



# **Overview of Ed-Flex and Types of Waivers Available**

## **2022-2023**

## **Education Flexibility Partnership Act (Ed-Flex)**

### **Ed-Flex Authority**

Texas has received approval from the U.S. Department of Education to continue its Ed-Flex waiver authority under the Education Flexibility Partnership Act of 1999, as amended by the Every Student Succeeds Act of 2015 (ESSA), through the 2023-2024 school year.

### **Covered Programs**

As an Ed-Flex state, Texas has the authority to waive provisions of the following federal programs to assist local educational agencies (LEAs) in designing and implementing the programs in ways that best meet the needs of their students and communities:

- Every Student Succeeds Act (ESSA):
  - Title I, Part A (other than section 1111)
  - Title I, Part C
  - Title I, Part D
  - Title II, Part A
  - Title IV, Part A
- Carl D. Perkins Career and Technical Education Act of 2006, as amended

### **Provisions That Cannot Be Waived**

Under Section 9207(c) of ESSA, the following statutory or regulatory requirements cannot be waived:

- Maintenance of effort;
- Comparability of services;
- Equitable participation of students and professional staff in private schools;
- Parental participation and involvement;
- Distribution of funds to States or to local educational agencies;
- Applicable civil rights requirements;
- Serving eligible school attendance areas in rank order on in accordance with section 1113(a)(3) of ESSA;
- the selection of a school attendance area or school under subsections (a) and (b) of section 1113 of ESSA, except that TEA 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 of the LEA that meets the requirements of such subsections; and
- Use of Federal funds to supplement, not supplant, non-Federal funds.

### **Types of Waivers Available**

Three types of waivers are available to LEAs: Statewide Administrative Waivers, Statewide Programmatic Waivers, and Individual Programmatic Waivers. Each type of waiver has a

different application and evaluation procedure:

### **Statewide Administrative Waivers**

The following **statewide administrative waivers** address the regulations governing the application for funds and certain recordkeeping provisions. These administrative waivers have been automatically granted to all LEAs, as applicable, for the duration of the state's waiver authority under Ed-Flex, contingent on the state's meeting the evaluation criteria stated below. It is anticipated that these waivers will reduce the administrative burden and provide additional time for instruction and planning, resulting in improved student performance. There are currently three Statewide Administrative Waivers that are approved for the covered programs:

#### **1. Submission of an Amendment to Transfer Funds for Training Costs**

*For more information contact the Educator Leadership and Quality Division.*

This waiver eliminates the need for an amendment to transfer funds budgeted for training costs that are direct payments to trainees as long as the program description in the application remains unchanged.

#### **2. Certification that an Employee is Funded from a Single Fund Source or Cost Objective**

*For more information contact the Educator Leadership and Quality Division.*

This waiver eliminates the requirement that charges for salaries and wages be supported by a semi-annual certification that the employee worked solely on that program for the period covered by the certification. This waiver is allowable as long as the employee's job description clearly states that the employee is assigned 100 percent to the program or single cost objective.

#### **3. Allowing LEAs to request pre-award authorization from TEA, as opposed to USDE**

*For more information contact the Grants Administration Division.*

This waiver allows LEAs in Texas to request pre-award costs from TEA instead of having to ask the USDE. Pre-award costs do require specific approval in the application, but this waiver allows TEA to have the same authority to grant pre-award that it had prior to the revisions to the Uniform Grant Guidance that were issued in November 2020.

## **Statewide Programmatic Waivers**

The following **statewide programmatic waivers** address the design and delivery of federal programs covered under Ed-Flex. The statewide programmatic waivers must be indicated on ESSA Consolidated Application for Federal Funding. These waivers allow educators the flexibility to use federal program funds in ways that may result in significant gains in student performance.

### **1. Threshold for Eligibility to Implement Title I, Part A, Schoolwide Programs**

[ESSA, Section 9207]

*For more information contact the Grants Administration Division.*

This waiver allows any campus otherwise eligible to receive Title I, Part A, funds to implement a Title I, Part A, schoolwide program regardless of the percentage of students from low-income families.

This Statewide Programmatic Waiver of Schoolwide Eligibility will be valid for one year. After the one-year waiver is implemented, the campus may continue to implement a schoolwide program for as long as the campus remains an eligible Title I, Part A attendance area. The LEA must maintain a completed [Supporting Documentation Form](#) on file locally.

Although there is no evaluation of this Statewide Programmatic Waiver of Schoolwide Eligibility beyond the one-year waiver period, TEA will track and report to USDE the performance of all campuses granted this waiver until the point the campus has a low-income percentage of 40.00% or greater.

### **2. Waiver of Title I, Part A, 15% Roll Forward Limitation [ESSA, Section 9207]**

*For more information contact the Grants Administration Division.*

An LEA that receives a significant increase in final allocations may apply for/utilize this Ed-Flex waiver if the LEA has already utilized a Title I, Part A statutory roll forward waiver within the last 3 years.

This waiver is valid for one year and may be renewed. An LEA must include the Roll Forward Waiver Schedule in the original submission of the ESSA Consolidated Application for Federal Funding to apply for this waiver.

## **Individual Programmatic Waivers**

Individual programmatic waivers provide LEAs and campuses flexibility in the use of federal program funds based on the barriers preventing student achievement.

### Application Process

To request an individual programmatic waiver, LEAs must submit a separate Ed-Flex waiver application. The [Ed-Flex Individual Programmatic Waiver](#) application is available on the [Ed-Flex web page](#).

### Application Deadline

Applications for Individual Programmatic Waivers will be accepted on an ongoing basis. The start date and the evaluation criteria will be determined recommended by the Ed-Flex Committee during the review process and will be approved or denied by the Commissioner.

### Application Review and Approval

Ed-Flex Waiver applications will be reviewed according to the Ed-Flex Committee schedule.

TEA staff will review each waiver application to ensure that it was approved by the local board of trustees, signed by the superintendent, includes comments of the appropriate site-based decision-making committee, and identifies a technical assistance provider that will be used if the required annual gains in student performance are not met.

A written staff analysis will be forwarded with the waiver to the Title I Committee of Practitioners that also serves as the Ed-Flex Committee for consideration. The committee's recommendation regarding the approval of the waiver, as well as the evaluation criteria that must be met, will be forwarded to the Commissioner of Education for final action. TEA will notify the LEA of the commissioner's decision within 30 days of the decision.

### Contact Information

For assistance with Individual Programmatic Waivers, please contact [ESSASupport@TEA.Texas.gov](mailto:ESSASupport@TEA.Texas.gov).