

# Description of Change

The purpose of this errata notice is to add an LEA assurance to the Program-Specific and ESSA Provisions and Assurances regarding the Bipartisan Safer Communities Act, *Section 2938, Division A-Mental Health and Firearms Provisions, Title III-Other Matters, Subtitle D-Amendment on ESEA Funding, Section 13401* which amends section 8526 of the Elementary and Secondary Education Act of 1965 (ESEA) for all ESEA program funds, effective June 25, 2022.

## RFA Currently Reads

**ESSA Provisions and Assurances, Program-Specific and ESSA Provisions and Assurances, pages 48 – 55.**

The following special provisions apply to all programs funded under Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA) that replaced its predecessor, the No Child Left Behind (NCLB) Act of 2001.

By certifying and submitting the eGrants application, the applicant is assuring it is in compliance with the following provisions:

- A. Each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications.
- B. The control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to such entities.
- C. The public agency, nonprofit private agency, institution, organization, or Indian tribe will administer such funds and property to the extent required by the authorizing statutes.
- D. The applicant will adopt and use proper methods of administering each such program, including the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program and the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation.
- E. The applicant will cooperate in carrying out any evaluation of each such program conducted by or for the Texas Education Agency (TEA), the US Secretary of Education, or other federal officials.
- F. The applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, federal funds paid to such applicant under each such program.
- G. The applicant will submit such reports to TEA (which shall make the reports available to the governor) and the US Secretary of Education, as TEA and the US Secretary of Education may require to enable TEA and the US Secretary of Education to perform their duties under each such program.
- H. The applicant will maintain such records, provide such information, and afford access to the records as the Agency (after consultation with the governor) or the Secretary may find necessary to carry out the Agency's or the Secretary's duties.
- I. Before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and has considered such comment.
- J. **Gun-Free Schools Act:** The local educational agency assures that it is in compliance with Section 37.007(e) of the Texas Education Code, which requires expulsion of a student who brings to school or possesses at school a firearm as defined by 18 United States Code

(USC) Section 2891 (pursuant to the requirements in Section 8561[b][1]). In addition, the local educational agency certifies that it has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to school [Section 8561(h)(1)].

- K. **Student Records Transfer:** The local educational agency shall ensure that a student's records and, if applicable, a student's individualized education program as defined in Section 602(11) of the Individuals with Disabilities Education Act, are transferred to a charter school upon the transfer of the student to the charter school, and to another public school upon the transfer of the student from a charter school to another public school, in accordance with applicable state law [Section 4308].
- L. **Consolidation of Administrative Funds:** A local educational agency, with the approval of TEA, may consolidate and use for the administration of one or more programs under the Every Student Succeeds Act not more than the percentage, established in each program, of the total available for the local educational agency under those programs. A local educational agency that consolidates administrative funds shall not use any other funds under the programs included in the consolidation for administration for that fiscal year. Consolidated administrative funds shall be used for the administration of the programs covered and may be used for coordination of these programs with other federal and non-federal programs and for dissemination of information regarding model programs and practices.
- M. **Privacy of Assessment Results:** Any results from an individual assessment referred to in the Every Student Succeeds Act of a student that become part of the education records of the student shall have the protections provided in Section 444 of the General Education Provisions Act [Section 8523 and the Family Educational Rights and Privacy Act (FERPA) of 1975, as amended].
- N. **School Prayer:** The local educational agency certifies that it is in compliance with Section 25.901 of the Texas Education Code. In addition, as a condition of receiving funds under the Every Student Succeeds Act, the local educational agency certifies that no policy of the local educational agency prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary schools and secondary schools, as detailed in the guidance provided by the US Secretary of Education pertaining to such. The state educational agency shall report to the Secretary of Education each year a list of those local educational agencies that have not filed this assurance or against which complaints have been made to the state educational agency that the local educational agencies are not in compliance with this requirement [Section 8524(b)].
- O. **Equal Access to Public School Facilities—Boy Scouts of America Equal Access Act:** No public elementary school, public secondary school, or local educational agency that has a designated open forum or a limited public forum and that receives funds made available from the US Department of Education shall deny equal access or a fair opportunity to meet, or shall discriminate against, any group officially affiliated with the Boy Scouts of America, or any other youth group listed in Title 36 of the United States Code (as a patriotic society) that wishes to conduct a meeting within that designated open forum or limited public forum, including denying such access or opportunity or discriminating for reasons based on the membership or leadership criteria or oath of allegiance to God and country of the Boy Scouts of America or of the youth group listed in Title 36 of the United States Code (as a patriotic society). For the purposes of this section, an elementary school or secondary school has a limited public forum whenever the school involved grants an offering to, or opportunity for, one or more outside youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory. Nothing in this section shall be construed to require any school, agency, or a school served by an agency to sponsor any group officially affiliated with the Boy Scouts of America, or any other youth group listed in Title 36 of the United States Code (as a patriotic society). Compliance with this provision will be enforced through rules and orders issued by

