ARKANSAS
DEPARTMENT OF EDUCATION

Office of Federal Programs

District Guidance: Federal Flexibility for 2026-2027

Alternative Fund Use Authority (AFUA) Pilot • Ed-Flex Waivers

School year	2026 – 2027
Companion form	District Application for Federal Flexibility
Application due	October 1, 2026
Submit to	Britt Hall, Office of Federal Programs, Arkansas Department of Education — britt.hall@ade.arkansas.gov
Questions	Jayne Green — 501-683-4349 — jayne.green@ade.arkansas.gov Matt Sewell — 501-683-4349 — matt.sewell@ade.arkansas.gov

How to use this guidance

This guidance explains the two kinds of federal flexibility Arkansas districts may use in 2026-2027 and what each one requires of the district. Read it before completing the District Application for Federal Flexibility. Section 5 answers the questions districts ask most often.

Two flexibilities, two different laws

AFUA and Ed-Flex both give districts more room to use federal funds, and they come from different statutes with different obligations. The difference that matters most in practice is that Ed-Flex requires public notice and comment while AFUA does not.

	AFUA pilot	Ed-Flex waivers
Legal basis	ESEA § 8401(b) waiver granted to ADE on July 7, 2026, lifting the eligibility limitation in ESEA § 5211(b)(1)	Education Flexibility Partnership Act of 1999 (20 U.S.C. § 5891b)
What it does	Lets an eligible district spend Title II-A and Title IV-A funds on a wider range of activities	Waives specific federal requirements in covered grant programs
What the district does	Notifies ADE of its intent. No waiver is requested.	Selects from ADE's statewide pre-approved menu
Public notice and comment	**Not required**	**Required**
Where on the form	Part 2	Parts 3 and 4
Term	2026-2027 through 2029-2030	ADE authority runs through 2030-2031. District approval lasts one school year.

1 | What the Department approved

On July 7, 2026, the U.S. Secretary of Education approved Arkansas's May 27, 2026 request and granted ADE waivers under ESEA § 8401(b) together with Ed-Flex authority under 20 U.S.C. § 5891b. Two of those actions reach districts directly, and they are the subject of this guidance: the waiver expanding AFUA eligibility, and Ed-Flex. The Department issued a separate response to Arkansas's proposed amendments to its consolidated State plan.

ADE sought these flexibilities to reduce administrative work at the district level so that staff time and federal dollars follow local priorities for student learning.

2 | AFUA pilot

What AFUA does

The Alternative Fund Use Authority lets an eligible district use its Title II, Part A and Title IV, Part A funds to carry out activities authorized under any of five programs: Title I, Part A; Title II, Part A; Title III; Title IV, Part A; and Title IV, Part B (20 U.S.C. § 7345(a)(1)). Only Title II-A and Title IV-A dollars may be used this way (20 U.S.C. § 7345(c)). A participating district keeps both funding streams in place and spends them against a wider menu of allowable activities instead of planning each program separately.

Which districts are eligible

Districts that meet the AFUA criteria in 20 U.S.C. § 7345(b) have always had this authority. The July 7 waiver adds districts eligible for the Rural and Low-Income School (RLIS) program under 20 U.S.C. § 7351(b). Confirm the district's status on the 2026 AFUA Eligible REAP Districts list before completing Part 2 of the application.

Being able to use AFUA is not the same as being eligible for a Small, Rural School Achievement grant. The waiver lifted the limitation in ESEA § 5211(b)(1) only. SRSA grant allocations are governed separately by ESEA § 5212(b), and the waiver does not change which districts receive them.

What AFUA does not change

Funding amounts. AFUA changes how Title II-A and Title IV-A funds may be used. It does not change how much a district receives.

Equitable services. A participating district continues to provide equitable services to eligible private school students and teachers, consistent with how those services are treated under AFUA. The waiver reaches no requirement governing the equitable participation of private school students or teachers (ESEA § 8401(c)(1), (c)(5)). Districts with participating private schools should consult ADE before finalizing amounts.

Fiscal and civil rights rules. Supplement-not-supplant, civil rights, and the other core rules governing these funds apply exactly as they did before.

How to participate, and for how long

Participation is optional. A district that wants to take part notifies ADE by completing Part 2 of the District Application for Federal Flexibility. Federal law lets ADE set the notification date (20 U.S.C. § 7345(a)(2)), and ADE has set it at October 1, 2026. A district that does not take part continues to use Title II-A and Title IV-A under the standard program rules.

The pilot covers the 2026-2027 through 2029-2030 school years. ADE must report to the Department each October 30 on how participating districts used the funds and what happened to student outcomes, so participating districts should expect ADE to request implementation information during the year.

3 | Ed-Flex waivers

What Ed-Flex does

Ed-Flex authority allows ADE to waive certain federal requirements for individual districts and schools in exchange for accountability for student performance (20 U.S.C. § 5891b(a)(1)(A)). It changes how federal funds may be used and administered, not how much a district receives.

