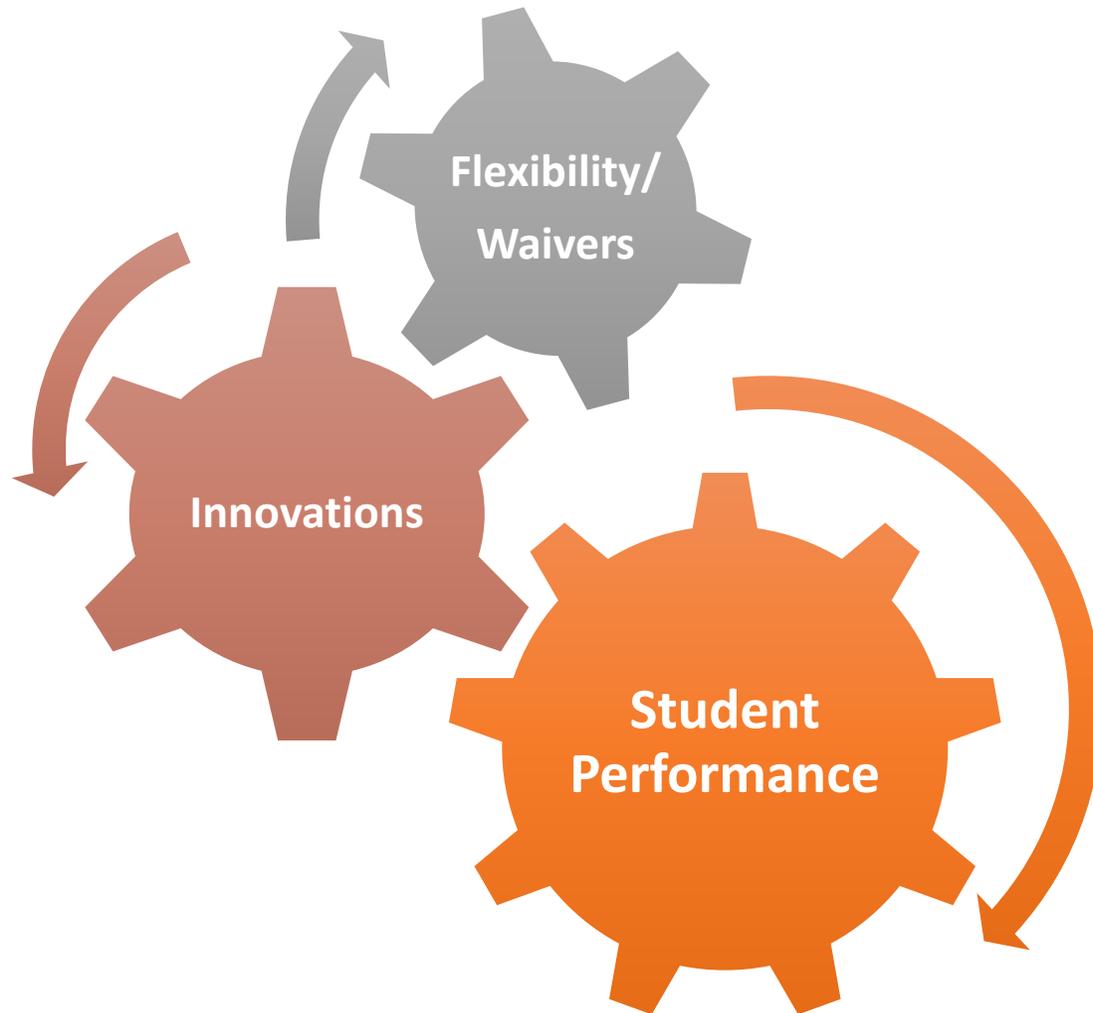


# **DISTRICT FLEXIBILITY IN PRACTICE: THE USES AND LIMITS OF CHARTER SYSTEM AND SWSS FLEXIBILITY**

**A Presentation to SELDA:  
Special Education Leadership Development Academy  
July 11, 2019**

