United States Department of Education
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEPTEMBER 17, 2025

Dear Chief State School Officer:

The Trump Department of Education's goal is to improve academic achievement, particularly by strengthening literacy and numeracy instruction, empowering parental decision-making, and returning education to the States. Encouraging innovation among States is a critical step to achieving those objectives.

This letter builds upon our recent guidance highlighting existing flexibilities in the *Elementary and Secondary Education Act of 1965* (ESEA) and the process for a State requesting to waive aspects of the ESEA (*See* https://www.ed.gov/media/document/dear-colleague-letter-esea-flexibility-and-waivers-july-29-2025-110440.pdf) by offering information about the Educational Flexibility Program (Ed-Flex).

Ed-Flex was created through the *Education Flexibility Partnership Act of 1999* (P.L. 106-25), was reauthorized in the *Every Student Succeeds Act of 2015* (ESSA), and is incorporated at 20 U.S.C. 5891b. It is designed to help local educational agencies (LEAs), educational service agencies (ESAs), and schools carry out education reforms and raise the achievement levels of all children by providing increased flexibility in the implementation of Federal education programs in exchange for enhanced accountability for the performance of students.

Any interested State educational agency (SEA) may apply to become an Ed-Flex State. With this flexibility, SEAs can waive select Federal statutory requirements or regulations that apply to districts and schools without first having to submit those waivers to the U.S. Department of Education (Department) for review and approval.

An SEA approved for Ed-Flex authority may waive requirements for programs authorized under the following provisions of the ESEA, as amended, and under which the Secretary of Education provides funds to SEAs on the basis of a formula:

- Title I, Part A (Basic Programs Operated by LEAs, other than section 1111);
- Title I, Part C (Education of Migratory Children);
- Title I, Part D (Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At Risk);
- Title II, Part A (Supporting Effective Instruction); and
- Title IV, Part A (Student Support and Academic Enrichment Grants).

In addition, the Ed-Flex waiver authority applies to the *Carl D. Perkins Career and Technical Education Act of 2006* (P.L. 109-270), as amended by the *Strengthening Career and Technical Education for the 21st Century Act* (P.L. 115-224).

Currently, 11 States have Ed Flex authority[1]. In the 2023-2024 school year, Ed-Flex States reported granting approximately 575 waivers. The most common uses of Ed-Flex authority, as reported by States to the Department, were regarding the Title I, Part A carryover limitation (to allow an LEA to carry over more than 15 percent of Title I funds across fiscal years) and to provide Title IV, Part A funding flexibility (to allow an LEA flexibility regarding the mandatory spending minimums for each of the statutorily required content areas).

Eligibility
States seeking to apply for Ed-Flex authority must generally be in compliance with ESEA section 1111 and commit to holding schools accountable for meeting the education goals in State and Ed-Flex plans. (*See* 20 U.S.C. 5891b(a)(2))

Application
An SEA may apply for Ed-Flex authority at any time. The Department has published an Ed-Flex application (*See* https://www.ed.gov/media/document/ed-flexapplication2023update-pdf-form-110377.pdf) that contains the required statutory provisions. Prior to submitting an application, an SEA must provide the public with adequate notice and opportunity for comment on the proposed waiver authority. Such notice and opportunity to comment must be carried out in compliance with state law and a summary of comments received must be submitted with an application. (*See* 20 U.S.C. 5891b(a)(7))

Ed-Flex authority may be granted for up to five years and the Department may extend such authority if the waiver is found to be effective in improving student performance. (*See* 20 U.S.C. 5891b(a)(6)(A)(iii)) Once an SEA is approved by the Department under Ed-Flex, LEAs may apply to the SEA for a waiver.

An LEA requesting a waiver from the State must submit an application that:

- Indicates each Federal program that would be affected and each statutory or regulatory requirement that would be waived;
- Describes the purposes and overall expected results of waiving each requirement;
- Describes, for each school year, specific, measurable educational goals for each LEA, ESA, or school affected by the proposed waiver, and for the students served by the LEA, ESA, or school who are affected by the waiver;
- Explains why the waiver will assist the LEA, ESA, or school in reaching these goals; and
- In the case of an application from an LEA or ESA, describes how the notice and comment requirements have been met.

[1] Colorado, Delaware, Georgia, Indiana, Kansas Massachusetts, North Carolina, Pennsylvania, Texas, Vermont, and Wisconsin have requested and received Ed-Flex authority.

Restrictions

The Ed-Flex statute does not authorize an SEA to waive any requirements related to:

- Standards, assessments, and accountability requirements under ESEA section 1111;
- Maintenance of effort;
- Comparability of services;
- Equitable participation of students and professional staff in private schools;
- Parental participation and involvement;
- Distribution of funds to States or to LEAs;
- Serving eligible school attendance areas in rank order in accordance with ESEA section 1113(a)(3);
- The selection of a school attendance area or school under subsections (a) and (b) of ESEA section 1113, except that an SEA may grant a waiver to allow a school attendance area or school to participate in activities under Part A of Title I if the percentage of children from low-income families in the school attendance area of such school or who attend such school is not more than 10 percentage points below the lowest percentage of such children for any school attendance area or school of the local educational agency that meets the requirements of such subsections;[2]
- Use of Federal funds to supplement, not supplant, non-Federal funds;
- Applicable civil rights requirements; and
- Any requirements that apply to the SEA.

Furthermore, the Department (and, in turn, the SEAs) cannot waive the requirements of the *Individuals with Disabilities Education Act* (IDEA) under the Ed-Flex authority.

In 2019, the Department released a short set of frequently asked questions to explain Ed-Flex for States (*See* https://www.ed.gov/media/document/ed-flex-frequently-asked-questions-107489.pdf). States seeking further information about Ed-Flex may contact the Department by email at OESE.TitleI-A@ed.gov.

The Trump Administration knows the status quo is not working. The Department stands ready to assist States seeking to empower parents, better serve students, and make education great again in America.

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[2] Section 5891b(c)(1)(G) currently prohibits waivers of the selection of a school attendance area or school under subsections (a) and (b) of section 1113 of the ESEA, except that an SEA may grant a waiver to allow a school attendance area or school to participate in activities under Title I, Part A "if the percentage of children from low-income families in the school attendance area of such school or who attend such school **is not less than** 10 percentage points below the lowest percentage of such children for any school attendance area or school…" (emphasis added). We believe the emphasized language is an error and that this prohibition should mirror the language in ESEA section 8401(c)(10), which prohibits waivers of the selection of a school attendance area or school under sections (a) and (b) of section 1113 of the ESEA, except that the Secretary may grant a waiver to participate in activities under Title I, Part A "if the percentage of children from low-income families in the school attendance area or who attend the school **is not more than** 10 percentage points below the lowest percentage of those children for any school attendance area or school…" (emphasis added).

Sincerely,



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and Acting Assistant Secretary
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While this document cites and describes statutes and regulations that contain applicable legal requirements, it does not impose legally binding requirements on any entity and is subject to revision or revocation at any time without prior notice. To the extent that any discrepancies may exist between this document and those statutes and regulations, such statutes and regulations are controlling. This document may not apply to a particular situation based upon case-specific circumstances. Federal, state, and other decision makers retain the discretion to adopt approaches that differ from those described in this document as appropriate and consistent with statutory and regulatory requirements.