



DEPARTMENT OF EDUCATION

The Townsend Building
401 Federal Street Suite 2
Dover, Delaware 19901-3639
DOE WEBSITE: <http://www.doe.k12.de.us>

Lillian M. Lowery, Ed.D.
Secretary of Education
Voice: (302) 735-4000
FAX: (302) 739-4654

[Date]

[CSO Name]

[Address]

Dear [CSO Name],

The Delaware Department of Education has been granted the authority by the United States Department of Education to grant waivers for certain provisions of federal programs in the Consolidated Application. This authority is called Ed-Flex and is made available to states through the Education Flexibility Partnership Act of 1999.

Waivers should be requested when a district or school believes that they are better able to meet the goals of their programs by implementing programs or features of those programs in ways that are not consistent with program regulations. Ed-Flex legislation permits Ed-Flex states to waive requirements of the following federal grant programs:

- Part A of Title I (other than sections 1111 and 1116) (Improving the Academic Achievement of Disadvantaged Children)
- Subpart 3 of Part B of Title I (Even Start Family Literacy Programs) (NOTE: Ed-Flex states may *not* waive requirements of the new Reading First or Early Reading First Programs (subparts 1 and 2 of Part B of Title I))
- Part C of Title I (Education of Migratory Children)
- Part D of Title I (Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk)
- Part F of Title I (Comprehensive School Reform)
- Subparts 2 and 3 of Part A of Title II (Teacher and Principal Training and Recruiting)
- Subpart 1 of Part D of Title II (Enhancing Education through Technology)
- Subpart 4 of Part B of Title III (Emergency Immigrant Education, if this program is funded)
- Subpart 1 of Part A of Title IV (Safe and Drug-Free Schools and Communities)
- Part A of Title V (Innovative Programs)
- The Carl D. Perkins Vocational and Technical Education Act

An Ed-Flex waiver request must contain

- The name of the district and/or school requesting the waiver
- The reason for requesting the waiver
- The federal regulation to be waived
- The program goals and objectives impacted by the waiver
- The timeframe/duration of the requested waiver
- Evidence of school community involvement in the decision to request the waiver
- Description of how the district will monitor the impact of the waiver on district and/or school goals

LEAs may submit requests for waivers at any time. Waiver requests must be submitted in writing by the district superintendent or charter school director. All waiver requests must be addressed to the Secretary of Education, with a copy to Amelia Hodges, Director of Career, Technical and Consolidated Programs. Once the request is reviewed, applicants will receive a written decision within 60 days.

Enclosed are Ed-Flex Frequently Asked Questions and a sample letter. If you have questions or require additional assistance, please contact Amelia Hodges at (ahodges@doe.k12.de.us or 302-857-3320).

Sincerely,

Lillian M. Lowery, Ed.D.
Secretary of Education

c: [Curriculum Director]
[Business Manager]
Michael Owens
Amelia Hodges
Tammy Korosec
Melvin D'Souza

LML/AH/bac

Enclosures:

Ed-Flex Quick Guidance
Sample Ed-Flex waiver request letter

Ed-Flex Frequently Asked Questions

What is Ed-Flex?

Ed-Flex is a program that authorizes the Secretary to delegate to State educational agencies (SEAs) with strong accountability safeguards the authority to waive requirements of certain state-administered formula grant programs. Once delegated Ed-Flex authority, an SEA may waive requirements that, in particular instances, may impede the ability of local educational agencies (LEAs) or schools in carrying out educational reforms and in raising the achievement levels of all students.

Ed-Flex was first enacted as a demonstration program in 1994, and initially authorized the Secretary to give Ed-Flex authority to six States. In 1996, revisions to the Ed-Flex legislation authorized the Secretary to delegate Ed-Flex status to six additional states. The Education Flexibility Partnership Act of 1999, which remains in effect, provides any state that meets the Ed-Flex eligibility requirements an opportunity to participate in Ed-Flex. Currently, ten states have Ed-Flex waiver authority under the 1999 Ed-Flex legislation (CO, DE, KS, MA, MD, NC, OR, PA, TX, and VT).

