



# STATE OF NEW JERSEY DEPARTMENT OF EDUCATION

A Memo from the New Jersey Department of Education

Date: August 4, 2021  
To: Chief School Administrators, Charter School and Renaissance School Project Leads  
Route To: School Principals, School Business Administrators, District Federal ESSA Grant Administrators  
From: Kathy Ehling, Assistant Commissioner  
Division of Student Services  
Deadline: August 18, 2021

## **NJDOE Invites Public Comment on ESEA Fiscal Waiver Request Related to the COVID-19 Emergency**

On July 2, 2021, the U. S. Department of Education (USED) notified State Educational Agencies (SEAs) of the opportunity to request waivers to afford additional fiscal flexibility for certain funds received under the *Elementary and Secondary Education Act of 1965* (ESEA). This additional fiscal flexibility is being offered because it may not be possible for local educational agencies (LEAs) to obligate the ESEA funds on a timely and responsible basis due to the continued extraordinary circumstances created by the COVID-19 pandemic.

Pursuant to the authority granted by section 8401 of the ESEA, SEAs may request waivers of the following provisions:

- Section 1127(b) of Title I, Part A of the ESEA
  - The New Jersey Department of Education (NJDOE) may waive, more than once every three (3) years, if necessary, the 15 percent carryover limitation in ESEA section 1127(a) for Federal Fiscal Year 2020 (SFY 2021) Title I, Part A funds, which become carryover funds on October 1, 2021. Requesting a waiver for a second consecutive year to the carryover limitation would provide LEAs continued fiscal, programmatic, and operational flexibilities to address persistent and sustained needs of Title I students, educators, and families. Such a waiver would afford LEAs additional time to responsibly plan and program future Title I, Part A spending, as well as provide additional flexibility to respond to issues related to COVID-19, as needed.
- Section 421(b) of the General Education Provisions Act (GEPA)
  - The NJDOE may seek to extend the period of availability of Federal Fiscal Year 2019 (SFY 2020) funds for programs in which the SEA participates under its approved consolidated State plan until September 30, 2022. These programs include:
    - 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 (21<sup>st</sup> Century Community Learning Centers);
- Title V, Part B, Subpart 2 of the ESEA ((Rural and Low-Income School Programs); and
- McKinney-Vento Education for Homeless Children and Youth Program.

A waiver to extend the period of availability of Federal Fiscal Year 2019 funds for programs in which the NJDOE participates under its approved consolidated State plan until September 30, 2022 would afford LEAs increased flexibility in the use of all covered ESEA funds to support a continuity of services to address the impacts of COVID-19, including the impacts of reduced access to full-time in-person instruction throughout the 2020-2021 school year. The waiver will assist LEAs in preparation for the return to full-time in-person learning, as well as to provide financial continuity to enable each LEA to maintain the full array of services for students, educators, and families, including students from vulnerable populations.

The NJDOE has posted the full [waiver request](#) online. As part of this waiver process, the NJDOE invites LEAs and the public to submit comments on these waivers to [titleone@doe.nj.gov](mailto:titleone@doe.nj.gov) by August 18, 2021.

c: Members, State Board of Education  
Angelica Allen-McMillan, Ed.D., Acting Commissioner of Education  
NJDOE Staff  
Statewide Parent Advocacy Network  
Garden State Coalition of Schools  
NJ LEE Group  
Administrators of a State Facility