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ISSUE BRIEF | Education Freedom

TAKING EDUCATION BACK FROM D.C.:

WAIVING FEDERAL CONTROL

Max Eden

TOPLINE POINTS

- ★ President Trump issued an Executive Order to close the Department of Education and return education to the states. Substantial progress has been made in dismantling the Department, but this is only half the equation.
- ★ Transferring functions from the Department of Education to other agencies will not necessarily result in changes to school management and classroom practice. Without Congressional action, states should take full advantage of the flexibilities they have under current federal law.
- ★ More states should consult with school districts to prepare and submit Ed-Flex and waiver applications under Every Student Succeeds Act to increase state autonomy over K-12 education.

Introduction

Abolishing the Department of Education (ED) has been a campaign promise for Republican presidential candidates since Ronald Reagan ran in 1980, when ED was only a year old ([Hess, 2023](#)). When President Trump campaigned on this promise in 2024, experts doubted whether he could muster the political support to deliver on it ([Lobosco, 2024](#)). Despite the critics, the Trump Administration defied expectations by relying on the Economy Act to institute a series of inter-agency agreements that transferred key functions from ED to other agencies ([Cole & Stiff, 2026](#)). Remaining ED staff plan on relocating this August, turning its traditional office building over to the Department of Energy ([Meckler & Douglas-Gabriel, 2026](#)). In addition to showing administrative creativity, the Trump Administration's actions to date have provided significant evidence that the existence of ED as an administrative body is inessential to American K-12 public education. The dispersal of ED's functions through interagency agreements, however, will not necessarily improve school operations or classroom practice unless states step up to take advantage of their opportunities to reclaim authority.



President Trump’s Executive Order, “Improving Educational Outcomes by Empowering Parents, States and Communities,” issued on March 20, 2025, directed the Secretary of Education to “take all necessary steps to facilitate the closure of the Department of Education and return authority over education to the States and local communities” ([The White House, 2025](#)). Upon signing, President Trump expressed confidence that once freed of federal burdens, states could dramatically improve the quality of their K-12 education system:

“States that run very well are going to have education that will be as good as Norway, Denmark, Sweden, Finland, and those top countries that do so well with education. ... Governors, and others in the state, they want it so badly. They want to take their children back and really teach their children individually. Probably, the cost will be half, and the education will be maybe many, many times better” ([Trump, 2025](#)).

When it comes to private school choice, states have made significant advances under the Trump Administration. From Texas to Tennessee to Idaho, more states have launched Education Savings Account programs that directly financially empower parents to choose their child’s school ([Tarnowski, 2025](#)). More than half of the states have opted into the federal education freedom tax credit program, which should supply a substantial financial boost to the private school choice sector ([Stone, 2026](#)).

However, when it comes to traditional public schools, governors and state superintendents have shown far less initiative in asserting further authority over their traditional K-12 public district school systems. Just as the Trump Administration found authority under existing law to return education to the states, states have authority under existing law to obtain more flexibility and autonomy over how they spend federal dollars. This issue brief recommends that more states increase their policymaking discretion and fully return education to the states by applying to ED for waivers under the Every Student Succeeds Act (ESSA) and for status as an “Ed-Flex” state.

Background

Waivers permit states to operate without certain administrative burdens imposed by federal statutes. The first widespread use of federal education waivers was sought and granted under the No Child Left Behind (NCLB) Act during the Obama Administration. NCLB required all school districts to report “adequate yearly progress” to 100% proficiency in reading and math by 2014 ([EdTrust, 2004](#)). The architects of NCLB assumed that the law would be re-authorized long before that, but as 2014 drew near, more and more school districts faced the prospect of missing their adequate yearly progress targets and facing federal sanctions ([McNeil & Klein, 2011](#)). The Obama Administration then offered states a deal that few could refuse: waiver relief from NCLB’s penalties in exchange for maintaining the administration’s key policy priorities, including the Common Core and test-based teacher evaluation ([Hess & Eden, 2013](#)).

This heavy-handed approach alienated not only conservatives (who prioritized local control) but also teachers’ unions, whose members were being buffeted by policy changes they hadn’t bargained for. As a result, Congress passed the bipartisan Every Student Succeeds Act (ESSA) to rein in the Department of Education’s power. At the time, the Wall Street Journal described the law as “the largest devolution of federal control to the states in a quarter century” ([Wall Street Journal, 2015](#)).



