Application for the Educational Flexibility (Ed-Flex) Program

U.S. Department of Education
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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. Public reporting burden for this collection of information is estimated to average 40 hours per response, including time for reviewing instructions, searching existing data sources, gathering, and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is required to obtain or retain benefit under section 9207 of the Every Student Succeeds Act (ESSA). If you have any comments concerning the accuracy of the time estimate, suggestions for improving this individual collection, or if you have comments or concerns regarding the status of your individual form, application or survey, please contact the Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Ave., S.W., Washington, DC 20202-3118 at OESE.titlei-a@ed.gov.

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 (SEA) that serves an eligible State to waive statutory or regulatory requirements applicable to one or more of the included programs for any local educational agency (LEA), 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 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.

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 of 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): Deborah A. Thompson, Assistant Commissioner of Federal Programs and Oversight	**Telephone:** (615) 864-5162
Mailing Address: 710 James Robertson Parkway Nashville, TN	**Email Address:** Deborah.Thompson@tn.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) Lizzette Reynolds, Commissioner of Education	**Telephone:** (615) 741-5158
Signature of Authorized SEA Representative Lizzette Reynolds_cw Digitally signed by Lizzette Reynolds_cw Date: 2026.05.29 16:37:16 -05'00'	Date: May 29, 2026

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).**

Pursuant to Tenn. Code Ann. § 49-1-201(d), upon application by a local education agency (LEA) for one or more of its schools, the commissioner of education (commissioner) may waive any State Board of Education (SBE) rule or state statute that inhibits or hinders the LEA's ability to meet its goals or comply with its mission.

Additionally, Tenn. Code Ann. § 49-6-3004(a)(6) authorizes the commissioner to grant a waiver of the 180 days of classroom instruction requirement to an LEA only in the event of a natural disaster or a serious outbreak of illness affecting or endangering students or staff during a school year upon the request submitted by the director of schools.

The commissioner may not grant LEA waivers for regulatory or statutory requirements related to:

- federal and state civil rights;
- federal, state, and local health and safety;
- federal and state public records;
- immunizations;
- possession of weapons on school grounds;
- background checks and fingerprinting of personnel;
- federal and state special education services;
- student due process;

- parental rights;
- federal and state student assessment and accountability;
- open meetings;
- educators' due process rights;
- reductions in teachers' salaries;
- employee rights, salaries, and benefits; and
- licensure of employees.

In addition to the list of items in Tenn. Code Ann. § 49-1-201(d), the following also limit the commissioner's authority to grant waivers:

- Tenn. Code Ann. § 49-1-104 prohibits the commissioner from waiving the class size maximum, with the exception of Tenn. Code Ann. § 49-1-104(f). Tenn. Code Ann. § 49-1-104(f) authorizes the commissioner to grant a waiver from the maximum class sizes established in the law in the event of a natural disaster that results in the enrollment of displaced students.;
- Tenn. Code Ann. § 49-6-3004(a)(6)(A) limits the commissioner's authority to waive the instructional day requirement to when there is a natural disaster or serious outbreak of illness affecting or endangering students or staff during a school year; and
- Tenn. Code Ann. § 49-6-2206(a) authorizes only the SBE to grant waivers to LEAs to use textbooks and instructional materials not on the list approved by the SBE.

Similarly, Tenn. Code Ann. § 49-13-111 authorizes a public charter school to apply to either the public charter school authorizer (authorizer) or the commissioner for a waiver of any SBE rule or state statute that inhibits or hinders the public charter school's ability to meet the school's goals or comply with the school's mission statement. Pursuant to Tenn. Code Ann. § 49-13-111(p), public charter school waivers shall not be granted by the authorizer or commissioner if they are prohibited in the Tennessee Public Charter Schools Act, or for requirements related to:

- federal and state civil rights;
- federal, state, and local health and safety;
- federal and state public records;
- immunizations;
- possession of weapons on school grounds;
- background checks and fingerprinting of personnel;
- federal and state special education services;
- student due process;
- parental rights;
- federal and state student assessment and accountability;
- open meetings; and
- at least the same equivalent time of instruction as required in regular public schools.
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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.**