# Flexibility Used to Improve Student Achievement



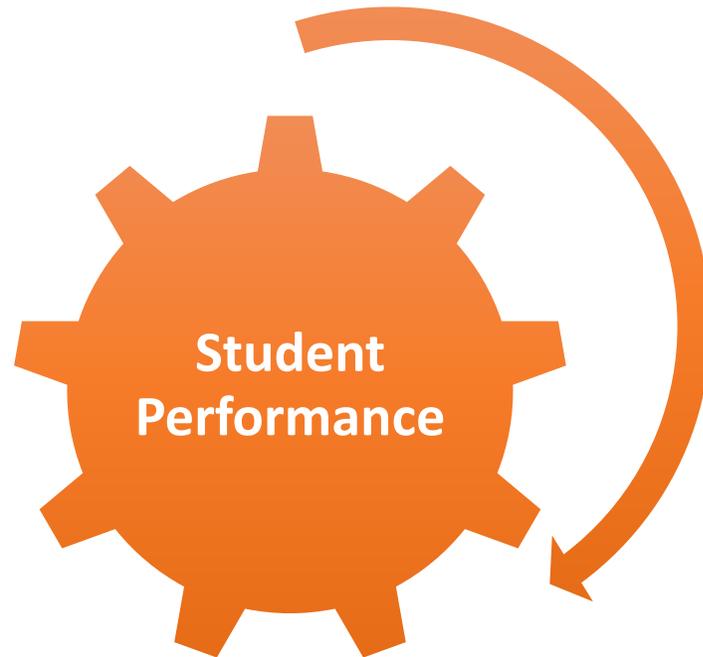
## The Flexibility Bargain

SBOE grants flexibility  
(waivers of state laws  
and rules)

in exchange for

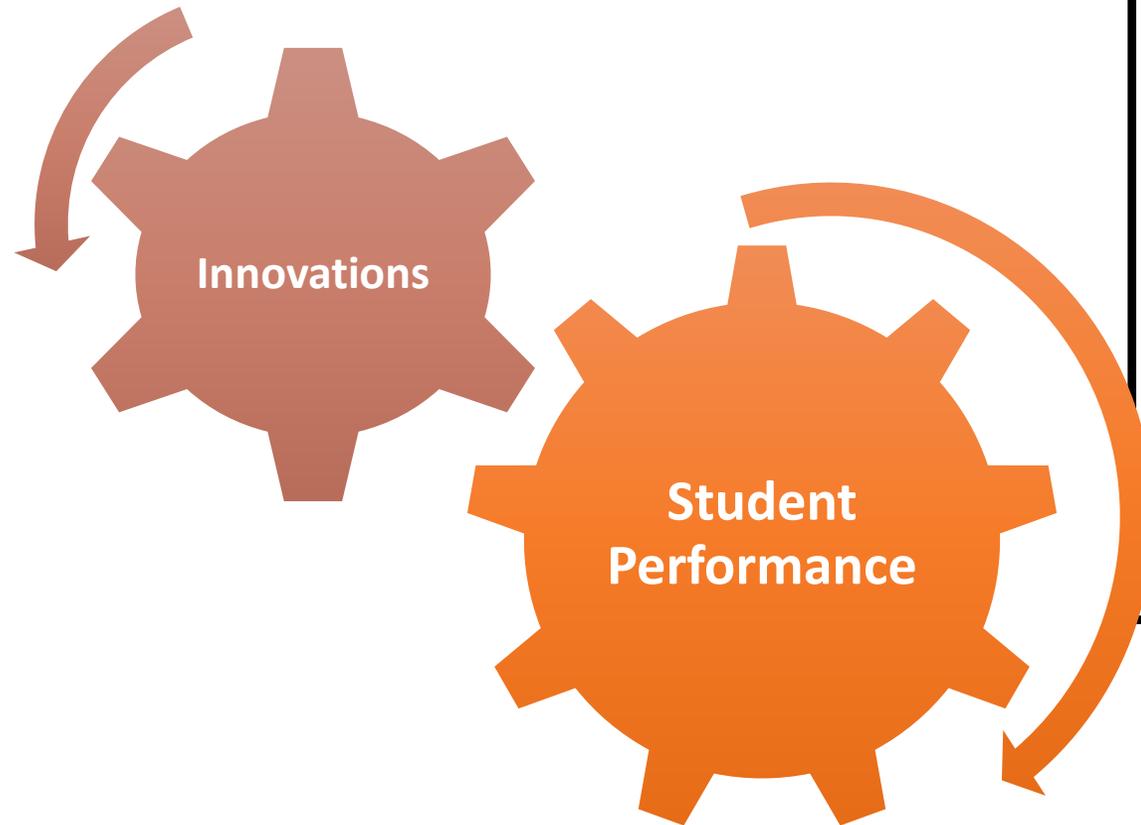
LBOEs committing to  
improved student  
performance

