

NATIONAL  
LANDSCAPE  
OVERVIEW  
AND GUIDING  
PRINCIPLES FOR

# Strengthening the Use of State-Authorized Waivers for Innovation

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# Introduction

Abundant evidence shows that a one-size-fits-all education system is not suited to prepare all students for success. Effective educators have long known that students differ in the ways they learn, the pace at which they master various content, competencies and skills, and the coaching or supplemental support they need on any given day.

More than 20 years ago, policymakers, educators and stakeholders in New Hampshire boldly opened a new front in a somewhat stagnant education reform movement. They established that each individual learner would progress through the system's educational program at their own pace, and with appropriate support, rather than on the clock and calendar. New Hampshire's leadership influenced other policymakers in their efforts to support student-centered learning. Hallmarks of this emerging landscape include:

- **Enabling Local Innovation.** Because the needs of each learner are different, student-centered approaches emanate from local context and are best designed and implemented by those working closest to the student.
- **Empowering Every Student to Achieve.** By designing a system with learners at the center and expanding student-centered opportunities, academic achievement can be improved, and resources, including support for students, can be allocated more equitably in response to student need.

Just over a decade ago, Michael Horn, from the Clayton Christensen Institute for Disruptive Innovation, wrote about the control policymakers exert on public schools, especially control over the inputs. This includes the associated risks that educators are being held back from taking full advantage of emerging tools that can be used to customize student learning.

*Their theory seems to be that if we control the resources and processes in our schools, great things will happen. ... Over the past couple of decades policymakers have begun focusing on student outcomes — and taken to demanding accountability for them. But they haven't loosened their controlling grip on the inputs — the resources and processes schools can use to deliver those outcomes. ... As it happens, there are a number of exciting new tools educators could be exploring if policymakers would grant them that flexibility.<sup>1</sup>*

Indeed, policymakers at both the state and federal levels have amassed an extensive record of service as regulators, but they are also taking a more active role in serving as liberators who free those they govern from the very regulatory constraints they established. Today, nearly every state government has authorized its state board of education and/or state education agency to grant flexibility to districts and schools. It is usually in the form of waivers and exemptions and often for a stated purpose of supporting innovation or improvement to enable both practitioners and policymakers to meet the growing need to make next generation learning available at scale.

# Understanding the State Waiver and Exemption Landscape

Innovation involves change, undertaken through a process designed to create new value, better outcomes, more desirable experiences or the like. In elementary and secondary education systems, due in part to the history of top-down regulation, flexibility is an important strategy used to support and incentivize the changes state and local leaders desire.

To better understand how states are providing flexibility for innovation and whether and how schools and districts are leveraging this flexibility, in 2021, *ExcelinEd* conducted a national scan and analysis of the state waiver and exemption landscape.<sup>2</sup> This undertaking built on previous reports on the status of state innovation pilots and programs and state-authorized flexibility to allow students to demonstrate mastery in lieu of seat-time requirements. It was designed to provide:

- A comprehensive picture of the extent to which states have authorized waivers and exemptions from requirements, particularly as a vehicle to foster local innovation.
- Insight into the processes and related resources state boards and state agencies have put in place to facilitate the use of waivers and exemptions.
- An understanding of whether and how states are using the data and information generated through the waiver and exemption processes to expand student-centered learning and inform policymaking.

The research and analysis show that most states offer flexibility, most often in the form of waivers and exemptions from state requirements (but also including alternatives to and options regarding traditional approaches or default rules). The flexibility is intended to support local innovation, but approaches vary significantly from state to state. This paper specifically focuses on waivers and exemptions.

Effective use of waivers and exemptions requires alignment to a statewide vision for student-centered learning; effective communication about the flexibility that is available and how it can be used; supports for districts and schools to implement the flexibility; and ongoing collection and use of data and information from this process to promote continuous improvement. However, this scan of the national landscape also shows that fewer than 1 in 4 states have put in place clearly defined processes, both to strengthen the use of waivers and exemptions for student-centered learning and locally designed innovation and to use waiver request data and agreements to improve policy making.

The following sections provide more information about the types of waivers and exemptions that are available; the processes and resources states have put in place to support effective use of this flexibility; and best practices and examples from individual states that are leading the way.

## Waiver Opportunities Authorized for Districts and Schools

Waiver opportunities, unlike exemptions, require state and/or local approval and, thus, more planning and action by districts and schools. The current state landscape of waiver opportunities has evolved considerably in recent years, particularly as state and local leaders have begun to understand the nature of the changes needed to truly serve and support every student. Most of the state waiver authorizations identified through the national scan in 2021 were created to allow leeway for problems that occasionally arise for schools and districts and may, if left unaddressed, lead

to noncompliance with state requirements. The COVID pandemic underscored the utility of these kinds of flexibility; however, many states were forced to take further steps, such as issuing blanket waivers to all districts or exempting all from the application of certain requirements for a specified amount of time. A second, and increasingly common, approach is the authorization of flexibility with the intent of promoting innovation.

## SCOPE OF WAIVER FLEXIBILITY

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Forty-four states and the District of Columbia have defined at least one waiver opportunity in state statutes or administrative code. Only Minnesota, Montana, New Jersey, New York, Ohio and Wyoming had no waiver within the scope of this 2021 scan, although both Minnesota and Ohio have authorized exemptions from certain state requirements for innovation zone/program participants.

State-defined waiver authority generally extends to some combination of state statutes, administrative rules/regulations and policies. However, the impact of the established scope depends largely on the extent to which the state's education-related requirements are defined in greater detail (i.e., with more prescription) in legislative code or administrative code. To put a finer point on it, the opportunity to seek a waiver of state board administrative rules, without the ability to have any state statutes waived, may provide ample flexibility in a state where administrative rules are used to significantly flesh out high-level statutory dictates — an approach that appears common with topics such as high school graduation requirements and standards for the accreditation of schools and districts.

Whether authorized by statute or administrative rule, waiver opportunities generally have some limitations defined either as a finite list of requirements that *are eligible for waiver* or a list of requirements or topics for which a waiver *may not be* requested. Virtually all such opportunities are also subject to eligibility criteria establishing which schools or districts may petition for a waiver and the purpose(s) for which a waiver may be granted; the process a petitioner must go through prior to submitting a request, such as obtaining the support of teachers and other stakeholders; and reporting requirements.

