

VII, §705(c)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–256; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to Secretary’s review of applications and payments.

Section 5888, Pub. L. 103–227, title III, §308, Mar. 31, 1994, 108 Stat. 168; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(10)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–253; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to State use of funds.

Section 5889, Pub. L. 103–227, title III, §309, Mar. 31, 1994, 108 Stat. 169; Pub. L. 103–382, title III, §361(c), Oct. 20, 1994, 108 Stat. 3975; Pub. L. 104–134, title I, §101(d) [title VII, §§702(b), 703(a)(11)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–251, 1321–253; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to subgrants for local reform and professional development.

Section 5890, Pub. L. 103–227, title III, §310, Mar. 31, 1994, 108 Stat. 174; Pub. L. 103–382, title III, §394(f)(4), Oct. 20, 1994, 108 Stat. 4028, related to availability of information and training.

Section 5891, Pub. L. 103–227, title III, §311, Mar. 31, 1994, 108 Stat. 174; Pub. L. 103–382, title III, §394(f)(5), Oct. 20, 1994, 108 Stat. 4028, related to waivers of statutory and regulatory requirements.

#### EFFECTIVE DATE OF REPEAL

Pub. L. 106–113, div. B, §1000(a)(4) [title III, §310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265, provided that: “Titles III [enacting this subchapter] and IV [enacting subchapter IV of this chapter] of the Goals 2000: Educate America Act are repealed on September 30, 2000.”

### § 5891a. Definitions

In this Act:

- (1) **Educational service agency; local educational agency; State educational agency; outlying area**

The terms “educational service agency”, “local educational agency”, “State educational agency”, and “outlying area” have the meanings given the terms in section 7801 of this title.

- (2) **Eligible school attendance area; school attendance area**

The terms “eligible school attendance area” and “school attendance area” have the meanings given the terms in section 6313(a)(2) of this title.

- (3) **Secretary**

The term “Secretary” means the Secretary of Education.

- (4) **State**

The term “State” means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each outlying area.

(Pub. L. 106–25, §3, Apr. 29, 1999, 113 Stat. 42; Pub. L. 107–110, title X, §1076(o), Jan. 8, 2002, 115 Stat. 2092; Pub. L. 114–95, title IX, §9207(a), Dec. 10, 2015, 129 Stat. 2141.)

#### REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 106–25, Apr. 29, 1999, 113 Stat. 41, known as the Education Flexibility Partnership Act of 1999, which enacted sections 5891a and 5891b of this title, amended section 1415 of this title, and enacted provisions set out as notes under sections 1415 and 5891a of this title. For complete classification of this Act to the Code, see Short Title of 1999 Amendment note set out under section 5801 of this title and Tables.

#### CODIFICATION

Section was enacted as part of the Education Flexibility Partnership Act of 1999, and not as part of the

Goals 2000: Educate America Act which comprises this chapter.

#### AMENDMENTS

2015—Par. (1). Pub. L. 114–95 substituted “Educational service agency; local” for “Local” in heading and, in text, substituted “The terms ‘educational service agency’,” for “The terms” and made technical amendment to reference in original act which appears in text as reference to section 7801 of this title.

2002—Par. (1). Pub. L. 107–110 substituted “7801” for “8801”.

#### EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

#### FINDINGS

Pub. L. 106–25, §2, Apr. 29, 1999, 113 Stat. 41, provided that: “Congress makes the following findings:

“(1) States differ substantially in demographics, in school governance, and in school finance and funding. The administrative and funding mechanisms that help schools in one State improve may not prove successful in other States.

“(2) Although the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.] and other Federal education statutes afford flexibility to State educational agencies and local educational agencies in implementing Federal programs, certain requirements of Federal education statutes or regulations may impede local efforts to reform and improve education.

“(3) By granting waivers of certain statutory and regulatory requirements, the Federal Government can remove impediments for local educational agencies in implementing educational reforms and raising the achievement levels of all children.

“(4) State educational agencies are closer to local school systems, implement statewide educational reforms with both Federal and State funds, and are responsible for maintaining accountability for local activities consistent with State standards and assessment systems. Therefore, State educational agencies are often in the best position to align waivers of Federal and State requirements with State and local initiatives.