# Improving Outcomes without Innovations or Waivers



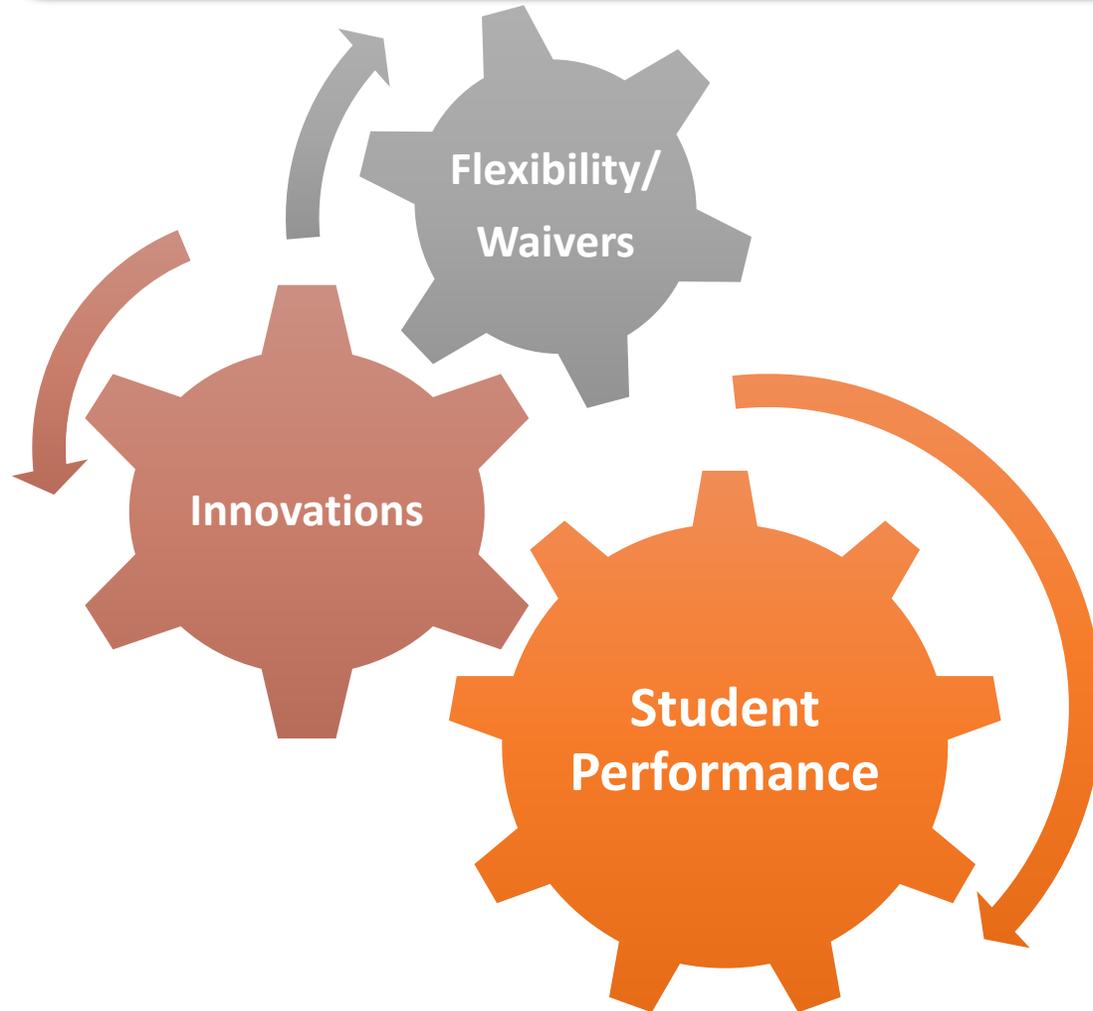
Student performance  
can be improved  
without innovations  
or waivers

