

Public Comment on Application for the Educational Flexibility (Ed-Flex) Program

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.

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.

Public comment on the application described above may be submitted via this Google Form. Questions or additional comment may be accepted by email to jonas.zuckerman@dpi.wi.gov, or by mail to the Department of Public Instruction, Attn: Jonas Zuckerman, P.O. Box 7841, Madison, WI 53707. Public comments should be submitted no later than December 11, 2019, to receive consideration.

Further information regarding the draft application is available to review at

https://dpi.wi.gov/sites/default/files/imce/esea/pdf/Wisconsin_ed_flex_application_draft_for_public_comment_Nov_2019.pdf.

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Who are you representing?

Are you representing yourself or an organization in an official capacity? *

- Representing self
- Representing an organization

Organization Representing

If you selected "Representing an organization" in the section above, you will be prompted to specify the organization that you are representing in an official capacity.

Name of the organization you are representing. *

Representing self

Submitting Public Comment

Please enter the text of your written comments below.

Please enter the text of your comment below. *

The Wisconsin Department of Public Instruction (the SEA that serves Wisconsin) should not be authorized to waive statutory or regulatory requirements under ESSA for any LEA, and it should be found ineligible under ESEA Section 9207 to do so, for the following reasons:

1. The report cards required by ESEA Section 1111(h) have not been issued. The SEA has not taken any actions known to the public toward producing such report cards, nor engaged the public in the process of developing such report cards. The SEA has not made it known to the public, including education stakeholders, that ESSA requires the issuance of report cards under ESEA Section 1111(h) that are distinct and qualitatively different in significant respects from the “state report cards” that the SEA has been issuing annually. The “state report cards” do not meet the requirements of ESEA Section 1111(h). The ratings given to schools under the “state report cards” often conflict with schools’ targeted support and improvement status. This precludes the required informed engagement in support and improvement activities by education stakeholders who may rely on the designation of a school as “meeting expectations” or “exceeding expectations” under the state report cards and are unaware of the school’s status under ESSA as requiring support and improvement.
2. The SEA has not demonstrated its ability to hold and has not held LEAs accountable for complying with ESSA and LEA planning consistent with the state ESSA plan. The LEA plan for Madison Metropolitan School District, the second largest school district in Wisconsin (which has nearly half of its schools identified for support and improvement, and which has the highest black-white achievement gap in the country) was approved by the SEA even though the LEA plan was created and submitted without required public notice, review or opportunity to comment. Following such approval, the SEA has neither monitored the implementation of the LEA plan nor reviewed the performance of the LEA under the plan. The LEA posted a version of the LEA plan that was substantively modified from the plan approved by the SEA, on subpages of the LEA’s website, without further public announcement, months after the plan was approved. It is likely that the public and other education stakeholders of the LEA are unaware that the LEA plan exists. Neither ESSA nor the LEA plan has appeared on a school board agenda of the LEA. No implementation of the LEA plan or support and improvement planning known to the public has occurred.
3. The subject application does not describe how the SEA will ensure that the substantive requirements of Section 9207 are met. It merely states that the SEA has the authority under state law to grant waivers to LEAs, identifies the staff members within the SEA who would approve LEA waivers, and recites the conceptual objectives under the state ESSA plan. The evaluation process as described in the subject application does not include engagement of the public and other education stakeholders, or any way to hold the LEA and SEA accountable if a requested LEA waiver is approved by the SEA despite failing to meet the requirements of Section 9207.

4. The subject application does not describe the improved student performance that the SEA expects to result from the waiver authority. Given that no subgroups are meeting the state ESSA plan's progress goals, and many subgroups have, in fact, fallen behind their 2015-16 baseline, it is clear that the state ESSA plan is not working, and that the LEA plans through which support and improvement activities are to be implemented are not working. Granting the SEA the authority to waive even more requirements of ESSA beyond the waivers that the SEA has been granting LEAs on a de facto basis by the absence of appropriate oversight and monitoring will further damage, not improve, student performance.
 5. The SEA has failed to provide the public with adequate and efficient notice of the subject application. The SEA initially included a notice of the public comment period in the state administrative register on the Monday before Thanksgiving with a short deadline for comment, then amended the notice to provide an additional 5 days for public comment. Publication in the administrative register is not reasonable notice for most education stakeholders (parents, educators, school administrators, and all other interested members of the community), when the SEA could have made efforts for outreach and notice through its website, its communications department, press releases, and its numerous social media sites.
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