the Office for Civil Rights. If the public school or agency does not comply with the rules or orders, no funds made available through the Department of Education shall be provided by a school that fails to comply with such rules or orders or to any agency or school served by an agency that fails to comply with such rules or orders [Section 8525].

- P. **General Prohibitions:** None of the funds authorized under the Every Student Succeeds Act shall be used to develop or distribute materials, or operate programs or courses of instruction directed at youth, that are designed to promote or encourage sexual activity, whether homosexual or heterosexual; to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds; to provide sex education or HIV-prevention education in schools unless that instruction is age appropriate and includes the health benefits of abstinence; or to operate a program of contraceptive distribution in schools [Section 8526].
- Q. **Armed Forces Recruiter Access to Students and Student Recruiting Information:** In accordance with guidance issued by the US Department of Education, each local educational agency receiving assistance under the Every Student Succeeds Act shall provide, on a request made by military recruiters or an institution of higher education, access to secondary school student names, address, and telephone listings, upon prior written consent of a student or the parent of a student. A secondary school student or the parent of the student may request that the student's name, address, and telephone listing not be released without prior written parental consent, and the local educational agency or private nonprofit school shall notify parents of the option to make a request and shall comply with any request. Each local educational agency receiving assistance under the Every Student Succeeds Act shall provide military recruiters the same access to secondary school students as is provided generally to post-secondary educational institutions or to prospective employers of those students [Section 8528].
- R. **Unsafe School Choice Option:** The local educational agency certifies that it shall establish and implement a policy requiring that a student attending a persistently dangerous public elementary school or secondary school, as determined by TEA, or who becomes a victim of a violent criminal offense, while in or on the grounds of a public elementary or secondary school that the student attends, be allowed to attend a safe public elementary or secondary school within the local educational agency, including a public charter school [Section 8532].
- S. **Civil Rights:** Nothing in the Every Student Succeeds Act shall be construed to permit discrimination on the basis of race, color, religion, sex (except as otherwise permitted under Title IX of the Education Amendments of 1972), national origin, or disability in any program funded under the Every Student Succeeds Act [Section 8534].
- T. Assurances related to the **education of homeless children and youth:**
1. The LEA assures that each child of a homeless individual and each homeless youth shall have equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youth.
  2. The LEA assures that it will review and undertake steps to revise any laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and youth.
  3. The LEA assures that it will not separate students from the mainstream school environment on the basis of homelessness alone.
  4. The LEA assures that homeless children and youth have access to the education and other services that they need in order to meet the same challenging state student academic achievement standards to which all students are held.
- U. **Definitions:** The following terms shall be defined as follows for programs authorized and carried out under the Every Student Succeeds Act:
1. *Charter School:* An open-enrollment charter school receiving federal funds of any type must meet the federal definition of a charter school as provided in Section 4310(2). The term charter school means a school that:

