

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 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 a 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 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;

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.

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 begin reviewing applications on July 31, 2019.

Complete applications should be submitted to your OESE, State and Grantee Relations (SGR) State mailbox: [state].oese@ed.gov (e.g., Alabama.oese@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.

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Contact Information and Signatures	
SEA Contact (Name and Position): Michael E. Wells Ph.D. director Federal Programs monitoring and Support Division	Telephone: (919) 807-3957
Mailing Address: NC Department of Public Instruction 6307 Mail Service Center Raleigh, NC 27699-6307	Email Address: Michael.Wells@dpi.nc.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) Mark Johnson, N.C. Superintendent of Public Instruction	Telephone: (919) 807-3432
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.

As a part of the approved NC ESSA Plan, the State has implemented challenging academic standards in mathematics, reading, and science and is administering aligned assessments as described in section 1111(b) of the ESEA. The State is producing the required report cards as required by section 1111(h) of the ESEA (<http://www.ncpublicschools.org/src/>).

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.

LEAs and Charter schools in NC must submit a consolidated application each year which is reviewed by NCDPI and must be approved in order to receive their Title I funds (and other Title funds) allotments. NC does not have educational service agencies. The applicant includes a summary of the progress (or lack of progress) made in achieving the educational goals identified the previous year. Identification of comprehensive support and improvement schools and targeted support and improvement schools are determined by outcomes from the ESSA's accountability model based on the educational goals. This model is based on both achievement and growth and reported for both schools and student subgroups, providing information that addresses the improvement needs for all students. Every four years (or more recently based on risk analysis) LEAs and Charter schools are monitored by NCDPI. Any findings must be corrected in order to receive approval of the application for the following year for compliance with applicable program requirements.

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).

N.C. Gen. Stat. § 115C-105.26 allows the State Board of Education to waive State laws and rules pertaining to class size requirements and school calendar requirements. A request from a local education agency to waive a State law or rule must (i) identify the school or schools making the request, (ii) identify the State law or rule requesting to be waived, (iii) set out with specificity the circumstances under which the waiver may be used, and (iv) explain how the requested waiver will permit the school to improve student performance.

No State law or rule prevents the State Board of Education from waiving Federal laws or rules, if the authority to do so were granted by the US Department of Education. This includes processes, systems, and other requirements responsive to ESSA and enumerated in the State's approved State plan.

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.

North Carolina's Ed-Flex Waiver evaluation process includes maintaining and updating an Ed-Flex page on the State Agency's website: <http://www.ncpublicschools.org/>. This page is regularly updated each year, or as necessary with relevant programmatic descriptions, news releases, performance reports and processing materials related to the Ed-Flex waiver: <http://www.ncpublicschools.org/program-monitoring/resources/edflex/>.

Applications for Ed-Flex waivers will be available on the site, as well as descriptions of what can and cannot be waived under this authority, per federal statute.

The Assistant Director of Federal Programs Monitoring and Support Division (Federal Programs Division) will be the Ed-Flex Consultant for the State of North Carolina and is responsible for overseeing the application, approval process and monitoring for Ed-Flex waivers. Contact information for the Ed-Flex Consultant will be listed on the webpage noted above. Any district (LEA), charter school, lab school or other public school entity (collectively referred to as public school units) seeking an Ed-Flex waiver must complete and submit an Ed-Flex Waiver Application to the North Carolina Department of Public Instruction (NCDPI) Federal Programs Monitoring and Support Division. NCDPI accepts applications from public school units. Ed-Flex applications will be accepted at any time. The Ed-Flex Consultant for the State of North Carolina will screen the ED-Flex Waiver Applications for completeness and appropriateness. Applications found to be complete and appropriate through initial screening will be submitted to the Ed-Flex Waiver Committee, made up of leadership in the Federal Programs Support and Monitoring Division or, when appropriate, the Career and Technical Education Division (for Perkins related waiver requests). The Waiver Committee will meet as needed and will consider the following criteria when reviewing an Ed-Flex Waiver Application:

- 1) The specific needs to address through the waiver and the reasons why these needs cannot be met without the waiver;*
- 2) The link(s) between the waiver request and the School Improvement Plan;*
- 3) The link(s) between the waiver request and any possible waivers of state statutes and the regulations that are already in place or that are to be submitted;*
- 4) The specific changes to be made if the waiver is approved (e.g., instructional delivery, curriculum offerings, professional development, parental involvement, support services, school governance, school climate, etc.);*
- 5) The possible negative impact on schools not included in the waiver if the waiver is approved;*
- 6) The steps that will be taken to ensure that the needs of the intended beneficiaries of the program to be waived continue to be met;*
- 7) How the educational goals measurable and specific for the schools and for the students are affected by the waiver and if the waiver requested will assist in meeting those educational goals; and*

- 8) *If the applicant sufficiently addresses each of the Ed-Flex application requirements.*

Districts will be notified of the approval or denial of their waiver request(s) based upon the decision of the Ed-Flex Waiver Committee within three weeks of submission.

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

The State Board of Education will not waive State statutory or regulatory requirements relating to education except those pertaining to class size requirements and school calendar requirement as noted in assurance 3a above. The State will consider waivers of State processes and procedures as instituted in response to ESSA.