Results of the national landscape scan showed that:

- **29 states** have authorized at least one type of waiver that extends to both statutes and administrative rules.<sup>3</sup> Numbers in parentheses below indicate multiple waiver opportunities established by the state.
  - » Alabama (2), Arkansas (2), California, Colorado (3), Connecticut, Georgia (3), Hawaii, Illinois (2), Indiana, Kansas, Kentucky, Louisiana (2), Massachusetts, Minnesota, Mississippi, Missouri, Nevada, New Mexico, North Carolina, North Dakota (2), Ohio, South Carolina (2), Tennessee, Texas (2), Vermont, Virginia, Washington (2), West Virginia, Wisconsin
- **19 states** have authorized at least one type of waiver that is limited to state administrative rules.<sup>4</sup> Numbers in parentheses indicate multiple waiver opportunities established by the state.
  - » Alabama, Alaska, Arizona, Delaware (3), Florida (2), Indiana, Iowa, Kansas, Kentucky, Massachusetts, Missouri (3), Nebraska (2), Nevada, North Dakota, Pennsylvania, Rhode Island, Tennessee, Utah (3), Virginia
- **20 states** have authorized at least one type of waiver that is limited to state statutes.<sup>5</sup> Numbers in parentheses indicate multiple waiver opportunities established by the state.
  - » Arkansas, California (4), Florida (2), Hawaii, Idaho (2), Indiana (2), Iowa (4), Maine (2), Maryland, Michigan (7), Nevada, New Hampshire, North Dakota, Oklahoma (2), Oregon, Rhode Island, South Carolina (2), Tennessee, Vermont, Virginia

As these data indicate, several states have authorized multiple types of waivers, each of which has its own scope, purpose, process, etc., such that a state might allow waiver of statutory requirements in some instances and waiver of statutory and regulatory requirements in other cases.

## TWO APPROACHES TO REGULATORY RELIEF: PURPOSE AND INTENT

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State-authorized waiver opportunities, and to some extent exemptions established to give flexibility from certain requirements under certain circumstances, fall into two broad categories:

- **Corrective:** This flexibility (which might be described as strategies to help schools and districts “get back in the box”) is intended to avoid a potential compliance problem. It grants a school or district temporary relief from state requirements that either cannot be met due to unforeseen circumstances or are not appropriate or fair to impose due to the unique characteristics of the district or school.

To receive waivers of this type, local systems or schools usually only must affirm or demonstrate that a qualifying set of circumstances exists or that all feasible alternatives have been considered. As such, the waivers may be used as part of an innovation agenda, but innovation is not required or generally even encouraged. Given the nature of such waivers, their term is generally a single school year. Exemptions take effect automatically when specified conditions are met.

### EXAMPLES

- **Idaho: Unforeseen Circumstances.** Following a county or state disaster declaration, if “necessary as a result of natural occurrences creating unsafe conditions for students,” Idaho school districts may request waivers of the minimum number of instructional hours. Any such waiver request must include efforts made by the school district to make up lost instructional hours. [ID Code. 33-512 Governance of Schools](#)
- **Nebraska: Unique Circumstances.** A waiver request may be submitted by a Nebraska school district that has “unique circumstances,” such as population sparsity, geographic barriers or other similar factors. Any such request must include an explanation of how the modifications will “provide quality learning, equity, and accountability.” [92 NAC 10. Rule 013 Waivers and Plans](#)

- **Constructive:** This flexibility (which might be described as strategies to help schools and districts “move out of the box” or even “build a new box”) generally allows for the removal of red tape, thus expanding local decision-making to support innovation and improvement in student achievement.

States have taken a variety of approaches to create this type of flexibility. These include exempting some districts and schools from state requirements; allowing waivers from requirements to enable school improvement, including improving operational efficiency, school performance or student achievement; and creating innovation zones and other innovation-focused programs and allowing zone/program applicants to ask for regulatory relief as part of an innovation plan. Waivers of this type are often approved for a longer term and may be renewable, usually upon a demonstration of positive outcomes.

## EXAMPLES

- **Arizona: School Improvement — Broadly Construed.** An Arizona school district, acting on its own behalf or on behalf of one or more schools, may apply for a waiver from administrative rules. Any such request must specify goals that the district will accomplish through the use of the waiver and how the waiver will “assist in enhancing school improvement.” A three-year plan for school improvement must also be submitted. [AZ Admin. Rules R7-2-801 Compliance](#)
- **Missouri: School Improvement — Efficiency in the Delivery of Instructional Services.** When requested by a school district, the Missouri commissioner of education may present a plan for a waiver of rules and regulation to any school that qualifies for “Outstanding School Waivers.” The school must meet, for three successive school years, criteria to demonstrate that its “students learn the knowledge, skills, and competencies at exemplary levels worthy of imitation by students in other schools in the state and nation.” The purpose of this waiver is to “promote flexibility in the operations of the school and to enhance and encourage efficiency in the delivery of instructional services.” [MO Code 160.518 Statewide assessment system, standards, restriction — exemplary levels, outstanding school waivers ...](#)
- **Colorado: School Improvement — Improving Educational Opportunity and Quality.** In Colorado, the state legislature has authorized the State Board to waive certain statutes and regulations at the request of a school district. The State Board is required to grant a waiver “if it determines that it would enhance educational opportunity and quality within the school district and that the costs to the school district of complying with the requirements for which the waiver is requested significantly limit educational opportunity within the school district.” [C.R.S. 22-2-117 Additional power — state board — waiver of requirements — rules](#)
- **Kentucky: Innovation — Improving Student Performance.** Kentucky’s Districts of Innovation are given “flexibility from selected Kentucky Administrative Regulations, Kentucky Revised Statutes, and local board of education policies for school administrators, teachers, and staff to meet the diverse needs of students.” The goal of the Districts of Innovation program is to improve students’ educational performance. Innovation is defined as a “new or creative alternative to existing instructional and administrative practices intended to improve student learning and student performance of all students.” [KRS 156.108 Districts of Innovation — Approval by Kentucky Board of Education](#)
- **Missouri: Innovation — Improving Student Performance.** A bill, signed by the Governor in 2022, provides for school innovation waivers from state statute and administrative rules in order to improve “student readiness for employment, higher education, vocational training, technical training, or any other form of career and job training.” In approving the required plans submitted by a school innovation team, the board must consider whether this plan improves “preparation, counseling, and overall readiness of students for postsecondary life.” [MO Code 161.214 — School Innovation Waivers](#) This bill also created a Competency-Based Education Grant Program to be administered by the state department of education.
- **South Carolina: Innovation — District Strategic Plans or School Renewal Plans.** State statute authorizes the South Carolina State Board of Education (SBE) to waive any regulation (subject to some limitations) that impedes the implementation of an approved district strategic plan or school renewal plan. In regulations on district and school planning, the SBE emphasizes innovation, noting that “[t]he South Carolina Department of Education (SCDE) supports innovations that provide for increased student achievement through college-and-career-ready programs to meet the vision of the Profile of the South Carolina Graduate. When state statutes, State Board of Education regulations, or SCDE policies seem to impede the implementation of educational innovations, waiver requests may be presented before the SBE.” [SC SBE Regulation 43-261 District and School Planning](#)

In almost every instance, limitations have been defined to exclude from waiver or exemption the following: federal requirements, including civil rights protections, health and safety regulations, state-mandated assessments and accountability.

## RESULTS

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The results of the national scan showed that:

- **33 states and the District of Columbia** have authorized at least one waiver opportunity with which school and district innovation is required or encouraged.
- **33 states and the District of Columbia** have at least one waiver opportunity that falls into the constructive category and has a focus on innovation.
  - » Alabama, Alaska, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin
- **25 states** have at least one waiver authority that is limited to innovation pilot/program participants.
  - » Alabama, Arkansas (2), Colorado, Florida (4), Georgia, Kansas, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, North Carolina, North Dakota (3), Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee (2), Texas, Utah, Virginia, West Virginia (2)
- In other states (those without an innovation program/pilot waiver opportunity), participants in an innovation program/pilot may be able to seek a waiver from state requirements (or benefit from an exemption) under flexibility made available to all schools or districts.
- States' responses to COVID, including but not limited to the move to virtual instruction and the modification of school calendars, may have begun to blur the lines between corrective and constructive waivers, as unforeseen and unique circumstances, not just rules that were designed for different times, are driving innovation.

