

# Application for the Educational Flexibility (Ed-Flex) Program



**U.S. Department of Education**  
**Issued: June 13, 2019**

OMB Number: 1810-0737  
Expiration Date: December 31, 2021

**Paperwork Burden Statement** According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1810-0737. The time required to complete this information collection is estimated to average 40 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this collection, please write to: U.S. Department of Education, Washington, DC 20202-4537. If you have comments or concerns regarding the status of your individual submission of this collection, write directly to: Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Ave., S.W., Washington, DC 20202-3118.

## **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.

## Cover Page

Contact Information and Signatures	
<b>SEA Contact (Name and Position):</b> DeLilah Collins – Asst. Director of ESEA Programs	<b>Telephone:</b> 303-866-6850
<b>Mailing Address:</b>  1560 Broadway Suite 1100 Denver CO 80202	<b>Email Address:</b>  Collins_d@cde.state.co.us
<b>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.</b>	
<b>Authorized SEA Representative (Printed Name)</b>  Katy Anthes, Ph.D - Colorado Commissioner of Education	<b>Telephone:</b>  303-866-6646
<b>Signature of Authorized SEA Representative</b>  	<b>Date:</b>  4/27/20

## 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).

Colorado law (22-2-117(1)(a), C.R.S.) allows districts to request waivers from certain areas of state statute and rule. These waivers can apply to the full district or individual schools within their district. These waivers are granted by the Colorado State Board of Education to enhance educational opportunity and quality.

The process for obtaining waivers for both school districts and their charter schools was simplified in HB00-1040. The General Assembly determined that the State Board of Education should have the authority to waive any state statutory or regulatory requirements identified at the local level as creating barriers to carrying out local education reform plans. The process was also simplified for charter schools seeking to implement their reform plans.

The State Board of Education shall not waive any requirements specified in the following statutory provisions (22-2-117(1)(B), C.R.S.):

- The Public School Finance Act of 1994, Title 22, Article 54, C.R.S.
- The Exceptional Children's Educational Act, Title 22, Article 20, C.R.S.
- Any provision of part 5 of article 11 of this title pertaining to the data necessary for performance reports

- Any provision of this title that relates to fingerprinting and criminal history record checks of educators and school personnel
- The "Children's Internet Protection Act", article 87 of this title.
- 22-2-117(1.5), C.R.S. Notwithstanding any provision of this section or any other provision of law, the state board shall not waive requirements contained in article 11 of this title or sections 22-7-1006.3, 22-32-105, 22-32-109 (1) (bb) (I) and (2), 22-32-109.1 (2) (a), 22-32-146, and 22-33-104 (4)

## **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.

### **Waiver for Federal Statutory or Regulatory Requirements**

A. The Colorado Department of Education (CDE) has designed its Ed-Flex waiver process to grant individual waiver requests on a case-by-case basis to districts that demonstrate that a specific federal regulation or statutory requirement creates a barrier to their ability to implement education reform or school improvement efforts in an effective manner. In addition, if CDE receives multiple and consistent individual requests to waive a regulation or statutory requirement, it may create the opportunity for statewide waivers of that regulation or requirement.

LEAs requesting individual waivers must complete CDE's Ed-Flex Waiver Application (see Attachment "A") and submit that form to CDE's ESEA Programs Office for review. All requests are reviewed by the ESEA Programs Office for allowability, benefit and effectiveness in decreasing barriers to implementing education reforms and school improvement activities. The ESEA Programs Office will decide whether the waiver requested is allowable under the Educational Flexibility Partnership Act and state law and regulations. Requests for items that are clearly prohibited will be returned immediately to the applicant. Those applicants who request waivers where there is uncertainty as to their allowability will be referred to the State Attorney General's office for legal review that will be conducted in a timely manner so as not to delay the approval process. Applications that clearly demonstrate and address the criteria outlined in the application will be forwarded, along with the ESEA Programs Office recommendation for review and approval/denial, to the Ed-Flex Committee, comprised of representatives from across the CDE. Notification of approval/denial will be provided within 30 days of submission.