- a. Is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and control
- b. Operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency (i.e., the State Board of Education [SBOE])
- c. Provides a program of elementary or secondary education, or both
- d. Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious instruction
- e. Does not charge tuition
- f. Complies with the Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and Part B of the Individuals with Disabilities Education Act
- g. Is a school to which parents choose to send their children, and that –
  - i. admits students on the basis of a lottery, if more students apply for admission than can be accommodated
  - ii. in the case of a school that has an affiliated charter school (such as a school that is part of the same network of schools), automatically enrolls students who are enrolled in the immediate prior grade level of the affiliated charter school and, for any additional student openings or student openings created through regular attrition in student enrollment in the affiliated charter school and the enrolling school, admits students on the basis of a lottery as described in clause (i)
- h. Agrees to comply with the same federal and state audit requirements as other elementary schools and secondary schools in the state, unless such requirements are specifically waived for the purpose of this program
- i. Meets all applicable federal, state, and local health and safety requirements
- j. Operates in accordance with state law
- k. Has a written performance contract with the authorized public chartering agency in the state (i.e., SBOE) that includes a description of how student performance will be measured pursuant to state assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the SBOE
  2. *Community-Based Organization*: A public or private nonprofit organization of demonstrated effectiveness that is representative of a community or significant segment of a community and that provides educational or related services to individuals in the community
  3. *Highly Qualified*: This only applies to paraprofessionals.
  4. *Parental Involvement*: The participation of parents in regular, two-way and meaningful communication involving student academic learning and other school activities, including ensuring:
    - a. That parents play an integral role in assisting their child's learning
    - b. That parents are encouraged to be actively involved in their child's education at school
    - c. That parents are full partners in their child's education and are included, as appropriate, in decision making and on advisory committees to assist in the education of their child
    - d. The carrying out of other activities, such as those described in Section 1116.
  5. *Professional Development*: Includes activities that: [Section 8101(42)]
    - a. Are an integral part of school and local educational agency strategies for providing educators (including teachers, principals, other school leaders, specialized instructional support personnel, paraprofessionals, and, as applicable, early childhood educators) with the knowledge and skills necessary to enable students to succeed in a well-rounded education and to meet the challenging State academic standards: and

- b. Are sustained (not stand-alone, 1-day, or short-term workshops), intensive, collaborative, job-embedded, data-driven, and classroom-focused, and may include activities that –
  - i. Improve and increase teachers’ –
    - I. knowledge of the academic subjects the teachers teach;
    - II. understanding of how students learn; and
    - III. ability to analyze student work and achievement from multiple sources, including how to adjust instructional strategies, assessments, and materials based on such analysis;
  - ii. Are an integral part of broad schoolwide and districtwide educational improvement plans;
  - iii. Allow personalized plans for each educator to address the educator’s specific needs identified in observation or other feedback;
  - iv. Improve classroom management skills;
  - v. Support the recruiting, hiring, and training of effective teachers, including teachers who became certified through state and local alternative routes to certification;
  - vi. Advance teacher understanding of effective instructional strategies that are;
    - I. Effective instructional strategies that are evidence-based; and
    - II. Strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers;
  - vii. Are aligned with and directly related to academic goals of the school or local educational agency;
  - viii. Are developed with extensive participation of teachers, principals, other school leaders, parents, representatives of Indian tribes (as applicable) and administrators of schools to be served under this Act;
  - ix. Are designed to give teachers of English learners, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;
  - x. To the extent appropriate, provide training for teachers, principals and other school leaders in the use of technology so that technology and technology applications are effectively used in the classroom to improve teaching and learning in the curricula and academic subjects in which the teachers teach;
  - xi. As a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student academic achievement with the findings of the evaluations used to improve the quality of professional development;
  - xii. Are designed to give teachers of children with disabilities or children with developmental delays, and other teachers and instructional staff, the knowledge and skills to provide instruction and academic support services, to those children, including positive behavioral interventions and supports, multi-tier system of supports, and use of accommodations;
  - xiii. Include instruction in the use of data and assessments to inform and instruct classroom practice;
  - xiv. Include instruction in ways that teachers, principals, pupil services personnel, and school administrators may work more effectively with parents and families;
  - xv. Involve the forming of partnerships with institutions of higher education to establish school-based teacher training programs that provide prospective teachers and beginning teachers with an opportunity to work under the guidance of experienced teachers and college faculty;
  - xvi. Create programs to enable paraprofessionals (assisting teachers employed by an LEA receiving assistance under Title I, Part A) to obtain the education