While using these two categories — corrective and constructive — as a tool for understanding the waiver landscape may be of some value, it is important to note that these distinctions are not meant to suggest that some types of waivers are better than others. In fact, among the innumerable lessons education policymakers have learned, and are continuing to learn, in efforts to ensure universal access to quality instruction during and after the pandemic, no authorization of flexibility is effective in the absence of (1) a plan for how it will be used to achieve a well-defined vision and (2) processes that enable state and local learning about the impact of any waiver granted.

**GENERAL INNOVATION PROGRAMS:** In this report, general innovation programs are defined as ongoing or open-ended efforts. Even if the number of participants may be limited or subject to incremental increases in these programs, the intent is to create a “permanent” pathway for schools and local education agencies (LEAs) to seek out and use flexibility from state laws and regulations and other support for the implementation of next generation learning opportunities. Spotlighting state efforts requires drawing some bright lines. Therefore in this report and other resources linked throughout the report, we categorize state programs as general innovation programs if they do not have a well-defined next generation learning focus and, instead, give participants broad discretion to use waivers or exemptions from state law and regulation.

**INNOVATION PILOT PROGRAMS:** We consider a pilot program to be any small-scale (i.e., with a cap on participation), time-limited effort that is used to prove the viability of a model or approach. To be considered a pilot in this report, the program must provide some parameters on the types of models or approaches that will qualify for pilot participation, such as mastery-based education pilots.

## Facilitating the Use of Waivers

The national scan and analysis of the state waiver landscape reinforced that for state-led student-centered learning efforts to live up to their potential as a transformative movement, they must be grounded in the innovative, collaborative efforts of educators, students, parents, families and other stakeholders. To facilitate these efforts and ensure that waivers are used effectively, states must not only provide waiver opportunities but also set up processes and provide resources to help schools and districts determine the best way to implement and continuously improve them to meet their students' needs. As North Dakota's state leaders noted in guidance for Innovative Education Program participants:

*The search and implementation of an Innovative Education Program is an individual journey for each school/district; each must go on their own journey down the path. There is no one way to implement an Innovative Education Program. ... Many factors contribute to the decision regarding the direction of a school's individual Innovative Education Program journey. The state's purpose for creating an Innovative Education Program is to allow individual schools to have individualized missions, goals, and objectives through a comprehensive plan that helps meet the needs of their students.*  
[[NDDPI Innovative Education Program Planning Proposal](#)]

## VISION FOR STUDENT-CENTERED LEARNING

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Having a well-defined vision for student-centered learning and aligning waiver opportunities to that vision will help schools and districts understand why the waiver is needed and how it can help them meet their goals. In addition to the groundbreaking work done by New Hampshire, a few states have established a vision for PK–12 education in which the expansion of high-quality, next generation learning is a core goal *and* flexibility for innovation is a strategic priority.

### EXAMPLES

- **Utah.** The Utah State Board of Education's (USBE) Portrait of a Graduate serves as “our compass for system transformation” and supports work toward the goal of ensuring each student and educator has access to personalized teaching and learning experiences. [[USBE Strategic Plan](#)] The Utah Competency-Based Education Framework was adapted from the LEAP Personalized Learning Framework and incorporates the Utah Effective Teaching Standards and Indicators as elements to define a comprehensive approach to personalized, competency-based learning for schools. [[Utah Competency-Based Education Framework](#)] State-funded PCBL planning and implementation grants support the development of new models. [[Utah State Board of Education Application for Competency-Based Education Planning Grant Cohort B — 2020-2021](#)] Grant recipients may request flexibility from any USBE rule “that inhibits or hinders the LEA from accomplishing its goals set out in its grant applications” (with some limitations) through a waiver from USBE rule. [[Utah Code 53F-5-506 Waiver from State Board Rule — State Board recommended statutory changes](#)]

## EXAMPLES

- **South Carolina.** The vision of the South Carolina Department of Education (SCDE) is that all students graduate prepared for success in college, careers and citizenship. “By 2022, districts will have available a system of personalized and digital learning that supports students in a safe learning environment” to help them meet the [Profile of the South Carolina Graduate](https://www.ed.sc.gov/about/). [<https://www.ed.sc.gov/about/>]

SCDE’s Office of Personalized Learning helps educators personalize learning for students through its development and implementation of a framework for personalized, competency-based learning (PCBL); numerous related professional development opportunities; and 1:1 coaching for local leaders and other educators. [<https://personalizesc.ed.sc.gov/>] Any school or district may request a waiver from state requirements (with some limitations) under a [District and School Planning Waiver](#) process.

In-depth support and flexibility are provided through five separate but complementary programs and pilots:

1. Innovative Approaches and Locally Designed Subject Area Courses (program) — [SBE Regulation 43-231 Defined Program for K-5](#); [SBE Regulation 43-232 Defined Program for 6-8](#)
2. Proficiency-Based Systems (program; authorized by regulation) — [SBE Regulation 43-234 Defined Program, Grades 9-12 and Graduation Requirements](#)
3. Schools of Innovation/Schools of Choice (program with flexibility offered through an exemption request) — [SC Code 59-19-350 Schools of choice exempt from state laws and regulations](#)
4. Innovation Grants Committee Program (pilot) — [SC Proviso 1A.67 SDE-EIA: Grants Committee](#)
5. Collective Leadership Initiative (pilot) — [SC Department of Education. Collective Leadership Initiative Executive Summary 2020-2021](#)

South Carolina continues to build on this vision, for example, through the recent proviso introduced in the 2022 education budget bill. This bill provides that “districts seeking to implement competency-based education may submit a waiver application” for a student to “master competencies and related standards along a personalized, self-paced, and flexible pathway.” Participating schools would be required to submit certain data in order to review the success of the waiver. [House Bill 630 Department of Education. South Carolina Legislature. 2022-2023 Conference Committee Report](#)

## EXAMPLES

■ **North Dakota.** The North Dakota Department of Public Instruction (NDDPI) has adopted the [ND PK-12 Education Strategic Vision Framework](#), within which “[q]uality instruction for personalized learning” is one of five strategic themes. State support and flexibility is provided through two innovation programs:

1. Innovative Education Program (program, with flexibility offered through waivers of administrative code, including high school unit instructional time requirements) — [ND Code 15.1-06.08.2 Innovative education — Participation — Reports to legislative management](#); [15.1-21-03. High school unit — Instructional time](#)
2. Personalized, Competency-Based Program (program) — [North Dakota Department of Public Instruction. Harvesting Innovation: North Dakota Personalized, Competency-Based Education \(ND PCBL\)](#) Information published by NDDPI in October 2021 [<https://www.nd.gov/dpi/news/changing-one-size-fits-all-education-model>] explains that the state legislature’s authorization of the Innovative Education Program and opportunities for flexibility to implement innovative learning opportunities (through the waiver opportunity noted above) established foundations on which “the North Dakota Personalized, Competency-Based Learning (ND PCBL) initiative was developed, and serves as an incubator for personalized, competency-based learning (PCBL) in North Dakota.” Northern Cass, one of four school districts that entered the PCBL pilot in the 2018–19 school year, is highlighted by NDDPI, including:

*“All of our educators must also have a personal ‘Why statement,’” said Dr. Cory Steiner, Northern Cass School District superintendent. “And it must change every year. That has helped this whole process — it has been an educator-led transformation.” Some of the most visible differences in PCBL at Northern Cass include the terms they use — educator versus teacher, learner versus student, learning center versus classroom. “We believe learning can happen anywhere,” said Steiner. “Hallways can be learning centers.”*

Innovation program participants and other schools and districts may seek a waiver of school calendar requirements (for a four-day school week) to support innovation. [ND Code 15.1-06-04 School calendar — length](#) and [ND Administrative Code 67-15-02-02 Eligibility for reconfigured school calendar](#)

## PROCESSES AND RESOURCES TO SUPPORT WAIVER TRANSPARENCY AND DATA USE

Even when states provide waiver opportunities, schools and districts need to know that the flexibility is available, how to apply for and implement those opportunities and the impact of waivers over time. Policymakers also need to have information about waiver requests and disposition to guide decision-making. Previous next generation national landscape scans highlighted that state-level information and data on waivers granted to districts and schools was not transparent or was often difficult to find, even though a number of state legislatures and boards specifically require publication of a report at least annually.

### *Supports for Districts and Schools*

During the 2021 scan, and for each waiver opportunity included in our analysis, we researched the state’s processes to determine whether the state:

- Maintains a waiver opportunity webpage.
  - » The **Colorado** Department of Education’s [Innovation Schools webpage](#) provides information on submitting an Innovation Plan to a local board. Guidance includes outlining the innovative practices to be implemented and identifying the state laws or rules and local policies that the school(s) seek to waive, along with a list of approved waivers, a comparison of waiver laws and more.
  - » The **Georgia** [Strategic Waiver School Systems \(SWSS\) Partnership Contracts webpage](#) provides a description of the SWSS option, information on the flexibility options chosen by each district, SWSS waivers granted and more.

- Publishes an online waiver application/request form.
  - » The **Arkansas** Department of Education’s [Act 1240 Waiver webpage](#) provides detailed process steps and forms for districts to use in requesting waivers and waiver extensions.
  - » The **Florida** Department of Education’s [District Innovation School of Technology Model Application](#) provides a template for districts to use and includes detailed descriptions of the information required and related evaluation criteria.
  - » The **Illinois** State Board of Education’s [Application for Waiver or Modification of State Board Rules and/or School Code Mandates](#) provides a web-based template with instructions for preparing and submitting a waiver request.
- Provides districts and schools with guidance regarding the use of waivers.
  - » The **Kentucky** Department of Education provides extensive resources for its District of Innovation program, including a program [webpage](#), web-based [application](#) and two guidance documents: [Navigating the District of Innovation Application](#) and [District of Innovation Application Scoring Rubric](#).
  - » The **Colorado** Department of Education’s [Comparison of Waiver Laws](#) provides an overview of the flexibility available to districts and schools.
- Makes waiver requests and the disposition of those requests public in an easy-to-locate and accessible format (i.e., does not require searching individual State Board meeting agendas or meeting minutes). We also examined whether requests include a rationale for the request, detail on the specific requirements to be waived and an explanation of how flexibility will support specific outcomes.
  - » The **Illinois** State Board of Education publishes reports twice per year that detail all waiver and modification requests submitted for consideration. Examples include [Fall 2017 Waiver Report](#), [Spring 2018 Waiver Reports](#), [Fall 2018 Waiver Report](#), [Spring 2019 Waiver Report](#), [Fall 2019 Waiver Report](#) and [Spring 2020 Waiver Report](#). Illinois also makes public a [chart](#) with summaries (organized by topic) of the action of the State Board and General Assembly on all waiver and modification requests received since March 1995.
- Has established feedback loops to learn from waiver recipients regarding the waiver process and impact of flexibility granted.
  - » The **Florida** Department of Education prepares and publishes an annual report for its Competency-Based Education Pilot Program (see the [2019–20 Annual Report](#)), which summarizes the activities and accomplishments of pilot districts using information from an annual survey of participating districts.

### ***Supports for Policymakers***

To determine whether policymakers have the information they need to guide future legislation, we also examined whether the state education agency:

- Regularly analyzes and makes public data and information on waivers requested and their disposition, including a list of the top areas of flexibility granted.
  - » Several state legislatures have authorized waivers of state laws and regulations and, in doing so, have required the state education agency or state board of education to provide regular reports on waiver activity, including analysis of most commonly requested waivers, recommendations for statutory revisions, impact and more. For example, see the **Florida** Competency-Based Education Pilot Program annual report described previously and the **California** Department of Education’s [waiver report](#) to the state’s governor, Legislature and State Board.

- Has and uses a process for regularly reflecting on and adjusting, as needed, waiver criteria, applications, reporting, etc.
- Has the authority to grant waivers to similarly situated districts/schools following approval of one request.
  - » **South Carolina’s [District and School Planning Waiver](#)**, an innovation-focused waiver that is authorized in state statute and administrative regulations, provides that the State Board may delegate to the state superintendent the ability to waive regulatory requirements for similarly situated school districts and schools.
  - » **Hawaii** provides for a general waiver for policies, rules or procedures. This [School Community Council Waiver](#) may be extended by the State Board to apply to other schools under “comparable circumstances.”
- Routinely considers policy change that would alleviate the need for waivers.
  - » **Utah** Code [53F-5-506](#) authorizes LEAs participating in the state’s Competency-Based Education (CBE) Grant Program to request a waiver from State Board rule. Any LEA receiving a grant under the program must annually report to the State Board, providing information on a state statute that hinders the LEA from fully implementing its CBE program and suggested changes to the statute. These recommendations, along with the State Board’s recommendations, are to be shared each year with the governor, the Education Interim Committee and the Public Education Appropriations Subcommittee.