Waivers will be granted for the duration of the state's Ed-Flex authority, unless extenuating circumstances warrant a shorter period. Waiver revocation will be considered when student achievement results decline for any student groups originally targeted by the waived requirement.

In providing technical assistance to LEAs regarding waivers, the USDE makes clear those requirements and statutory provisions that may not be waived. However, CDE encourages LEAs to be innovative and reform-oriented in the use of their federal program dollars. Often LEAs perceive barriers or requirements in federal programs that in actuality do not exist. CDE will take steps to ensure that LEAs have the information necessary to know what waivers they can and cannot request under Ed-Flex and cite

examples of requirements that they may consider waiving if they prove to be barriers to increasing student achievement in their district. All information regarding Ed-Flex waivers will also be posted on CDE's website.

Colorado has also learned the importance of setting specific goals tied to waiver requests, maintaining and tracking accurate waiver data, and evaluating the impact of waivers on an annual basis. These lessons are being incorporated into revised guidance, policies, and procedures that will be compiled into an Ed-Flex packet of information and communicated to LEAs. The Department will provide training to CDE Regional Teams in the new guidelines and procedures so that they are familiar with the information as they work with districts on school improvement efforts.

As noted above, CDE will identify the regulations and requirements that most often prove to be a barrier to improving instructional services and increasing student achievement and make those available to all LEAs as statewide waivers. If Statewide waivers are identified, those waivers will be incorporated into CDE's LEA ESEA Consolidated Federal Programs Grant Application and considered and approved as part of that process.

Neither individual nor statewide waivers will be granted for:

- Standards, Assessments, and Accountability requirements under section 1111 of the ESEA;
- Maintenance of effort;
- Comparability of services;
- Equitable participation of students and professional staff in private schools;
- Parental participation and involvement;
- Distribution of funds to LEAs;
- Serving eligible school attendance areas in rank order in accordance with section 1113(a)(3) of the ESEA;
- 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;
- Use of Federal funds to supplement, not supplant, non-Federal funds;
- Applicable civil rights requirements; and
- Any requirements that apply to the SEA.

### **Waiver from State Statute or Rule**

B. Colorado law (22-2-117(1)(a), C.R.S.) allows districts to request waivers from certain areas of state statute and rule. These waivers can apply to the full district or individual schools within their district. These waivers are granted by the Colorado State Board of Education to enhance educational opportunity and quality. For a district to be considered for a waiver from state statute or rule, the following items need to be included in the application to the Colorado State Board of Education.

- A description and rationale for the waiver(s) being requested. The state board shall grant the waiver if it determines that it would enhance educational opportunity and quality within the



school district and that the costs to the school district of complying with the requirements for which the waiver is requested significantly limit educational opportunity within the school district. (C.R.S., 22-2-117(1)(a)) It is important to note that the board is given the ability in statute to consider each waiver request separately from previous district requests. They may consider differences in district context and, as such, rely on different criteria for making each decision.

- A plan that describes the manner in which the school/district shall comply with the intent of the waived statutes or rules and shall be accountable to the state for such compliance.
  - If the district has a pupil count of 3,000 or more, majority consent must be demonstrated by each of the three groups:
    - majority of school accountability committee
    - licensed administrators
    - teachers
  - Evidence of notice of public hearing in three public places within the district for at least 30 calendar days prior to the local hearing. This notice must include the time and location of the hearing and a description of the waiver request. If a newspaper is published within the county, documentation of public notice in the newspaper is required once each week for at least four weeks. This may be demonstrated through a copy of the public notices posted (including location and dates) or a statement that includes a summary of this information.
  - A signed board resolution from the local board of education demonstrating approval to apply for the waiver and specifying the statutes and rules for which the board will request waivers. During the COVID outbreak, Governor Polis issued an Executive Order suspending the procedural requirements for these waivers allowing the State Board of Education to make statewide waivers during the emergency.
2. Describe the State statutory and regulatory requirements relating to education that the State educational agency will waive.

