

(1) Educational service agency; local educational agency; State educational agency; outlying area

The terms “educational service agency”, “local educational agency”, “State educational agency”, and “outlying area” have the meanings given the terms in section 7801 of this title.

(2) Eligible school attendance area; school attendance area

The terms “eligible school attendance area” and “school attendance area” have the meanings given the terms in section 6313(a)(2) of this title.

(3) Secretary

The term “Secretary” means the Secretary of Education.

(4) State

The term “State” means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each outlying area.

(Pub. L. 106–25, § 3, Apr. 29, 1999, 113 Stat. 42; Pub. L. 107–110, title X, § 1076(o), Jan. 8, 2002, 115 Stat. 2092; Pub. L. 114–95, title IX, § 9207(a), Dec. 10, 2015, 129 Stat. 2141.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 106–25, Apr. 29, 1999, 113 Stat. 41, known as the Education Flexibility Partnership Act of 1999, which enacted sections 5891a and 5891b of this title, amended section 1415 of this title, and enacted provisions set out as notes under sections 1415 and 5891a of this title. For complete classification of this Act to the Code, see Short Title of 1999 Amendment note set out under section 5801 of this title and Tables.

CODIFICATION

Section was enacted as part of the Education Flexibility Partnership Act of 1999, and not as part of the Goals 2000: Educate America Act which comprises this chapter.

AMENDMENTS

2015—Par. (1). Pub. L. 114–95 substituted “Educational service agency; local” for “Local” in heading and, in text, substituted “The terms ‘educational service agency,’” for “The terms” and made technical amendment to reference in original act which appears in text as reference to section 7801 of this title.

2002—Par. (1). Pub. L. 107–110 substituted “7801” for “8801”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

FINDINGS

Pub. L. 106–25, § 2, Apr. 29, 1999, 113 Stat. 41, provided that: “Congress makes the following findings:

“(1) States differ substantially in demographics, in school governance, and in school finance and funding. The administrative and funding mechanisms that help schools in one State improve may not prove successful in other States.

“(2) Although the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.] and other Federal education statutes afford flexibility to State educational agencies and local educational agencies in implementing Federal programs, certain requirements of Federal education statutes or regulations may impede local efforts to reform and improve education.

“(3) By granting waivers of certain statutory and regulatory requirements, the Federal Government can remove impediments for local educational agencies in implementing educational reforms and raising the achievement levels of all children.

“(4) State educational agencies are closer to local school systems, implement statewide educational reforms with both Federal and State funds, and are responsible for maintaining accountability for local activities consistent with State standards and assessment systems. Therefore, State educational agencies are often in the best position to align waivers of Federal and State requirements with State and local initiatives.

“(5) The Education Flexibility Partnership Demonstration Act [former 20 U.S.C. 5891(e)] allows State educational agencies the flexibility to waive certain Federal requirements, along with related State requirements, but allows only 12 States to qualify for such waivers.

“(6) Expansion of waiver authority will allow for the waiver of statutory and regulatory requirements that impede implementation of State and local educational improvement plans, or that unnecessarily burden program administration, while maintaining the intent and purposes of affected programs, such as the important focus on improving mathematics and science performance under title II of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6601 et seq.] (Dwight D. Eisenhower Professional Development Program), and maintaining such fundamental requirements as those relating to civil rights, educational equity, and accountability.

“(7) To achieve the State goals for the education of children in the State, the focus must be on results in raising the achievement of all students, not process.”

§ 5891b. Educational flexibility program

(a) Educational flexibility program

(1) Program authorized

(A) In general

The Secretary may carry out an educational flexibility program under which the Secretary authorizes a State educational agency that serves an eligible State to waive statutory or regulatory requirements applicable to one or more programs described in subsection (b), other than requirements described in subsection (c), for any local educational agency, educational service agency, or school within the State.

(B) Designation

Each eligible State participating in the program described in subparagraph (A) shall be known as an “Ed-Flex Partnership State”.

(2) Eligible State

For the purpose of this section, the term “eligible State” means a State that—

(A) has—

(i) developed and implemented the challenging State academic standards, and

aligned assessments, described in paragraphs (1) and (2) of section 1111(b) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311(b)], and is producing the report cards required by section 1111(h) of such Act; or

(ii) if the State has adopted new challenging State academic standards under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965, as a result of the amendments made to such Act [20 U.S.C. 6301 et seq.] by the Every Student Succeeds Act, made substantial progress (as determined by the Secretary) toward developing and implementing such standards and toward producing the report cards required under section 1111(h) of such Act;

(B) will hold local educational agencies, educational service agencies, and schools accountable for meeting the educational goals described in the local applications submitted under paragraph (4) 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 Elementary and Secondary Education Act of 1965; and

(C) waives State statutory or regulatory requirements relating to education while holding local educational agencies, 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.