# Using Innovations to Improve Student Achievement



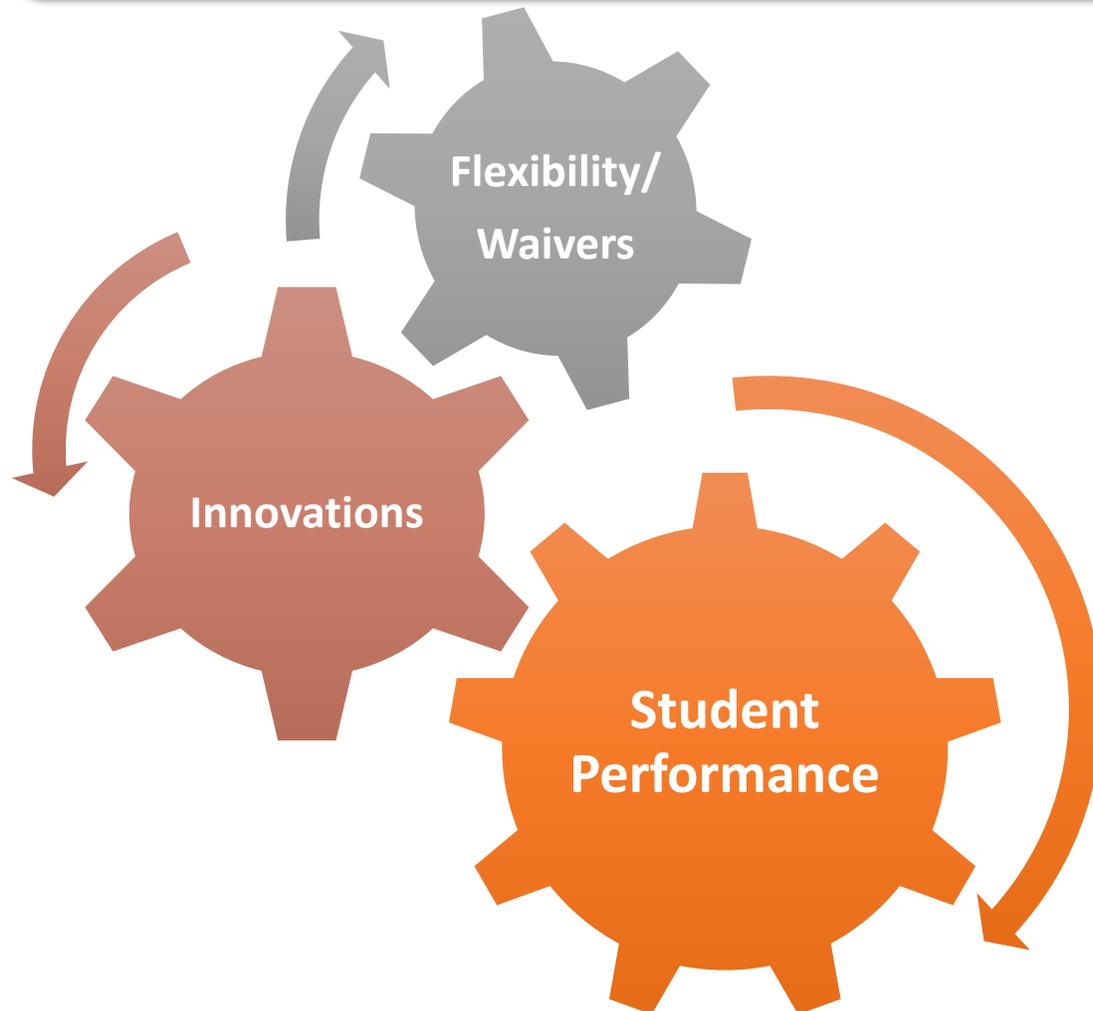
Student performance can also be increased with innovations that **do not require waivers** to implement

# Using Flexibility to Implement Innovations



IN SOME CASES:  
Waivers of state laws  
and/or rules are  
needed to allow a  
school district to  
implement an  
innovation that  
**otherwise wouldn't  
be allowed**

