

Elementary Secondary Education Act (ESEA)/Every Student Succeeds Act (ESSA) Waiver Guidance

U.S. Secretary of Education (USED) Betsy DeVos announced the availability of waivers for certain fiscal and programmatic requirements of grant programs within the Elementary and Secondary Education Act (ESEA), reauthorized as the Every Student Succeeds Act (ESSA). The Utah State Board of Education (USBE) applied for and received these waivers from USED to support districts and charter schools in our response to the ongoing national COVID-19 emergency. The waivers provide temporary relief from some federal fiscal and programmatic requirements in existing ESEA/ESSA grant programs.

A summary of Utah's guidance for districts and charter schools regarding each of these waiver provisions is below.

Waiver to Carry Over Excess Title I, Part A Funds

Under normal circumstances, Local Educational Agencies (LEAs) can carry over only 15 percent of their current year Title I, Part A allocation to be used in the subsequent school year once every three years¹. If the carryover funds exceed the allowed percentage, an LEA can opt to request a waiver to keep the excess carryover funds once every three years. If the LEA receives a waiver, the excess carryover must be spent during the following school year. In response to the COVID-19 pandemic, USED has granted USBE the authority to grant these waivers more frequently than once per three years. For Federal Fiscal Year 2019 (State FY 2020) funds, LEAs should follow the waiver application procedures that are published on the USBE website. The deadline for submitting a Title I, Part A 15% Carryover Waiver Request is November 1, 2020. The waiver application is found on page 68 of USBE's Title I, Part A Program and Fiscal Handbook: [15% Carryover Waiver Application](#).

Extension of Fund Availability

Federal Fiscal Year 2018 ESEA funds (State Fiscal Year 2019 funds) were set to expire on September 30, 2020². Those funds will now be available to expend through September 30, 2021. This extension applies to all programs included in Utah's Consolidated ESSA State Plan to provide LEAs with additional time to use those funds.

Note: State FY 2020 funds will also expire on September 30, 2021. The extended period of availability applies to State FY 2019 funds only.

The extended period of availability for State FY 2019 ESEA programs applies to:

- a. Title I, Part A: Improving Basic Programs Operated by LEAs, including the portions of the state education agency's (SEA's) Title I, Part A award used to carry out section 1003 school improvement for schools identified for comprehensive support and improvement (CSI)
- b. Title I, Part B: State Assessment Formula Grants (funds for USBE)
- c. Title I, Part C: Education of Migratory Children
- d. Title I, Part D: Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At Risk
- e. Title II, Part A: Supporting Effective Instruction

¹ ESSA Section 1127(b)

² GEPA Section 421(b)

- f. Title III, Part A: English Language Acquisition, Language Enhancement, and Academic Achievement
- g. Title IV, Part A: Student Support and Academic Enrichment Grants
- h. Title IV, Part B: 21st Century Community Learning Centers
- i. Title V, Part B, Subpart 2: Rural and Low-Income School Program
- j. Title VII, Part B: McKinney-Vento Education for Homeless Children and Youth Program

LEAs do not need to apply for the extension of these funds. The Utah Grants Management Team will update the period of availability for applicable LEA subgrants in the Utah Grants System.

Title IV, Part A Flexibility

The waiver allows for flexibility to the requirements and limitations of Title IV, Part A funds for Federal Fiscal Years 2018 and 2019 (State FYs 2019 and 2020) to permit a district, charter school, or consortium of LEAs to use Title IV, Part A funds to meet needs without regard to content-area spending requirements³, spending limits on technology infrastructure⁴, or completing a needs assessment⁵.

Note: These requirements are only applicable to LEAs that received \$30,000 or more in Title IV, Part A funds.

Definition of Professional Development Flexibility

ESEA section 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. The definition of professional development in section 8101(42) of the ESEA has been waived for the 2019-2020 school year. Previously, professional development paid for using the funds listed in this waiver were subject to the definition. LEAs may now use these funds for stand-alone professional development to meet the emergent needs related to the LEA’s COVID-19 response including time-sensitive, one-time, or stand-alone training focused on supporting educators in providing effective distance learning.

