THE SECRETARY OF EDUCATION
WASHINGTON, DC 20202

July 7, 2026

The Honorable Jacob Oliva
Secretary of Education
Arkansas Department of Education
Four Capital Mall
Little Rock, AR 72201

Dear Secretary Oliva:

I am writing in response to the Arkansas Department of Education's (ADE's) request on May 27, 2026, for: 1) a waiver of certain requirements in the Elementary and Secondary Education Act of 1965, as amended (ESEA); 2) an amendment to the State's ESEA consolidated State plan; and 3) authority for the Education Flexibility Program (Ed Flex) under the Education Flexibility Partnership Act of 1999, as amended by the Every Student Succeeds Act (20 U.S.C. § 5891b). This comprehensive request builds on the State's efforts to implement unified systems centered on academic outcomes, transparency, accountability, and choice to best support students in Arkansas.

These requests will allow ADE to replace overlapping State and Federal requirements with a single Arkansas-led system for the use of funds, accountability, and assessment. This "Reclaiming Arkansas Education" plan is designed to reduce administrative burden so school districts can focus more time, resources, and attention on better supporting students.

I am pleased to approve ADE's requests, as described in more detail below.

Waiver 1: Eligibility requirements for Alternative Fund Use Authority (AFUA) so that additional local educational agencies (LEAs) can use Title II, Part A and Title IV, Part A funds on any allowable Small, Rural School Achievement (SRSA) program use of funds

After carefully considering ADE's request, I am granting, pursuant to my authority in ESEA section 8401(b), a waiver of the limitation in ESEA section 5211(b)(1) of eligibility for the AFUA. For the 2026–2027 through 2029–2030 school years, ADE may include any LEA that is eligible for the Rural and Low-Income School (RLIS) program. The pilot will allow ADE to evaluate the effectiveness of this increased flexibility and determine new potential ways to streamline its standard transferability processes, which are already available for all LEAs, thus allowing LEAs to spend the funds to best support their students and advance academic achievement.

For those LEAs that are participating in the pilot, this waiver approval requires LEAs to adhere to the equitable services requirements consistent with how those services are treated under AFUA. This waiver does not waive any statutory or regulatory requirements relating to the equitable participation of private school students or teachers, consistent with the restrictions outlined in ESEA section 8401(c)(1) and (c)(5).

To provide information regarding the effectiveness of the pilot on student achievement and LEA participation, ADE must submit an annual report by October 30 each year that includes the following information for the prior year:

1. The number of additional LEAs that are implementing AFUA.
2. How the LEAs used Title II, Part A and Title IV, Part A funds under AFUA, including how the use differed from their prior use of funds under these programs.
3. How the use of funds under AFUA has impacted outcomes in participating LEAs.
4. How use of the waiver has contributed to improving student academic achievement in Arkansas.

Waiver 2: Consolidation of State-Level Activities Funds

I am also granting, pursuant to my authority in ESEA section 8401(b), a waiver of the limitation that the consolidation of State-level funds in ESEA section 8201(a) and (b) applies only to administrative funds. As a result, for the funds awarded to ADE from Federal fiscal year (FFY) 2026 to 2029, ADE may consolidate State-level activities funds for the following programs, consistent with its request:

- Title II, Part A of the ESEA (Supporting Effective Instruction).
- Title III, Part A of the ESEA (English Language Acquisition).
- Title IV, Part A of the ESEA (Student Support and Academic Enrichment).
- Title IV, Part B of the ESEA (21st Century Community Learning Centers).

Please note that if ADE consolidates State-level funds, it must separately consolidate administrative funds from State-level activities funds to maintain consistency with the statutory distinction described in these programs. I have found that providing this additional flexibility for the State to best determine how to use its State-level funds will advance student academic achievement. ADE may consolidate all funds reserved at the State level for each of the programs listed above through FFY 2029 and use the funds for any allowable use in each of the included programs.

As a reminder, under this expanded ESEA section 8201 authority, ADE must still meet all programmatic requirements and responsibilities for each of the covered programs.

Finally, during the period of this waiver, consistent with ESEA section 8401(e), ADE must submit an annual report by October 30 each year that includes the following information for the prior year:

1. How the waiver has decreased administrative burden.
2. How ADE used consolidated State-level activities funds.
3. How ADE's use of funds under the approved waiver differed from its uses of funds prior to the waiver being granted.
4. How use of the waiver has contributed to improving student academic achievement in Arkansas.

