UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

May 23, 2025

The Honorable Susana Córdova
Commissioner of Education
Colorado Department of Education
201 East Colfax Ave, Room 500
Denver, CO 80203

Dear Commissioner Córdova:

Thank you for your April 11, 2025, letter, in which the Colorado Department of Education (CDE) requested that the U.S. Department of Education (Department) renew its authority under 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). CDE was first approved for Ed-Flex authority in 2020.

I am pleased to let you know the Department is approving your request. The Department has determined that the State has made progress toward achieving the objectives described in its original Ed-Flex application and demonstrated in its renewal request that the entities affected by the waivers have made progress towards achieving the goals described in the entity's local application.

The Ed-Flex designation for your State now extends through the 2029-30 school year, provided that your State 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 an annual report to the Department on 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 Elementary and Secondary Education Act of 1965 (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 that the underlying purposes of the statutory requirements of the program for which a waiver is granted continue to be met (20 U.S.C. § 5891b(c)(2)).

I look forward to working with you as you continue to use the Ed-Flex authority to improve school and student performance in your State. If you have any questions, please contact my staff at OESE.titlei-a@ed.gov.

Sincerely,

Hayley B. Sanon

Hayley B. Sanon
Principal Deputy Assistant Secretary
and Acting Assistant Secretary
Office of Elementary and Secondary Education

cc: Nazanin Mohajeri-Nelson

[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).