- necessary for those paraprofessionals to become certified and licensed teachers;
- xvii. Provide follow-up training to teachers who have participated in activities described previously in this definition that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom; and
  - xviii. Where practicable, provide jointly for school staff and other early childhood education program providers, to address the transition to elementary school, including issues related to school readiness.
6. **Technology:** Modern information, computer and communication technology products, services, or tools, including, the Internet and other communications networks, computer devices and other computer and communications hardware, software applications, data systems, and other electronic content (including multimedia content) and data storage.
7. **Well-Rounded Education:** Courses, activities and programming in subjects such as English, reading or language arts, writing, science, technology, engineering, mathematics, foreign languages, civics and government, economics, arts, history, geography, computer science, music, career and technical education, health, physical education, and any other subject, as determined by the State or local educational agency, with the purpose of providing all students access to an enriched curriculum and educational experience.
- V. **TEA State ESSA Plan:** The LEA agrees to adopt any performance goals or indicators, or programmatic indicators submitted in the Texas Consolidated State Application for Funds Under the Every Student Succeeds Act.
- W. **Transfer of School Disciplinary Records:** The LEA assures it has a procedure in place to transfer disciplinary records, with respect to a suspension or expulsion, to any private or public elementary school or secondary school for any student who is enrolled or seeks, intends, or is instructed to enroll, on a full- or part-time basis, in the school. This requirement shall not apply to any disciplinary records with respect to a suspension or expulsion that are transferred from a private, parochial or other nonpublic school, person, institution, or other entity, that provides education below the college level [Section 8537].
- X. **Ed-Flex Statewide Administrative Waivers:** The LEA is aware that by submitting the Consolidated Application for Federal Funding, the LEA is also requesting the two Statewide Administrative Waivers under the Education Flexibility Program (Ed-Flex), which are applicable to the following programs:
- ESSA, Title I, Part A (other than Section 1111)
  - ESSA, Title I, Part C
  - ESSA, Title I, Part D
  - ESSA, Title II, Part A
  - ESSA, Title IV, Part A
  - Carl D. Perkins Career and Technical Education Act of 2006, as amended by the Strengthening Career and Technical Education for the 21st Century Act
1. **Submission of an Amendment to Transfer Funds for Training Costs**  
This waiver eliminates the need for an amendment to transfer funds budgeted for training costs that are direct payments to trainees as long as the program description in the application remains unchanged.
2. **Certification that an Employee is Funded from a Single Fund Source or Cost Objective**  
This waiver eliminates the requirement that charges for salaries and wages be supported by a semi-annual certification that the employee worked solely on that program for the period covered by the certification. This waiver is allowable as long as

the employee's job description clearly states that the employee is assigned 100 percent to the program or single cost objective.

**3. Approval of Pre-award Costs**

This waiver allows LEAs to request approval from the Texas Education Agency for pre-award costs for covered programs, rather than requiring them to request approval from the USDE.

**Evaluation of Statewide Administrative Waivers:** The effectiveness of the Statewide Administrative Waivers will be evaluated based on student performance on the state assessment in Reading and Math for "All Students" statewide. If student performance fails to improve statewide for two consecutive years, the waivers will be reviewed by the Committee of Practitioners (serves as the Ed-Flex Committee) to determine if changes should be recommended to the Commissioner.

**Public Comment:** Because the LEA's Consolidated Application for Federal Funding must be made available for public comment (ESEA section 8306(a)(7)) prior to submission, the required public comment concerning Ed-Flex waiver applications is met through that process. There is no need for the LEA to conduct a separate public comment process concerning its application for the Statewide Administrative waivers in order to meet the public comment requirement in Ed-Flex.

Information concerning the availability of other types of Ed-Flex Waivers can be found at: <https://tea.texas.gov/finance-and-grants/grants/essa-program/ed-flex-waivers>.

- Y. **Non-smoking Policy:** The LEA assures that no person shall permit smoking within any indoor facility owned or leased or contracted for and utilized by such person for provision of routine or regular kindergarten, elementary, or secondary education or library services to children. Smoking shall not be allowed within any indoor facility (or portion of such a facility) owned or leased or contracted for, and utilized by, such person for the provision of regular or routine health care or day care or early childhood education programs. Exception: This shall not apply to any portion of such facility that is used for inpatient hospital treatment of individuals dependent on or addicted to drugs or alcohol; or to any private residence.  
[Section 8573]

**By certifying and submitting the eGrants application, the applicant agrees, as a matter of legal contract, to accept and comply with all requirements described in this document.**

# RFA Is Corrected to Read

## ESSA Provisions and Assurances, Program-Specific and ESSA Provisions and Assurances, pages 48 – 55.

The following special provisions apply to all programs funded under Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA) that replaced its predecessor, the No Child Left Behind (NCLB) Act of 2001.