This may have been an overstatement, as ESSA maintained the same fundamental architecture of NCLB: reading and math tests in grades 3 through 8; elementary, middle, and high school tests in science; and accountability systems for identifying struggling schools based on test results. Yet ESSA maintained and modified two significant statutory provisions that could permit further flexibility in the future. It maintained the ability for states to apply for waivers from many statutory requirements, yet prohibited the Secretary of Education from conditioning waiver approval on her policy preferences ([Skinner, 2026](#)). The secretary can waive most of ESEA’s statutory and regulatory provisions ([Skinner, 2026](#)). The Secretary may not, however, waive certain requirements, most importantly: the overall allocation of funding to local school districts, the requirement that federal funding supplement rather than supplant state and local dollars, and civil rights requirements ([Sanon, 2025a](#)).

It also re-authorized the Ed-Flex program, which allows states to approve similar waiver requests from school districts, permitting them to waive most of ESEA’s regulatory and statutory provisions except those around providing standardized tests consistent with other districts in the state, provided they provide an explanation upfront to the Secretary of Education regarding what kind of waivers they shall grant ([20 U.S.C. 5891b](#)). Most significantly, states may permit school districts to waive requirements around the various federal funding streams, including:

- Title 1A (the largest funding stream, serving schools with significant percentages of disadvantaged students);
- Title IIA (largely supporting teacher recruitment and professional development);
- Title IVA (which can be used for school safety, education technology, or to support a well-rounded education) ([Sanon, 2025b](#)).
- States may also permit school districts to waive statutory requirements for funding received under the Perkins Act, which is dedicated to career and technical education ([Sanon, 2025b](#)).

Before she took office, 12 state superintendents sent Secretary McMahon a letter asking her to utilize waiver authority to permit them to “pursue new and innovative approaches to better serve students” ([Baesler et al., 2025](#)). These state superintendents promised Secretary McMahon they would work with her to accomplish her goal of diminishing Washington’s influence in education, yet most have still not yet applied for a waiver.

The Why and How of Waivers

Waivers are required for even the most minor of changes to state policy. For example, to: (A) administer its 8th grade standardized math test to academically advanced 7th graders; (B) pilot a new state-wide standardized test; (C) incorporate teacher survey results into the state accountability system, or (D) insist that struggling schools implement school improvement plans with a strong evidence base ([Hyslop & Powell, 2025](#)).

To obtain an ESSA waiver, State Education Agencies (SEAs) must first submit their ideas to stakeholders and the public for a notice-and-comment period. This includes, at minimum, posting the plan to the SEA website, sending it to school district leaders, and hosting public listening sessions. After receiving public feedback, SEAs must demonstrate how they have incorporated, or why they have rejected,



elements of the public response. After doing so, SEAs must submit proposals to the Secretary of Education that identify the provisions of ESSA that they would like to waive and explain how waiving them would contribute to a policy approach that promises to yield as good if not better academic outcomes. Once an application is submitted, the Secretary of Education has 120 days to review it for statutory compliance and overall quality ([Skinner, 2026](#)). If the Secretary disapproves, then states have 60 days to revise and resubmit their applications ([Sanon, 2025a](#)). The application process for Ed-Flex status operates along similar lines, although the law provides the Secretary of Education with only 90 days to review the application ([20 U.S. Code § 5891b](#)).

Case Studies of Waivers Sought to Date

As of the time of publication, very few states have applied for ESSA waivers or Ed-Flex status, and all have been Republican-led. An understanding of what these states have proposed and how their proposals have been received should form a policy foundation as more states apply. To date, one waiver and one Ed-Flex application have been accepted. One waiver request is pending approval. Two waiver requests and one Ed-Flex request are being prepared for review by the Secretary of Education, and one waiver application has been paused and is unlikely to proceed further.

Approved

Iowa was the first state to apply for and be granted an ESSA waiver. In its initial application, Iowa noted that it is “limited in its ability to align the use of federal funds under multiple federal programs to top education priorities” ([Iowa Department of Education, 2025](#)). The SEA sought to combine federal funding from Titles I-V of ESSA to “implement a unified allocation plan total about 156.65 million” ([Iowa Department of Education, 2025a](#)). The final plan approved was not as sweeping as Iowa had initially hoped ([McMahon, 2026](#)). Iowa received waiver approval to combine the state share of funding from Titles II-IV, creating a block grant of about \$10 million through 2028 and saving the state about \$800,000 per year in compliance costs ([Iowa Department of Education, 2026](#)).

