

# **CCSSO Webinar on the CARES Act**

## **Fiscal Waivers and Implications for Existing ESEA Funds**



**April 9, 2020**

# Waiver of carryover limit for 2019-2020

## Title I, Part A funds

- Normally, LEAs may only carry 15% of their Title I, Part A funds over from one year to the next, a limit SEAs can waive once every three years
- With ED's waiver, LEAs are not limited in how much Title I, Part A money they carry over from 2019-2020 to 2020-2021
- This is true even for LEAs that already received a waiver from the SEA within the last three years

# Waiver of period of availability for 2018-2019 funds

- Covers the following programs:
  - Section 1003 (School Improvement)
  - Section 1003a (Direct Student Services)
  - Title I, Part A (Improving Basic Programs)
  - Title I, Part B (State Assessment Grant)
  - Title I, Part C (Migrant Education)
  - Title I, Part D, Subpart 1 (Neglected and Delinquent)
  - Title II, Part A (Supporting Effective Instruction)
  - Title III, Part A (English Language Acquisition) Title IV, Part A (Student Support and Academic Enrichment)
  - Title IV, Part B (21st Century Community Learning Centers)
  - Title V, Part B, Subpart 2 (Rural and Low-Income School Program)
  - McKinney-Vento Education for Homeless Children and Youth Program.

# Waiver of period of availability for 2018-2019 funds (cont.)

- Normally, any money awarded on or around July 1, 2018 must be spent by September 30, 2020
- With ED's waiver, LEAs now have an extra year to spend the funds until September 30, 2021

# Waiver Title IV, Part A needs assessment for 2019-2020

- Normally, LEAs that receive \$30,000 or more in Title IV, Part A funds must conduct a comprehensive assessment of needs for improved access to a well-rounded education, school conditions for student learning, and access to personalized learning experiences
- LEAs must then spend Title IV, Part A funds consistent with their needs
- With ED's waiver, LEAs will not have to amend the needs assessment conducted for 2019-2020 funds in light of COVID-19 and extended school closures

# Waiver of the requirement to spend Title IV, Part A funds in three areas

- Normally, LEAs that receive \$30,000 or more in Title IV, Part A funds must spend at least:
  - 20% of their allocation on activities to support a well-rounded education
  - 20% on activities to support safe and healthy students
  - Some funds to support the effective use of technology
- With ED's waiver, LEAs may now spend remaining 2018-2019 funds (if any) and 2019-2020 funds on any allowable Title IV, Part A activity and do not have to spend across all three areas

# Waiver of the limit on spending Title IV, Part A funds on technology infrastructure

- Normally, LEAs may not spend more than 15% of the funds earmarked for technology on purchasing technology infrastructure including devices, equipment, software applications, platforms, digital instructional resources and/or other one-time IT purchases.
- With ED's waiver, LEAs are not limited in how much they spend on technology infrastructure
  - ED clarified this waiver applies to LEAs with awards of any size (not exclusive to LEAs receiving \$30,000 or more)

# Waiver of ESEA's definition of professional development for 2019-2020

- Normally, professional development activities supported with ESEA funds must, among other things, be sustained, intensive, and collaborative
- With ED's waiver, LEAs may use ESEA funds to support shorter-term professional development as long as they are otherwise allowable under the relevant program



# Implications of the fiscal waivers on existing ESEA funds

- With the waivers, SEAs and LEAs:
  - Have more time to spend existing funds
  - Have more flexible spending options like:
    - More professional development options
    - More flexibility for LEAs within Title IV

# Transferability: SEA options

<b>FROM</b>	<ul style="list-style-type: none"><li>• Title II, Part A</li><li>• Title IV, Part A</li><li>• 21<sup>st</sup> CCLC</li></ul>	<b>TO</b>	<ul style="list-style-type: none"><li>• Title I, Part A</li><li>• Title I, Part C (Migrant)</li><li>• Title I, Part D (N&amp;D)</li><li>• Title II, Part A</li><li>• Title III, Part A</li><li>• Title IV, Part A</li><li>• 21<sup>st</sup> CCLC</li><li>• Rural Education programs</li></ul>
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# Transferability: LEA options

<b>FROM</b>	<ul style="list-style-type: none"><li>• Title II, Part A</li><li>• Title IV, Part A</li></ul>	<b>TO</b>	<ul style="list-style-type: none"><li>• Title I, Part A</li><li>• Title I, Part C (Migrant)</li><li>• Title I, Part D (N&amp;D)</li><li>• Title II, Part A</li><li>• Title III, Part A</li><li>• Title IV, Part A</li><li>• Rural Education programs</li></ul>
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# Transferability: Practical considerations