# Using Waivers to Save Money to Pay for Innovations



IN OTHER CASES:  
Waivers of state laws and/or rules are needed to allow a school district to save money so they can implement an innovation (that may or may not require waivers to implement)

# Flexibility Enables Improved Academic Performance

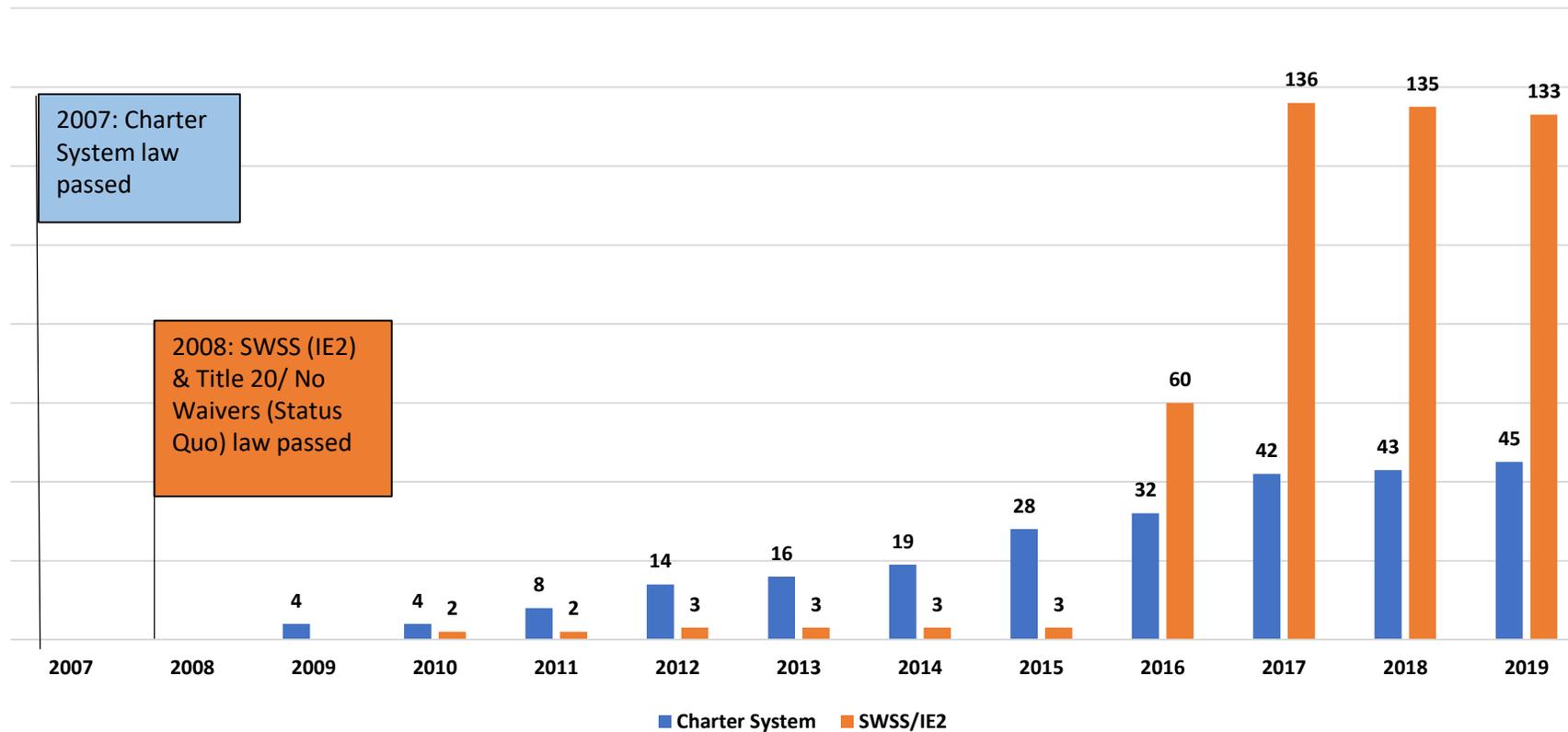
- The Flexibility Bargain frees school districts to implement innovative approaches to improve academic results
  - Districts gain control over how they spend their state funds – which also frees them to improve academic results
- The Flexibility Bargain is enshrined in a *performance contract* between the SBOE and each school district, including:
  - *Performance targets* and other obligations to which the School District is committed
  - *Waivers* granted by the SBOE to the School District