(3) State application

(A) In general

Each State educational agency desiring to participate in the educational flexibility program under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall demonstrate that the eligible State has adopted an educational flexibility plan for the State that includes—

(i) a description of the process the State educational agency will use to evaluate applications from local educational agencies, educational service agencies, or schools requesting waivers of—

(I) Federal statutory or regulatory requirements as described in paragraph 1)(A); and

(II) State statutory or regulatory requirements relating to education;

(ii) a detailed description of the State statutory and regulatory requirements relating to education that the State educational agency will waive;

(iii) a description of 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;

(iv) a description of how the educational flexibility plan is coordinated with activi-

ties described in subsections (b), (c), and (d) of section 1111 of the Elementary and Secondary Education Act of 1965;

(v) a description of how the State educational agency will evaluate (consistent with the requirements of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.]) the performance of students in the schools, educational service agencies, and local educational agencies affected by the waivers; and

(vi) a description of how the State educational agency will meet the requirements of paragraph (7).

(B) Approval and considerations

(i) In general

By not later than 90 days after the date on which a State has submitted an application described in subparagraph (A), the Secretary shall 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.

(ii) Approval

The Secretary may approve an application described in subparagraph (A) only if the Secretary determines that such application demonstrates substantial promise of assisting the State educational agency and affected local educational agencies, educational service agencies, and schools within the State in carrying out comprehensive educational reform, after considering—

(I) the eligibility of the State as described in paragraph (2);

(II) the comprehensiveness and quality of the educational flexibility plan described in subparagraph (A);

(III) the ability of the educational flexibility plan to ensure accountability for the activities and goals described in such plan;

(IV) the degree to which the State's objectives described in subparagraph (A)(iii)—

(aa) are clear and have the ability to be assessed; and

(bb) take into account the performance of local educational agencies, educational service agencies, or schools, and students, particularly those affected by waivers;

(V) the significance of the State statutory or regulatory requirements relating to education that will be waived; and

(VI) the quality of the State educational agency's process for approving applications for waivers of Federal statutory or regulatory requirements as described in paragraph 1)(A) and for monitoring and evaluating the results of such waivers.

(4) Local application

(A) In general

Each local educational agency, educational service agency, or school requesting

a waiver of a Federal statutory or regulatory requirement as described in paragraph (1)(A) and any relevant State statutory or regulatory requirement from a State educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require. Each such application shall—

(i) indicate each Federal program affected and each statutory or regulatory requirement that will be waived;

(ii) describe the purposes and overall expected results of waiving each such requirement, which may include innovative methods to leverage resources to improve program efficiencies that benefit students;

(iii) describe, for each school year, specific, measurable, educational goals for each local educational agency, educational service agency, or school affected by the proposed waiver, and for the students served by the local educational agency, educational service agency, or school who are affected by the waiver;

(iv) explain why the waiver will assist the local educational agency, educational service agency, or school in reaching such goals; and

(v) in the case of an application from a local educational agency or educational service agency, describe how the agency will meet the requirements of paragraph (7).

(B) Evaluation of applications

A State educational agency shall evaluate an application submitted under subparagraph (A) in accordance with the State's educational flexibility plan described in paragraph (3)(A).

(C) Approval

A State educational agency shall not approve an application for a waiver under this paragraph unless—

(i) the local educational agency, educational service agency, or school requesting such waiver has developed a local reform plan that—

(I) is applicable to such agency or school, respectively; and

(II) may include innovative methods to leverage resources to improve program efficiencies that benefit students;

(ii) the waiver of Federal statutory or regulatory requirements as described in paragraph (1)(A) will assist the local educational agency, educational service agency, or school in reaching its educational goals, particularly goals with respect to school and student performance; and

(iii) the State educational agency is satisfied that the underlying purposes of the statutory requirements of each program for which a waiver is granted will continue to be met.

