

106TH CONGRESS
1ST SESSION

H. R. 800

To provide for education flexibility partnerships.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 1999

Mr. CASTLE (for himself, Mr. ROEMER, Mr. BOEHNER, Mr. DEAL of Georgia, Mr. DEFAZIO, Mr. DEMINT, Mr. DIAZ-BALART, Mr. DOOLEY of California, Mr. DREIER, Mr. FORBES, Mr. GOODLING, Mr. GRAHAM, Mr. GREENWOOD, Mr. HILLEARY, Mr. HOBSON, Mr. HOEKSTRA, Ms. HOOLEY of Oregon, Mr. SAM JOHNSON of Texas, Mrs. MALONEY of New York, Mr. MORAN of Virginia, Mr. NORWOOD, Mr. PETRI, Mr. SESSIONS, Mr. SHOWS, Mr. SMITH of Washington, Mr. SOUDER, Mrs. TAUSCHER, Mr. UPTON, and Mr. WEYGAND) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To provide for education flexibility partnerships.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Education Flexibility
5 Partnership Act of 1999”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) States differ substantially in demographics,
2 in school governance, and in school finance and
3 funding. The administrative and funding mecha-
4 nisms that help schools in 1 State improve may not
5 prove successful in other States.

6 (2) Although the Elementary and Secondary
7 Education Act of 1965 and other Federal education
8 statutes afford flexibility to State and local edu-
9 cational agencies in implementing Federal programs,
10 certain requirements of Federal education statutes
11 or regulations may impede local efforts to reform
12 and improve education.

13 (3) By granting waivers of certain statutory
14 and regulatory requirements, the Federal Govern-
15 ment can remove impediments for local educational
16 agencies in implementing educational reforms and
17 raising the achievement levels of all children.

18 (4) State educational agencies are closer to
19 local school systems, implement statewide edu-
20 cational reforms with both Federal and State funds,
21 and are responsible for maintaining accountability
22 for local activities consistent with State standards
23 and assessment systems. Therefore, State edu-
24 cational agencies are often in the best position to

1 align waivers of Federal and State requirements
2 with State and local initiatives.

3 (5) The Education Flexibility Partnership Dem-
4 onstration Act allows State educational agencies the
5 flexibility to waive certain Federal requirements,
6 along with related State requirements, but allows
7 only 12 States to qualify for such waivers.

8 (6) Expansion of waiver authority will allow for
9 the waiver of statutory and regulatory requirements
10 that impede implementation of State and local edu-
11 cational improvement plans, or that unnecessarily
12 burden program administration, while maintaining
13 the intent and purposes of affected programs, and
14 maintaining such fundamental requirements as those
15 relating to civil rights, educational equity, and ac-
16 countability.

17 (7) To achieve the State goals for the education
18 of children in the State, the focus must be on results
19 in raising the achievement of all students, not proc-
20 ess.

21 **SEC. 3. DEFINITIONS.**

22 In this Act:

23 (1) ATTENDANCE AREA.—The term “attend-
24 ance area” has the meaning given the term “school

1 attendance area” in section 1113(a)(2)(A) of the El-
2 elementary and Secondary Education Act of 1965.

3 (2) ED-FLEX PARTNERSHIP STATE.—The term
4 “Ed-Flex Partnership State” means an eligible State
5 designated by the Secretary under section
6 4(a)(1)(B).

7 (3) LOCAL EDUCATIONAL AGENCY; STATE EDU-
8 CATIONAL AGENCY.—The terms “local educational
9 agency” and “State educational agency” have the
10 meaning given such terms in section 14101 of the
11 Elementary and Secondary Education Act of 1965.

12 (4) SECRETARY.—The term “Secretary” means
13 the Secretary of Education.

14 (5) STATE.—The term “State” means each of
15 the 50 States, the District of Columbia, the Com-
16 monwealth of Puerto Rico, and each of the outlying
17 areas.

18 **SEC. 4. EDUCATION FLEXIBILITY PARTNERSHIP.**

19 (a) EDUCATION FLEXIBILITY PROGRAM.—

20 (1) PROGRAM AUTHORIZED.—

21 (A) IN GENERAL.—The Secretary may
22 carry out an education flexibility program under
23 which the Secretary authorizes a State edu-
24 cational agency that serves an eligible State to
25 waive statutory or regulatory requirements ap-

1 plicable to 1 or more programs or Acts de-
2 scribed in subsection (b), other than require-
3 ments described in subsection (c), for the State
4 educational agency or any local educational
5 agency or school within the State.

6 (B) DESIGNATION.—The Secretary shall
7 designate each eligible State participating in the
8 program described in subparagraph (A) to be
9 an Ed-Flex Partnership State.