## RESULTS

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Based on the national scan, states with noteworthy processes and resources to support waiver transparency and data use include the following:

- **12 states** publish a consolidated list of waivers requested (with descriptive information, not just citations, on the specific requirements sought to be waived and rationale for each) and their disposition. Many others have posted requests among board materials and provide disposition information within board minutes, but extensive searching is required.
  - » Waivers requested and disposition: Arkansas, Georgia (2), Illinois (2), Indiana (must search each SBE meeting agenda), Kentucky (2) (must search each SBE meeting agenda), Oklahoma (must search each SBE meeting agenda), South Carolina (4), Texas (2), Utah, Vermont, Washington (3) (must submit public records request), West Virginia
  - » Waiver disposition only: Arkansas (3), Colorado (last three years, all waivers have been granted), Ohio, Utah
  - » Weekly waivers received: California (5)
  - » Current waivers in effect only: South Dakota (3)
- **8 states** publish a periodic report (some annually), including data and information on waivers that have been granted.
  - » Arkansas (4) (2017, 2020), California (5), Colorado, Florida (2), Georgia (2), Iowa (5), Utah (2), West Virginia
- **At least 1 state** produces a comprehensive waiver report but makes it publicly available only through a public records request.
  - » Washington
- **18 states** publish waiver guidance.
  - » Arkansas (4), California (5), Colorado (3), Florida (2), Georgia (2), Illinois (2), Indiana (4), Iowa (5), Kansas, Kentucky, Louisiana, Maine, Michigan (6), Mississippi, Rhode Island, Texas (2), West Virginia, Wisconsin
- **3 states** allow a waiver to be applied to other similarly situated schools/districts.
  - » Hawaii, South Carolina, Utah

# Leveraging Flexibility to Advance Student-Centered Learning

In early 2020, the pandemic thrust every state, school and community into innovation mode. Many proceeded without the benefit of significant forethought on a vision for innovation—and almost none with adequate preparation to ensure student learning could continue at scale in the absence of in-person, synchronous instruction. Nearly two years later, much remains to be done to strengthen the vision for student-centered learning and the systems that are necessary to get there, including improving on or shifting the focus of COVID-related flexibility to better serve communities and students in the future.

The examples provided in this section illustrate the approaches several states have taken to foster innovation through the use of flexibility — specifically, waivers and exemptions from state requirements. They also highlight that there is no common roadmap that should be used to create the conditions that foster student-centered innovation statewide.

While enacting a statutory change or adopting a new policy may be a state’s objective, it may make sense to engage a few schools or districts in a pilot or other small-scale effort to chart the course, plan within their individual context and identify barriers to success. One example of a policy change is decoupling unit/credit accumulation and student progression from student attendance and hours of instruction requirements that may have continued value as part of a pupil accounting system. Other states have chosen to encourage schools and districts to use existing flexibility to further innovation or to create new flexibility focused squarely on enabling innovation.

## Utah: Personalized, Competency-Based Learning Grants Program — Waiver From State Board Rule

The Personalized, Competency-Based Learning (PCBL) Program provides local education agencies (LEAs) an opportunity to offer a variety of personalized learning programs to improve educational outcomes. State statute provides for three phases of grant funding for this program. LEAs may apply for the planning grant, which provides grant funds for one year, by creating an application with a plan for implementing an innovative program schoolwide or in a smaller group. An LEA that has received a planning grant may then apply for an implementation grant with an application that articulates the “proposed program’s mission, theory of change, and the program’s intended goals and outcomes.” Expansion grants may be awarded following receipt of a planning and an implementation grant. To receive the expansion grant, the LEA must show that the program has met previous goals and show outcomes that are in alignment with statutorily required core principles. [Planning Grant Program](#); [Implementation Grant Program](#)

### WAIVER OVERVIEW

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USBE Regulation R277-121 allows any LEA board to request waivers from administrative rules, using an established process and within certain limitations. Under this authority, USBE also issues statewide waivers applicable to all LEAs without the need for individual requests.

- Waiver scope: Administrative Rules only
- Waiver authorization: [R277-121 Board Waiver of Administrative Rules](#)

## EXAMPLES OF WAIVERS REQUESTED

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USBE publishes information on [Statewide Rule Waivers for All LEAs](#) and [LEA Rule Waivers for Individual LEAs](#). LEA Rule Waivers for Individual LEAs in effect (retrieved December 15, 2021) is provided in the form of waiver agreements detailing the specific rule(s) subject to waiver, a statement of “Alternative or Amended Compliance,” annual reporting requirements and more.

Although at least one PCBL Grant Program recipient has a waiver agreement in place, the information provided does not indicate that any waivers in effect are being used specifically to support PCBL. Requirements waived include the following:

- High School Diploma Credits (R277-700) — four waiver agreements
- Implementation of a 4-Day School Week Schedule; waiver of 180-day requirement (R277-419-4) — seven waiver agreements
- Extending Deadline for Opening of a Charter School Replication Campus (R277- 552-6(6)) — one waiver agreement

## TRANSPARENCY AND DATA USE

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Waivers in effect, including waivers granted for individual LEAs as well as statewide waivers, are published on the USBE website:

- [Waivers of Board Rule for 2020-2021 School Year](#)
- [LEA Rule Waivers for Individual LEAs](#)

Does the published information include:

- ☑ Details of flexibility requested? *Yes, but the rationale provided for LEA requests is not consistently detailed.*
- ⦿ Information on the disposition of each request (i.e., approved, denied, withdrawn)? *Only waivers in effect (approved) are published.*
- ⊗ Recommendations for statutory revisions? *No*

Effective 5/12/2020, the state board must request from each PCBL Grant Program recipient:

- Information on a state statute that hinders an LEA from fully implementing the LEA’s program
- Suggested changes to the statute

The State Board is to report all such information in the State Superintendent’s Annual Report, as required by Section [53E-1-203](#).

The [USBE Annual Report 2021](#) includes the following information:

- The Board approved waivers from State Board administrative rules. In March through June 2020, the Board waived provisions in 22 rules for the 2019–20 school year. As of December 2020, the Board waived provisions in seven rules for the 2020–21 school year. The Board worked with the Legislature to waive statutory provisions, including requirements to administer statewide assessments in spring 2020; to pass a basic civics test as a condition of graduation for certain students graduating between January 1, 2020, and September 30, 2020; and for school districts to complete employee evaluations for the 2019–20 school year.

## Arkansas — School of Innovation Waiver

As described in a report by the Bureau of Legislative Research, “[I]n 2013, Act 601 created districts and schools of innovation, which allowed these public educational entities to apply for and operate under waivers from many Arkansas laws and rules similarly to their charter counterparts. (Though the law allows the creation of districts of innovation, the applications approved so far are mostly for schools of innovation.) ... 60% of a school’s eligible employees must be supportive of the innovation designation before the school district could submit a plan for that school.”

- [Arkansas Code 6-15-2804 School of Innovation](#)
- [Arkansas Department of Education. Schools of Innovation](#)
- [Approved Applications for Schools of Innovation](#)

### WAIVER OVERVIEW

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A school (or district) designated as a school (or district) of innovation may request a waiver from laws and rules in writing to the commissioner of education. All requests “must be tied to a specific goal of the school of innovation and the request must contain an explanation of why the waiver is necessary to achieve the stated goal.”