(D) Termination

The State educational agency shall annually review the performance of any local

educational agency, educational service agency, or school granted a waiver of Federal statutory or regulatory requirements as described in paragraph (1)(A) in accordance with the evaluation requirement described in paragraph (3)(A)(v), and shall terminate or temporarily suspend any waiver granted to the local educational agency, educational service agency, or school if the State educational agency determines, after notice and an opportunity for a hearing, that—

(i) there is compelling evidence of systematic waste, fraud, or abuse;

(ii) the performance of the local educational agency, educational service agency, or school with respect to meeting the accountability requirement described in paragraph (2)(C) and the goals described in subparagraph (A)(iii) has been inadequate to justify continuation of such waiver;

(iii) student achievement in the local educational agency, educational service agency, or school has decreased; or

(iv) substantial progress has not been made toward meeting the long-term goals and measurements of interim progress established by the State under section 1111(c)(4)(A)(i) of the Elementary and Secondary Education Act of 1965.

(5) Oversight and reporting

(A) Oversight

Each State educational agency participating in the educational flexibility program under this section shall annually monitor the activities of local educational agencies, educational service agencies, and schools receiving waivers under this section.

(B) State reports

(i) Annual reports

The State educational agency shall submit to the Secretary an annual report on the results of such oversight and the impact of the waivers on school and student performance.

(ii) Performance data

Not later than 2 years after the date a State is designated an Ed-Flex Partnership State, each such State shall include, as part of the State's annual report submitted under clause (i), data demonstrating the degree to which progress has been made toward meeting the State's educational objectives. The data, when applicable, shall include—

(I) information on the total number of waivers granted for Federal and State statutory and regulatory requirements under this section, including the number of waivers granted for each type of waiver;

(II) information describing the effect of the waivers on the implementation of State and local educational reforms pertaining to school and student performance;

(III) information describing the relationship of the waivers to the performance of schools and students affected by the waivers; and

(IV) an assurance from State program managers that the data reported under this section 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.

(C) Secretary's reports

The Secretary shall annually—

(i) make each State report submitted under subparagraph (B) available to Congress and the public; and

(ii) submit to Congress a report that summarizes the State reports and describes the effects that the educational flexibility program under this section had on the implementation of State and local educational reforms and on the performance of students affected by the waivers.

(6) Duration of Federal waivers

(A) In general

(i) Duration

The Secretary shall approve the application of a State educational agency under paragraph (3) for a period of not more than 5 years.

(ii) Automatic extension during review

The Secretary shall automatically extend the authority of a State to continue as an Ed-Flex Partnership State until the Secretary has—

(I) completed the performance review of the State educational agency's educational flexibility plan as described in subparagraph (B); and

(II) issued a final decision on any pending request for renewal that was submitted by the State educational agency.

(iii) Extension of approval

The Secretary may extend the authority of a State to continue as an Ed-Flex Partnership State if the Secretary determines that the authority of the State educational agency to grant waivers—

(I) has been effective in enabling such State or affected local educational agencies, educational service agencies, or schools to carry out their State or local reform plans and to continue to meet the accountability requirement described in paragraph (2)(C); and

(II) has improved student performance.

(B) Performance review

(i) In general

Following the expiration of an approved educational flexibility program for a State that is designated an Ed-Flex Partnership State, the Secretary shall have not more than 180 days to complete a review of the performance of the State educational agency in granting waivers of Federal statutory or regulatory requirements as described in paragraph (1)(A) to determine if the State educational agency—

(I) has achieved, or is making substantial progress towards achieving, the objectives described in the application sub-

mitted pursuant to paragraph (3)(A)(iii) and the specific long-term goals and measurements of interim progress established under section 1111(c)(4)(A)(i) of the Elementary and Secondary Education Act of 1965; and

(II) demonstrates that local educational agencies, educational service agencies, or schools affected by the waiver authority or waivers have achieved, or are making progress toward achieving, the desired goals described in the application submitted pursuant to paragraph (4)(A)(iii).

(ii) Termination of authority

The Secretary shall terminate the authority of a State educational agency to grant waivers of Federal statutory or regulatory requirements as described in paragraph (1)(A) if the Secretary determines, after providing the State educational agency with notice and an opportunity for a hearing, that such agency's performance has been inadequate to justify continuation of such authority based on such agency's performance against the specific long-term goals and measurements of interim progress established under section 1111(c)(4)(A)(i) of the Elementary and Secondary Education Act of 1965.

(C) Renewal

(i) In general

Each State educational agency desiring to renew an approved educational flexibility program under this section shall submit a request for renewal to the Secretary not later than the date of expiration of the approved educational flexibility program.

(ii) Timing for renewal

The Secretary shall either approve or deny the request for renewal by not later than 90 days after completing the performance review of the State described in subparagraph (B).