For 2026-2027, ADE is offering a fixed menu of statewide flexibilities that the Department has already approved, so a district selects the ones it intends to use and submits no separate justification. ADE plans to open district-determined flexibilities in a later year through the AR App. At that point a district proposing its own waiver will need to identify the requirement, explain the rationale, and set a measurable goal tied to its strategic plan.

Programs Ed-Flex can reach

Ed-Flex covers formula programs authorized under the following provisions (20 U.S.C. § 5891b(b)):

- Title I, Part A, other than section 1111 (Improving Basic Programs Operated by LEAs)
- Title I, Part C (Education of Migratory Children)
- Title I, Part D (Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk)
- Title II, Part A (Supporting Effective Instruction)
- Title IV, Part A (Student Support and Academic Enrichment)
- Carl D. Perkins Career and Technical Education Act of 2006

Requirements Ed-Flex cannot reach

ADE cannot waive any requirement relating to the following (20 U.S.C. § 5891b(a)(1)(A), (b), (c)):

- Standards, assessments, and accountability requirements under ESEA section 1111
- Maintenance of effort
- Comparability of services
- Equitable participation of students and professional staff in private schools
- Parental participation and involvement
- Distribution of funds to states or to local educational agencies
- Serving eligible school attendance areas in rank order under ESEA § 1113(a)(3)
- Selection of a school attendance area or school under ESEA § 1113(a) and (b), with a narrow exception allowing an area or school whose low-income percentage is within 10 percentage points of the lowest participating percentage in the district to receive Title I, Part A activities
- Use of federal funds to supplement, not supplant, non-federal funds
- Applicable civil rights requirements
- Any requirement that applies to ADE rather than to a district or school

The five statewide flexibilities for 2026-2027

A district selects any of these in Part 3 of the application. No district-specific justification is required.

Flexibility	What it means for a district
Time-and-effort certification forms *2 C.F.R. § 200.430(g)*	A district no longer collects semi-annual time certifications for an employee paid entirely from a single Ed-Flex covered program, provided the job description states the employee is assigned 100% to that program.
Title I, Part A: 15% carryover limitation *ESEA § 1127*	A district may carry over any amount of unspent Title I, Part A funds into the next fiscal year.
Title I, Part A: 125% per-pupil allocation rule *ESEA § 1113(c)(2)(A); 34 C.F.R. § 200.78(b)*	A district serving one or more schools below 35% poverty may set per-pupil Title I amounts across participating schools based on need rather than the fixed 125% formula.
Title I, Part A: 40% poverty threshold for schoolwide programs *ESEA § 1114(a)(1)*	A Title I school below the 40% threshold may operate a schoolwide program. A district selecting this flexibility must list the specific schools in Part 3 of the application.
Title IV, Part A: content-area spending apportionment *ESEA § 4106(e)*	A district is no longer held to the 20% minimums for well-rounded education and safe and healthy students, or to spending any set amount on educational technology, and may set its own amounts.

Public notice and comment

A district that selects any flexibility in Part 3 must give public notice and an opportunity to comment before it submits the application, and must send ADE every comment it receives (20 U.S.C. § 5891b(a)(7)). The AFUA notification in Part 2 does not trigger this requirement.

1. Post the notice on the district website. Website posting is what federal law requires, so announcing the item at a board meeting does not satisfy it. The notice must describe the application, identify each requirement the district is asking ADE to waive, and state the improvement in student performance the district expects.
2. Follow the district's own public comment policy for the length of the notice and comment periods. If the district has no such policy, give at least 2 calendar days of notice before the comment period opens, then keep the period open for 10 consecutive calendar days. Leave the notice posted through the close of the comment period.
3. Invite comment from parents, educators, school administrators, and other interested community members. State in the notice how and by when to comment; an email address, an online form, or a mailing address is enough.
4. Keep every comment received. Do not summarize, edit, or screen them. Attach all comments to the application and record the dates in Part 4.2.

Appendix A of the application contains a model notice, and Appendix B contains suggested plain-language wording for each flexibility.

What a district owes after approval

Accountability. The district remains accountable to ADE for the performance of students affected by each waiver. ADE reviews that performance annually and must suspend or terminate a waiver, after notice and an opportunity for a hearing, if performance no longer justifies continuing it (20 U.S.C. § 5891b(a)(4)(D)).

Recordkeeping. Keep local documentation supporting each flexibility in use, such as job descriptions for staff covered by the time-and-effort waiver or the list of schools operating schoolwide programs under the 40% waiver, and make it available to ADE on request.

Reporting. ADE reports annually to the Secretary on the waivers it grants and their effect on school and student performance (20 U.S.C. § 5891b(a)(5)(B)), so districts must supply the evaluation information ADE requests.

Annual renewal. Approval runs for one school year, and a district must reapply each year to keep using a flexibility. ADE's Ed-Flex authority runs through the 2030-2031 school year.

4 | Submitting the application

Complete the District Application for Federal Flexibility in six steps.

1. Complete Part 1. All districts.
2. Complete Part 2 if the district is eligible for and intends to use AFUA.
3. Select any statewide pre-approved flexibilities in Part 3.
4. If you completed Part 3, carry out the public notice and comment process in Part 4 before submitting, and attach the comments received.
5. Review the assurances and sign in Part 5.
6. Return Parts 1-5 to the Office of Federal Programs, Arkansas Department of Education.

