

Public Comment Period

NYSED Request for Public Comments on Waivers to Increase the Statutory Limit on Carryover for FY 2020 Title I, Part A Funds, to Extend Availability of Federal FY 2019 Elementary and Secondary Education Act Funds

August 26, 2021

The New York State Education Department (NYSED) is planning to request a waiver from the U.S. Department of Education (USDE), pursuant to section 8401 of the Elementary and Secondary Education Act of 1965 (ESEA), of the following requirements as a result of ongoing challenges related to the novel Coronavirus Disease 2019 (COVID-19):

- Carryover limitation in section 1127(b) of the Elementary and Secondary Education Act of 1965 (ESEA) for Federal fiscal year (FY) 2020 Title I, Part A funds (i.e., the Title I, Part A funds that will become carryover funds on October 1, 2021): to waive the requirement that limits a State Educational Agency's (SEA's) ability to grant to its Local Educational Agencies (LEAs) a waiver of the 15 percent Title I, Part A carryover limitation in section 1127(a) to once every three years.
- Period of availability of funds in section 421(b) of the General Education Provisions Act (GEPA): to extend the period of availability of FY 2019 funds for programs in which the SEA participates under its approved consolidated State plan until September 30, 2022. The programs are
 - Title I, Part A of the ESEA (Improving Basic Programs Operated by LEAs), including the portions of the SEA's Title I, Part A award used to carry out section 1003 school improvement, section 1003A direct student services, if applicable, and Title I, Part D, Subpart 2;
 - Title I, Part B of the ESEA (State Assessment Formula Grants);
 - Title I, Part C of the ESEA (Education of Migratory Children);
 - Title I, Part D, Subpart 1 of the ESEA (Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At Risk);
 - Title II, Part A of the ESEA (Supporting Effective Instruction);
 - Title III, Part A of the ESEA (English Language Acquisition, Language Enhancement, and Academic Achievement);
 - Title IV, Part A of the ESEA (Student Support and Academic Enrichment Grants);
 - Title IV, Part B of the ESEA (21st Century Community Learning Centers);
 - Title V, Part B, Subpart 2 of the ESEA (Rural and Low-Income School Program); and
 - McKinney-Vento Education for Homeless Children and Youth Program.

NYSED has requested these waivers because it is not possible to obligate funds on a timely and responsible basis as originally planned due to the impact of the COVID-19 pandemic in the State.

In seeking these waivers, NYSED is required to provide assurance that NYSED and our LEAs will use funds under the respective programs in accordance with the provisions of all applicable statutes, regulations, program plans, and applications not subject to these waivers, and that NYSED will work to mitigate, and ensure that our LEAs will work to mitigate, any negative effects, if any, that may occur as a result of the requested waivers.

Additionally, NYSED is required to provide the public and all LEAs in the State with notice of and the opportunity to comment on this request. Comments may be submitted via email to FundingFlexibilities@nysed.gov with "Waiver Comments from (sender/organization name)" in the subject line. Comments will be accepted through September 9, 2021.