Pursuant to section 22-2-117, C.R.S., the Colorado State Board of Education can waive any requirement in Title 22 or accompanying regulations with the exception of the following:

- Title 22, Article 54 - The "Public School Finance Act of 1994"
- Title 22, Article 20 - The "Exceptional Children's Educational Act"
- Title 22, Article 11, part 5 - Data necessary for performance reports
- Title 22 – Any provision related to fingerprinting and criminal history record checks of educators and school personnel
- Title 22, Article 87 - The "Children's Internet Protection Act"
- Section 22-44-305 - The requirement to post on the internet the statutes for which waivers are granted
- Section 22-1-130 - Notification to parents of alleged criminal conduct by school district employees
- Section 22-33-106.1 - Suspension and expulsion of students in preschool through second grade
- Section 22-1-128 - Comprehensive human sexuality education content requirements
- Title 22, Article 11 – Accreditation of schools and districts

- Section 22-7-1006.3 – Concerning state assessments
- Section 22-32-105 – Local board president and vice president duties
- Section 22-32-109 (1)(bb)(I) and (2) – Local board policy related to tobacco products and written consent of other districts to operate an educational program outside district boundaries
- Section 22-32-109.1 (2)(a) – Conduct and discipline code
- Section 22-32-146 – Provisions related to school resource officers
- Section 22-33-104 (4) – Local board policy on school attendance

The most commonly requested waivers of state statute include requirements to use state department identified is kindergarten school readiness assessments and the fall charter school application cycle.

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.

The educational objectives the state intends to meet under the educational flexibility plan align with Section 1 of the [Colorado ESSA State Plan](#) which describes CDE’s clear long-term goals for:

- Academic Achievement
- Graduation Rate, and
- English Language Proficiency

Through approval of individual waivers, CDE will ensure that LEA waiver requests exhibit an effective use of ESEA resources and increase the likelihood of improved outcomes for their students based on the goals and timelines described in their application.

CDE also intends to meet the following objectives of the ESEA programs administered by the Unit of Federal Programs Administration:

Title IA: provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps;

Title IC: support high-quality and comprehensive educational programs and services that address the unique educational needs of migratory children;

Title ID: improve educational services for children and youth in local, tribal, and State institutions for neglected or delinquent children and youth so that such children and youth have the opportunity to meet the same challenging State academic standards that all children in the State are expected to meet;

Title IIA: allocate funds to local educational agencies to improve the quality and effectiveness of teachers, principals, and other school leaders;

Title IIIA: to help ensure that English learners, including immigrant children and youth, attain English proficiency and develop high levels of academic achievement in English;

Title IVA: improve students' academic achievement by increasing the capacity of States, local educational agencies, schools, and local communities to— (1) provide all students with access to a well-rounded education; (2) improve school conditions for student learning; and (3) improve the use of technology in order to improve the academic achievement and digital literacy of all students.

Finally, CDE intends to meet its educational objective of utilizing state and federal statutory and regulatory flexibility, where allowable and applicable, to remove to remove barriers to increased student performance.

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.

CDE's educational flexibility plan is coordinated with the activities described in the Title I, Part A, Title I, Part C, Title I, Part D, Title II, Part A, Title III, Part A, Title IV, Part A, and Title V, Part B sections of the [Colorado ESSA State Plan](#) as all programs are administered within the Office of ESEA Programs. All waivers granted under Ed-Flex are tied in some way to helping students reach the state's challenging academic standards or by improving the effectiveness of funded programs or efficient use of resources by all LEAs to support that goal.

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.

In order to evaluate the performance of students in schools and LEAs affected by the waivers, the office of ESEA Programs will use, when applicable, a combination of:

- The specific measurable educational goals described in the LEA/School waiver application that clearly align to the waiver request (see Attachment A, Part 4, Question 2)

And, when applicable

- ESSA Accountability data as outlined in the Colorado ESSA State Plan as applicable per the specific LEA Waiver request
- Overall performance on the School Performance Framework (SPF) as applicable per the specific LEA Waiver request

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.