By certifying and submitting the eGrants application, the applicant is assuring it is in compliance with the following provisions:

- A. Each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications.
- B. The control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to such entities.
- C. The public agency, nonprofit private agency, institution, organization, or Indian tribe will administer such funds and property to the extent required by the authorizing statutes.
- D. The applicant will adopt and use proper methods of administering each such program, including the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program and the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation.
- E. The applicant will cooperate in carrying out any evaluation of each such program conducted by or for the Texas Education Agency (TEA), the US Secretary of Education, or other federal officials.
- F. The applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, federal funds paid to such applicant under each such program.
- G. The applicant will submit such reports to TEA (which shall make the reports available to the governor) and the US Secretary of Education, as TEA and the US Secretary of Education may require to enable TEA and the US Secretary of Education to perform their duties under each such program.
- H. The applicant will maintain such records, provide such information, and afford access to the records as the Agency (after consultation with the governor) or the Secretary may find necessary to carry out the Agency's or the Secretary's duties.
- I. Before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and has considered such comment.
- J. **Gun-Free Schools Act:** The local educational agency assures that it is in compliance with Section 37.007(e) of the Texas Education Code, which requires expulsion of a student who brings to school or possesses at school a firearm as defined by 18 United States Code (USC) Section 2891 (pursuant to the requirements in Section 8561[b][1]). In addition, the local educational agency certifies that it has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to school [Section 8561(h)(1)].
- K. **Student Records Transfer:** The local educational agency shall ensure that a student's records and, if applicable, a student's individualized education program as defined in Section 602(11) of the Individuals with Disabilities Education Act, are transferred to a charter school upon the transfer of the student to the charter school, and to another public school upon the transfer of the student from a charter school to another public school, in accordance with applicable state law [Section 4308].

- L. **Consolidation of Administrative Funds:** A local educational agency, with the approval of TEA, may consolidate and use for the administration of one or more programs under the Every Student Succeeds Act not more than the percentage, established in each program, of the total available for the local educational agency under those programs. A local educational agency that consolidates administrative funds shall not use any other funds under the programs included in the consolidation for administration for that fiscal year. Consolidated administrative funds shall be used for the administration of the programs covered and may be used for coordination of these programs with other federal and non-federal programs and for dissemination of information regarding model programs and practices.
- M. **Privacy of Assessment Results:** Any results from an individual assessment referred to in the Every Student Succeeds Act of a student that become part of the education records of the student shall have the protections provided in Section 444 of the General Education Provisions Act [Section 8523 and the Family Educational Rights and Privacy Act (FERPA) of 1975, as amended].
- N. **School Prayer:** The local educational agency certifies that it is in compliance with Section 25.901 of the Texas Education Code. In addition, as a condition of receiving funds under the Every Student Succeeds Act, the local educational agency certifies that no policy of the local educational agency prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary schools and secondary schools, as detailed in the guidance provided by the US Secretary of Education pertaining to such. The state educational agency shall report to the Secretary of Education each year a list of those local educational agencies that have not filed this assurance or against which complaints have been made to the state educational agency that the local educational agencies are not in compliance with this requirement [Section 8524(b)].
- O. **Equal Access to Public School Facilities—Boy Scouts of America Equal Access Act:** No public elementary school, public secondary school, or local educational agency that has a designated open forum or a limited public forum and that receives funds made available from the US Department of Education shall deny equal access or a fair opportunity to meet, or shall discriminate against, any group officially affiliated with the Boy Scouts of America, or any other youth group listed in Title 36 of the United States Code (as a patriotic society) that wishes to conduct a meeting within that designated open forum or limited public forum, including denying such access or opportunity or discriminating for reasons based on the membership or leadership criteria or oath of allegiance to God and country of the Boy Scouts of America or of the youth group listed in Title 36 of the United States Code (as a patriotic society). For the purposes of this section, an elementary school or secondary school has a limited public forum whenever the school involved grants an offering to, or opportunity for, one or more outside youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory. Nothing in this section shall be construed to require any school, agency, or a school served by an agency to sponsor any group officially affiliated with the Boy Scouts of America, or any other youth group listed in Title 36 of the United States Code (as a patriotic society). Compliance with this provision will be enforced through rules and orders issued by the Office for Civil Rights. If the public school or agency does not comply with the rules or orders, no funds made available through the Department of Education shall be provided by a school that fails to comply with such rules or orders or to any agency or school served by an agency that fails to comply with such rules or orders [Section 8525].
- P. **General Prohibitions:** None of the funds authorized under the Every Student Succeeds Act shall be used to develop or distribute materials, or operate programs or courses of instruction directed at youth, that are designed to promote or encourage sexual activity, whether homosexual or heterosexual; to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds; to provide sex education or HIV-prevention education in schools unless that instruction is age appropriate

