

Kansas Ed-Flex Authority
Under
The Education Flexibility Partnership Act of 1999
Amended by No Child Left Behind Act of 2001

Ed-Flex Guidance and Application Packet

Kansas State Department of Education
Title Programs and Services
120 SE 10th Avenue
Topeka, KS 66612-1182

Updated October 2008

An Equal Employment/Educational Opportunity Agency

The Kansas State Department of Education does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities. The following person has been designated to handle inquiries regarding the non-discrimination policies:
KSDE General Counsel, 120 SE 10th Avenue, Topeka, KS, 66612, 785-296-3204.

Kansas State Department of Education Ed-Flex Waiver Information and Guidance

Purpose

The purpose of Ed-Flex is to help districts and schools carry out educational reforms and raise the achievement levels of all children by providing increased flexibility in the implementation of federal education programs in exchange for enhanced accountability for the performance of students. Kansas's authority to provide Ed-Flex waivers was renewed under the Education Flexibility Partnership Act of 1999. The current revisions reflect the changes under P.L. 107-110 No Child Left Behind.

Programs Included in Ed-Flex Waiver Authority

The No Child Left Behind amends the Education Flexibility Partnership Act of 1999 and applies the Ed-Flex waiver authority to the following formula programs of the Elementary and Secondary Education Act of 1965:

1. Title I Part A, Improving Academic Achievement of the Disadvantaged, Basic Programs (other than section 1111 and 1116);
2. Title I Part C Migrant Education;
3. Title I Part D Neglected and Delinquent;
4. Title II Part A Subpart 2 and Subpart 3 Teacher Quality;
5. Title II Part D Subpart 1 State and Local Technology Grants;
6. Title III Part B Subpart 4 Emergency Immigrant Education (if funding requirement in Section 3001 is not reached)
7. Title IV Part A Subpart 1 Safe and Drug-Free Schools and Communities Program; and
8. Title V Part A Innovative Programs.

Length of Waiver

Waivers will be granted for up to two school years. The Kansas State Department of Education (KSDE) may terminate the waiver(s) granted to the district at any time if it is determined, after notice and opportunity for hearing, that the district's performance has been inadequate to justify the continuation of the waiver(s).

No Waivers Will Be Granted

No waivers will be approved which undermine the underlying purpose of the statutory requirements of the program for which a waiver is sought. The *underlying purpose* refers to the fundamental reasons for which a program was established. In addition, KSDE will not waive any requirements relating to any of the following:

1. Maintenance of effort;
2. Use of federal funds to supplement, not supplant, non-federal funds;
3. Equitable participation of students and professional staff in private schools;
4. Parental participation and involvement;
5. The distribution of funds to local education agencies
6. Serving eligible school attendance areas in rank order under section 1113(a)(3) of Title I Part A;
7. The selection of a school attendance area or school under sections 1113(a) and (b) of Title I Part A; however, KSDE 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 within 10 percentage points of the lowest Title I eligible school or attendance area;

8. Poverty threshold for Title I schools to become schoolwides if school has less than 30% poverty;
9. The use of federal funds to supplement, not supplant, non-federal funds; and
10. Applicable civil rights requirements.

Also, the requirements of the Individuals with Disabilities Education Act (IDEA), the Family Educational Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Act (PPRA) may not be waived.

Procedures for Granting Waivers

- Any district seeking an Ed-Flex waiver must complete and submit an *Ed-Flex Waiver Application* to Kansas State Department of Education, Title Programs and Services, 120 SE 10th Ave., Topeka, KS, 66612-1182. KSDE will accept applications from the district and not from individual buildings. The district application may involve several schools and programs.
- *Ed-Flex Waiver Applications* may be submitted at any time. The time from submission to KSDE to final action by the Kansas State Board of Education may take six weeks.
- The Director and Assistant Director of the Title Programs and Services Team will screen the *Ed-Flex Waiver Applications* for completeness and appropriateness.
- Applications passing the initial screening will be submitted to the Ed-Flex Waiver Committee for review and recommendation. The Waiver Committee, which meets as necessary, will consider the following criteria when reviewing an Ed-Flex waiver request:
 1. Is the underlying purpose of the specific program for which the waiver is requested being met?
 2. Is the waiver requested needed to implement State and local reform initiatives?
 3. Does the request contribute to helping all students reach high standards and include the needs of high-risk populations?
 4. To what extent does the waiver enhance the school's ability to implement activities directed toward its school improvement plan as developed through Quality Performance Accreditation?
 5. To what extent does the waiver assist in improving student achievement?
 6. Are the educational goals measurable and specific for the schools and for the students affected by the waiver? Does the waiver requested assist in meeting those educational goals?
 7. Does the applicant sufficiently address each of the Ed-Flex application requirements?
- Recommendations of the Waiver Committee will be submitted to the Kansas State Board of Education for final action at a regularly scheduled meeting. The State Board may grant full or partial waiver(s) if multiple waivers and/or programs are submitted. Districts will be notified of the granting or denial of their waiver requests after the meeting.