10 (2) ELIGIBLE STATE.—For the purpose of this
11 subsection the term “eligible State” means a State
12 that—

13 (A)(i) has—

14 (I) developed and implemented the
15 challenging State content standards, chal-
16 lenging State student performance stand-
17 ards, and aligned assessments described in
18 section 1111(b) of the Elementary and
19 Secondary Education Act of 1965, and for
20 which local educational agencies in the
21 State are producing the individual school
22 performance profiles required by section
23 1116(a) of such Act; or

24 (II) made substantial progress, as de-
25 termined by the Secretary, toward develop-

1 ing and implementing the standards and
2 assessments, and toward having local edu-
3 cational agencies in the State produce the
4 profiles, described in subclause (I); and

5 (ii) holds local educational agencies and
6 schools accountable for meeting the educational
7 goals described in the local applications submit-
8 ted under paragraph (4); and

9 (B) waives State statutory or regulatory
10 requirements relating to education while holding
11 local educational agencies or schools within the
12 State that are affected by such waivers account-
13 able for the performance of the students who
14 are affected by such waivers.

15 (3) STATE APPLICATION.—

16 (A) IN GENERAL.—Each State educational
17 agency desiring to participate in the education
18 flexibility program under this section shall sub-
19 mit an application to the Secretary at such
20 time, in such manner, and containing such in-
21 formation as the Secretary may reasonably re-
22 quire. Each such application shall demonstrate
23 that the eligible State has adopted an education
24 flexibility plan for the State that includes—

1 (i) a description of the process the
2 State educational agency will use to evalu-
3 ate applications from local educational
4 agencies or schools requesting waivers of—

5 (I) Federal statutory or regu-
6 latory requirements as described in
7 paragraph (1)(A); and

8 (II) State statutory or regulatory
9 requirements relating to education;
10 and

11 (ii) a detailed description of the State
12 statutory and regulatory requirements re-
13 lating to education that the State edu-
14 cational agency will waive;

15 (iii) a description of specific edu-
16 cational objectives the State intends to
17 meet under such a plan; and

18 (iv) a description of the process by
19 which the State will measure the progress
20 of local educational agencies in meeting
21 specific goals described in subsection
22 (a)(4)(A)(iii).

23 (B) APPROVAL AND CONSIDERATIONS.—

24 The Secretary may approve an application de-
25 scribed in subparagraph (A) only if the Sec-

1 retary determines that such application dem-
2 onstrates substantial promise of assisting the
3 State educational agency and affected local edu-
4 cational agencies and schools within such State
5 in carrying out comprehensive educational re-
6 form, after considering—

7 (i) the comprehensiveness and quality
8 of the education flexibility plan described
9 in subparagraph (A);

10 (ii) the ability of such plan to ensure
11 accountability for the activities and goals
12 described in such plan;

13 (iii) the degree to which the State's
14 objectives described in subparagraph
15 (A)(iii)—

16 (I) are specific and measurable;

17 and

18 (II) measure the performance of
19 schools or local educational agencies
20 and specific groups of students af-
21 fected by waivers;

22 (iv) the significance of the State stat-
23 utory or regulatory requirements relating
24 to education that will be waived; and

1 (v) the quality of the State edu-
2 cational agency's process for approving ap-
3 plications for waivers of Federal statutory
4 or regulatory requirements as described in
5 paragraph (1)(A) and for monitoring and
6 evaluating the results of such waivers.

7 (4) LOCAL APPLICATION.—

8 (A) IN GENERAL.—Each local educational
9 agency or school requesting a waiver of a Fed-
10 eral statutory or regulatory requirement as de-
11 scribed in paragraph (1)(A) and any relevant
12 State statutory or regulatory requirement from
13 a State educational agency shall submit an ap-
14 plication to the State educational agency at
15 such time, in such manner, and containing such
16 information as the State educational agency
17 may reasonably require. Each such application
18 shall—

19 (i) indicate each Federal program af-
20 fected and the statutory or regulatory re-
21 quirement that will be waived;

22 (ii) describe the purposes and overall
23 expected results of waiving each such re-
24 quirement;

1 (iii) describe, for each school year,
2 specific, measurable, educational goals for
3 each local educational agency, school, or
4 group of students affected by the proposed
5 waiver; and

6 (iv) explain why the waiver will assist
7 the local educational agency or school in
8 meeting such goals.

9 (B) EVALUATION OF APPLICATIONS.—A
10 State educational agency shall evaluate an ap-
11 plication submitted under subparagraph (A) in
12 accordance with the State’s education flexibility
13 plan described in paragraph (3)(A).

14 (C) APPROVAL.—A State educational
15 agency shall not approve an application for a
16 waiver under this paragraph unless—

17 (i) the local educational agency or
18 school requesting such waiver has devel-
19 oped a local reform plan that is applicable
20 to such agency or school, respectively; and

21 (ii) the waiver of Federal statutory or
22 regulatory requirements as described in
23 paragraph (1)(A) will assist the local edu-
24 cational agency or school in meeting its
25 educational goals.

1 (5) MONITORING.—

2 (A) IN GENERAL.—Each State educational
3 agency participating in the program under this
4 section shall annually monitor the activities of
5 local educational agencies and schools receiving
6 waivers under this section and shall submit an
7 annual report regarding such monitoring to the
8 Secretary.

9 (b) PERFORMANCE DATA.—Not later than
10 2 years after a State is designated as an Ed-
11 Flex Partnership State each such State shall
12 include performance data demonstrating the de-
13 gree to which progress has been made toward
14 meeting the objectives outlined in paragraph
15 (3)(A)(iii).