and includes the health benefits of abstinence; or to operate a program of contraceptive distribution in schools [Section 8526].

- Q. **Armed Forces Recruiter Access to Students and Student Recruiting Information:** In accordance with guidance issued by the US Department of Education, each local educational agency receiving assistance under the Every Student Succeeds Act shall provide, on a request made by military recruiters or an institution of higher education, access to secondary school student names, address, and telephone listings, upon prior written consent of a student or the parent of a student. A secondary school student or the parent of the student may request that the student's name, address, and telephone listing not be released without prior written parental consent, and the local educational agency or private nonprofit school shall notify parents of the option to make a request and shall comply with any request. Each local educational agency receiving assistance under the Every Student Succeeds Act shall provide military recruiters the same access to secondary school students as is provided generally to post-secondary educational institutions or to prospective employers of those students [Section 8528].
- R. **Unsafe School Choice Option:** The local educational agency certifies that it shall establish and implement a policy requiring that a student attending a persistently dangerous public elementary school or secondary school, as determined by TEA, or who becomes a victim of a violent criminal offense, while in or on the grounds of a public elementary or secondary school that the student attends, be allowed to attend a safe public elementary or secondary school within the local educational agency, including a public charter school [Section 8532].
- S. **Civil Rights:** Nothing in the Every Student Succeeds Act shall be construed to permit discrimination on the basis of race, color, religion, sex (except as otherwise permitted under Title IX of the Education Amendments of 1972), national origin, or disability in any program funded under the Every Student Succeeds Act [Section 8534].
- T. Assurances related to the **education of homeless children and youth:**
1. The LEA assures that each child of a homeless individual and each homeless youth shall have equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youth.
  2. The LEA assures that it will review and undertake steps to revise any laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and youth.
  3. The LEA assures that it will not separate students from the mainstream school environment on the basis of homelessness alone.
  4. The LEA assures that homeless children and youth have access to the education and other services that they need in order to meet the same challenging state student academic achievement standards to which all students are held.
- U. Definitions: The following terms shall be defined as follows for programs authorized and carried out under the Every Student Succeeds Act:
1. *Charter School:* An open-enrollment charter school receiving federal funds of any type must meet the federal definition of a charter school as provided in Section 4310(2). The term charter school means a school that:
    - a. Is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and control
    - b. Operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency (i.e., the State Board of Education [SBOE])
    - c. Provides a program of elementary or secondary education, or both
    - d. Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious instruction
    - e. Does not charge tuition

