

## ESEA/ESSA Federal Waiver Guidance

The U.S. Department of Education (ED) [announced](#) the availability of waivers to certain fiscal and programmatic requirements of some grant programs within the Elementary and Secondary Education Act (ESEA), reauthorized as the Every Student Succeeds Act (ESSA). On April 6, 2020, the [Tennessee Department of Education \(department\) applied](#) for this waiver, in order to support local educational agencies (LEAs) in the response to the ongoing COVID-19 crisis. The department has received approval of the waiver application, which will help provide relief from some requirements in existing grant programs.

Through these waivers, the department will be able to:

- Approve an LEA to carry more than 15 percent of its federal funding year (FFY) 2019 Title I, Part A funds into next year, even if such a waiver has been granted in the previous three years.
- Extend the period of availability of FFY 2018 funds for programs included in the consolidated ESSA State Plan, allowing additional time to use those funds.
- Approve an LEA to carry more than 25 percent of its FFY 2019 Title III, Part A and Title IX, Part A funds into next year.
- Permit an LEA to use Title IV, Part A funds to meet needs without regard to content-area spending requirements, spending limits on technology infrastructure, or completing a needs assessment.
- Allow LEAs and schools to use professional development funds to conduct time-sensitive, one-time, or stand-alone training focused on supporting educators in providing effective distance learning.

This document provides a summary of the department's guidance for LEAs regarding each provision of these waivers, including information about how LEAs can submit a request.

To help streamline the request process, LEAs will only need to complete one [Federal Funds Waiver Request Form](#), which should be uploaded to the *FY21 LEA Document Library > Consolidated Funding Application Documents > ESEA/ESSA Waiver Request Letters* folder. **The deadline for submitting the request in ePlan is Sept. 30, 2020.**

Requests will be reviewed within 10 business days, and a waiver approval letter will be uploaded into ePlan.

**Note:** this information only covers this specific, fiscal waiver. The department has applied for numerous waivers, which if granted, will impact federal education funds. More information about any additional waivers will be shared as the department receives information and guidance from ED.

### Waiver to Carry Over Excess Title I, Part A Funds

Under normal circumstances, LEAs are allowed to carry over only 15 percent of the current year Title I, Part A allocation to be used in the subsequent school year. If the carryover funds exceed the allowed percentage, an LEA may opt to request a waiver to keep the excess carryover funds once every three years. If the LEA receives a waiver, the excess carryover can be spent during the following school year.

ED has granted the department the authority to grant these waivers more frequently than once every three years for FFY 2019 (funds awarded to LEAs July 1, 2019, for the **2019–20 school year**) Title I, Part A funds. LEAs granted this waiver can carryover any Title I, part A figure from 2019-20 into the 2020-21 school year.

To submit a waiver request, LEAs should complete the [Federal Funds Waiver Request Form](#) and upload it to the *FY21 LEA Document Library* by **Sept. 30, 2020** (see additional instructions above).

## Extension of ESEA Fund Availability

FFY 2018 (funds awarded to LEAs July 1, 2018, for the **2018–19 school year**) funds were set to expire on Sept. 30, 2020. Those funds will now be available to expend through **Sept. 30, 2021**. This extension applies to:

- 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
- Title I, Part D, Subpart 1 of the ESEA (SEA funds for Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk) - DOC/DCS only
- Title I, Part D, Subpart 2 of the ESEA (LEA funds for 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 V, Part B, Subpart 2 of the ESEA (Rural and Low-Income School Program)
- McKinney-Vento Education for Homeless Children and Youth Program

In addition, waivers are available for the 25 percent Title III, Part A and Title IX, Part A McKinney-Vento state carryover limit (Carryover limitation for FFY19 [funds awarded to LEAs July 1, 2019, for the **2019–20 school year**] Title III, Part A and Title IX, Part funds that will become carryover funds on Oct. 1, 2020). LEAs granted this waiver will have no limit on the amount of Title III, Part A or Title IX, Part A McKinney-Vento funds that they can carry into the 2020–21 schoolyear.