CDE provided a formal “public comment” period from February 24, 2020 to March 24, 2020. The notice was widely disseminated to school districts, Boards of Cooperative Educational Services, education professional organizations and education advocacy groups and the draft “Ed-Flex Application” was posted on the CDE’s website for public review with instructions regarding how to submit comments to the CDE Office of ESEA Programs. [see Attachment B: *Notice 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.

CDE provided a formal “public comment” period from February 24, 2020 to March 24, 2020. The notice was widely disseminated to school districts, Boards of Cooperative Educational Services, education professional organizations, parent groups, and education advocacy groups. The draft “Ed-Flex Application” was posted on the CDE’s website for public review with instructions regarding how to submit comments to the CDE Office of ESEA Programs. Notification seeking comments and input was mailed to numerous stakeholders including but not limited to:

- o School District Superintendents
- o BOCES Directors
- o Charter School Directors
- o ESEA District Federal Program Directors
- o Colorado Association of School Boards
- o Colorado Association of School Executives
- o Colorado PTA
- o ESEA Committee of Practitioners
- o Colorado Association of Private Schools
- o Other interested parties

Several presentations and discussions were also conducted with the ESEA Committee of Practitioners to seek input regarding the submission of this Ed-Flex Application.

A notification was sent to LEAs to inform the LEA of the State’s intent to apply for Educational Flexibility authority and invite them to comment on the application. Comments regarding the State’s Ed-Flex application and procedures are included in “Attachment C” of this Application.

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

See “Attachment C”

## Attachment A



### ESSA Ed-Flex Program

**Colorado Department of Education  
Office of Federal Program Administration  
Application for Individual Ed-Flex Programmatic Waiver**

**Application Deadlines:** Districts may submit a waiver application up to the last business day May of each year.

**Overview:** All Ed Flex waiver requests must demonstrate clear “benefit and effectiveness in decreasing barriers to implementing education reform.”<sup>1</sup> This application is for Individual Programmatic Waivers only. Complete a **separate application** for each Individual Programmatic Waiver requested. Applicants will be notified of their waiver status (approval, approval with changes, denial) within 45 days of the application receipt.

**Authority for Data Collection:** P.L. 106-25, as amended by P.L. 107-110

**Planned Use of Data:** To grant waivers of federal law or regulation and associated state law or rule.

**Submission:** Submit one completed application per waiver request to:

Ed Flex Program  
Federal Programs Unit  
Colorado Department of Education  
1560 Broadway, Suite 1100  
Denver, CO 80202

Telephone: 303-866-6850  
E-mail: consolidatedapplications@cde.state.co.us

**Part 1: General Information**

Ed-Flex application and reporting materials and procedures align with the Consolidated Federal Programs Application process. Waiver requests must be submitted by last business day of May each year. The person listed below as the LEA's Ed-Flex contact must be available for telephone consultation on the date the committee is scheduled to consider this waiver in case committee members require additional information for review of the request. The LEA's Ed-Flex contact will be notified of the review date upon receipt of waiver request at CDE.

LEA Ed-Flex Contact Person \_\_\_\_\_ Telephone \_\_\_\_\_

LEA Name \_\_\_\_\_

Typed Name of Superintendent: \_\_\_\_\_

**Part 2: Type of Individual Programmatic Waiver Requested**

**1. A. Districtwide waiver:**

**Title I, Part A** (Basic Programs Operated by LEAs, other than section 1111);

- School Allocations [P.L.114-95, Section 1113(c)(1)]
- 125% Special Allocation Rule [P.L.114-95, Section 1113(c)(2)]
- Other: Specify the provision to be waived: P.L.114-95 Section \_\_\_\_\_

**Title I, Part C** (Education of Migratory Children)

- Specify the provision to be waived: P.L.114-95, Section \_\_\_\_\_

**Title I, Part D** (Prevention and Intervention Programs for Children and Youth Who are Neglected, Delinquent, or At Risk)