- f. Complies with the Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and Part B of the Individuals with Disabilities Education Act
- g. Is a school to which parents choose to send their children, and that –
  - i. admits students on the basis of a lottery, if more students apply for admission than can be accommodated
  - ii. in the case of a school that has an affiliated charter school (such as a school that is part of the same network of schools), automatically enrolls students who are enrolled in the immediate prior grade level of the affiliated charter school and, for any additional student openings or student openings created through regular attrition in student enrollment in the affiliated charter school and the enrolling school, admits students on the basis of a lottery as described in clause (i)
- h. Agrees to comply with the same federal and state audit requirements as other elementary schools and secondary schools in the state, unless such requirements are specifically waived for the purpose of this program
- i. Meets all applicable federal, state, and local health and safety requirements
- j. Operates in accordance with state law
- k. Has a written performance contract with the authorized public chartering agency in the state (i.e., SBOE) that includes a description of how student performance will be measured pursuant to state assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the SBOE
  - 2. *Community-Based Organization*: A public or private nonprofit organization of demonstrated effectiveness that is representative of a community or significant segment of a community and that provides educational or related services to individuals in the community
  - 3. *Highly Qualified*: This only applies to paraprofessionals.
  - 4. *Parental Involvement*: The participation of parents in regular, two-way and meaningful communication involving student academic learning and other school activities, including ensuring:
    - a. That parents play an integral role in assisting their child’s learning
    - b. That parents are encouraged to be actively involved in their child’s education at school
    - c. That parents are full partners in their child’s education and are included, as appropriate, in decision making and on advisory committees to assist in the education of their child
    - d. The carrying out of other activities, such as those described in Section 1116.
  - 5. *Professional Development*: Includes activities that: [Section 8101(42)]
    - a. Are an integral part of school and local educational agency strategies for providing educators (including teachers, principals, other school leaders, specialized instructional support personnel, paraprofessionals, and, as applicable, early childhood educators) with the knowledge and skills necessary to enable students to succeed in a well-rounded education and to meet the challenging State academic standards: and
    - b. Are sustained (not stand-alone, 1-day, or short-term workshops), intensive, collaborative, job-embedded, data-driven, and classroom-focused, and may include activities that –
      - i. Improve and increase teachers’ –
        - I. knowledge of the academic subjects the teachers teach;
        - II. understanding of how students learn; and
        - III. ability to analyze student work and achievement from multiple sources, including how to adjust instructional strategies, assessments, and materials based on such analysis;

- ii. Are an integral part of broad schoolwide and districtwide educational improvement plans;
- iii. Allow personalized plans for each educator to address the educator's specific needs identified in observation or other feedback;
- iv. Improve classroom management skills;
- v. Support the recruiting, hiring, and training of effective teachers, including teachers who became certified through state and local alternative routes to certification;
- vi. Advance teacher understanding of effective instructional strategies that are:
  - III. Effective instructional strategies that are evidence-based; and
  - IV. Strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers;
- vii. Are aligned with and directly related to academic goals of the school or local educational agency;
- viii. Are developed with extensive participation of teachers, principals, other school leaders, parents, representatives of Indian tribes (as applicable) and administrators of schools to be served under this Act;
- ix. Are designed to give teachers of English learners, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;
- x. To the extent appropriate, provide training for teachers, principals and other school leaders in the use of technology so that technology and technology applications are effectively used in the classroom to improve teaching and learning in the curricula and academic subjects in which the teachers teach;
- xi. As a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student academic achievement with the findings of the evaluations used to improve the quality of professional development;
- xii. Are designed to give teachers of children with disabilities or children with developmental delays, and other teachers and instructional staff, the knowledge and skills to provide instruction and academic support services, to those children, including positive behavioral interventions and supports, multi-tier system of supports, and use of accommodations;
- xiii. Include instruction in the use of data and assessments to inform and instruct classroom practice;
- xiv. Include instruction in ways that teachers, principals, pupil services personnel, and school administrators may work more effectively with parents and families;
- xv. Involve the forming of partnerships with institutions of higher education to establish school-based teacher training programs that provide prospective teachers and beginning teachers with an opportunity to work under the guidance of experienced teachers and college faculty;
- xvi. Create programs to enable paraprofessionals (assisting teachers employed by an LEA receiving assistance under Title I, Part A) to obtain the education necessary for those paraprofessionals to become certified and licensed teachers;
- xvii. Provide follow-up training to teachers who have participated in activities described previously in this definition that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom; and
- xviii. Where practicable, provide jointly for school staff and other early childhood education program providers, to address the transition to elementary school, including issues related to school readiness.