- Waiver scope: Administrative Rules and Statutes
- Waiver authorization: [Arkansas Code 6-15-2804 School of Innovation](#) and [Arkansas Division of Elementary and Secondary Education Rules Governing Schools of Innovation \(Feb. 7, 2020\)](#)

### WAIVERS REQUESTED AND APPROVED FOR 2021–22 SCHOOLS OF INNOVATION

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Information on the specific laws and rules requested to be waived by Schools of Innovation, the rationale for each request and their disposition is available only through a review of each approved application. The section of the 2021-22 Schools of Innovation titled “Waivers needed to implement or support the plan of innovation” includes details of waivers requested:

#### *Waiver from Standards for Accreditation Regarding Science Instruction*

- Standards for Accreditation 1-A.1.2.3 regarding annual instruction of science instruction, requested to allow students at a junior high school to take Project Lead The Way (PLTW) science, technology, engineering and math (STEM) courses instead of traditional Science 7 and Science 8 courses. The school’s explanation reads: “By providing students the opportunity for PLTW courses in a core-content area, students will be able to explore STEM content in a hands-on method. This will allow students to be more engaged in the content and be able to name and apply the content learned.” [Lakeside Jr High School](#)

#### *Waiver from Standards for Accreditation Regarding CTE Instruction*

- Standards for Accreditation 1-A.1.2.7 regarding annual instruction of career and technical education, requested to allow students at a junior high school to be exposed to career exploration, keyboarding skills, personal development and future-planning research through a two-year advisory program. The school’s rationale and explanation note that “[t]his will allow students to truly gain a greater sense of understanding of the skills necessary to be successful beyond secondary education. ... By embedding skills related to career development and keyboarding, our students will be able to create individual plans that they build on over a two-year period instead over the course of a small portion of one school year.” [Lakeside Jr High School](#)

## ***Waiver from Requirements Governing Teacher Licensure***

- Arkansas Code Annotated 6-15-1004, 6-17-401, 6-17-309, 6-17-902, 6-17-908, 6-17-919 and Standards for Accreditation 4-D.1
- Section 7 DESE Rules Governing Teacher Licensure, requested with the following rationale: “Clarendon School District serves students from the lower two thirds of Monroe County, one of the poorest regions in the state. With projected teacher shortages, our district cannot compete with schools who pay higher than minimal teacher salaries. Furthermore, the rural agricultural surroundings of the district do little to attract potential faculty members. This has led to a high turnover rate.

For Clarendon Elementary School to close the achievement gap and reach or exceed individual growth expectations in literacy, we need to reduce our turnover rate to provide stability for our students. To provide high quality, rigorous education at all grade levels, CES would like the flexibility to allow degreed individuals to teach and facilitate learning, specifically to address individual growth in literacy. In our community, we have degreed individuals who have expressed an interest in teaching but lack the certification and obtaining it would cause financial hardship.

Our request is to employ four-year degreed individuals, working toward teacher licensure through an alternative pathway, to be employed as teachers. This request is driven by the difficulty of obtaining licensed teachers in high poverty areas and our high turnover rate. Clarendon School District is aware that all teachers must meet Arkansas Qualified Teaching Standards and that all special education teachers must be fully licensed. All educators will meet the requirements such as the completion of criminal background check, Child Maltreatment registry, and required professional development required by the Clarendon School District.

Clarendon Elementary School will put the best teacher available in the classes with students, whether it is a teacher employed currently, or a four-year degreed instructor who is working toward licensure. ... To meet all requirements of the ADE Rules Governing the Standards for Accreditation, the Clarendon School District must find teachers who have more than one area of licensure. Because Clarendon Elementary School is a K-6 school, we have to hire applicants who are multi-certified in grades 4-6.

To provide students a quality education and to prepare students to be ready for high school, the applicant requests this waiver to allow the ability to employ knowledgeable, certified teachers to teach and facilitate learning in a core area in which they are not certified. We would also like to request that we be able to employ four-year degreed individuals who do not possess teaching licensure but who are working toward licensure in an approved Alternative Teaching Certification pathway. As we work toward meeting our goal of having all students on or above grade level, we will provide ongoing training, modeling, and support for all teachers.” [Clarendon Elementary School](#)

## ***Waiver from Requirements Regarding Library Media Specialist***

- Arkansas Code Annotated: 6-25-103 Library Media Services Program defined: 6-25-104, Standards for Accreditation 4-F.1, 4-F.2, requested with the following rationale: “[T]o use the skills of the library/media specialist to the maximum potential to serve the needs of the students, and aid students and teachers with digital learning, Clarendon Elementary School will create the position of ‘Digital Learning Facilitator’ instead of a Library Media Specialist although many of the job responsibilities will overlap.

The Digital Learning Facilitator will perform the duties of the media specialist, but will also provide onsite and digital support for students who are significantly below grade level in reading skills. The DLF will align digital support to the K-2 Phonics First curriculum, Bridge the Gap and Wilson Just Words.

We feel this waiver is needed in order to provide more flexibility than is available. Explanation — The task of scheduling digital meetings, virtual instruction and other collaborations must be well planned with no conflicts in the schedule. In order to best meet the needs of students and teachers, the Digital Learning Facilitator (DLF) will provide onsite and digital support for students who are significantly below grade level in reading skills. As we

learned in the previous school year, this is a task that is very time consuming for classroom teachers. The DLF will load course content into the digital platform, maintain close contact with all virtual students, both through the digital platform and through weekly Zoom meetings. This will ensure that our virtual students do not fall through the cracks, helping CES meet its literacy goals.

The DLF will continue to teach library classes and will open the library for book selection while maintaining the library inventory. Students will continue to check out books from the library as we feel this is important in the creation of students who enjoy reading books.” [Clarendon Elementary School](#)

## TRANSPARENCY AND DATA USE

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The most comprehensive information on waivers published by the state is found in two reports of the Bureau of Legislative Research:

- [State of Arkansas Bureau of Legislative Research. Research Report — District- and School-Level Waivers \(2020\)](#)
- [State of Arkansas Bureau of Legislative Research. Research Report — District- and School-Level Waivers \(2017\)](#)

### *Published information includes:*

- ⊗ Details of flexibility requested? *No*
- ⊗ Information on the disposition of each request (i.e., approved, denied, withdrawn)? *No*
- ⊗ Recommendations for statutory revisions? *No*

## Colorado — Innovation Schools Act Waivers

Local school boards in Colorado may apply to become Districts of Innovation, which allows the schools to implement an innovation plan. Statutes specify seven purposes for this program, including to grant schools “greater ability to meet the educational needs of a diverse and constantly changing student population” and “encourage intentionally diverse approaches to learning and education,” among others. [C.R.S. 22-32.5-104 Innovation plans — submission — contents](#) Districts will be identified as Districts of Innovation if the plan “(I) is likely to enhance educational opportunity, standards, and quality within the innovation schools or innovation school zones; and (II) is fiscally feasible.” [C.R.S. 22-32.5-107 District of Innovation — designation](#) The state also notes that “[a]s a part of the State Board’s duty to determine whether or not an application is likely to enhance educational opportunity, standards and quality within a school, the board may assess whether or not a replacement plan for one or more waivers sufficiently describes how the applicant will meet the intent of the waived statute and will be accountable for such compliance.” [CDE. Comparison of Waiver Laws](#) Colorado currently has 16 Districts of Innovation, which include 107 innovation schools. [CDE. 2021 Innovation Schools Annual Report](#)

## WAIVER OVERVIEW

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When a district is identified as a District of Innovation, the State Board must then waive, with some limitations, “any statutes or rules specified in the school district’s innovation plan as they pertain to the innovation schools or innovation school zones of the districts of innovation.” [C.R.S. 22-32.5-108 District of innovation — waiver of statutory and regulatory requirements](#) These waivers will remain in effect for as long as the school is designated as an innovation school.