- Specify the provision to be waived: P.L.114-95, Section \_\_\_\_\_

**Title II, Part A** (Supporting Effective Instruction)

- Specify the provision to be waived: P.L.114-95, Section \_\_\_\_\_

**Title IV, Part A (Student Support and Academic Enrichment Grants)**

- Funding Assurances [Section 4106(e)(2)(C)(D)(E)]
- Specify the provision to be waived: P.L.114-95, Section\_\_\_\_\_

**Carl D Perkins Career and Technical Education Act of 2006** as amended by the Strengthening Career and Technical Education for the 21<sup>st</sup> Century (20 U.S.C..5891b(b))

- Specify the provision to be waived: P.L.114-95, Section\_\_\_\_\_

**OR**

B. School-specific waiver: If the waiver is school-specific, indicate the school name and number.

School Name\_\_\_\_\_ School Number\_\_\_\_\_

- Eligible School Attendance Area [P.L. 114-95, Section 8401(b)(10)]
- Other: Specify the provision to be waived: P.L.114-95, Section\_\_\_\_\_

**Part 3: Public Comment**

How did the LEA publicize the request for this waiver and receive comments? Include copies of newspaper notices or other print materials notifying the public of the local education agency’s intent to request a waiver. The public notice must specify the nature of the waiver being requested. If any comments or suggestions were received, submit these comments and suggestions with the waiver request and explain how these comments and suggestions were considered as a part of the waiver process. If the comments or suggestions were not considered, explain why they were not considered. Please refer to Appendix A for the specific requirements relating to public notice and comment.

- Newspaper
- LEA/School Newsletters
- School Board Meeting
- Press Release
- LEA/School Website
- Other (Specify)\_\_\_\_\_

In the area below, describe how the notice and comment requirements in 20 U.S.C. § 5891b(a)(7) have been met. Also, when applicable, describe how appropriate measures were taken to involve non-public schools in the LEA who might be impacted by this waiver request.

**Part 4: Waiver Description**

1. Is there a specific State Law or Rule that needs to be waived in conjunction with the Ed-Flex Waiver?

- Yes     No    If yes, specify: \_\_\_\_\_

2. Complete the Purposes, Goals, Activities, and Results Table (Table #1 attached) showing how the requested waiver will improve student achievement in schools affected by the waiver or decrease barriers to education reform. Submit any other data supporting the need for the waiver. The completed table will:

- A. Describe the purposes and overall expected results of waiving each requirement;
- B. Describe, 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;
- C. Explain why the waiver will assist the LEA, or school in reaching these goals.

**Part 5: Evaluation Requirements**

Ed-Flex offers the opportunity for additional flexibility in exchange for additional accountability. Each Ed-Flex waiver that is granted must be evaluated based on strict evaluation criteria. The Office of ESEA Programs will establish the evaluation criteria appropriate to each type of Individual Programmatic Waiver requested. The criteria will be detailed in the waiver approval letter. At the end of the waiver period, the effectiveness of the waiver will be evaluated based on these criteria. If the LEA wishes to reapply for the same waiver at the end of the waiver period, the application will only be considered if the evaluation criteria for the previous waiver were met. In addition, annual progress reports must be submitted for all waivers issued.

**Part 6: Assessment of Previous Waiver**

If an LEA is applying to renew a waiver that expires at the end of the 20xx-20xx school year, the LEA **MUST** provide data to demonstrate that the evaluation criteria as described in the LEA’s waiver approval letter have been met. Attach additional pages as necessary. This part is NOT APPLICABLE to those LEAs that did not have a waiver in the previous year.

**Part 7: Certification**

The effectiveness of the waiver will be evaluated based on criteria to be determined by the Colorado Ed-Flex Committee.

The signatures below indicate the LEA’s understanding that if the evaluation criteria established by the Ed-Flex Committee are not met at the end of the period for which the waiver is approved, the LEA/school is not eligible to reapply for this same waiver under the state’s current Ed-Flex waiver authority.