A. The Tennessee Department of Education (TDOE) has structured its Ed-Flex waiver process to allow for individualized consideration of waiver requests submitted by LEAs. An application for waiver of federal statutory or regulatory requirements will be submitted by the individual LEA to the TDOE as an integrated component of the LEA's annual federal consolidated application, which in Tennessee is referred to as the Consolidated Funding Application (CFA). All requests are reviewed by the division of Federal Programs and Oversight (FPO) for allowability, benefit, and effectiveness in decreasing barriers to implementing education reforms and school improvement activities.

FPO will ensure that the request includes the following Ed-Flex required elements:

- the statutory or regulatory requirement(s) that would be waived;
- the federal program(s) that would be affected;
- the purpose(s) and overall expected result(s) of the waiver;
- the specific, measurable educational goals to be realized as an outcome of waiver implementation; and
- a description of how public notice was made regarding the proposed waiver, as well as the comments received as a result of the notice.

Applications that are incomplete or include waiver requests that are not eligible under Ed-Flex authority will be returned to submitting LEA without further review. For requests that align with the "underlying purpose" of the applicable federal statutory requirements, program staff within FPO will evaluate the submission and provide a recommendation to the Assistant Commissioner of FPO. The Assistant Commissioner will review both the request and the staff recommendation before forwarding it to the Commissioner for final determination. The Commissioner's decision will be communicated through an official memorandum, which will be uploaded to the LEA's CFA and sent directly to the LEA's Director of Schools. LEAs will receive notification of approval or denial within 30 days of submission.

As part of its Ed-Flex implementation, TDOE will continue to analyze recurring challenges reported by LEAs related to federal requirements that impede instructional improvement or student achievement. When such issues are consistently identified, TDOE may pursue statewide waivers to address those barriers. Any approved statewide waivers will be incorporated into the CFA and reviewed through the standard grant application process.

B. Pursuant to Tenn. Code Ann. § 49-1-201(d), upon application by an LEA for one or more of its schools or a public charter school, the commissioner may waive any SBE rule or state statute that inhibits or hinders the LEA's ability to meet its goals or comply with its mission. LEAs may request a waiver by submitting a completed General Waiver Request form to the Commissioner. Waivers must be requested by the director of schools and may be for the entire LEA or for individual schools, including public charter schools, within the LEA. Following review by the commissioner, the LEA will be notified in writing if the waiver request is approved or denied. Unless otherwise stated, all waivers granted by the commissioner shall be granted for one-year terms.

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

As noted above, pursuant to Tenn. Code Ann. § 49-1-201(d), upon application by an LEA for one or more of its schools, the commissioner may waive any SBE rule or state statute that inhibits or hinders the LEA's ability to meet its goals or comply with its mission.

Similarly, Tenn. Code Ann. § 49-13-111 authorizes a public charter school to apply to either the public charter school authorizer (authorizer) or the commissioner for a waiver of any SBE rule or state statute that inhibits or hinders the public charter school's ability to meet the school's goals or comply with the school's mission statement.

Some commonly requested waivers of state statute include the following:

- SBE Rule 0520-01-02.07(2) requires a school having a current student enrollment of 550 or more to have a full-time library information specialist with endorsement as a library information specialist.
- SBE Rule 0520-01-02.07(2) requirement that LEAs provide an ESL staff ratio of 1:35.
- Tenn. Code Ann. § 49-1-104 established class size maximums and averages. Waivers of the class size averages may be requested; however, the law prohibits the commissioner from granting waivers for the class size maximums established in the law, with the exception of Tenn. Code Ann. § 49-1-104(f).
- Tenn. Code Ann. § 49-6-3004(i)(1), which allows up to five days each semester of the required 180 days of classroom instruction via remote instruction in the event of dangerous or extreme weather conditions or of a serious outbreak of illness affecting or endangering students or staff. Additional remote instruction days may be requested.