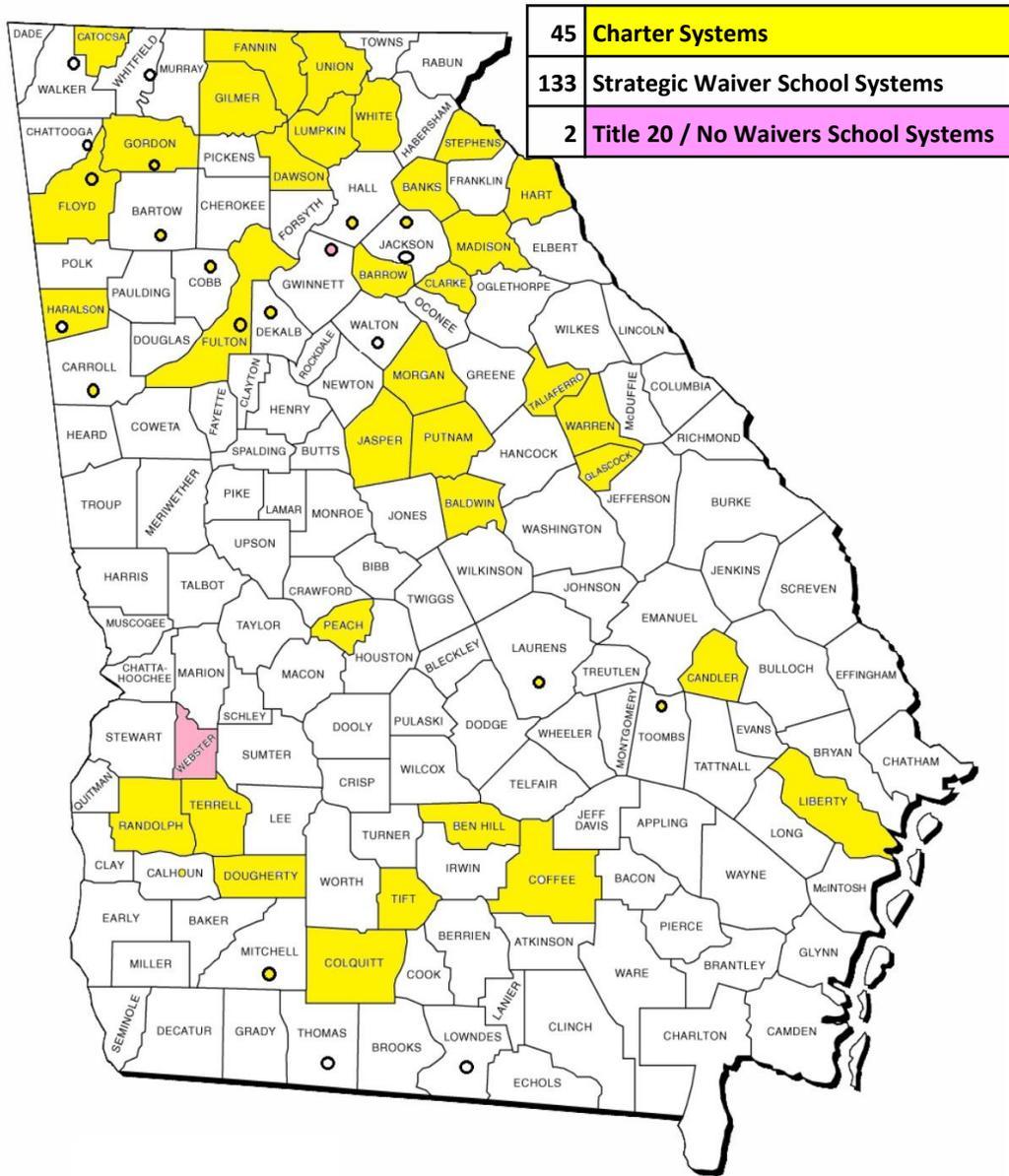
# 178 District Flexibility Performance Contracts Have Been Approved

