

Application for the Educational Flexibility (Ed-Flex) Program



U.S. Department of Education
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Introduction

The Educational Flexibility (Ed-Flex) program is authorized under the Education Flexibility Partnership Act of 1999 and was reauthorized by section 9207 of the Every Student Succeeds Act (ESSA). The Ed-Flex program allows the Secretary to authorize a State educational agency that serves an eligible State to waive statutory or regulatory requirements applicable to one or more the included programs for any local educational agency (LEAs), educational service agency, or school within the State.

Designation

Each eligible State participating in the Ed-Flex program shall be designated an Ed-Flex Partnership State.

Covered Programs

This program permits Ed-Flex States to waive requirements of the following State-administered formula grant programs:

- Title I, Part A: Improving 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
- Title IV, Part A: Student Support and Academic Enrichment Grants
- The Carl D. Perkins Career and Technical Education Act.

Duration of Ed-Flex

The Secretary will approve the applications for a period of not more than five years. The Secretary may extend the authority of an Ed-Flex Partnership State if the Secretary determines that the authority of the SEA to grant waivers has been effective in enabling the State or affected LEAs, educational service agencies, or schools to carry out their State or local reform plans and to continue to meet the accountability requirements, and has improved student performance.

Waivers Not Authorized

The Ed-Flex program does not authorize an SEA to waive any statutory or regulatory requirements relating to:

1. Standards, Assessments, and Accountability requirements under section 1111 of the ESEA;
2. Maintenance of effort;
3. Comparability of services;
4. Equitable participation of students and professional staff in private schools;
5. Parental participation and involvement;
6. Distribution of funds to LEAs;
7. Serving eligible school attendance areas in rank order in accordance with section 1113(a)(3) of the ESEA;
8. The selection of a school attendance area or school under subsections (a) and (b) of section 1113 of the ESEA, except that a 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 less 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;

9. Use of Federal funds to supplement, not supplant, non-Federal funds;
10. Applicable civil rights requirements; and
11. Any requirements that apply to the SEA.

An SEA may not grant any statutory or regulatory waiver unless the underlying purposes of the statutory requirements of the program for which a waiver is sought are met. Furthermore, requirements of the Individuals with Disabilities Education Act, or of any programs other than the ESEA programs referenced above and the Perkins program, may not be waived under the Ed-Flex waiver authority.

State Oversight

Each Ed-Flex Partnership State must annually monitor the activities of LEA, educational service agencies, and schools receiving waivers through the Ed-Flex program.

Report

Each Ed-Flex Partnership State must submit to the Department an annual report on the results of monitoring activities and the impact of the waivers on school and student performance. Each such State must include data demonstrating the degree to which progress has been made toward meeting the State's educational objectives. The data, when applicable, must include:

1. Information on the total number of waivers granted for Federal and State statutory and regulatory requirements, including the number of waivers granted for each type of waiver;
2. Information describing the effect of the waivers on the implementation of State and local educational reforms pertaining to school and student performance;
3. Information describing the relationship of the waivers to the performance of schools and students affected by the waivers; and
4. An assurance from State program managers that the data reported are reliable, complete, and accurate, as defined by the State, or a description of a plan for improving the reliability, completeness, and accuracy of such data as defined by the State.

Public Notice and Comment

Each SEA seeking waiver authority and each LEA, educational service agency, or school seeking a waiver under the Ed-Flex program must:

1. Provide the public with adequate and efficient notice of the proposed waiver authority or waiver, consisting of a description of the agency's application for the proposed waiver authority or waiver on each agency's website, including a description of any improved student performance that is expected to result from the waiver authority or waiver;
2. Provide the opportunity for parents, educators, school administrators, and all other interested members of the community to comment regarding the proposed waiver authority or waiver;

3. Provide the opportunity in accordance with any applicable State law specifying how the comments may be received, and how the comments may be reviewed by any member of the public; and
4. Submit the comments received with the application of the agency or school to the Secretary or the SEA, as appropriate.

Completing and Submitting an Application

Each SEA must address all of the requirements identified below in its application for Ed-Flex. The Department will begin reviewing applications on July 31, 2019.