The application opens in August 2026 and is due October 1, 2026. In later years ADE will fold both requests into the AR App so that districts submit them alongside their other federal program applications, and the deadline moves to June 30.

5 | Frequently asked questions

Both flexibilities

Does either flexibility change how much federal funding our district receives?

No. AFUA and Ed-Flex change how funds may be used and administered. Neither changes a district's allocation.

Does our district have to participate?

No. Both are optional. A district that does nothing continues to operate its federal programs under the standard rules.

When is the application due?

October 1, 2026, for the 2026-2027 school year. The application opens in August 2026. In later years the request moves into the AR App and the deadline becomes June 30.

Do we need school board approval before submitting?

No. ADE does not require board approval for either the AFUA notification or the statewide Ed-Flex flexibilities. The superintendent signs the application in Part 5.

AFUA

What is AFUA?

The Alternative Fund Use Authority lets an eligible district use its Title II, Part A and Title IV, Part A funds for activities authorized under Title I, Part A; Title II, Part A; Title III; Title IV, Part A; or Title IV, Part B, instead of following each program's separate spending rules (20 U.S.C. § 7345(a)(1)).

How is AFUA different from transferring funds?

Districts may already transfer certain federal funds between programs. Under AFUA the district does not move money from one program to another; it keeps its Title II-A and Title IV-A funds in place and uses them for a wider set of allowable activities.

Which districts are eligible?

Districts meeting the criteria in 20 U.S.C. § 7345(b) have always been eligible. The July 7, 2026 waiver adds districts eligible for the Rural and Low-Income School program under 20 U.S.C. § 7351(b). Confirm the district's status on the 2026 AFUA Eligible REAP Districts list.

Does AFUA eligibility mean our district now receives an SRSA grant?

No. The waiver lifted only the AFUA eligibility limitation in ESEA § 5211(b)(1). SRSA grant allocations are governed by ESEA § 5212(b) and are unchanged.

Does the AFUA notification require public notice and comment?

No. The public notice and comment requirement in 20 U.S.C. § 5891b(a)(7) applies to Ed-Flex waiver requests. A district completing only Part 2 has nothing to post.

Do equitable services still apply?

Yes. A participating district continues to provide equitable services to eligible private school students and teachers, consistent with how those services are treated under AFUA (ESEA § 8401(c)(1), (c)(5)).

How long does the pilot last?

The pilot covers the 2026-2027 through 2029-2030 school years.

Ed-Flex

What is Ed-Flex?

Ed-Flex lets ADE waive certain federal requirements for individual districts and schools, in exchange for the district staying accountable for student results (20 U.S.C. § 5891b(a)(1)(A)).

Which programs can Ed-Flex reach?

Title I, Part A other than section 1111; Title I, Part C; Title I, Part D; Title II, Part A; Title IV, Part A; and the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. § 5891b(b)).

Is Carl Perkins covered?

Yes. The Perkins Act is named in the Ed-Flex covered-program list at 20 U.S.C. § 5891b(b)(2).

Can our district request a waiver that is not on the statewide menu?

Not for 2026-2027. ADE is offering only the five statewide pre-approved flexibilities this year. District-determined flexibilities are planned for a later year through the AR App.

Does supplement-not-supplant still apply?

Yes. Supplement-not-supplant cannot be waived under Ed-Flex (20 U.S.C. § 5891b(c)(1)(H)).

How long does an approved flexibility last?

One school year. A district must reapply each year. ADE's own Ed-Flex authority runs through the 2030-2031 school year.

Can ADE take a flexibility away?

Yes. ADE reviews the performance of affected students annually and must suspend or terminate a waiver, after notice and an opportunity for a hearing, on the grounds listed at 20 U.S.C. § 5891b(a)(4)(D).

Public notice and comment

When does our district have to run a notice and comment period?

Whenever the district selects one or more flexibilities in Part 3 of the application. The process must be complete before the district submits.

How long must the notice and comment periods run?

Follow the district’s own public comment policy. A district that has no such policy gives at least 2 calendar days of notice before the comment period opens, then 10 consecutive calendar days of comment. Either way, the notice stays posted through the close of the comment period.

Where do we post the notice?

On the district website. Federal law requires the description of the district's request to appear on the agency's website (20 U.S.C. § 5891b(a)(7)(A)). Announcing the item at a board meeting does not satisfy the requirement.

What has to be in the notice?

A description of the district's application, each requirement the district is asking ADE to waive, the improvement in student performance the district expects, and how and by when to comment. Appendix A of the application is a model notice, and Appendix B gives suggested wording for each flexibility.

What do we do with the comments we receive?

Attach all of them to the application, exactly as received. Federal law requires the district to submit the comments it received along with its application (20 U.S.C. § 5891b(a)(7)(D)). Do not summarize, edit, or screen them.

What if we receive no comments?

Check the box in Part 4.2 certifying that notice was posted and the comment opportunity provided, and that no comments were received.