

# STATE OF DELAWARE

## Application for the Educational Flexibility (Ed-Flex) Program




**U.S. Department of Education**  
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## Cover Page

<b>Contact Information and Signatures</b>	
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<b>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.</b>	
<b>Authorized SEA Representative (Printed Name)</b>  Philip D. Keefer	Telephone:  302-735-4110
<b>Signature of Authorized SEA Representative</b>  	Date:  02/10/2020

## 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).

*Delaware House Bill No. 225, Section 306 sites the following: Section 306. 14 Del. C. § 122(e) requires the Department of Education to review all regulations to ensure that all regulations are current and not burdensome, and 14 Del. C. § 122(f) and (g) provide a means for districts to pursue waivers of state regulations. The Federal Education Flexibility Partnership Act of 1999 allows districts to apply for waivers of federal regulation in states that have adopted challenging content and performance standards, have aligned assessments to those standards, have established a system of school and district accountability and allow waiver of state statutory and regulatory requirements relating to education.*

*Given federal approval of the Department of Education's application for Ed Flex, the department may waive state statutory and regulatory requirements pursuant to the Federal Education Flexibility Partnership Act of 1999. Such waivers must be applied for according to procedures and policies determined by the Department of Education and must be related to Title I, Part B of Title II, Title IV, Title V, Title III and the Carl D. Perkins Career and Technical Education Act of 2006. State programs for which waivers may be granted include, but are not limited to, Student Discipline, Academic Excellence and Professional and Curriculum Development.*

## Descriptions

- 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  
*Title Programs' staff inform LEAs that they can seek technical assistance regarding the requirements and advantages of submitting a waiver. Title programs' staff can provide resources in the form of template documents to support the LEAs as needed. LEAs send all federal waiver requests through an official memo to the Secretary of the Delaware Department of Education. Title program staff review the waiver request for appropriateness, eligibility, and allowability and follow up with the LEA if there any questions regarding the request. If the request meets the "underlying purpose" of the statutory requirements of the program, the Title program staff will make a recommendation to the Associate Secretary that supervises Title programs. The Associate Secretary will review the recommendation of the program staff and forward it to the Secretary of Education. The Secretary of Education makes and communicates the final decision via official memo from the Secretary of Education Office to the requesting LEA Chief School Officer.*
  - B. State statutory or regulatory requirements relating to education.  
*N/A – Delaware does not waive any State statutory or regulatory requirements relating to education.*
- Describe the State statutory and regulatory requirements relating to education that the State educational agency will waive.  
*N/A – Delaware does not waive any State statutory or regulatory requirements relating to education.*
- 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.  
*The Educational Flexibility Program allows the SEA to meet the following long-term state ESSA goals -*  
***Improve academic achievement*** by engaging families, schools, districts, and other agencies; requiring rigorous standards, instruction, and assessments; providing high-quality early learning opportunities; ensuring equitable access to excellent educators; and providing safe and healthy environments conducive to learning.  
***Increased graduation rate*** by providing baselines and establishing measurements of interim progress for improved four-year cohort and extended-year adjusted graduation rates.  
***Increased percentage of English language proficiency*** by calculating interim growth targets and proficiency levels at the point of entry and differentiated by grade level or band based on research and historical trend data.

- 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.

*The Educational Flexibility Program is coordinated with activities described in the Title I Section of the SEA’s approved consolidated state plan by coordinating and collaborating includes, but not limited to, the following:*

**Identification and support for underperforming schools** – differentiated supports including needs assessment, improvement planning, monitoring, resources, and technical assistance, interventions, and implementation processes.

**Educator Growth and Development** - supports including new educator induction and mentoring, educator development, retention and advancement.

**Teacher and School Leaders** - support including recruitment, selection and retention  
**Delaware Early Literacy Initiative** – supports students with disabilities in grades K-3 that enhances literacy skills for all students.

**Learning Leader** - support for school leaders to identify effective instruction and provide feedback to teachers based on student achievement.

**Reimagining Professional Learning** innovation grants - provides funds to LEAs to improve standards based instruction through teacher professional learning.

**Math Curriculum Academy** - cohort of teacher leaders from LEAs to focus on specific areas of challenge within the Mathematics standards.

**Professional Learning Plan** technical assistance - to support data analysis, needs identification, and evidence based strategies to improve practice and learning.

**EL Strategic Statewide Plan** - effort to increase qualified diverse educators and to support children who do not speak English as their first language.

**Gifted and Talented Education** task force - increase the knowledge and skills of educators to maintain high levels of professional competence and full certification.

- 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.

*Our existing accountability system incorporates many of the measures required under ESSA. The Educational Flexibility Program catalyzed the creation of a framework anchored around academic growth and achievement of all students, on track graduation, and college and career preparation. We will evaluate the performance of students affected by the waivers through Delaware’s non-separate regular System of Evaluation which includes:*

**Academic Achievement** - proficiency for ELA and Math in grades 3-8 and 11,

**Academic Progress** - growth in ELA and Math in grades 4-8

**School Quality/Student Success** – chronic absenteeism, proficiency in science and social studies, college and career preparedness, and on-track in 9<sup>th</sup> grade.

**Graduation Rates** – 4-year, 5-year, and 6-year adjusted cohort graduation rates

**English Language Proficiency** – progress towards English language proficiency

- 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.

*The Delaware Department of Education created a one-page information sheet that included some background, the charge (description of the agencies application), the reasoning, the outcomes (including a description of improved student performance), and the timeline. The information was posted on the homepage of DOE website, as well as link to the Federal Programs page for a minimum of thirty days (January 2, 2020 through February 7, 2020). Information was provided to stakeholder groups including, but not limited to Chiefs, Charter School Leaders, Principals, Parents and other DDOE partners on three separate occasions. A social media (Facebook and Twitter) blast was created and distributed that included a link to the webpage, survey, etc. A designated email address [TitlePrograms.Q&A@doe.k12.de.us](mailto:TitlePrograms.Q&A@doe.k12.de.us) was utilized to collect comments via email.*

- 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.

*A presentation of the Educational Flexibility Program and a one-page descriptive handout was provided at the fall Title I Committee of Practitioners meetings held on October 8, 2019 and January 7, 2020. Members of the CoP include parents, students, paraprofessionals, teachers, community members, private school officials, school and district administrators, school board members and Department of Education staff. A two question online Survey was created through Survey Monkey regarding Ed Flex authority and opportunity. Responses to the survey, as well as responses to the email, were collected via Google Docs and posted on the website as they were collected.*

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

**Results of Public Comment: Delaware Ed Flex Application**

<i>Timestamp</i>	<i>I believe that the State of Delaware should apply for the Ed-Flex Program.</i>	<i>In the space below, please provide any comments that you would like to share with regard to the State of Delaware participating in the Ed-Flex Program.</i>
<i>1/22/2020 15:37:04</i>	<i>4 - Agree</i>	<i>I think this is a great idea! You never know when you need a waiver.</i>

## **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.