To submit a waiver request, LEAs should complete the [Federal Funds Waiver Request Form](#) and upload it to the *FY21 LEA Document Library* by **Sept. 30, 2020** (see additional instructions above).

## Title IV, Part A Flexibility

This waiver allows an LEA to use its Title IV, Part A funds to best meet its needs without regard to content-area spending requirements, spending limits on technology infrastructure, or completing a needs assessment. Additionally, by waiving the definition of professional development, LEAs can conduct time-sensitive, one-time or stand-alone professional development focused on supporting educators to provide effective distance learning. LEAs that have been awarded this waiver and wish to make changes to their Title IV, Part A spending may make revisions to the Title IV, Part A application within the *FY20 Consolidated Funding Application* (CFA).

To submit a waiver request, LEAs should complete the [Federal Funds Waiver Request Form](#) and upload it to the *FY21 LEA Document Library* by **Sept. 30, 2020** (see additional instructions above). For more information, see the [Title IV, Part A Waiver Guidance Question & Answers](#) document.

## Flexibility on the Definition of Professional Development

ESEA § 8101(42) defines “professional development,” specifically noting that the professional development activities are sustained (not stand-alone, one-day, or short-term workshops), intensive, collaborative, job-embedded, data-driven, and classroom-focused. Under normal circumstances, professional development paid for using the funds listed in this waiver was subject to this definition. The definition of professional

development in ESEA § 8101(42) has been waived for the **2019–20 school year** and LEAs may now use these funds for stand-alone professional development to meet the emergent needs.

To submit a waiver request, LEAs should complete the [Federal Funds Waiver Request Form](#) and upload it to the *FY21 LEA Document Library* by **Sept. 30, 2020** (see additional instructions above).

## **Reminder about the Use of Funds**

Federal ESEA/ESSA program funds may be used only to cover costs that:

- align with the approved grant application and budget;
- are necessary, reasonable, allocable, documented; and
- supplement and do not supplant other federal or state funds.

Costs that were deemed unallowable before remain unallowable now, even if the waivers described above have been granted. If you have questions about the allowability of specific expenses, please reach out to one of the contacts below.

## **Federal Programs & Oversight Contacts**

FPO ESEA Divisional Coordinators	East: <a href="mailto:Henry.LaFollette@tn.gov">Henry.LaFollette@tn.gov</a> Middle: <a href="mailto:Heather.Farley@tn.gov">Heather.Farley@tn.gov</a> West: <a href="mailto:Lynn.Dotson@tn.gov">Lynn.Dotson@tn.gov</a> 20 Most Populous LEAs: <a href="mailto:Heather.Farley@tn.gov">Heather.Farley@tn.gov</a>
Title I (Improving the Academic Achievement of the Disadvantaged)	<a href="mailto:Deborah.Thompson@tn.gov">Deborah.Thompson@tn.gov</a> <a href="mailto:Brinn.Obermiller@tn.gov">Brinn.Obermiller@tn.gov</a>
Title I, Part A—Neglected and Title I, Part D	<a href="mailto:Dan.Fromel@tn.gov">Dan.Fromel@tn.gov</a> <a href="mailto:Erin.Christian@tn.gov">Erin.Christian@tn.gov</a> <a href="mailto:Jackie.Jacobson@tn.gov">Jackie.Jacobson@tn.gov</a>
Title II (Preparing, Training and Recruiting High-Quality Teachers, and Principals)	<a href="mailto:Brinn.Obermiller@tn.gov">Brinn.Obermiller@tn.gov</a> <a href="mailto:Deborah.Thompson@tn.gov">Deborah.Thompson@tn.gov</a>
Title III (English Learners)	<a href="mailto:Jan.Lanier@tn.gov">Jan.Lanier@tn.gov</a>
Title IV (Student Support and Academic Enrichment)	<a href="mailto:Brinn.Obermiller@tn.gov">Brinn.Obermiller@tn.gov</a>
Title V (Rural Education)	<a href="mailto:Brinn.Obermiller@tn.gov">Brinn.Obermiller@tn.gov</a>
Title IX (McKinney-Vento)	<a href="mailto:Vanessa.Waters@tn.gov">Vanessa.Waters@tn.gov</a>
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