6. *Technology*: Modern information, computer and communication technology products, services, or tools, including, the Internet and other communications networks, computer devices and other computer and communications hardware, software applications, data systems, and other electronic content (including multimedia content) and data storage.
7. *Well-Rounded Education*: Courses, activities and programming in subjects such as English, reading or language arts, writing, science, technology, engineering, mathematics, foreign languages, civics and government, economics, arts, history, geography, computer science, music, career and technical education, health, physical education, and any other subject, as determined by the State or local educational agency, with the purpose of providing all students access to an enriched curriculum and educational experience.
- V. **TEA State ESSA Plan**: The LEA agrees to adopt any performance goals or indicators, or programmatic indicators submitted in the Texas Consolidated State Application for Funds Under the Every Student Succeeds Act.
- W. **Transfer of School Disciplinary Records**: The LEA assures it has a procedure in place to transfer disciplinary records, with respect to a suspension or expulsion, to any private or public elementary school or secondary school for any student who is enrolled or seeks, intends, or is instructed to enroll, on a full- or part-time basis, in the school. This requirement shall not apply to any disciplinary records with respect to a suspension or expulsion that are transferred from a private, parochial or other nonpublic school, person, institution, or other entity, that provides education below the college level [Section 8537].
- X. **Ed-Flex Statewide Administrative Waivers**: The LEA is aware that by submitting the Consolidated Application for Federal Funding, the LEA is also requesting the two Statewide Administrative Waivers under the Education Flexibility Program (Ed-Flex), which are applicable to the following programs:
  - ESSA, Title I, Part A (other than Section 1111)
  - ESSA, Title I, Part C
  - ESSA, Title I, Part D
  - ESSA, Title II, Part A
  - ESSA, Title IV, Part A
  - Carl D. Perkins Career and Technical Education Act of 2006, as amended by the Strengthening Career and Technical Education for the 21st Century Act
1. **Submission of an Amendment to Transfer Funds for Training Costs**

This waiver eliminates the need for an amendment to transfer funds budgeted for training costs that are direct payments to trainees as long as the program description in the application remains unchanged.
2. **Certification that an Employee is Funded from a Single Fund Source or Cost Objective**

This waiver eliminates the requirement that charges for salaries and wages be supported by a semi-annual certification that the employee worked solely on that program for the period covered by the certification. This waiver is allowable as long as the employee's job description clearly states that the employee is assigned 100 percent to the program or single cost objective.
4. **Approval of Pre-award Costs**

This waiver allows LEAs to request approval from the Texas Education Agency for pre-award costs for covered programs, rather than requiring them to request approval from the USDE.

**Evaluation of Statewide Administrative Waivers**: The effectiveness of the Statewide Administrative Waivers will be evaluated based on student performance on the state

assessment in Reading and Math for “All Students” statewide. If student performance fails to improve statewide for two consecutive years, the waivers will be reviewed by the Committee of Practitioners (serves as the Ed-Flex Committee) to determine if changes should be recommended to the Commissioner.

**Public Comment:** Because the LEA’s Consolidated Application for Federal Funding must be made available for public comment (ESEA section 8306(a)(7)) prior to submission, the required public comment concerning Ed-Flex waiver applications is met through that process. There is no need for the LEA to conduct a separate public comment process concerning its application for the Statewide Administrative waivers in order to meet the public comment requirement in Ed-Flex.

Information concerning the availability of other types of Ed-Flex Waivers can be found at: <https://tea.texas.gov/finance-and-grants/grants/essa-program/ed-flex-waivers>.

Y. **Non-smoking Policy:** The LEA assures that no person shall permit smoking within any indoor facility owned or leased or contracted for and utilized by such person for provision of routine or regular kindergarten, elementary, or secondary education or library services to children. Smoking shall not be allowed within any indoor facility (or portion of such a facility) owned or leased or contracted for, and utilized by, such person for the provision of regular or routine health care or day care or early childhood education programs. Exception: This shall not apply to any portion of such facility that is used for inpatient hospital treatment of individuals dependent on or addicted to drugs or alcohol; or to any private residence. [Section 8573]

Z. **Prohibition of ESEA Program Funds Used for Possession of and/or Training with Dangerous Weapons:** The LEA assures that no funds under the ESEA will be used for the provision to any person of a dangerous weapon, as defined in section 930(q)(2) of title 18, United States Code, or training in the use of a dangerous weapon. [Section 8526 of the Elementary and Secondary Education Act of 1965 (ESEA) as amended by the Bipartisan Safer Communities Act, Section 2938, Division A-Mental Health and Firearms Provisions, Title III-Other Matters, Subtitle D-Amendment on ESEA Funding, Section 13401]

A dangerous weapon is defined in section 930(q)(2) as a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocketknife with a blade of less than 2 1/2 inches in length.

Please note, the prohibition went into effect immediately on June 25, 2022, and applies to all ESEA funds, existing and future awards under all ESEA programs.

**By certifying and submitting the eGrants application, the applicant agrees, as a matter of legal contract, to accept and comply with all requirements described in this document.**