

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 the 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 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 than¹ 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.

¹

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).

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 the requirements identified below in its application for Ed-Flex. The Department will review applications as they are received.

Complete applications should be submitted to the Title I mailbox at OESE.TitleI-A@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	
SEA Contact (Name and Position): Dr. Theodore Murray	Telephone: 405-521-6850
Mailing Address: 2500 North Lincoln Boulevard, Suite 311 Oklahoma City, Oklahoma 73105	Email Address: Theodore.Murray@sde.ok.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) Dr. Theodore Murray	Telephone:
Signature of Authorized SEA Representative	Date:

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.

Oklahoma law and regulation (See generally, Oklahoma Statutes, Title 70; Oklahoma Administrative Code, Title 210) allow 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 Oklahoma State Board of Education to enhance educational opportunity and quality. Examples of waivers granted to date by the State Board of Education include, but are not limited to, statutes pertaining to the following:

- Waiving statutes or rules (Title 70 O.S. § 3-129.7)
- Waiver of accreditation standard or regulation (Oklahoma Administrative Code 210:35-1-4)
- Alternate school calendar (Oklahoma Administrative Code 210:10-1-4)
- School hours waiver (Title 70 OS § 1-109)
- Alternative Education Requirements (Title 70 O.S. § 1210.568)
- Library-Media Services Hours Waiver (Oklahoma Administrative Code 210:35-5-71; 210:35-7-61; 210-35-9-71)
- Library-Media Certification Waiver (Title 70 O.S. § 3-126)
- Flexibility of Allocated Textbook Funds (Title 70 O.S. § 16-114a)
- Days worked for substitute teachers (70 OS § 6-105b)
- Oklahoma Cost Accounting System late penalty waiver (Title 70 O.S. § 5-135.2; Oklahoma Administrative Code 210:25-5-4)

In addition, Title 70 O.S. § 3-104 provides the following:

“A. The supervision of the public school system of Oklahoma shall be vested in the State Board of Education and, subject to limitations otherwise provided by law, the State Board of Education shall:...

8. Be the legal agent of this state to accept, in its discretion, the provisions of any Act of Congress appropriating or apportioning funds which are now, or may hereafter be, provided for use in connection with any phase of the system of public education in Oklahoma;

9. Be and is specifically hereby designated as the agency of this state to cooperate and deal with any officer, board, or authority of the United States Government under any law of the United States which may require or recommend cooperation with any state board having charge of the administration of public schools unless otherwise provided by law;...

20. Have authority and is hereby required to perform all duties necessary to the administration of the public school system in Oklahoma as specified in the Oklahoma School Code; and, in addition thereto, those duties not specifically mentioned herein if not delegated by law to any other agency or official;...”

Further, Title 70 O.S. § 11-103.6a provides, “Nothing in this section shall be construed to prohibit the State Board of Education from seeking and being granted a waiver from federal law, provided that the conditions for the waiver do not require the state to cede or limit its discretion or control over the process of development, adoption or revision of subject matter standards and corresponding statewide student assessments.”

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.**

Oklahoma State Department of Education Response

- A. The Oklahoma Department of Education's (OSDE) Elementary and Secondary Education Act (ESEA) Consolidated Application will contain a section which allows the local educational agency (LEA) to request a waiver of the requirement found in ESEA Section 1127(a). If approved, the waiver will permit the OSDE to review individual LEA waivers to increase the current limit of carryover in Title I, Part A, from fifteen percent of funds allocated in a fiscal year to twenty-five percent of funds allocated in a fiscal year.

To apply for the waiver the LEA will complete a section in the ESEA Consolidated Application that will include –

- 1. An acknowledgement of the requirement found in ESEA Section 1127(a) that the LEA wishes to be waived.
- 2. A reason for the request to waive the requirement found in ESEA Section 1127(a) that includes how the district will use the increase in the amount of funds that may be carried over to create a strategic plan for use of the funds in the next fiscal year.
- 3. An explanation of how the district will leverage resources to improve program efficiencies that benefit students.

An OSDE staff member will review the waiver request for completeness and quality. Reviews of ESEA Consolidated Applications are typically conducted within 14 business days.

OSDE will review end-of-year reports regarding the use of Title I, Part A carryover funds to determine eligibility for future waiver requests.

- B. Oklahoma state law does not have any statutory or regulatory requirements related to the current fifteen percent carryover limit on Title I, Part A funds.

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

Oklahoma State Department of Education Response

If approved, the Oklahoma State Department of Education (OSDE) will waive the requirement found in ESEA Section 1127(a) for LEA's that submit an acceptable waiver request as part of their ESEA Consolidated Application. OSDE is requesting the current carryover limit of fifteen percent of funds allocated in a fiscal year be increased to twenty-five percent.

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.

Oklahoma State Department of Education Response

Current Statute	Requested Waiver	Rationale
<p>ESEA Section 1127(a) Fifteen Percent Title I, Part A Carryover Limit</p>	<p>Oklahoma is requesting a waiver to grant LEAs the opportunity to increase the Title I, Part A carryover limit to twenty-five percent.</p>	<p>The increase in the limit of Title I, Part A carryover funds will allow LEAs to utilize funding more meaningfully by providing additional time that will account for extenuating circumstances. For example, instead of the LEA making a large purchase of supplies or materials with unused funds at the end of the fiscal year, the district will be able to create a strategic plan for use of the funds in the next fiscal year.</p>

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.

Oklahoma State Department of Education Response

OSDE'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 Oklahoma ESSA Consolidated State Plan as all programs are administered within the OSDE's Office of Title Services (OTS).

The increase in the current limit of carryover in Title I, Part A from fifteen percent of funds allocated in a fiscal year to twenty-five percent of funds allocated in a fiscal year will improve the efficient use of resources by all LEAs to support performance goals found in the Oklahoma ESSA Consolidated State Plan.

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.

Oklahoma State Department of Education Response

All LEAs, including those who request waivers to increase the percentage of funds that may be carried over, will be held accountable according to the accountability and long-term goals as dictated in Oklahoma's ESSA Consolidated State Plan.

OSDE staff members will review end-of-year reports regarding the use of the Title I, Part A carryover funds to determine if the approval of the waiver request led to a more efficient use of resources to support performance goals found in the Oklahoma ESSA Consolidated State Plan.

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.

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.

Oklahoma State Department of Education Response

To obtain stakeholder feedback on Oklahoma's Application for the Educational Flexibility (Ed-Flex) Program, OSDE will provide a public comment period starting in May and ending in June. A notification will be sent to LEAs and other stakeholders in a monthly communications newsletter. The notification will include a link to the Application for the Educational Flexibility (Ed-Flex) Program with instructions on how to submit comments.

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

Oklahoma State Department of Education Response

See "Attachment B"