Complete applications should be submitted to your OESE, State and Grantee Relations (SGR) State mailbox: [state].oese@ed.gov (e.g., Alabama.oese@ed.gov).


Application Review

Within 90 days of receipt of a complete application, the Department will issue a written decision that explains why such application has been approved or disapproved, and the process for revising and resubmitting the application for reconsideration.

The Department may approve an application only if it determines that the application demonstrates substantial promise of assisting the SEA and affected LEAs, educational service agencies, and schools within the State in carrying out comprehensive educational reform, after considering:

1. The eligibility of the State
2. The comprehensiveness and quality of the educational flexibility plan
3. The educational flexibility plan ensures accountability for the activities and goals described in such plan;
4. The degree to which the State's objectives:
 - a. Are clear and can be assessed; and
 - b. Take into account the performance of LEA, educational service agencies, or schools, and students, particularly those affected by waivers;
5. The significance of the State statutory or regulatory requirements relating to education that will be waived; and
6. The quality of the SEA's process for approving applications for waivers of Federal statutory or regulatory requirements and for monitoring and evaluating the results of such waivers.

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Contact Information and Signatures	
SEA Contact (Name and Position): Donald McCrone	Telephone: 717-783-6902
Mailing Address: PA Department of Education 333 Market Street Harrisburg, PA 17126	Email Address: dmccrone@pa.gov
By signing this document, I assure that all application contents are true and complete to the best of my knowledge, and I affirm each assurance listed at the end of the document.	
Authorized SEA Representative (Printed Name) Pedro A Rivera	Telephone: 717-783-9780
Signature of Authorized SEA Representative 	Date: 10 / 24 / 19

Eligibility Information

Please check the assurances and provide the necessary information below to demonstrate eligibility for the Ed-Flex program.

1. The SEA has:
 - a. Developed and implemented the challenging State academic standards, and aligned assessments, described in section 1111(b) of the ESEA, and is producing the report cards required by section 1111(h) of such Act; or
 - b. If the State has adopted new challenging State academic standards under section 1111(b)(1) of the ESEA, made substantial progress toward developing and implementing such standards and toward producing the report cards required under section 1111(h) of such Act.

2. The SEA will hold LEAs, educational service agencies, and schools accountable for meeting the educational goals described in the local applications and for engaging in technical assistance and, as applicable and appropriate, implementing comprehensive support and improvement activities and targeted support and improvement activities under section 1111(d) of the ESEA.

3. The SEA has waived or will waive State statutory or regulatory requirements relating to education while holding LEAs, educational service agencies, or schools within the State that are affected by such waivers accountable for the performance of the students who are affected by such waivers.
 - a. Describe the State's authority to waive State statutory or regulatory requirements relating to education (i.e., provide legal citations to relevant statute or regulation).

The Pennsylvania Department of Education (PDE) has authority to waive certain State statutory and regulatory requirements relating to education. See question number 2, below, for a list.

Descriptions

1. Describe the process the SEA will use to evaluate applications from LEAs, educational service agencies, or schools requesting waivers of
 - A. Federal statutory or regulatory requirements; and
 - B. State statutory or regulatory requirements relating to education.

1A. Federal Waiver Process:

An Ed-Flex waiver proposal undergoes an initial review to ensure that the waiver request is consistent with Federal and State statute, that requirements concerning public comment have been met, and that an appropriate evaluation plan for the waiver has been proposed. If all initial requirements are satisfied, the waiver is reviewed by the state's Federal Programs Ed-Flex Program Manager. A recommendation for approval or denial is then sent to the Chief of the Division of Federal Programs, who makes the final decision as to whether to grant the waiver.

Individual programmatic waivers provide LEAs and schools flexibility in the use of federal program funds. To request an individual programmatic waiver, an LEA must submit a separate Ed-Flex waiver application, available at <https://www.education.pa.gov/Teachers%20-%20Administrators/Federal%20Programs/Pages/EdFlex.aspx>

1B. State Waiver Process:

Any request to waive state statutory or regulatory requirements must be submitted to the Pennsylvania Secretary of Education, in a form and manner prescribed by the Department. Upon receipt, the request will be reviewed in accordance with all applicable state laws.

