



#161-21

**Commonwealth of Virginia
Virginia Department of Education
Superintendent's Memo #161-21**

DATE: June 17, 2021
TO: Division Superintendents
FROM: James F. Lane, Ed.D., Superintendent of Public Instruction
SUBJECT: U.S. Department of Education Approves Multiple ESSA Waiver Requests

On May 28, 2021, 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). In its response, USED granted the following waivers:

- Carryover limitation in section 1127(b) of the ESEA for Federal Fiscal year (FFY) 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 a state education agency's (SEA) ability to grant to its local state agencies (LEA) 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 FFY 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.

USED previously approved Virginia's request to waive certain programmatic requirements under Title IV, Part A (see [Superintendent's Memo #133-21](#)). USED did not approve the request to waive the requirement in section 8101(42) of the ESEA, regarding the definition of professional development, for the 2020-2021 school year. The approval letter is attached.

With approval of these waivers, 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.

For more information

Questions regarding this information should be directed to ESSA@doe.virginia.gov.

JFL/BR

- A. Attachment: [2020-2021 Virginia ESEA Waiver Approval Letter](#) (PDF)