Iowa was also approved for Ed-Flex status ([Baesler, 2026](#)). This will allow the state to green-light school district proposals to carry over more than 15% of Title I funding from year-to-year, which makes major investments in academic initiatives easier to finance. School districts will also be able to allocate their Title IV money to technology, academic enrichment, or school safety in whatever proportion they prefer ([Iowa Department of Education, 2026](#)).

Louisiana received Ed-Flex status from the Department of Education for the same Title I and Title IV purposes as Iowa in February 2026 ([Klein, 2026](#)). Shortly thereafter, Louisiana submitted an ESSA waiver request to ED, requesting flexibility to combine part of its Title I funding along with Titles II-IV into a “Louisiana Consolidated Allocation Plan” ([Louisiana Department of Education, 2026](#)). Louisiana noted that the consolidation will help streamline compliance within the SEA as well as provide funding for initiatives that wouldn’t necessarily qualify for federal investment under ESSA, such as AI-driven tutoring or support for “learning pods” or microschools ([Louisiana Department of Education, 2026](#)). In May 2026, the Department of Education approved Louisiana’s waiver request for Titles II-IV, permitting it to consolidate more than \$18 million in federal funds ([U.S. Department of Education, 2026](#)).



Pending Approval

Indiana has applied for waiver flexibility similar to what was granted to Iowa, requesting permission to consolidate a share of Title I funding, as well as funding from Titles II-IV, to provide the SEA with the capacity to make more targeted investments in literacy, STEM instruction, and high school redesign ([Jenner, 2025](#)). Indiana’s request went further than Iowa’s in one significant way: it wants the flexibility to spend the \$25 million it receives in federal funding intended to improve failing schools to go to students in those schools rather than the schools themselves ([Jenner, 2025](#)). Indiana notes that a massive federally funded effort to turn around failing schools, the School Improvement Grant program, showed no academic benefit ([Dragoset et al., 2017](#)). Indiana wants to be able to use that money to provide additional academic support for students in those schools or to provide a financial bonus to charter schools that take students zoned to those schools ([Jenner, 2025](#)).

In Process

Idaho is preparing a relatively modest waiver request. It seeks permission to replace its current third-grade standardized test with an Idaho Reading Screener it has designed, which it claims would do a better job at identifying students with dyslexia. Idaho would also like the flexibility to enable high school students to choose which standardized test they take, whether it be the ACT, SAT, Classical Learning Test, or Armed Services Vocational Aptitude Battery (ASVAB). Idaho also intends to request Ed-Flex status ([Idaho Department of Education, n.d.](#)).

Alabama has sought a waiver and Ed-Flex status to permit several flexibilities, including permitting school districts to carry over up to 50% of their Title I funding from year to year, to reset qualification requirements for paraprofessionals in order to address staffing shortages, and to consolidate state-level funds from Titles II-IV to permit more efficient investments in the state’s strategic goals ([Alabama Department of Education, 2026](#)).

Paused

Oklahoma sought to waive requirements that new standardized tests go through a federally mandated process of peer review before they can satisfy ESSA’s testing requirements, which it argued “suppresses competition and innovation” ([Oklahoma Department of Education, 2025](#)). Oklahoma indicated that it was interested in exploring the use of AI-informed benchmark assessments (assessments given throughout the year rather than at the end of a year) ([Oklahoma Department of Education, 2025](#)). Proponents of benchmark assessments argue that they can provide better feedback for teachers and relieve the pressure at the end of a year to teach to the test ([Birnholtz & Frey, 2023](#)). This waiver request was paused when Oklahoma’s former State Superintendent left office and does not appear likely to move forward ([Martinez-Keel, 2025](#)).

Recommendations: More and Bolder Waiver Requests

When Secretary McMahon approved of Iowa’s waiver request, she commended the state on its “first-in-the-nation proposal to return education to the States by providing common-sense flexibility, within the letter of and while maintaining the spirit of Federal law, to improve student academic

achievement” ([ED, 2026](#)). The Trump Administration appears eager to approve more state waiver requests, so long as they show substantial promise of maintaining or increasing academic performance. States will not have carte blanche to waive federal requirements. As Assistant Secretary for Elementary and Secondary Education Kirsten Baesler put it, “It’s not the wild, wild west” ([Klein, 2026b](#)). But more states should prepare and submit waiver requests, using Iowa’s approved request as a baseline and try to push the envelope as far as state leaders deem prudent.