2. Describe the State statutory and regulatory requirements relating to education that the State educational agency will waive.

Below is a list of statutory and regulatory requirements relating to education that PDE may waive.

- Suspension of Professional Employees: 24 P.S. §11-1124 – permits the Secretary of Education to waive certain requirements with respect to the suspension of administrative staff with approval of the State Board of Education.
- Professional Certification: 24 P.S. §12-1214 – permits PDE to waive certification requirements for a period not to exceed one year for a certificated professional employee currently employed by or on suspension from a school entity.
- Failure to file Reports: 24 P.S. §2552.1 – permits the Secretary of Education to waive certain subsidy forfeiture provisions triggered by failure to file reports with PDE.
- 180 days of Instruction: 24 P.S. §15-1504 – permits the Secretary of Education to grant an exception to the 180-day of instruction requirement or to the daily schedule "when in his opinion a meritorious educational program warrants."

3. Describe the clear educational objectives the State intends to meet under the educational flexibility plan, which may include innovative methods to leverage resources to improve program efficiencies that benefit students.

Pennsylvania's approved ESSA State Plan builds on a successful first year of ESSA implementation to set ambitious targets for historically underserved student groups, strengthen evidence-based supports for struggling schools, and invest in programs to expand and diversify the state's educator workforce. Any waivers granted by PDE under Ed-Flex will support this strategic plan and ensure appropriate local use of Federal funds. By evaluating opportunities to reduce certain administrative burdens, PDE will be able to provide LEAs with opportunities to use their resources more efficiently and maximize the effectiveness of the programs provided to students in greatest need.

4. Describe how the educational flexibility plan is coordinated with activities described in the Title I, Part A section of the SEA's approved consolidated State plan, consistent with subsections (b), (c), and (d) of section 1111 of the ESEA.

PDE's educational flexibility plan is coordinated with activities described in the Title I, Part A section of the state's approved Consolidated State Plan. All waivers granted under Ed-Flex must demonstrate connection to helping students reach the state's challenging academic standards and further the effective or efficient use of resources in support of that goal. For example, waivers offer LEAs increased program flexibility in exchange for increased accountability by requiring improvement in student performance, either as a whole or for targeted student groups, as required under the terms of their application. Reauthorization of an individual waiver is contingent upon improved student performance.

5. Describe how the SEA will evaluate (consistent with the requirements of Title I of the Elementary and Secondary Education Act of 1965) the performance of students in the schools, educational service agencies, and LEAs affected by the waivers.

Each Ed-Flex waiver includes a performance reporting component that requires LEAs to submit to PDE, at the end of each waiver period, a detailed description of the effectiveness of the waiver supported by data on school and student performance. PDE staff evaluate the effectiveness of the waivers granted to determine whether the waiver should be recommended for renewal or discontinued.

6. Describe how the SEA met the requirements for Public Notice and Comment to:
 - A. Provide the public with adequate and efficient notice of the proposed waiver authority, consisting of a description of the agency's application for the proposed waiver authority, including a description of any improved student performance that is expected to result from the waiver authority.

To satisfy requirements for Public Notice and Comment, PDE posted this application on its publicly accessible web site for two weeks prior to submission to the USDE. More specifically, an online link was provided to facilitate the submission of comments by interested parties to PDE's Division of Federal Programs. A statewide notice was disseminated in the form of an email to all LEAs inviting public comment.

- B. Provide the opportunity for parents, educators, school administrators, and all other interested members of the community to comment regarding the proposed waiver authority in accordance with any applicable State law specifying how the comments may be received, and how the comments may be reviewed by any member of the public.

Notice of PDE's intent to apply for the waiver was conveyed to the Pennsylvania State Parent Advisory Committee and the Title I Committee of Practitioners. In addition, the notice was disseminated to all 29 Intermediate units for distribution to LEAs, educators, and parents within their respective regions.

- 7. Submit as an attachment the comments received from Public Notice and Comment with the application of the SEA to the Department.

No written comments were received by PDE. One question received by phone asking if the accountability provisions of ESSA can be waived due to a growing transient population, to which our response was that the accountability provisions of ESSA cannot be waived.