“(5) The Education Flexibility Partnership Demonstration Act [former 20 U.S.C. 5891(e)] allows State educational agencies the flexibility to waive certain Federal requirements, along with related State requirements, but allows only 12 States to qualify for such waivers.

“(6) Expansion of waiver authority will allow for the waiver of statutory and regulatory requirements that impede implementation of State and local educational improvement plans, or that unnecessarily burden program administration, while maintaining the intent and purposes of affected programs, such as the important focus on improving mathematics and science performance under title II of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6601 et seq.] (Dwight D. Eisenhower Professional Development Program), and maintaining such fundamental requirements as those relating to civil rights, educational equity, and accountability.

“(7) To achieve the State goals for the education of children in the State, the focus must be on results in raising the achievement of all students, not process.”

**§ 5891b. Educational flexibility program**

**(a) Educational flexibility program**

**(1) Program authorized**

**(A) In general**

The Secretary may carry out an educational flexibility program under which the Secretary authorizes a State educational agency that serves an eligible State to waive statutory or regulatory requirements applicable to one or more programs described in subsection (b), other than requirements described in subsection (c), for any local educational agency, educational service agency, or school within the State.

**(B) Designation**

Each eligible State participating in the program described in subparagraph (A) shall be known as an “Ed-Flex Partnership State”.

**(2) Eligible State**

For the purpose of this section, the term “eligible State” means a State that—

(A) has—

(i) developed and implemented the challenging State academic standards, and aligned assessments, described in paragraphs (1) and (2) of section 1111(b) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311(b)], and is producing the report cards required by section 1111(h) of such Act; or

(ii) if the State has adopted new challenging State academic standards under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965, as a result of the amendments made to such Act [20 U.S.C. 6301 et seq.] by the Every Student Succeeds Act, made substantial progress (as determined by the Secretary) toward developing and implementing such standards and toward producing the report cards required under section 1111(h) of such Act;

(B) will hold local educational agencies, educational service agencies, and schools accountable for meeting the educational goals described in the local applications submitted under paragraph (4) and for engaging in technical assistance and, as applicable and appropriate, implementing comprehensive support and improvement activities and targeted support and improvement activities under section 1111(d) of the Elementary and Secondary Education Act of 1965; and

(C) waives State statutory or regulatory requirements relating to education while holding local educational agencies, educational service agencies, or schools within the State that are affected by such waivers accountable for the performance of the students who are affected by such waivers.

**(3) State application**

**(A) In general**

Each State educational agency desiring to participate in the educational flexibility program under this section shall submit an application to the Secretary at such time, in

such manner, and containing such information as the Secretary may reasonably require. Each such application shall demonstrate that the eligible State has adopted an educational flexibility plan for the State that includes—

(i) a description of the process the State educational agency will use to evaluate applications from local educational agencies, educational service agencies, or schools requesting waivers of—

(I) Federal statutory or regulatory requirements as described in paragraph (1)(A); and

(II) State statutory or regulatory requirements relating to education;

(ii) a detailed description of the State statutory and regulatory requirements relating to education that the State educational agency will waive;

(iii) a description of clear educational objectives the State intends to meet under the educational flexibility plan, which may include innovative methods to leverage resources to improve program efficiencies that benefit students;

(iv) a description of how the educational flexibility plan is coordinated with activities described in subsections (b), (c), and (d) of section 1111 of the Elementary and Secondary Education Act of 1965;

(v) a description of how the State educational agency will evaluate (consistent with the requirements of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.]) the performance of students in the schools, educational service agencies, and local educational agencies affected by the waivers; and

(vi) a description of how the State educational agency will meet the requirements of paragraph (7).

**(B) Approval and considerations**

**(i) In general**

By not later than 90 days after the date on which a State has submitted an application described in subparagraph (A), the Secretary shall issue a written decision that explains why such application has been approved or disapproved, and the process for revising and resubmitting the application for reconsideration.

**(ii) Approval**

The Secretary may approve an application described in subparagraph (A) only if the Secretary determines that such application demonstrates substantial promise of assisting the State educational agency and affected local educational agencies, educational service agencies, and schools within the State in carrying out comprehensive educational reform, after considering—

(I) the eligibility of the State as described in paragraph (2);

(II) the comprehensiveness and quality of the educational flexibility plan described in subparagraph (A);