

**To:** Dr. Katie Jenner, Secretary of Education, Indiana Department of Education

**From:** All4Ed

**Date:** August 25, 2025

**Re:** Comments from All4Ed on Indiana's Draft Request for ESEA Flexibility Waiver

---

All4Ed appreciates the opportunity to comment on the draft request for ESEA flexibility from the Indiana Department of Education (IDOE). [All4Ed](#) is a national nonprofit advocacy organization committed to expanding equitable educational opportunities for students of color, students from low-income families, and other marginalized groups. We advance transformation from the classroom to Congress by advocating for federal, state, and local policies and practices that ensure all students graduate high school prepared for college, work, and life. We are also experts on the waiver authority under the Elementary and Secondary Education Act (ESEA) and published “[ESEA Waivers 101: Explaining the Secretary of Education’s Waiver Authority](#)” in March 2025.

**I. Comments on IDOE’s Proposed State Activities and Local Educational Agency (LEA) Strategic “Block Grant” Waiver Requests**

We recognize the value of efforts to align federal, state, and local spending, reduce administrative burden, and spend funds strategically to advance critical priorities. However, there are ways to do so that do not necessitate sweeping waivers of federal requirements that provide essential protections and ensure services and resources reach particularly vulnerable groups of students and low-performing schools. We are very concerned IDOE’s draft flexibility request would neither advance academic achievement among these schools or groups of students (e.g., English learners, rural students, migrant students, juvenile-justice involved youth, and other marginalized groups), nor ensure continued assistance, supports, and resources to the populations served by the programs for which waivers are requested.

We are likewise concerned that the waiver, if approved, would not maintain transparent reporting the public on school quality and student achievement and would make it far more challenging to find information about whether federal spending has resulted in positive outcomes for students. In particular, because Indiana is also requesting flexibility to develop its own consolidated state plan, this waiver request would impact the availability of information regarding federal spending for any program included in the existing consolidated plan, even if IDOE is not seeking flexibility related to that program. This includes, for example, funds provided under the McKinney-Vento Education for Homeless Children and Youth for which IDOE does not claim to seek a waiver. Yet if this waiver proposal were submitted and approved, it is unclear how Hoosiers and the U.S. Department of Education would verify compliance with these programs for which waivers are not requested.

**Instead, we recommend the IDOE pursue these goals through existing federal flexibilities that do not require a waiver**, including the ability (1) to redesign LEA applications for funds (as Louisiana did through its “[Super App](#)”, (2) to consolidate state administrative funds under Title VIII of the ESEA (note: IDOE could request a more-targeted waiver of the provision that 50% of the agency’s resources come from non-federal sources if this is a current barrier to using this flexibility), and (3) to use ESEA’s transferability provisions for states and LEAs in Title V of the ESEA.

In particular, we highlight that the Louisiana Department of Education was able to align its application for both federal *and state* funding, without the need for any waivers from essential federal requirements. We know that Indiana has aligned its application for federal funds already, but IDOE can learn from leadership in Louisiana, enabling the state to achieve its goals for a more efficient, combined federal-state funding application without sacrificing federal requirements that protect vulnerable students.

*Federal Requirements at Risk due to Block Granting*

**In particular, we are concerned that IDOE is not merely requesting to waive the allowable uses of federal funds provided to states and to the LEAs in the affected programs, but also many critical requirements states and LEAs must meet in order to be eligible to receive this funding.**

These requirements ensure federal dollars are spent effectively, reach the students they are intended to support, and safeguard equal access and opportunity to high-quality education. For example, Title III directs resources to support English learners so they can attain English language proficiency and meet the same academic standards as their peers. This dedicated funding is not bureaucratic red tape; it is a safeguard that prevents English learners from being sidelined when budgets are tight or competing priorities emerge. Indiana's waiver request leaves unanswered how the state intends to support the more than [87,000 English learners](#) enrolled in its public schools without these federal protections. Similarly, Title I, Part D provides targeted resources for children and youth who are neglected, delinquent, or at risk, including students in juvenile justice facilities, residential placements, and alternative programs. Nearly half of the 3,470 students served annually in Indiana are students of color, and program data show that more than 40 percent of long-term participants [improved their reading or math performance by at least half a grade level](#). These gains reflect focused interventions that address the unique challenges facing systems-connected youth. But if Indiana's waiver is approved, supports for these youth could disappear, leaving some of the state's most vulnerable young people without the academic continuity and reentry assistance they need to succeed in school and beyond.

A few examples of the requirements for which Indiana inappropriately requests waivers include:

- Section 3116: The requirements for grantees to describe how their language instruction educational programs will help English learners increase and achieve English language proficiency and meet the same academic standards as other children in public schools.
- Section 1414: The requirement to demonstrate how justice-involved youth (or those in residential programs or alternative placements) will have the same opportunities for educational achievement as students in other public schools in the state and how the state will prioritize ensuring these students can attain a regular high school diploma.
- Section 1414: The requirement for the state to assure there are procedures for the timely re-enrollment of students formerly in the juvenile justice system in public high schools or in a re-entry program that best meets their needs, including provisions to transfer credits students earned in their prior placement to their new school.