The State Board of Education may waive the requirements related to a cap of 15% on carryover of Title I funds from one academic year to the next; the requirement to serve Title I schools in rank order if justification is approved; and other requirements that are not excluded as noted in the Section titled “Waivers Not Authorized” above;

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 a 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 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;*
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.*
12. *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*

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.

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.

North Carolina's education flexibility plan is designed to support and enhance the goals found in North Carolina's approved Every Student Succeeds Act (NC ESSA) plan and goals/objectives. Innovative methods to leverage resources to improve program efficiencies that benefit students will be through oversight of instructional delivery, curriculum standards, professional development, parent and family engagement, support services, school governance and school climate activities at the state, district and school levels. The state's goals and objectives are:

- *Every student in the NC Public School System graduates from high school prepared for work, further education and citizenship*
 - *Increase the cohort graduation rate*
 - *Graduate students prepared for post-secondary education*
 - *Graduate students pursuing a Career and Technical Education (CTE) concentration prepared for careers*
 - *Reduce the percentage of students needing remediation in post-secondary education*
 - *Increase student performance on state's End of Grade (EOG) and End of Course (EOC) assessments and on the National Assessment of Educational Progress (NAEP)*
- *Every student has a personalized education*
 - *Increase the number of students who graduate from high school with post-secondary credit*
 - *Increase the number of teachers and students using digital learning tools*
 - *Increase the number of schools designated as Science, Technology, Engineering and Mathematics (STEM) or Global Education ready*
 - *Increase the number of charter schools meeting academic, operational, and financial goals*
 - *Decrease the percentage of Low-Performing Schools and Low-Performing School Districts in the state*
- *Every student, every day has excellent educators*
 - *Develop and support highly effective teachers*
 - *Develop and support highly effective principals*
 - *Increase the number of teachers graduating from quality traditional and alternative educator preparation programs*
 - *Increase the access to effective and highly effective teachers for students in low-achieving and high-poverty schools relative to their higher achieving and lower poverty peers*
- *Every school district has up to date financial, business, and technology systems to serve its students, parents and educators*
 - *Provide all schools with sufficient wireless coverage to support 1:1 computing initiative*
 - *Use Home Base as an essential resource for instructional delivery and communications with parents and students*
 - *Use State and federal funding according to State and federal laws and State Board of Education policies*

- *Every student is healthy, safe and responsible*
 - *Create and maintain a safe and respectful school environment*
 - *Promote healthy, active lifestyles for students*
 - *Decrease the number of students who are chronically absent, dropout, or suspended out of school*
 - *Decrease violence and crime in schools*

Resource:

<https://nceln.fpg.unc.edu/sites/nceln.fpg.unc.edu/files/resources/NC%20SBE%20Strategic%20Plan.pdf>

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.

North Carolina supports individualized instruction and learning for both students and educators in the state. Continual exploration and promotion of new initiatives for personalized learning and instruction shows the commitment in the plan for continuous innovation for all stakeholders. North Carolina strives to provide adaptive environments, personalized learning, empowerment of educators, methods to inspire students and focus on emerging initiatives through:

- *B-3 Interagency Council*
- *NC Reads*
- *Whole Child NC*
- *Digital-Age Learning*
- *Global Ready Initiatives*
- *Innovative School District*
- *Lab Schools*

North Carolina will also continue practices and programs utilizing the educational flexibility plan to meet the needs of students and educators in the state in the following ways:

- *EL Support Teams*
- *NC Read to Achieve*
- *NCStar-School Improvement Plans*
- *Multi-Tiered System of Support Framework (MTSS)*
- *Regional Support Team*
- *Data Systems*
- *NC Pre-K*
- *Smart Start*
- *Career and College Promise*

- *Home Base*
- *North Carolina Virtual Public School*
- *Positive Behavior Intervention and Support*
- *North Carolina Educator Effectiveness System*

North Carolina prepares every student to be ready to follow their own path for success. The state plan, along with the accountability model in response to ESSA, describes long-term goals and interim progress measures to allow monitoring of the state's progress in accomplishing all goals and objectives outlined in North Carolina's approved NC ESSA plan. Emerging initiatives, proven practices and programs within the NC ESSA plan will continue to provide students with adaptive environments promoting personalized learning utilizing all fund sources in accordance with all state and federal guidelines.

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.

North Carolina has a robust accountability system in the NC ESSA Plan that includes all the required academic indicators, measures of English language proficiency, graduation rate for high school plus measures of academic growth and for high school additional course assessments for biology, career and college readiness (through ACT, ACT WorkKeys) and a measure of math course rigor. In addition to the accountability system all public school units must include information on local reports cards regarding the following: EL Progress, Long term goals, Grade 8th Math Exception configurations, Combined EOG/EOC scores, Separated EOG/EOC, School Performance Grades by subgroup, Subgroup reporting changes for several academic Indicators ACT/ACT WorkKeys, Alternative School reporting adjusted to comply SBE directive, CSI/TSI Designations (including the reasons for any such designations, Participation rate reporting, Chronic absenteeism by subgroup, School Safety by subgroup, Charter school demographics by subgroup, Preschool Enrollment by subgroup, Specialized Course, Enrollment by subgroup, Preschool Enrollment by subgroup, School improvement plans. All of this will be reviewed as a part of the continued evaluation and oversight of any public school unit that receives a waiver from NCDPI authorized by Ed Flex. In addition, it will be clearly indicated in all communications and forms related to Ed Flex waivers that these measures and requirements of the NC ESSA Plan are not able to be waived.