Notice and Public Comment

Each district seeking a waiver shall give the public adequate and sufficient notice of the proposed waiver by providing a description of the district's application in a widely read medium. The description should include the expected improvement for student performance as a result of having the waiver. Parents, educators and all other interested members of the community shall have an opportunity to provide comment regarding the proposed waiver request.

Evaluation and Accountability

Any district receiving an Ed-Flex waiver will be reviewed annually to evaluate the performance of students in the schools and districts affected by the waivers. Districts receiving waiver authority will be held accountable primarily through the results from State assessments. Student results from the State assessments will be analyzed for positive growth for all students affected by the waivers. Schools not demonstrating the established annual benchmarks for progress within a two-year period will not be granted continued waiver authority.

Schools and districts with Ed-Flex waivers will be evaluated using the same criteria established for determining adequate yearly progress (AYP) according to Title I Part A requirements. Schools and districts may, in addition to State assessments, use locally-determined indicators for evaluation.

Questions

Questions regarding the Ed-Flex waiver authority should be directed to Judi Miller at 785-296-5081 or via email at judim@ksde.org. Applications should be sent to Judi Miller, Assistant Director, Kansas State Department of Education, Title Programs and Services, 120 SE 10th Avenue, Topeka, KS, 66612 .

**Kansas State Department of Education
Ed-Flex Waiver Application**

USD #: _____ USD Name: _____ Date: _____

Contact Person: _____ Phone: _____

Address: _____

City: _____ Zip: _____ Email: _____

Superintendent's Signature _____

To be completed by KSDE:	
Date Received: _____	Date of Action: _____
Committee Action:	Kansas State Board of Education Action:
Approve _____	Approve _____
Disapprove _____	Disapprove _____
Date Waiver in Effect: _____	Date Waiver Expires: _____

Part I.

1. List each School Participating in the Waiver Request and its Percent of Poverty on Sept. 20th:

2. Provide an overview of the Ed-Flex waiver(s) requested:

Kansas Ed-Flex Waiver Application

Part II Directions: Answer the following questions as they apply to the waiver being requested. Write your responses on separate paper and attach them to the front page of the application. Each question and its number with the response.

1. Identify each **federal** program and the specific federal statute(s) and/or regulation(s) for which a waiver is being requested. Include the specific statute number or regulation number.
2. Identify the specific **state** regulation(s) or statute(s) for which a waiver is being requested.
3. Describe the reason for requesting the waiver including a description of the current education services or activities affected by the waiver(s) request and a description of the changes to be made if the waiver(s) is granted.
4. Which students and/or staff will be affected by this waiver?
5. How will the requested waiver contribute to helping all students reach high standards and address the needs of high-risk populations?
6. Explain how the district/school will continue to meet the underlying purpose of the program for which the waiver is being requested.
7. Explain how granting the waiver will enhance the DISTRICT/school's ability to implement activities directed toward their school improvement plans as developed through Quality Performance Accreditation (QPA).
8. For each school year in which the waiver will be in effect, describe the specific, measurable educational **goals** for each school and for the students served by the district/school who will be affected by the proposed waiver.
9. Describe the specific **evaluation criteria** that the district/school(s) will use to determine the effectiveness of the waiver and the extent to which the educational goals described in question #6 are met. If the school(s) has grades in which State assessments are administered, these should be included in the criteria.
10. Provide documentation that demonstrates that parents, educators, community groups, and other members of the general public were provided an opportunity to comment on the proposed waiver.

Submit a signed original and one copy of the completed application to:

Judi Miller, Assistant Director
Title Programs and Services
Kansas State Department of Education
120 SE 10th Avenue
Topeka, KS 66612-1182