## EXAMPLES OF WAIVERS REQUESTED

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The state's 2021 annual report notes the waivers granted fall within one of three categories: time, personnel and budget. [CDE. 2021 Innovation Schools Annual Report](#)

- Waivers focused on time relate to making decisions about when the school will operate, including establishing a school calendar that is different from the calendar that the authorizing district has created. These waivers are allowed if pupil-teacher contact hours and school calendar days requirements from statute are met. According to the state's annual report on Districts of Innovation, schools seeking these waivers also tend to seek waivers related to personnel, professional development, professional learning communities, school data teams and other ways that teachers collaborate.
- Personnel waivers include those relating to flexibility of credentials, personnel evaluation systems and salary schedules as well as employee agreements and teacher transfers. The annual report notes that these waivers involve employees hired usually on an at-will basis and replace nonprobationary statuses with time-bound contracts.
- Budget waivers include providing more authority in school budgets, teacher salaries and reallocation of resources.

The top five waivers requested relate to the adoption of district calendars, determination of teacher-pupil contact hours, determination of school calendars, teacher licensure and determination of educational program and prescription of textbooks.

## TRANSPARENCY AND DATA USE

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State statute requires the Colorado Department of Education to prepare an annual report relating to Districts of Innovation. These reports, as well as data and statistics, are posted on the Colorado Department of Education's website for Innovation Schools. [CDE Innovation Schools Webpage](#)

## Florida — Competency-Based Education Pilot Program — Waivers

“The purpose of the pilot program is to provide an educational environment that allows students to advance to higher levels of learning upon the mastery of concepts and skills through statutory exemptions relating to student progression and the awarding of credits.” Five eligible participants are named in the law. Those choosing to participate were required to submit an application that includes a “plan for student progression based on the mastery of content, including mechanisms that determine and ensure that a student has satisfied the requirements for grade-level promotion and content mastery. ... [and] the rules to be waived for participating schools pursuant to subsection (3) to implement the pilot program ...” [FLDOE CBE Pilot Program 2019–20 Annual Report](#)

## WAIVER OVERVIEW

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The State Board of Education may authorize the commissioner to grant a waiver of rules relating to student progression and the awarding of credits. In addition, pilot program participants, like other district school boards, may apply for a waiver by the commissioner, subject to State Board authorization, of “State Board of Education rules that relate to district school instruction and school operations, except those rules pertaining to civil rights, and student health, safety, and welfare and other exceptions noted in Florida Statute 1001.10(3).” The commissioner does not have the authority to waive state statute.

- Waiver scope: Administrative Rules only
- Waiver authorization: [FL Statute 1003.4996 Competency-Based Education Pilot Program](#); [FL Statute 1001.10 Commissioner of Education; General Powers and Duties](#)

## EXAMPLES OF WAIVERS REQUESTED

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(Excerpts from the 2019–20 annual report)

1. *A school district requested flexibility related to State Board Rule 6A-1.09422: Statewide, Standardized Assessment Program Requirements.*

Florida Department of Education (FDOE) Note: All EOCs [end-of-course exams] are already offered four times per year and the FSA [Florida Standards Assessments] and ECOs [sic] can already all be retaken by a student. Additionally, moving these tests to the first day of a student's senior year would significantly disadvantage a student's demonstration of mastery of content that was learned long before taking the corresponding assessment.

2. *A participating school requested flexibility related to the middle and high school grading system state statute, s. 1003.437, Florida Statutes, as related to the 100-point grading scale. The district would maintain an A–F grading system but is constrained in their work by the traditions and beliefs associated with a 100-point grading scale as required by state law.*

FDOE Note: By law, the commissioner cannot grant this request, and the school would have to bring this issue to the Legislature.

3. *A participating district requested flexibility related to the school grading system; school report cards; and district grade state statute. Section 1008.34(3)(b)(1)(f). The percentage of eligible students who make learning gains in mathematics as measured by statewide, standardized assessments administered under s. 1008.22(3). The district states that students in AMP4 [Accelerated Mathematics Plan] take the 5th grade FSA as 4th graders. As such, these students, many of whom are Level 5, are required to maintain their level and to score 1 scale score point higher. But the comparison is between the 3rd grade scale and 5th grade scale. This jump across scales creates a lot of fear for administrators, which creates a situation where students are removed from AMP coursework just prior to the FSA administration. Or students that could handle the coursework are denied the opportunity for entrance into AMP. The district is requesting that students in AMP4 are compared to their 4th grade peers.*

FDOE Note: The above request made by the district contains a misconception related to accountability measures. The department will contact the district to provide guidance.

## TRANSPARENCY AND DATA USE

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Annually, the department is required to provide the governor, the president of the Senate and the speaker of the House of Representatives with a report summarizing the activities and accomplishments of the pilot program and any recommendations for statutory revisions. To obtain information for the report, the department annually surveys participating districts. Information submitted to the department for each annual report is provided by participating districts.

- [Competency-Based Education Pilot Program 2019–20 Annual Report](#)
- [Competency-Based Education Pilot Program 2017–18 Annual Report](#)

FDOE's annual reports include:

- ✔ Details of flexibility requested? *Yes, but lacks any rationale provided for the request is not consistently provided*
- ⦿ Information on the disposition of each request (i.e., approved, denied, withdrawn)? *This information is included in the 2019–20 annual report but not the 2017–18 annual report.*
- ✘ Recommendations for statutory revisions? *No; however, there is information indicating that certain requests are not within the authority of the commissioner to grant and that the requesting entity would need to bring the issue to the Legislature.*

## Federal Ed-Flex Program

In addition to state-authorized flexibility, districts and schools in some states may benefit from the state's approval for participation in the federal Ed-Flex program, under which the U.S. Secretary of Education delegates to states the authority to "waive certain federal education requirements (specified statutes and regulations) that may hinder improvement efforts."<sup>6</sup> Ed-Flex flexibility extends to requirements that apply to Title I Part A (excluding Section 1111), Title I Part C, Title I Part D, Title II Part A and Title IV Part A as well as the Strengthening Career and Technical Education for the 21st Century Act (Perkins V).

As with most state waiver authorizations, "certain fundamental requirements may not be waived, including those pertaining to health, safety, and civil rights, provisions of the Individuals with Disabilities Education Act (IDEA), and requirements relating to parental participation and involvement." As a precondition of granting any waiver under the program, a state must determine that the underlying purposes of the affected program would continue to be met.

Eleven states currently have Ed-Flex authority. Each state's application describes the intended use of the authority, which extends for five years after the date of approval. Links to each state's application and [award information](#) published by the U.S. Department of Education are included below.

### STATES USING ED-FLEX AUTHORITY SPECIFICALLY TO SUPPORT NEXT GENERATION LEARNING

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Award information for North Dakota and Vermont indicates an intent to use the state's Ed-Flex authority to support one or more next generation learning strategies.

- [North Dakota](#) will use its Ed-Flex authority to align resources to improve student outcomes by focusing on school readiness, quality early childhood education, healthy behaviors, career awareness, strong educators and student-centered instruction.
- [Vermont](#) has a strong tradition of local control and innovation. Vermont uses Ed-Flex to incentivize collaboration with local partners (e.g., parents, community members, local businesses and community and technical colleges) to identify innovative practices, solve problems and leverage resources in ways that provide maximum educational benefit to students.