TDOE will waive the following regulatory requirements upon an approved waiver request:

1. § 4106(e)(2)(C)-(E) of ESEA requires LEAs with an allocation of $30,000 or more to utilize 20 percent of funds on well-rounded education; 20 percent on safe and healthy education; and some funds on technology integration
2. § 4109(b) of ESEA prohibits LEAs from using more than 15 percent of their Title IV-A allocation for purchasing technology infrastructure

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.**

Citation	Objective	Rationale
ESEA § 4106(e)(2)(C)-(E)	Allows LEAs to spend Title IV, Part A funds more flexibly without regard to required spending categories according to their needs assessment.	**What Flexibility Could Allow for LEAs:** • More flexibility, since these rigid percentages may limit local flexibility. • Waiving this requirement allows LEAs to align spending with actual needs, such as prioritizing mental health, STEM, or digital learning.

		• Promotes strategic use of funds based on district priorities, not arbitrary percentages.
ESEA § 4109(b)	Allows LEAs to spend more than 15% of Title IV, Part A funds on technology infrastructure.	**What Flexibility Could Allow for LEAs:** This cap can be restrictive, especially in districts with significant tech gaps. • Waiving it enables LEAs to invest more heavily in infrastructure, supporting digital equity and readiness. • Particularly relevant for rural or under-resourced schools needing foundational tech upgrades.

4. **Describe how the educational flexibility plan is coordinated with activities described in 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.**

Tennessee's Ed-Flex plan is fully integrated with the activities outlined in the consolidated ESSA State Plan, which includes Title I, Part A; Title I, Part C; Title I, Part D; Title II, Part A; Title III, Part A; Title IV, Part A; Title IV, Part B; Title V, Part B; and McKinney-Vento programs. These programs are administered through the department's division of Federal Programs and Oversight (FPO) to ensure coordinated implementation statewide. All waivers granted under Ed-Flex are designed to advance Tennessee's commitment to rigorous academic standards and equity by either supporting students in meeting the state's challenging academic expectations, improving the effectiveness of federally funded programs, or promoting efficient use of resources by LEAs. This flexibility enables LEAs to innovate while maintaining the underlying purposes of each program, ensuring that federal requirements continue to drive improved outcomes for all students.

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.**

All LEAs, including those who request waivers, will be held accountable according to the accountability and long-term goals as dictated in Tennessee's ESSA plan. When an individual LEA requests a waiver, the LEA must detail the following, which TDOE will utilize to evaluate the requests in order to approve or renew:

- The regulation(s) which the LEA wishes to waive
- The purpose of waiving the regulation, and how it will directly tie to increased levels of achievement and performance
- The performance measures the LEA will use to track effectiveness of the waiver request
- The alignment between the LEA's stated performance measures and the long-term goals

and accountability metrics stated within Tennessee's approved ESSA 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.**

A. Tennessee's Ed-Flex application was posted on the Tennessee Department of Education website for public review from March 16 to April 16, 2026. The posting included clear instructions for stakeholders to provide feedback and an email link for submitting comments. The application remains accessible at https://www.tn.gov/education/legal-services/public-notices.html.

   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.**

B. TDOE launched its stakeholder engagement process for the Ed-Flex waiver during the annual Federal Programs Institute in September 2025. At this event, LEA federal programs staff participated in interactive feedback sessions and shared questions and ideas about potential waiver options. Additional input was collected through roundtable discussions with stakeholders attending the Tennessee Organization of School Superintendents meeting in September 2025 and during the Governor's Rural Summit in October 2025.

   TDOE posted public notice of the Ed-Flex application on the TDOE website as well as the homepage of the state's grant management system. Additionally, an email notice to directors of schools and federal programs directors was sent on March 16, 2026, which included application details and a link for submitting feedback. The opportunity to provide input was also featured in the April 2026 edition of the Federal Programs and Oversight newsletter, ensuring multiple channels for stakeholder awareness and engagement.

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