



**#193-22**

**Commonwealth of Virginia**  
**Virginia Department of Education**  
**Superintendent's Memo #193-22**

DATE: August 26, 2022  
TO: Division Superintendents  
FROM: Jillian Balow, Superintendent of Public Instruction  
SUBJECT: **U.S. Department of Education Approves Multiple ESSA Waiver Requests**

On August 10, 2022, the United States Department of Education (USED) responded to Virginia's request for a waiver from certain statutory requirements under the *Every Student Succeeds Act of 2015* (ESSA). Virginia requested these waivers in order to continue to allow flexibility for schools and school divisions in response to the ongoing novel coronavirus pandemic (COVID 19) and the transition to in-person learning. In its response, USED granted the following waivers:

- Carryover limitation in section 1127(b) of the *Elementary and Secondary Education Act of 1965* (ESEA) for Federal fiscal year (FY) 2021 Title I, Part A funds (i.e., the Title I, Part A funds that will become carryover funds on October 1, 2022): to waive the requirement that 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) to once every three years.
- Period of availability of funds in section 421(b) of the *General Education Provisions Act* to extend the period of availability of FY 2020 funds for programs in which Virginia participates under its approved consolidated ESEA State plan until September 30, 2023. 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) o 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)
- McKinney-Vento Education for Homeless Children and Youth Program

With approval of these waivers, Virginia assures that:

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

The USED approval letter is attached. Also attached is a chart with an updated spend down timeline for grant awards.

## For more information

Questions regarding this information should be directed to [ESSA@doe.virginia.gov](mailto:ESSA@doe.virginia.gov).

JB/MM

- A. Attachment: [2021-2022 Virginia ESEA Waiver Approval Letter](#) (PDF)
- B. Attachment: [Updated Waiver Spend Down Timeline Chart](#) (PDF)