### STATES USING ED-FLEX AUTHORITY FOR OTHER PURPOSES

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- [Colorado](#) will use its Ed-Flex authority to leverage resources to improve efficiencies that benefit students in the areas of academic achievement, graduation rate, English proficiency and teacher effectiveness.
- [Delaware](#) will use its Ed-Flex authority to improve academic achievement, increase graduation rate and increase percentage of English language proficiency.
- [Georgia](#) will use its Ed-Flex authority to ensure that each Georgia student is afforded a high-quality and holistic public education through Coherent Instruction.
- [Indiana](#)'s Ed-Flex plan is aligned with the consolidated state plan and requires districts to submit a detailed description of the effectiveness of their waivers, supported by data on school and student performance.
- [Massachusetts](#) plans to use its Ed-Flex authority to address issues related to educator recruitment and licensure.
- [North Carolina](#) will use its Ed-Flex authority to address class size, school year schedule and Title I, which aligns with the state's 2025 Strategic Plan.
- [Pennsylvania](#)'s Ed-Flex plan is aligned with the ambitious goals and targets for historically underserved student groups in its Every Student Succeeds Act state plan. The plan requires districts to submit a detailed description of the effectiveness of their waivers, supported by data on school and student performance.

- [Texas](#) will use its Ed-Flex authority to reduce administrative burden on districts by providing flexibility around staff development requirements, teacher certification and attendance requirements.
- [Wisconsin](#) will use its Ed-Flex authority to continue to focus on the clear educational objectives described in Wisconsin's approved ESEA state plan.

# Guiding Principles for State Use of Waiver Flexibility as Part of an Innovation Agenda

## Considerations for States

- 1. Begin with a Vision-Centric Waiver Strategy.** States can establish a vision for ensuring that every PK–12 student has access to high-quality student-centered learning opportunities, recognizing that it will be necessary for education leaders at all levels of the system to innovate and to make continuous improvements.
  - States may need to conduct an audit of the policy flexibility already authorized and to determine how best to use the state’s authority to achieve the vision.
- 2. Develop a Strong Narrative Regarding Why Flexibility Is Needed and How It Is Best Used.** States can anticipate that the design and implementation of high-quality, student-centered learning will require greater local autonomy and other flexibility. Clear communication is helpful to make a case for strategically developed waiver requests.
- 3. Create Resources to Support Waiver Use That Is Aligned to the Vision.** States can actively counsel and support potential waiver applicants to encourage student-centered learning strategies. They also can create an expectation of continuous improvement (particularly improved student achievement) by both state and local district/schools. Support can include the following:
  - Innovation webpage with waiver information and resources.
  - Online application and clearly defined application process.
  - Additional guidance.
  - Online repository of waiver activity as resources for districts/schools, including requests, rationale and disposition.
- 4. Support Waiver Implementation. Commit to Ongoing Improvement of Both Waiver Authority and Waiver Processes.** States can establish and administer processes for engaging district and school staff regarding flexibility for innovation and feedback loops. These processes may include the collection of data, public reporting on waiver activity, outcomes and analysis, including the following specific examples:
  - Data and information collection — how flexibility will support the next generation learning vision and specific strategies, other needs, outcomes expected and results achieved at least annually.
  - Feedback loops — formal and informal loops to understand what is and is not working.
- 5. Improve Future State Action. Engage in Evaluation, Reflection, and Dissemination.** States can establish and administer processes for analyzing, sharing and using waiver-related data and information, including:
  - Articulate policy questions to be answered (e.g., expanding flexibility for innovation to all — universal eligibility vs. program participants/zone members only; improving equity and access).
  - Analyze and make public the details of requests and their disposition.
  - Analyze and make public (as required and/or appropriate) — progress of waiver recipients, outcomes, feedback, etc.
  - Use data and analysis to improve waiver/exemption opportunities over time.
  - If existing waiver/exemption provisions do not fully fit the next generation learning vision, consider new or revised authorization(s).

# Appendix: State Reports

## INNOVATION PROGRAM/PILOT REPORTS

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- Colorado — [2021 Innovation Schools Annual Report](#), [Innovation School Waivers 2020-21](#), [2020 Innovation Schools Annual Report](#)
- Florida — [Competency-Based Education Pilot Program 2019-2020 Annual Report](#)
- Georgia — [2020 Georgia Charter Systems Annual Report](#)
- West Virginia — Innovation Schools Waivers *Flex Details*: [2019-2020](#) and [2020-2021](#)

## REPORTS ON OTHER WAIVER AUTHORITY USED BY SEAs/SBOEs

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- Arkansas — [Handout D2 Waivers From Ark Education Laws Report](#), [BLR \(15\) Handout D3 Waivers From Arkansas Education Laws](#), [PowerPoint](#), [BLR \(15\)](#)
- California — [Annual Report 2020 \(DOCX\)](#), [Supporting Data 2020 \(XLSX\)](#), [Executive Summary 2020](#), [Annual Report 2019 \(DOCX\)](#), [Supporting Data 2019 \(XLSX\)](#), [Executive Summary 2019](#), [Annual Report 2018 \(DOCX\)](#), [Supporting Data 2018 \(XLSX\)](#), [Executive Summary 2018](#)
- Illinois — [Spring 2020 Waiver Report](#), [Fall 2019 Waiver Report](#), [Spring 2019 Waiver Report](#)
- Utah — [Waiver of Administrative Rules](#)
- Washington — Flex Details: [180-day waivers report 2019-2020 OSPI](#) and [all waivers 2018-2019 OSPI](#)

## ENDNOTES

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- 1 Why Public Schools Need Less Regulation, Michael Horn, July 29, 2011, The Atlantic, retrieved at <https://www.theatlantic.com/national/archive/2011/07/why-public-schools-need-less-regulation/242590/>
- 2 The focus of this work was the state laws and regulations establishing flexibility and authorizing waiver opportunities for districts and schools, with an emphasis on those available to traditional K–12 public schools that may be interested in designing and implementing student-centered learning models and other next generation learning approaches. Research generally did not extend to special schools, alternative schools and programs, and charter schools or to flexibility available only at the request or on behalf of individual students.
- 3 Each state in this list may have multiple waiver authorities — where a state has more than one waiver authority, that number, in parentheses, follows the state name.  
“Waiver authorities that extend to statutes and administrative rules” refers to waivers that can be used to waive both statute and rule, per the requirements of that particular waiver. Waivers for rules only or statutes only would not fall into this category.
- 4 Each state in this list may have multiple waiver authorities — where a state has more than one waiver authority, that number, in parentheses, follows the state name.  
“Waiver authority that is limited to state administrative rules” refers to waivers that can be used only to waive rules, per the requirements of that particular waiver. Waivers for statutes only or waivers for both statutes and rules would not fall into this category.
- 5 Each state in this list may have multiple waiver authorities — where a state has more than one waiver authority, that number, in parentheses, follows the state name.  
“Waiver authority that is limited to state statutes” refers to waivers that can be used only to waive statutes, per the requirements of that particular waiver. Waivers for rules only or waivers for both statutes and rules would not fall into this category.
- 6 U.S. Department of Education, Programs: Ed-Flex, <https://www2.ed.gov/programs/edflex/index.html>