- Section 1414: The requirement to designate an individual in each correctional facility or institution for children and youth to be responsible for issues relating to the transition of those children and youth between the facility or institution and locally operated programs and schools.
- Section 1425: All program requirements for correctional facilities that enter into agreements with LEAs to provide educational services, including the requirements that the programs in the correctional facility are coordinated with the student's home school, in particular for students with disabilities who have an Individualized Educational Plan (IEP), that the facilities ensure their programs support students in meeting the same academic standards as other children in the state, and that the facilities are staffed with educators who are trained to work with children and youth with disabilities;
- Section 1306: The requirement to demonstrate how children whose parents are migratory agricultural workers or fishers have opportunities to meet the same challenging academic standards as other all other students in the state are expected to meet.
- Section 1304(e): The requirement that migratory children, if they are in high school, can continue to receive services through credit accrual programs until their graduation (even if their parents are no longer migratory agricultural workers or fishers).
- Section 1304(c): The requirement that the state will assist the U.S. Department of Education in determining the number of children whose families are migratory agricultural workers or fishers.
- Section 2102 (b)(2): The requirement for LEAs to show how they will prioritize funds for teacher and school leader professional development and support to low-performing schools and schools with the highest shares of students from low-income families.

*Requests to Waive “Un-waive-able” Fiscal and Parental Participation Requirements*

IDOE's draft request, while stating it would not waive supplement, not supplant requirements, includes several provisions in its list of affected programs that would impact the **supplement, not supplant** requirements in Title I, Part C (found in section 1304(c)(2)) and in Title I, Part D (found in section 1415(a)(2)(C)). Further, IDOE is also seeking to waive the **maintenance of effort** requirement in Title I, Part D found in section 1414(c)(7). The U.S. Secretary of Education has no authority to waive supplement, not supplant nor maintenance of effort provisions (ESEA section 8401(c)(2) and (4)). Similarly, Indiana requests to waive the assurance in ESEA section 2101(d)(2)(I) and section 2102(b)(2) that the state and LEAs will comply with the **equitable participation** requirements under Title II, Part A, which the Secretary also lacks authority to waive (ESEA section 8401(c)(5)).

Finally, the U.S. Secretary of Education cannot waive requirements pertaining to “**parental participation and involvement**” (ESEA section 8401(c)(6)). Yet many of the ESEA statutory provisions from which the IDOE seeks flexibility include requirements for parental outreach and consultation, specifically:

- Assurances regarding state consultation and outreach to parents of migratory children (including parent advisory councils) under ESEA section 1304(c);
- Assurances that the state will work with parents to secure their assistance in improving the academic achievement of their children and youth who are in juvenile justice facilities, residential programs, and alternative placements and preventing their further involvement in delinquent activities as required in ESEA section 1414, as well as the requirement for correctional facilities to also involve parents in efforts to improve their child's educational achievement and prevent recidivism in ESEA section 1425;
- Required uses of Title III funds by states to strengthen and increase parent, family, and community engagement in ESEA section 3111(b)(2)(D) and by subgrantees to implement parent, family, and community engagement activities in ESEA section 3115(c), as well as allowable uses of Title III subgrant funds to provide community participation programs, family literacy services, and parent and family outreach and training activities to English learners and their families in ESEA section 3115(d) and to provide family literacy, parent and family outreach, and training activities designed to assist parents and families to become active participants in the education of their children within LEAs experiencing substantial increases in immigrant children and youth under ESEA section 3115(e);
- Requirements in ESEA section 3116 for eligible grantees to assure their compliance with the parents right-to-know provisions in section 1112(e) of the ESEA prior to and during the school year with regard to students receiving English language services, as well as to describe how the grantee will promote family, parent, and community engagement and how the grantee consulted with parents and family members; and
- Requirements for states to meaningfully consult with parents and community partners and seek their advice in how to support the preparation, training, and recruitment of high-quality teachers and school leaders under ESEA section 2101(d).

In sum, IDOE is seeking to waive allowable uses of funds, as well as critical requirements and assurances, that safeguard educational opportunity for some of the most vulnerable student populations, including English learners, rural students, students in juvenile justice facilities and other institutions, and students whose parents are migratory fishers or agricultural workers. Yet IDOE's request provides next to no information or assurance regarding how IDOE will continue to assist and serve these specific populations if the waiver were to be approved—in fact, these specific populations of students are hardly mentioned. And because these groups are hardly mentioned, there is also no justification or explanation of how this waiver would advance their academic achievement, particularly when many of the requirements IDOE is seeking to waive pertain to holding these students to the same academic expectations as other students in the state. We note that ESEA section 8401(b)(1)(F) specifically requires state waiver requests to describe “how schools will continue to provide assistance to the same populations served by programs for which waivers are requested....” We urge IDOE to reconsider and withdraw this request and instead rely on existing flexibilities in federal law to streamline and align program administration, such as the ability to consolidate state administrative funds in Title VIII of the ESEA and the “Super App” approach for federal and state funds for LEAs developed by Louisiana.