16 (6) DURATION OF FEDERAL WAIVERS.—

17 (A) IN GENERAL.—The Secretary shall not
18 approve the application of a State educational
19 agency under paragraph (3) for a period ex-
20 ceeding 5 years, except that the Secretary may
21 extend such period if the Secretary determines
22 that such agency's authority to grant waivers
23 has been effective in enabling such State or af-
24 fected local educational agencies or schools to
25 carry out their local reform plans.

1 (B) PERFORMANCE REVIEW.—Three years
2 after a State is designated an Ed-Flex Partner-
3 ship State, the Secretary shall—

4 (i) review the performance of any
5 State educational agency in such State
6 that grants waivers of Federal statutory or
7 regulatory requirements as described in
8 paragraph (1)(A); and

9 (ii) terminate such agency's authority
10 to grant such waivers if the Secretary de-
11 termines, after notice and opportunity for
12 hearing, that such agency has failed to
13 make measurable progress in meeting the
14 objectives outlined in paragraph (3)(A)(iii)
15 to justify continuation of such authority.

16 (7) AUTHORITY TO ISSUE WAIVERS.—Notwith-
17 standing any other provision of law, the Secretary is
18 authorized to carry out the education flexibility pro-
19 gram under this subsection for each of the fiscal
20 years 2000 through 2004.

21 (b) INCLUDED PROGRAMS.—The statutory or regu-
22 latory requirements referred to in subsection (a)(1)(A) are
23 any such requirements under the following programs or
24 Acts:

1 (1) Title I of the Elementary and Secondary
2 Education Act of 1965.

3 (2) Part B of title II of the Elementary and
4 Secondary Education Act of 1965.

5 (3) Subpart 2 of part A of title III of the Ele-
6 mentary and Secondary Education Act of 1965
7 (other than section 3136 of such Act).

8 (4) Title IV of the Elementary and Secondary
9 Education Act of 1965.

10 (5) Title VI of the Elementary and Secondary
11 Education Act of 1965.

12 (6) Part C of title VII of the Elementary and
13 Secondary Education Act of 1965.

14 (7) The Carl D. Perkins Vocational and Tech-
15 nical Education Act of 1998.

16 (c) WAIVERS NOT AUTHORIZED.—The Secretary
17 may not waive any statutory or regulatory requirement of
18 the programs or Acts authorized to be waived under sub-
19 section (a)(1)(A)—

20 (1) relating to—

21 (A) maintenance of effort;

22 (B) comparability of services;

23 (C) the equitable participation of students
24 and professional staff in private schools;

1 (D) parental participation and involve-
2 ment;

3 (E) the distribution of funds to States or
4 to local educational agencies;

5 (F) the selection of schools to participate
6 in part A of title I of the Elementary and Sec-
7 ondary Education Act of 1965, or the allocation
8 of such assistance among eligible schools, except
9 that a State educational agency may grant
10 waivers to allow schools to participate in part A
11 of title I of such Act if the percentage of chil-
12 dren from low-income families in the attendance
13 area of such school or who actually attend such
14 school is within 5 percentage points of the low-
15 est percentage of such children for any school
16 in the local educational agency that meets the
17 requirements of section 1113 of the Act.

18 (G) use of Federal funds to supplement,
19 not supplant, non-Federal funds; and

20 (H) applicable civil rights requirements;
21 and

22 (2) unless the underlying purposes of the statu-
23 tory requirements of each program or Act for which
24 a waiver is granted continue to be met to the satis-
25 faction of the Secretary.

1 (d) CONSTRUCTION.—Nothing in this Act shall be
2 construed to affect the authority of a State educational
3 agency that has been granted waiver authority under the
4 following provisions of law:

5 (1) Section 311(e) of the Goals 2000: Educate
6 America Act.

7 (2) The proviso referring to such section 311(e)
8 under the heading “**EDUCATION REFORM**” in the
9 Department of Education Appropriations Act, 1996
10 (Public Law 104–134; 110 Stat. 1321–229).

11 (e) ACCOUNTABILITY.—In deciding whether to ex-
12 tend a request for a State educational agency’s authority
13 to issue waivers under this section, the Secretary shall re-
14 view the progress of the State educational agency to deter-
15 mine if such agency—

16 (1) makes measurable progress toward achiev-
17 ing the objectives described in the application sub-
18 mitted pursuant to subsection (a)(3)(A)(iii); and

19 (2) demonstrates that local educational agencies
20 or schools affected by such waiver or authority have
21 made measurable progress toward achieving the de-
22 sired results described in the application submitted
23 pursuant to subsection (a)(4)(A)(iii).

24 (f) PUBLICATION.—A notice of the Secretary’s deci-
25 sion to authorize State educational agencies to issue waiv-

1 ers under this section shall be published in the Federal
2 Register and the Secretary shall provide for the dissemina-
3 tion of such notice to State educational agencies, inter-
4 ested parties, including educators, parents, students, advo-
5 cacy and civil rights organizations, other interested par-
6 ties, and the public.

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