<b>SCHOOL SYSTEM FLEXIBILITY CHOICES</b>	
<b>Charter Systems</b>	<b>45</b>
<b>Strategic Waivers School Systems (SWSS)</b>	<b>133</b>
<b>Title 20/No Waivers School Systems</b>	<b>2</b>
<b>Total</b>	<b>180</b>

# District Flexibility Timeline 2007 to 2016

District Flexibility Timeline, 2007-2019





**Map Key**

Yellow = Charter System

White = Strategic Waivers School Systems (SWSS)

Pink = Title 20/No Waivers School Systems

# What is an SWSS district?

## 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

# What is a Charter System?

## 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 is Waived?

# SWSS and Waivers

## WAIVERS ARE LISTED IN THE SWSS CONTRACT

- Each waiver requested is tied to improvement of student performance
- Requested waivers must include at least one of the “Big Four” waivers of state class size, expenditure control, certification, or salary schedule requirements

# SWSS Waivers Granted

ACADEMIC PROGRAM FLEXIBILITY
General and career education programs
Driver education courses
Early Intervention program
Remedial education program
Alternative education program
School climate management program
Limited English proficient program
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

# SWSS Waivers Granted

HUMAN RESOURCES FLEXIBILITY
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)

# SWSS Waivers Granted

FINANCIAL FLEXIBILITY
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
Direct Classroom Expenditures & Expenditure Controls - except as prohibited by GA Con. And provided funds are used exclusively for educational purposes
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)

# Charter System and Waivers

## What is waived?

- Charter systems receive a “broad flexibility waiver” – also referred to as a “blanket waiver” – which means that, except for of a small list of items, they can ignore almost all of Title 20 and almost all SBOE rules and GaDOE guidelines

# Most Valuable Waivers as reported by Charter Systems\*

## ACADEMIC PROGRAM FLEXIBILITY

General and career education programs

Early Intervention program

Remedial education program

Alternative education program

Limited English proficient program

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

\* In Charter System Annual Reports submitted in fall 2018

# Most Valuable Waivers as reported by Charter Systems

HUMAN RESOURCES FLEXIBILITY
Class-size and Reporting requirements
Personnel Required
Certification Requirements
School Day and Year for Students and Employees

FINANCIAL FLEXIBILITY
Direct Classroom Expenditure Control
Scheduling for Instruction/Program Enrollment & Appropriations (except to the extent it relates to funding)
Categorical Allotment requirements, Article 6 of Chapter 2 of Title 20
Direct Classroom Expenditures & Expenditure Controls - except as prohibited by GA Con. And provided funds are used exclusively for educational purposes

# What Cannot Be Waived?

# Not Waivable by Charter Systems or SWSS

**NOT WAIVABLE:** Federal, state, and local rules, regulations, court orders, and statutes relating to:

- Civil rights
- Insurance
- Protection of the physical health and safety of school students, employees, and visitors
- Conflicting interest transactions
- Prevention of unlawful conduct
- Unlawful conduct in or near a public school
- QBE
- Assessment and Accountability
- Clearance certificates
- Federal laws and regulations

# Not Waivable by Charter Systems or SWSS

## NOT WAIVABLE: *(continued)*

- Tuition
- Brief Period of Quiet Reflection
- Individual Graduation Plans
- Family Educational Rights and Privacy Act
- Annual Performance Evaluation
- Asbestos Remediation
- Student Conduct and Discipline
  - Written policy consistent with due process
  - Reporting requirements related to student discipline and disciplinary actions

# Not Waivable by Charter Systems

## What is not waivable for Charter Systems only?

- The Charter Schools Act and associated SBOE Rules

# 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?

- 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

# Practical Limits of Flexibility

- 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

- 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

# Teacher Certification Waivers

- Districts are no longer required to identify and document “highly qualified teacher” (HQT) status for teachers
- However, special education teachers must still have a bachelor’s degree and must either be certificated in special education or hold a special education license in Georgia. These requirements cannot be waived.

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

- 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)

- 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

# Additional Information

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