(iii) Determination

In deciding whether to extend a request of a State educational agency for the authority to issue waivers under this section, the Secretary shall review the progress of the State educational agency to determine if the State educational agency—

(I) has made progress toward achieving the objectives described in the State application submitted pursuant to paragraph (3)(A)(iii); and

(II) demonstrates in the request that local educational agencies, educational service agencies, or schools affected by the waiver authority or waivers have made progress toward achieving the desired goals described in the local application submitted pursuant to paragraph (4)(A)(iii).

(D) Termination

(i) In general

The Secretary shall terminate or temporarily suspend the authority of a State

educational agency to grant waivers under this section if the Secretary determines that—

- (I) there is compelling evidence of systematic waste, fraud or abuse; or
- (II) after notice and an opportunity for a hearing, such agency's performance (including performance with respect to meeting the objectives described in paragraph (3)(A)(iii)) has been inadequate to justify continuation of such authority.

(ii) Limited compliance period

A State whose authority to grant such waivers has been terminated shall have not more than 1 additional fiscal year to come into compliance in order to seek renewal of the authority to grant waivers under this section.

(7) Public notice and comment

Each State educational agency seeking waiver authority under this section and each local educational agency, educational service agency, or school 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 on each agency's website, 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, school administrators, 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 application of the agency or school to the Secretary or the State educational agency, as appropriate.

(b) Included programs

The statutory or regulatory requirements referred to in subsection (a)(1)(A) are any such requirements for programs that are authorized under the following provisions and under which the Secretary provides funds to State educational agencies on the basis of a formula:

- (1) The following provisions of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.]:
 - (A) Part A of title I [20 U.S.C. 6311 et seq.] (other than section 1111).
 - (B) Part C of title I [20 U.S.C. 6391 et seq.].
 - (C) Part D of title I [20 U.S.C. 6421 et seq.].
 - (D) Part A of title II [20 U.S.C. 6611 et seq.].
 - (E) Part A of title IV [20 U.S.C. 7101 et seq.].
- (2) The Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.).

(c) Waivers not authorized

The Secretary and the State educational agency may not waive under subsection (a)(1)(A) any statutory or regulatory requirement—

- (1) relating to—
 - (A) maintenance of effort;
 - (B) comparability of services;
 - (C) equitable participation of students and professional staff in private schools;
 - (D) parental participation and involvement;
 - (E) distribution of funds to States or to local educational agencies;
 - (F) serving eligible school attendance areas in rank order in accordance with section 1113(a)(3) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6313(a)(3)];
 - (G) the selection of a school attendance area or school under subsections (a) and (b) of section 1113 of the Elementary and Secondary Education Act of 1965, except that a State educational agency may grant a waiver to allow a school attendance area or school to participate in activities under part A of title I of such Act [20 U.S.C. 6311 et seq.] 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;
 - (H) use of Federal funds to supplement, not supplant, non-Federal funds; and
 - (I) applicable civil rights requirements; and
- (2) unless the State educational agency can demonstrate that the underlying purposes of the statutory requirements of the program for which a waiver is granted continue to be met to the satisfaction of the Secretary.

(d) Treatment of existing Ed-Flex Partnership States

(1) In general

Any designation of a State as an Ed-Flex Partnership State that was in effect on December 10, 2015, shall be immediately extended for a period of not more than 5 years, if the Secretary makes the determination described in paragraph (2).

(2) Determination

The determination referred to in paragraph (1) is a determination that the performance of the State educational agency, in carrying out the programs for which the State has received a waiver under the educational flexibility program, justifies the extension of the designation.

(e) Publication

A notice of the Secretary's decision to authorize State educational agencies to issue waivers under this section, including a description of the rationale the Secretary used to approve applications under subsection (a)(3)(B), shall be published in the Federal Register and the Secretary shall provide for the dissemination of such no-

tice to State educational agencies, interested parties (including educators, parents, students, and advocacy and civil rights organizations), and the public.

(Pub. L. 106–25, § 4, Apr. 29, 1999, 113 Stat. 42; Pub. L. 107–110, title X, § 1073, Jan. 8, 2002, 115 Stat. 2090; Pub. L. 109–270, § 2(e), Aug. 12, 2006, 120 Stat. 747; Pub. L. 114–95, title IX, § 9207(b), Dec. 10, 2015, 129 Stat. 2141.)

