



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

May 28, 2021

The Honorable James F. Lane
Superintendent of Public Instruction
Virginia Department of Education
P.O. Box 2120
Richmond, VA 23218-2120

Dear Superintendent Lane:

I am writing in response to the Virginia Department of Education's (VDOE) request to extend for the 2020-2021 school year, multiple waivers of the Elementary and Secondary Education Act of 1965 (ESEA) that were granted to VDOE and all States for the 2019-2020 school year. VDOE indicated that these waivers continue to be needed to allow flexibility for schools and school districts in response to the ongoing novel coronavirus pandemic (COVID-19).

After reviewing VDOE's request, I find that the some of these waivers will advance student academic achievement in Virginia. Therefore, pursuant to my authority under section 8401 of the ESEA, I am granting VDOE the following waivers:

- Carryover limitation in section 1127(b) of the 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): the requirement limits an SEA's ability to grant to its LEAs a waiver of the 15 percent Title I, Part A carryover limitation in section 1127(a) more than 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 State 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 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.

I believe these waivers will provide VDOE and its local educational agencies (LEAs) the flexibility needed to best serve students during these unprecedented times.

400 MARYLAND AVE., SW, WASHINGTON, DC 20202
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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

As part of this waiver, Virginia assures that:

- It will use, and ensure that its subgrantees 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.
- It will work to mitigate, and ensure that its subgrantees work to mitigate, negative effects, if any, that may occur as a result of the requested waivers.

VDOE also requested a waiver for certain requirements under Title IV, Part A of the ESEA. As you know, the Department recently invited waivers of these requirements (<https://www2.ed.gov/documents/coronavirus/ssae-flexibility.pdf>) and the Department will issue a separate decision on these waivers.

Finally, VDOE requested to extend its waiver of the requirement in section 8101(42) of the ESEA, regarding the definition of professional development. When we offered a waiver of this requirement last year, we noted we were doing so in order that the “SEA and subgrantees would be able to conduct time-sensitive, one-time or stand-alone professional development focused on supporting your educators to provide effective distance learning.” (See <https://oese.ed.gov/files/2020/07/invite-covid-fiscal-waiver-19-20.pdf>) That waiver was time-limited to deal with the short-term impact of schools that were moving to remote learning with little time to properly prepare educators and administrators. However, research shows that effective professional development requires that it be on-going and job-embedded. While we know the challenges from COVID-19 continue, LEAs and schools should be providing high-quality supports to educators. Therefore, after reviewing the VDOE’s waiver request, I am declining to approve these requests under my authority in ESEA section 8401(b)(4). We do not think it prudent to waive these requirements in the 2020-2021 school year.

In response to the Department’s denying VDOE’s waiver request of section 8101(42) of the ESEA, VDOE may revise its waiver requests, consistent with section 8401(b)(4)(B)(ii) of the ESEA, to meet the requirements of section 8401(b)(1) and resubmit the revised waiver requests. If VDOE decides to resubmit, it must do so no later than 60 days from the date of this letter.

I appreciate the work you are doing to improve Virginia’s schools and provide a high-quality education for your students. If you have any questions, please feel free to contact my staff at: OESE.titlei-a@ed.gov.

Sincerely,



Ian Rosenblum
Deputy Assistant Secretary for Policy and Programs
Delegated the Authority to Perform the
Functions and Duties of the Assistant Secretary
Office of Elementary and Secondary Education

cc: Lynn Sodat, Director, VDOE