.G.A. §20-2-151, §20-2-160(a), §20-2-168(c), SBOE Rule 160-5-1-.02)

What does your Charter System contract waive?



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Finance Flexibility Examples

- Minimum Direct Classroom Expenditures/Expenditure Controls (O.C.G.A. § 20-2-171 and 20-2-168, SBOE Rule 160-5-1-.29)
- Scheduling for Instruction/Program Enrollment & Appropriations (except to the extent it relates to funding) (O.C.G.A. §20-2-160)
- QBE Financing except to the extent it relates to funding (O.C.G.A. § 20-2-161)
- Categorical Allotment Requirements, Article 6 of Chapter 2 of Title 20 (O.C.G.A. § 20-2-167, O.C.G.A. § 20-2-183 to 20-2-186)

What waivers do Charter Systems report using?*



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Waiver	# of Schools using waiver (out of 32)	% of Schools
Alternative/Non-Traditional Education Programs (to address seat time requirements in grades 6-12)	29	90.6%
Expenditure controls (expenditure of funds required)	22	68.8%
Early Intervention Program (EIP) delivery requirements	21	65.6%
Certification - Teachers	20	62.5%
65% Rule	19	59.4%
Calendar flexibility	19	59.4%

* In the 2015 Annual Reports

What waivers do Charter Systems report using?



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Waiver	# of Schools using waiver (out of 32)	% of Schools
Personnel required (employee classification)	15	46.9%
Gifted Program delivery requirements	15	46.9%
Remedial Education Program (REP) delivery requirements	15	46.9%
English Language Learning Program (EL) delivery requirements	14	43.8%
Attendance	13	40.6%
Promotion, Placement and Retention as it relates to protocols in the decision making process	13	40.6%
Comprehensive Health and Physical Education as it relates to required minutes of instruction	10	31.3%

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What waivers do Charter Systems report using?



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Waiver	# of Schools using waiver (out of 32)	% of Schools
Certification - Others	7	21.9%
Guidance Counselors	5	15.6%
At-will contracts	4	12.5%
Salary schedule - Rates	4	12.5%
Statewide Passing Score (for districts desiring to issue standards based report cards in grades 4-12)	4	12.5%
Certification - Administrators	2	6.3%
Salary schedule - Bonuses	1	3.1%

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What is NOT waivable?



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- b. Asbestos Remediation. The Charter System and each Charter System School shall comply with the terms of any applicable asbestos remediation plan.
- c. Unlawful Conduct. The Charter System and each Charter System School shall be subject to all laws relating to unlawful conduct in or near a public school.
- d. Student Conduct and Discipline. The Charter System and each Charter System School shall maintain and implement a written policy regarding student discipline, which policy shall be consistent with due process.
- e. State Board Rules. The Charter System and each Charter System School shall operate in accordance with all State Board Rules promulgated in accordance with O.C.G.A. § 20-2-240 during the term herein that are not subject to any waiver granted in Section 7 above.

What is NOT waivable?



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- f. Prohibition on Discrimination. The Charter System and each Charter System School shall not discriminate against students on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, marital status, academic ability, the need for special educational services or any other characteristic protected by local, state or federal law.
- g. Reporting Requirements. The Charter System and each Charter System School shall be subject to all reporting requirements of O.C.G.A. §§ 20-2-160, 20-2-161(e), 20-2-320 and 20-2-740.
- h. Tuition. The Charter System and each Charter System School shall not charge tuition or fees to its students except as may be authorized for local boards pursuant to O.C.G.A. § 20-2-133.
- i. Brief Period of Quiet Reflection. The Charter System and each Charter System School shall comply with O.C.G.A. § 20-2-1050, which requires a brief period of quiet reflection.

What is NOT waivable?



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- j. Individual Graduation Plans. The Charter System and each Charter System School shall comply with O.C.G.A. § 20-2-327 related to Individual Graduation Plans.
- k. Family Educational Rights and Privacy Act. The Charter System and each Charter System School are subject to all provisions of the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g. In the event a Charter System School closes, it shall transmit all official student records in the manner prescribed by the State Board.
- l. QBE Formula Earnings. The Charter System acknowledges that criteria used to calculate Quality Basic Education (QBE) funding may not be waived.
- m. Funding. The Charter System acknowledges that, although becoming a Charter System provides a district maximum flexibility, waivers cannot be used to generate additional funding.



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What is NOT waivable?

- Some laws are not waivable because they are tied to another non-waivable law
- For example, much of O.C.G.A. 20-2-152 is not waivable, because it is tied to the federal requirement to provide a Free and Appropriate Public Education (FAPE) to students with disabilities
- Where waiving a law/regulation would inhibit providing FAPE to a student with a disability, then such a waiver is prohibited

What is Waivable but Not Advisable?



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- REMEMBER: The primary goal of using flexibility is to improve student academic outcomes
- This means that districts must balance the *ability* to do something against the *impact* of doing that thing
- Even though a district or school *can* use a waiver to do something, it may not always make sense *to* use that waiver to do that thing

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Practical Limits of Flexibility



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- For example, the class size waiver could be used to institute a 200-to-1 student-teacher ratio
- However, because student performance would suffer from such a huge class size, the district would fail to meet the academic targets in its SWSS or charter system performance contract
- Thus, there is a natural tension between what can be done and what should be done – and districts must achieve an appropriate balance between the two possibilities

Teacher Certification Waivers



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- Charter Systems and SWSS do not have to hire certified teachers or use the state salary scale
- Charter Systems and SWSS decide for themselves what to pay their teachers
- For example, if the District hires a Ph.D. with 20 years of experience as a rocket scientist to teach a class, the district would place them on the salary schedule at the Ph.D. level with 20 years of experience
- While the district chose to pay their rocket scientist per the salary schedule, they can also pay her more – or pay her less and use the funds she generates on something else

Instructional Delivery Models (Gifted, EIP, EL, Remedial, Alternate)



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- Charter Systems, SWSS, and charter schools have flexibility in terms of the instructional delivery models they can use for their Gifted, Early Intervention, English Language, Remedial, and Alternate education programs – but student eligibility (i.e., how you identify students) is not waivable because of the impact it will have on funding
- Charter Systems, SWSS, and charter schools do not have to use a GaDOE-approved instructional delivery model; they can develop and use an alternate delivery model (without obtaining GaDOE approval)
 - ✓ For example, they can implement a delivery model that utilizes paraprofessionals in order to reduce class sizes, or a model that serves both eligible and non-eligible students (i.e., students not identified as gifted/EIP/EL/remedial)

Instructional Delivery Models (Gifted, EIP, EL, Remedial, Alternate)



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- However, Charter Systems, SWSS, and charter schools cannot generate more FTE (number of segments per students) than they would without this flexibility to use an alternate model
 - ✓ For data collection purposes, they are still required to enter the same information
- Charter Systems, SWSS, and charter schools will only get FTE funding for the number of students and the number of segments in the state models



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