Editorial Notes

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsecs. (a)(2)(A)(ii), (3)(A)(v), (b)(1), and (c)(1)(G), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to chapter 70 (§ 6301 et seq.) of this title. Title I of the Act is classified generally to subchapter I (§ 6301 et seq.) of chapter 70 of this title. Parts A, C, and D of title I of the Act are classified generally to parts A (§ 6311 et seq.), C (§ 6391 et seq.), and D (§ 6421 et seq.), respectively, of subchapter I of chapter 70 of this title. Part A of title II of the Act is classified generally to part A (§ 6611 et seq.) of subchapter II of chapter 70 of this title. Part A of title IV of the Act is classified generally to part A (§ 7101) of subchapter IV of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Every Student Succeeds Act, referred to in subsec. (a)(2)(A)(ii), is Pub. L. 114–95, Dec. 10, 2015, 129 Stat. 1802. For complete classification of this Act to the Code, see Short Title of 2015 Amendment note set out under section 6301 of this title and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (b)(2), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, § 1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

CODIFICATION

Section was enacted as part of the Education Flexibility Partnership Act of 1999, and not as part of the Goals 2000: Educate America Act which comprises this chapter.

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (e) relating to the educational flexibility program, programs included in the educational flexibility program, limitations on waivers of program requirements, treatment of existing Ed-Flex Partnership States, and publication of notice of the Secretary's decision to authorize State educational agencies to issue waivers under this section, respectively.

2006—Subsec. (b)(2). Pub. L. 109–270 substituted “Carl D. Perkins Career and Technical Education Act of 2006” for “Carl D. Perkins Vocational and Technical Education Act of 1998”.

2002—Subsec. (b). Pub. L. 107–110 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The statutory or regulatory requirements referred to in subsection (a)(1)(A) of this section are any such requirements for programs carried out under the following provisions:

“(1) Title I of the Elementary and Secondary Education Act of 1965 (other than subsections (a) and (c) of section 1116 of such Act).

“(2) Part B of title II of the Elementary and Secondary Education Act of 1965.

“(3) Subpart 2 of part A of title III of the Elementary and Secondary Education Act of 1965 (other than section 3136 of such Act).

“(4) Title IV of the Elementary and Secondary Education Act of 1965.

“(5) Title VI of the Elementary and Secondary Education Act of 1965.

“(6) Part C of title VII of the Elementary and Secondary Education Act of 1965.

“(7) The Carl D. Perkins Vocational and Technical Education Act of 1998.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EDUCATIONAL FLEXIBILITY PROGRAM EXTENSION

Pub. L. 109–211, § 1, Mar. 24, 2006, 120 Stat. 320, provided that:

“(a) EXTENSION AUTHORITY.—Notwithstanding any other provision of law, the Secretary of Education is authorized to carry out the educational flexibility program under section 4 of the Education Flexibility Partnership Act of 1999 (20 U.S.C. 5891b), until the date of enactment of an Act that reauthorizes programs under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), for any State that was an Ed-Flex Partnership State on September 30, 2004.

“(b) DESIGNATION.—

“(1) IN GENERAL.—Any designation of a State as an Ed-Flex Partnership State that was in effect on September 30, 2004, shall be extended until the date of enactment of an Act that reauthorizes programs under part A of title I of the Elementary and Secondary Education Act of 1965, if the Secretary of Education makes the determination described in paragraph (2).

“(2) DETERMINATION.—The determination referred to in paragraph (1) is a determination that the performance of the State educational agency, in carrying out the programs for which the State has received a waiver under the educational flexibility program, justifies the extension of the designation.”

ADDITIONAL STATE EDUCATIONAL AGENCIES AUTHORIZED TO WAIVE FEDERAL REQUIREMENTS

Pub. L. 104–134, title I, § 101(d) [title III], Apr. 26, 1996, 110 Stat. 1321–211, 1321–229; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, provided in part: “That notwithstanding section 311(e) of Public Law 103–227 [20 U.S.C. 5891(e)], the Secretary is authorized to grant up to six additional State education agencies authority to waive Federal statutory or regulatory requirements for fiscal year 1996 and succeeding fiscal years”.

§§ 5892 to 5895. Repealed. Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265

Section 5892, Pub. L. 103–227, title III, § 312, Mar. 31, 1994, 108 Stat. 178; Pub. L. 104–134, title I, § 101(d) [title VII, §§ 703(a)(12), 705(d)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–253, 1321–257; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, related to progress reports.

Section 5893, Pub. L. 103–227, title III, § 313, Mar. 31, 1994, 108 Stat. 179, related to technical and other assistance regarding school finance equity.

Section 5894, Pub. L. 103–227, title III, § 314, Mar. 31, 1994, 108 Stat. 180; Pub. L. 104–134, title I, § 101(d) [title