What program regulations/requirements may not be waived?

Ed-Flex waiver authority is broad; however, there are some federal and state requirements that cannot be waived. The Individuals with Disabilities Education Act (IDEA) is not covered by Ed-Flex, and Ed-Flex does not in any way alter the obligations of a participating state with respect to any civil rights-related court orders. Furthermore, a state may not grant a waiver that would undermine the underlying purposes of the program for which a waiver is being sought. In addition, a state may not grant waivers to districts/schools related to –

- Maintenance of effort
- Comparability of services
- Equitable participation of students and professional staff in private schools
- Parental participation and involvement
- The distribution of funds to local educational agencies
- The use of federal funds to supplement, not supplant, non-federal funds
- Applicable civil rights requirements.

Ed-Flex includes some restrictions relating to targeting Title I requirements. Specifically, the DOE may not waive requirements relating to:

- (1) serving eligible school attendance areas in rank order under Section 1113(a)(3) of Title I and
- (2) the selection of a school attendance area or school under Sections 1113(a) and (b) of Title I, except that a state educational agency may grant a waiver to allow a school attendance area or school to participate in Title I, Part A if the percentage of children from low-income families in the school attendance area or school is not less than 10 percentage points below the lowest Title I eligible school or attendance area.

Only those state programs that are included in the Consolidated Application are eligible for waivers.

Ed-Flex Frequently Asked Questions

What is an example of a program waiver that may be granted?

A school in the Maplewood school district would like to implement a program that is designed to meet the reading needs of students at all levels. The school is a Title I school with 30% of its students in poverty. It serves students in grades K-3. The school currently uses a pull-out program to serve the needs of targeted Title I children. As a targeted assistance Title I school, they must identify and serve only the children targeted for participation in the program.

The school may implement a program for all children if it has “schoolwide” status. The school through its district may request a waiver of the requirement for being a schoolwide, which is that at least 40% of the students must be in poverty. As a schoolwide program, they may implement the program that meets the needs of students at all levels.

When should a district/school apply for waivers?

Waivers should be requested when a district or school believes that they are better able to meet the goals of their programs by implementing programs or features of those programs in ways that are not consistent with program regulations. The DOE accepts waiver requests on an ongoing basis.

What should the waiver request contain?

A waiver request must contain

- The name of the district and/or school requesting the waiver
- The reason for requesting the waiver
- The federal regulation to be waived
- The program goals and objectives impacted by the waiver
- The timeframe/duration of the requested waiver
- Evidence of school community involvement in the decision to request the waiver
- Description of how the district will monitor the impact of the waiver on district and/or school goals

How is a waiver request submitted?

Waiver requests are submitted in writing by the district superintendent or charter school director to

Lillian M. Lowery, Ed.D.
Secretary of Education
Delaware Department of Education
401 Federal Street, Suite 2
Dover, DE 19901

Ed-Flex Frequently Asked Questions

All waiver requests must also be copied to Amelia E. Hodges, Director of Career, Technical and Consolidated Programs.

How will your waiver request be reviewed by DOE?

The DOE has established a committee that will review your request and recommend to the Secretary of Education its approval or rejection. The decision of the committee will be based on the following criteria: the completeness of the request (contains all criteria); the impact of the requested waiver on the achievement of students; the ability or capacity of the district/school to implement the program feature it proposes to change; and the eligibility of the waiver to be waived.

When will notification of the waiver be received by the district/school?

The district superintendent or charter school director will receive notification of the approval or denial of the requested waiver within 60 days of its receipt by DOE.

How will DOE monitor the impact of the waiver request?

The DOE will review, on an annual basis, the district and school evaluation of goals and objectives for schools that were granted waivers. Having reviewed the impact of the waiver on the goals and objectives, the committee will grant an extension or termination of the district/school waiver.