**\*Signature** of Chairperson of District Accountability Committee \_\_\_\_\_ **Date Signed** \_\_\_\_\_

**\*\*Signature** of Chairperson of School Accountability Committee \_\_\_\_\_ **Date Signed** \_\_\_\_\_

**\*\*Signature** of School Principal \_\_\_\_\_ **Date Signed** \_\_\_\_\_

**Signature** of LEA Federal Programs Director \_\_\_\_\_ **Date Signed** \_\_\_\_\_

**Signature** of Superintendent \_\_\_\_\_ **Date Signed** \_\_\_\_\_



**Date of Approval** by LEA Board of Trustees \_\_\_\_\_

\*For districtwide waivers, this refers to the LEA's District Accountability Committee; for school-specific waivers, this refers to the school's Accountability Committee.

\*\*The school principal's signature and school accountability chair signature are only required for school-specific waivers.

**Table #1 – Purpose, Goals, and Results**

Education Flexibility Partnership Act of 1999 (PL 106-25)

LEA Application for Waiver of Certain Federal Requirements – School Year 20XX-20XX

Colorado Department of Education

Purpose of the Waiver (please check the appropriate block(s):      Number of years for which waiver is requested:

- Increase the quality of classroom instruction for students, and/or  
 Improve student academic performance on state assessments
- 1 year    2 years    3 years

Describe the purposes and overall expected results of waiving each requirement;	Describe, for each school year, specific, measurable educational goals for each LEA, or school affected by the proposed waiver, and for the students served by the LEA, ESA, or school who are affected by the waiver;	Explain why the waiver will assist the LEA, or school in reaching these goals	Evaluation Methods/Expected Results

## ATTACHMENT B

### Notice for Public Comment

#### ESSA Ed-Flex Waivers

The Colorado Department of Education is applying to the United States Department of Education (USDE) for the authority to grant waivers for certain provisions of federal programs in the Consolidated Application. This authority is called Ed-Flex and is made available to states through the Education Flexibility Partnership Act of 1999, as updated by ESSA in 2015. USDE has granted Colorado Ed-Flex authority since 2001. We are applying to USDE to renew that authority.

Ed-Flex is a program that allows the US Secretary of Education to delegate to states with strong accountability safeguards the authority to waive certain federal education requirements that may impede local efforts to reform and improve education. It is designed to help districts and schools carry out educational 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. Ed-Flex is not a funding program. Rather, it is a program that delegates to states the authority to grant waivers of certain federal requirements.

The Colorado Draft Ed-Flex Application is available for public comment through March 24, 2020. Comments related to the application may be submitted to [ESSAquestions@cde.state.co.us](mailto:ESSAquestions@cde.state.co.us) or mailed to:

Colorado Department of Education  
Federal Programs Unit  
1560 Broadway, Suite 1100  
Denver, CO 80202-5149

Please share this notice with any interested members of your community including, but not limited to, parents, educators, and school administrators. All comments received will be reviewed by CDE and included with the application to USDE. CDE may, when appropriate, adjust the State application based on the comments received.

ATTACHMENT C

Insert public comments received

To Whom It May Concern,

I'm writing to express my support of the Ed-Flex program that allows the US Secretary of Education to delegate states with strong accountability safeguards the authority to waive certain federal education requirements that may impede local efforts to reform and improve education. As a Colorado school leader, I encourage you to renew this authority for the Colorado Department of Education.

Best,  
Austen Kassinger

--

Austen Kassinger • Principal  
Rocky Mountain Prep Creekside

## **APPENDIX A – PUBLIC NOTICE AND COMMENT**

### **SEC. 4. EDUCATION FLEXIBILITY PARTNERSHIP. <<NOTE: 20 USC 5891b.>>**

#### **(a) Educational Flexibility Program**

(8) Public notice and comment. --Each State educational agency seeking waiver authority under this section and each

local educational agency seeking a waiver under this section--

- (A) shall 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 in a widely read or distributed medium, including a description of any improved student performance that is expected to result from the waiver authority or waiver;
- (B) shall provide the opportunity for parents, educators, and all other interested members of the community to comment regarding the proposed waiver authority or waiver;
- (C) shall provide the opportunity described in subparagraph (B) 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
- (D) shall submit the comments received with the agency's application to the Secretary or the State educational agency, as appropriate.