- Consultation with private school officials
- Amending approved plans and budget

# ESEA spending options for existing funds: Employee compensation

- Any expense charged to federal grants must “be consistent with policies and procedures that apply uniformly to both federally-financed and other activities” (2 CFR § 200.403(c))
- To be supported with federal funds, employee compensation must “[conform] to the established written policy of the non-Federal entity consistently applied to both Federal and non-Federal activities” (2 CFR § 200.430(a)(1))
- Accordingly, ED has taken the position that if a state, district, or other recipient has a policy of paying employees during a closure, it should follow that policy for its ED-funded staff as well (Citations on next slide)

# ED Guidance - Salary Payments

- ⌘ **Fact Sheet: Select Questions Related to Use of Department of Education Grant Funds During the Novel Coronavirus Disease 2019** (April 8, 2020), Q1, <https://www2.ed.gov/documents/coronavirus/factsheet-fiscal-questions.pdf>
- ⌘ **Non-Regulatory Guidance on Flexibility and Waivers for Grantees and Program Participants Impacted by Federally Declared Disasters** (2018), Q&A A-13, <https://www2.ed.gov/policy/gen/guid/disasters/disaster-guidance.docx>
- ⌘ **Non-Regulatory Guidance on Flexibility and Waivers for Grantees and Program Participants Impacted by Federally Declared Disasters** (2017), Q&A A-13, <https://safesupportivelearning.ed.gov/sites/default/files/disaster-guidance.pdf>
- ⌘ **Guidance on Flexibility and Waivers for SEAs, LEAs, Postsecondary Institutions, and Other Grantee and Program Participants in Responding to Pandemic Influenza (H1N1 Virus)** (2009), Part IV Q&A A-15, <https://www2.ed.gov/admins/lead/safety/emergencyplan/pandemic/guidance/flexibility-and-waivers.doc>

# ESEA spending options for existing funds: Cancelled events

- OMB authorized ED to allow recipients of federal funds to charge the costs of cancelled events or travel to federal grants  
(OMB Memo M-20-17, <https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-17.pdf>)
- ED granted this administrative flexibility as long as:
  - A grantee or subgrantee first seeks to recover costs if possible
  - Any costs that cannot be recovered are reasonable and relate to an allowable activity(April 8, 2020 COVID Fiscal Fact Sheet, Q2)

# Local ESEA spending options for existing funds: Title I, Part A examples

- Consider waiver of 40% poverty threshold for any school operating a targeted assistance program
- Schoolwide programs can spend on things like:
  - Support for online learning (curriculum, digital instructional materials, technology, etc.)
  - Counseling and mental health
  - Instructional support services
  - Behavior support strategies for online environments
  - Professional development and other supports to improve online instruction
  - Coordinating with IHEs to provide access to postsecondary courses



# Local ESEA spending options for existing funds: Title I considerations

- LEAs can use central-level Title I funds for district-led initiatives that benefit all or a subset of Title I schools
- Supplement not supplant (SNS) considerations
  - Reminder: ESSA changed how SNS works in Title I – three presumptions of supplanting do not apply under ESSA
  - ESSA Title I SNS: “Title I neutral” state and local allocation methodology that does not deny Title I schools state and local funds because of their Title I status
    - Unclear how extended closures might affect allocation methodologies
- CARES Act funding is not Title I money (so will not affect carryover, etc.)

# Local ESEA spending options for existing funds: Title II, Part A examples

- Professional development related to distance learning:
  - Using technology
  - Effective instructional practices
  - Supporting students with disabilities
  - Supporting English learners
- Professional development on conditions for student learning, such as available mental health services
- Developing feedback mechanisms to improve working conditions

# Local ESEA spending options for existing funds: Title IV, Part A examples

- Devices
- Online instructional materials
- Technology infrastructure
- Technology related professional development
- Online access for students in rural, remote, and underserved areas
- Mental health services
- Relationship-building skills and effective communication strategies
- Training for school personnel on suicide prevention, trauma, and related issues
- Integrating well-rounded educational services into online learning

# Processes to support local spending

- LEAs must spend ESEA funds consistent with their approved application and budget (34 CFR § 76.700)
- Typically, LEAs need state approval for major changes to their approved application and budget (2 CFR § 200.308)
  - States might consider ways to streamline and expedite amendment processes
- OMB has authorized ED to relieve grantees/subgrantees of these approval requirements, but ED must exercise this option before SEAs and LEAs can take advantage of it (OMB Memo M-20-17,Q8, <https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-17.pdf>)