Waiver 3: Assessment Flexibility for Advanced Students

I am also granting, pursuant to my authority in ESEA section 8401(b), a waiver of ESEA section 1111(b)(1)(B)(i) and (b)(2)(B)(i)(I) to allow students in grades 5-8 who are enrolled in high school

courses to take the corresponding end-of-course (EOC) assessments in lieu of the grade-level assessments in mathematics, science, and reading/language arts. In addition, for those students who have taken all of the high school EOC assessments prior to high school, the score of the highest EOC assessment will be used in the Academic Achievement indicator in both the year the assessment is administered and in grade 10. The student will be required to take a more advanced assessment in high school, but that score will only be used in the School Quality or Student Success indicator. I am granting this waiver for accountability determinations in fall 2026 based on data from the 2025–2026 school year through determinations in fall 2029 based on data from the 2028–2029 school year. I find that granting this waiver will advance student academic achievement for the most advanced students in Arkansas (approximately one percent of students) by encouraging students to take advanced courses earlier in their academic career rather than be required to take a grade-level test. In addition, this will ensure that all students are included in the Academic Achievement indicator in high school. The State will maintain transparency consistent with ESEA section 8401(e) by meeting all reporting requirements in ESEA section 1111(h) on State and local report cards.

Waiver 4: Reassigning students enrolled in Alternative Learning Environments (ALEs) LEAs to their school of origin for accountability and school identification

In order to fully align its Federal and State accountability systems, I am also granting a waiver of ESEA section 1111(C)(4) to include all public schools in its accountability system so that ADE can reassign students from ALEs LEAs, which provide short-term, specialized services to support students whose needs are best met through an alternative setting for a brief period of time, to their school of origin. Arkansas currently has five ALE single-school LEAs. Similar to the waiver above, I am granting this waiver for accountability determinations in fall 2026 based on data from the 2025–2026 school year through determinations in fall 2029 based on data from the 2028–2029 school year. I find that granting this waiver more accurately attributes responsibility for long-term student outcomes to the school primarily responsible for the student's educational program, while avoiding the unintended consequences associated with holding short-term, transitional programs accountable as if they were traditional schools. The State will maintain transparency consistent with ESEA section 8401(e) by meeting all reporting requirements in ESEA section 1111(h) on State and local report cards.

Ed-Flex Authority

After reviewing ADE's request, I am pleased to grant Ed-Flex authority to Arkansas. ADE's Ed-Flex authority will extend through the 2030–2031 school year, provided ADE continues to comply with all relevant statutory and regulatory requirements. This includes the requirement under 20 U.S.C. § 5891b(a)(5)(B) to submit annual reports to the Secretary on the results of the State educational agency's (SEA's) oversight of the Ed-Flex program and the impact of the waivers on school and student performance.

Please note that Ed-Flex authority applies only to waivers sought by individual school districts and schools; the statute does not give States the authority to waive Federal requirements that apply to SEAs. An SEA is not authorized 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 than[1] 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.

In addition, please note that, for any waiver granted, the SEA must be able to demonstrate to the Secretary that the underlying purposes of the statutory requirements of the program for which a waiver is granted will continue to be met (20 U.S.C. § 5891b(c)(2)).

ESEA Consolidated State Plan Amendment

In addition to the waivers and the Ed-Flex authority granted to ADE, I recognize that the State has also submitted a comprehensive set of amendments to its ESEA consolidated State plan to align it with ADE's "Reclaiming Arkansas Education" initiative. I appreciate your thoughtful work in redesigning Arkansas's education and accountability systems. The Department is issuing a separate response to ADE today regarding those proposed amendments.

Next Steps

As you noted in your submission, this is a further step to advance Arkansas' unified plan to implement an aligned education system and improve academic achievement. This greater flexibility will support Arkansas in returning education to where it belongs – closest to students.

[1] 20 U.S.C. 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).

I commend Arkansas for its comprehensive approach to supporting its schools and students. I look forward to continuing to work with you as you implement this waiver, amendment, and Ed Flex authority. If you have any questions about this waiver or need further assistance, please contact my staff at OESE.Titlei-a@ed.gov. Thank you for your work to support students.

Sincerely,

Linda E. McMahon

cc: Stacy Smith, Zach Jacobs, Hope Worsham, Matt Sewell