Earlier this year, the America First Policy Institute published a model resolution for state legislatures to endorse the Trump Administration’s effort to shutter ED and begin to establish plans to reassert authority and autonomy over K-12 education ([AFPI, 2026](#)). It encourages the creation of a task force for educational leadership, composed of representatives from the legislature, the governor’s office, the state education agency, and the attorney general’s office, to publish a plan to assume further responsibility over K-12 governance. Whether after passage of such a resolution, or of their own accord, governors should encourage state officials from beyond the state education agency to consult with school superintendents, principals, teachers, and parents to develop ESSA waiver and Ed-Flex proposals.

AFPI does not have a one-size-fits-all set of recommendations that would work for every state seeking additional autonomy. As President Trump has said, we would like to see states experiment with approaches that could be as different as those found in Norway, Sweden, or Denmark. There is a window for innovation that is not guaranteed to last for more than another two and a half years. Some ideas states could explore utilizing a waiver to pursue include:

- **Increase Choice for Students in Failing Schools:** States could follow Indiana’s lead by requesting to waive 20 U.S.C. 6303(a) so that funding designated for systemic improvements to failing schools follow students instead, providing a bonus for other public schools or charter schools that would teach them.
- **Revising Standardized Tests:** The standard system (i.e., annual reading and math tests in grades 3 through 8, along with science tests in elementary, middle, and high school) has been set in stone since the passage of No Child Left Behind. States could pursue any number of reasonable deviations from this norm. For example, annual end-of-year tests in grades 3 through 8 could be replaced by a series of mid-year benchmark assessments. Or states could move to test English Language Arts and Math every other year, to assure consistent measurability while alleviating pressure to teach to the test. Or states could replace the 8th-grade English Language Arts exam with a first-grade phonics check (similar to what has been implemented in Great Britain) to focus more on early literacy ([Aldeman, 2025](#)). Or states could pilot new content-based tests aligned to new, content-based state-wide curriculum by waiving the requirements of 20 USC 6311(b).
- **Develop Content-Rich, Patriotic Curriculum:** Traditionally, states have been reluctant to suggest (much less mandate) curriculum, citing the imperative of local control. In recent years, Texas has been moving in the other direction: promoting a new curriculum that is unabashedly pro-American and providing schools with financial bonuses for implementing it ([Hennie, 2024](#)). Eventually, such a curriculum could be linked to new standardized tests that measure

what students actually know. Combining funding streams from Titles II-V would free up funding that could be directed to finance curricular redesigns.

- **Promote Gifted Education:** School accountability and grading systems focus primarily on student proficiency levels or student growth. They do not provide schools with credit for the number or percentage of students who are top scorers, nor do they promote pathways for accelerated coursework for gifted students. A state could waive 20 USC 6311(c)4 to design and implement a new category in its accountability system to provide credit to schools that help advanced students meet their potential.
- **Redesign High School:** High school diplomas have become almost meaningless certificates, and high schools have put far too much emphasis on serving as a gateway to four-year universities at the expense of preparing students for a career. States could waive high school accountability requirements under 20 U.S.C. 6311(d)(1)(C) and request Ed-Flex status to provide their high school with greater financial flexibility, under both ESSA and the career and technical-oriented Perkins Act, to provide stronger pathways to career readiness for high school students.

Conclusion

The list above is not intended to be prescriptive or exhaustive. State leaders should not feel shy about the kinds of reform they would like to implement across their state or the kinds of district-level reforms they would like to enable. Putting forward bold ideas for public comment within a state could generate more ideas than policymakers could initially bring to the table. Even if Secretary McMahon chooses not to accept certain aspects of waiver requests, the conflicts between what state leaders want to do and what federal law permits could help build momentum for Congressional action for block-grant K-12 spending. Secretary McMahon and the Trump Administration are using every lever at their disposal to diminish the heavy hand of the federal government in education and to help return education to the states. But ultimately, this mission can only succeed if states take ownership. Seeking ESSA waivers is a strong and necessary first step.



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Max Eden is the Director of Federal Education Policy at the America First Policy Institute.



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