USBE Waiver of the 40% Poverty Threshold to Operate a Schoolwide Title I Program (SWP)

In addition to these waivers issued to the State by USED, the USBE Title I Coordinator may waive the 40% Poverty Threshold to operate a schoolwide Title I program (SWP) for schools that have poverty rates below 40% but not less than 35%. The application may be found at this link: [Application for a Waiver of the 40% Poverty Threshold](#).

Reminder about Use of ESEA Program Funds

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

1. align with the approved grant application and budget, and
2. are necessary, reasonable, allocable, and allowable, and
3. supplement and do not supplant other federal or state funds.

³ ESSA Section 4106(e)(2)(C), (D), and (E)

⁴ ESSA Section 4109(b)

⁵ ESSA Section 4106(d)

Costs that were unallowable before the waivers remain unallowable now. If you have questions about the allowability of specific expenses or activities, please send your questions to your specific USBE ESEA program contact.

USBE ESEA Programs Contact Information

- Title I, Part A: Improving Basic Programs Operated by LEAs
Coordinator: Rebecca Donaldson, rebecca.donaldson@schools.utah.gov
Ombudsman for Equitable Services: Rebecca Donaldson, rebecca.donaldson@schools.utah.gov
Monitoring Specialist: Val Murdock, val.murdock@schools.utah.gov
Family/Community Engagement Specialist: Sheryl Ellsworth, sheryl.ellsworth@schools.utah.gov
Fiscal Manager: Tami Long, tami.long@schools.utah.gov
- Title I, Part A, Section 1003 School Improvement
Specialists: Leslie Evans, leslie.evans@schools.utah.gov, Max Lang, max.lang@schools.utah.gov
Fiscal Manager: Tami Long, tami.long@schools.utah.gov
- Title I, Part C: Education of Migratory Children
Specialist: Jeff Ojeda, jeff.ojeda@schools.utah.gov
Fiscal Manager: Sandra Grant, Sandra.grant@schools.utah.gov
- Title I, Part D: Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At Risk
Specialist: Murray Meszaros, murray.meszaros@schools.utah.gov
Fiscal Manager: Sandra Grant, Sandra.grant@schools.utah.gov
- Title II, Part A: Supporting Effective Instruction
Specialist: Kami Dupree, kami.dupree@schools.utah.gov
Fiscal Manager: Kami Dupree, kami.dupree@schools.utah.gov
- Title III, Part A: English Language Acquisition, Language Enhancement, and Academic Achievement
Specialist: Christelle Estrada, christelle.estrada@schools.utah.gov
Fiscal Manager: Tami Long, tami.long@schools.utah.gov
- Title IV, Part A: Student Support and Academic Enrichment Grants
Specialist: Jodi Parker, jodi.parker@schools.utah.gov
Fiscal Manager: Jodi Parker, jodi.parker@schools.utah.gov
Fiscal Manager: Krystol Carfaro, krystol.carfaro@schools.utah.gov
- Title IV, Part B: 21st Century Community Learning Centers
Specialist: Kamille Sheikh, kamille.sheikh@schools.utah.gov
Fiscal Manager: Sandra Grant, sandra.grant@schools.utah.gov

- Title V, Part B, Subpart 2: Rural and Low-Income School Program
Specialist: Sandra Grant, sandra.grant@schools.utah.gov
Fiscal Manager: Sandra Grant, sandra.grant@schools.utah.gov
- Title VII, Part B: McKinney-Vento Education for Homeless Children and Youth Program
Specialist: Jeff Ojeda, jeff.ojeda@schools.utah.gov
Fiscal Manager: Sandra Grant, sandra.grant@schools.utah.gov
- Utah Grants Management System Help Desk
Email: UtahGrants@schools.utah.gov
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