Ed-Flex Frequently Asked Questions
Sample Ed-Flex Waiver Request Letter

TO: Lillian M. Lowery, Ed.D.
 Delaware Secretary of Education

FROM: Ima Chief, Ed.D.
 Superintendent, ABC School District

DATE: November 5, 2009

SUBJECT: Ed-Flex Waiver for ABC School District

The ABC School District is requesting an Ed-Flex waiver for Title I, Part A (Improving Academic Achievement of Disadvantaged Children) for the following schools:

School	Poverty Percentage
North Elementary	39.12%
South Elementary	37.60%
West Middle School	36.35%
East High School	29.30%

The district would like to continue to operate all of the above-mentioned schools as “schoolwide” Title I programs. The district requests the schoolwide waiver for the following reasons:

- Title I teachers in the ABC School District have been trained extensively in strategies related to in-class literacy coaching, DIBELS and DSTP data analysis, and best practices in English / language arts instruction. We would like for the Title I teachers to have greater flexibility with their schedule regarding the teaching of model lessons, in-class coaching with teachers, and data-driven decision making.
- The ABC School District has recently adopted the 2009 edition of “Excellent Readers” for all kindergarten through ninth grade classrooms. We would like for Title I teachers to have greater flexibility with their services to ensure proper program implementation and in-class coaching with teachers.

The following Consolidated Grant goals are affected by this status and will continue to be monitored in the following manner:

Program goals / objectives impacted by the waiver	How Caesar Rodney will monitor the impact of the waiver on district / school goals
<p>1.1 --- 78% of at-risk kindergarteners entering in the all-day kindergarten (ADK) program will score at Benchmark Level on the DIBELS</p>	<p>The Supervisor of Instruction responsible for monitoring and supervising the ADK program and the school faculty will:</p> <ul style="list-style-type: none"> • monitor DIBELS data • host DIBELS action planning meetings for all classrooms (fall and winter data will be used in DPAS II evaluations)

Ed-Flex Frequently Asked Questions
Sample Ed-Flex Waiver Request Letter

	<ul style="list-style-type: none"> • require progress monitoring for all students labeled <i>strategic</i> or <i>intensive</i> as per DIBELS testing • adjust the school schedule based upon the DIBELS data
<p>1.2 --- 78% of at-risk students entering the Literacy First program will score at Benchmark Level on the DIBELS</p>	<p>The building administrator responsible for monitoring and supervising the Literacy First program and the SIP committee will:</p> <ul style="list-style-type: none"> • monitor DIBELS data • host DIBELS action planning meetings for all classrooms (with the Supervisor of Instruction and the Title I teacher) • require progress monitoring for all students labeled <i>strategic</i> or <i>intensive</i> as per DIBELS testing • adjust the school schedule based upon the DIBELS data • require “push in” services with the Title I teacher
<p>1.3 --- 78% of students (grades K-10) will meet or exceed the state standard in English / Language Arts as measured by the DSTP</p>	<p>The building administrator responsible for monitoring and supervising the school program and the SIP committee will:</p> <ul style="list-style-type: none"> • monitor DSTP data to look for historical trends / instructional patterns • monitor Gates and MAP data to look for historical trends / instructional patterns • SIP committees will use this data to develop schoolwide instructional initiatives (i.e. reading rubric implementation, QAR, RARE, TBW, SAW, developing anchor papers) • adjust the school schedule based upon the DSTP data • require “push in” services with the Title I teacher for new teachers and teachers changing grade levels

Dr. Cary Riccula, Assistant Superintendent, and Sue Perrida, Supervisor of Instruction, have held meetings and phone conferences with the individual school administrators impacted by this waiver request. The administrators were then asked to share this information with their building staff and SIP committee to discuss continued support for this process. Moreover, Sue Perrida has met with district’s Title I teachers to facilitate continued services with the schoolwide model of intervention. To date, all schools support the waiver request.

Finally, the district will set aside Title I funds to support professional learning communities (PLCs) for teachers and paraprofessionals in the affected schools. This will include guidance / study sessions to support PLCs if requested by schools and individual teachers.

c: Cary Riccula
Sue Perrida
Amelia Hodges