## II. Comments on IDOE's Proposed Accountability Flexibility

As one of the states we [analyzed](#) in our “When Equity is Optional” series on implementation of the Every Student Succeeds Act (ESSA), we are excited the IDOE will, in response to recently enacted legislation, resume the state accountability system in 2026 after suspending the A-F school grades in 2018 and removing all required actions and consequences from that system in 2021. However, the state accountability system is not yet final, as the regulations needed to implement it are still pending and under review. **It is premature to submit the new state accountability system to the U.S. Department of Education as a replacement for the federally required one, including waiving critical safeguards for marginalized students in federal law that are not yet guaranteed in the draft state accountability system.** We urge IDOE to withdraw this request at this time and consider strengthening the final accountability regulations to better align with federal requirements, resubmitting any needed waiver requests once the new regulations are enacted and improved.

The school accountability provisions IDOE seeks to waive are some of the most important guardrails for students from low-income families, students of color, students with disabilities, and English learners in all of ESSA—chiefly, the requirement to differentiate and identify schools where individual groups of students are struggling (ESEA section 1111(c)(4)(C)). IDOE is also seeking to waive the requirement that academic factors, like achievement, student growth, and graduation rates, have a much greater weight in the accountability system than nonacademic indicators (ESEA section 1111(c)(4)(B)), and the requirement to encourage participation in state assessments (ESEA section 1111(c)(4)(E)). These federal accountability requirements should not—and cannot—be waived lightly. Worse, the draft Indiana accountability framework, currently under public comment, excludes any requirement to identify schools where individual groups of students are struggling academically, a bedrock of federal education policy for over 20 years. Rather than advancing student achievement, we are concerned this proposal will turn back the clock to a time where persistent achievement gaps were swept under the rug and ignored.

The weaknesses in the proposed draft accountability regulations with regard to accountability for *outcomes* for individual groups of students are particularly concerning given that IDOE is simultaneously requesting to waive *inputs* related to uses of funds and requirements to serve many of these same groups of students through its block grant proposal, such as English learners. The kind of block grant proposal Indiana is contemplating warrants a doubling down on accountability for outcomes for individual groups of students, rather than a retreat.

## III. Comments on IDOE's Proposed Education Innovation Grant

Finally, we have significant concerns about the “Education Innovation Grant” the IDOE is proposing by waiving requirements for school improvement funds under ESEA sections 1003 and 1003A and allowing these funds to be used in any school district, not just those with low-performing schools. Under federal law, these dollars must be used in LEAs that have schools identified for comprehensive, additional targeted, or targeted support and improvement (CSI, ATSI and TSI), either because they are among the lowest-performing 5% of Title I schools in the state, have

graduation rates below 67%, or have individual groups of students who are consistently underperforming. And unlike the former School Improvement Grant program (SIG), which the waiver request erroneously uses as justification for IDOE's proposed approach, ESSA includes no required turnaround models or strategies states and LEAs must implement to improve academic outcomes in these schools. All school improvement activities under ESSA are state (or locally) determined and evidence-based, with significant discretion for states to direct and manage these funds written into federal law. **IDOE does not need additional flexibility to manage school improvement funds under ESSA, nor encourage LEAs to use them in ways aligned with state priorities.**

Instead, we are alarmed that IDOE's request appears to give up on the notion of trying to improve the state's lowest performing schools, period. ESEA sections 1003 and 1003A are the *only* federal funds awarded to districts on the basis of student achievement. If the goal of IDOE's waiver request is to promote academic achievement, diverting these funds away from struggling students is counterintuitive and the wrong approach. These schools and districts need *more* resources, not less. But our [analysis](#) found that four in ten Indiana CSI, ATSI, and TSI schools had lower per-pupil spending after being identified—precisely when they should have received more support for interventions and improvement. It's no wonder the IDOE waiver request acknowledges that so many of its former F-rated schools remain among the lowest-performing statewide ten years later when there are insufficient resources available to support their improvement.

The research is [clear](#): money matters for positive student outcomes. IDOE's draft waiver does not sufficiently explain how taking resources away from the schools where student performance is the lowest will help those students, nor describe any specific efforts that will still occur to improve their academic achievement. We urge IDOE to withdraw this request.

## **Conclusion**

Indiana's waiver would undermine program-specific guardrails, weaken accountability and transparency for marginalized groups of students, and divert funds away from low-performing schools and students with the greatest academic needs. Further, IDOE's draft waiver request does not demonstrate how it will improve Hoosier students' achievement, nor how it will continue to assist the specific groups of students impacted by the broad swath of federal law Indiana would no longer follow. This request brushes aside far too many of the vital safeguards Congress placed in the ESEA that have ensured access and equal opportunity for all students for the past 60 years.

We urge you to withdraw this waiver request and instead consider leveraging the flexibilities already in ESSA. These flexibilities allow the state to streamline program administration while maintaining the critical civil rights protections and accountability guardrails in the federal law that ensure funds reach the students they are intended to serve, particularly those who are the furthest from opportunity and struggling the most academically.