UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

DATE: August 16, 2021

TO: State Title I Directors

FROM: Patrick Rooney
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SUBJECT: Frequently Asked Questions About Waivers Related to the Title I, Part A Carryover Limitation Under the Elementary and Secondary Education Act of 1965 (ESEA) Due to COVID-19

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1. What does a waiver related to the carryover limitation in section 1127(b) of the ESEA allow?

Section 1127(a) of the ESEA prohibits a local educational agency (LEA) from carrying over to the next fiscal year more than 15 percent of its Title I, Part A (Title I) allocation if the LEA's Title I allocation equals or exceeds $50,000. Section 1127(b) permits a State educational agency (SEA) to waive this limitation once every three years if: (1) the LEA's request is reasonable and necessary; or (2) a supplemental Title I appropriation becomes available. The fiscal waivers the Department granted in April 2020 enabled an SEA to waive the carryover limitation for Federal fiscal year (FY) 2019 Title I funds (i.e., the Title I funds that became carryover funds on October 1, 2020) for an LEA that had received such a waiver for its FY 2017 or FY 2018 Title I funds.[1] Similarly, the waiver for which the Department invited requests on July 2, 2021, would enable an SEA to waive the carryover limitation for FY 2020 Title I funds (i.e., the Title I funds that will became carryover funds on October 1, 2021) more than one every three years for an LEA that had received such a waiver for its FY 2018 or FY 2019 Title I funds.[2]

2. When the Department grants an SEA a waiver of ESEA section 1127(b), does this mean that all LEAs have received a waiver of the carryover limitation?

No. As noted in A-1, when the Department waives the once-in-three-years requirement in ESEA section 1127(b) for an SEA, it enables the SEA to grant an LEA a waiver of the carryover limitation even if it granted the same LEA this waiver for either of the two previous fiscal years. For example, in April 2020, the Department granted a waiver for FY 2019 to all SEAs of the requirement in ESEA section 1127(b) that restricts an SEA from granting a waiver more than one every three years. Thus, for FY

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[1] The Department's April 3, 2020, letter inviting fiscal waiver requests is available here: https://oese.ed.gov/files/2020/04/invite-covid-fiscal-waiver-19-20.pdf. A Federal Register Notice announcing the fiscal waivers the Department granted in April 2020 is available here: https://www.federalregister.gov/documents/2020/05/18/2020-10563/notice-of-waivers-granted-under-section-3511-of-the-coronavirus-aid-relief-and-economic-security.

[2] The Department's July 2, 2021, letter inviting fiscal waiver requests is available here: https://oese.ed.gov/files/2021/07/2021-invite-covid-fiscal-waiver.pdf. The optional template for SEAs to request fiscal waivers is available here: https://oese.ed.gov/files/2021/07/20-21-Fiscal-Waiver-Template.pdf.

2019, the waiver from the Department permitted an SEA to waive the carryover limitation in section 1127(a) for an LEA, even if the SEA had granted such a waiver to the LEA in either FYs 2017 or 2018.

For any LEA waiver request of the carryover limitation requirement in section 1127(a), an SEA is required to decide whether to waive the requirement and to retain documentation of waivers granted to each LEA. (This is the case regardless of whether the SEA grants the waiver under its authority in ESEA section 1127 once every three years or through a waiver from ED that enables the SEA to grant this waiver more than once every three years.)

3. If an LEA received a waiver of the carryover limitation in section 1127(a) from the SEA for its FY 2019 Title I funds, when is that LEA next eligible for a waiver of the carryover limitation?

Ordinarily, an LEA that received a waiver of the carryover limitation in section 1127(a) from the SEA for its FY 2019 Title I funds would next be eligible for a waiver of the carryover limitation for its FY 2022 Title I funds (i.e., the funds that will become carryover funds on October 1, 2023).

The Department, however, has invited SEAs to request a waiver of the once-in-three-years requirement in ESEA section 1127(b) for FY 2020 Title I funds (i.e., the funds that will become carryover funds on October 1, 2021). If the SEA receives this waiver for FY 2020, an LEA that received a waiver of the carryover limitation in section 1127(a) from the SEA for FY 2019 will next be eligible to receive a carryover waiver from its SEA for its FY 2020 Title I funds.

4. If an LEA receives a waiver of the carryover limitation in section 1127(a) from the SEA in for its FY 2020 Title I funds, when is that LEA next eligible for a waiver of the carryover limitation?

Any LEA that received a waiver of the carryover limitation in section 1127(a) from the SEA for its FY 2020 Title I funds would next be eligible for a waiver of the carryover limitation for its FY 2023 Title I funds (i.e., the funds that will become carryover funds on October 1, 2024). This applies to an LEA that was able to request that its SEA approve a carryover waiver for the LEA's FY 2020 Title I funds by virtue of the SEA's receiving a waiver of the once-in-three-years requirement in ESEA section 1127(b) for FY 2020 Title I funds and to an LEA that was able to request that its SEA approve a carryover waiver for the LEA's FY 2020 Title I funds by virtue of not having received this waiver for its FY 2018 or FY 2019 Title I funds.