

ESEA Federal Programs Frequently Asked Questions

Last Updated April 14, 2020

Please note: The information is changing rapidly and the Alaska Department of Education and Early Development (DEED) will continue to update/correct outdated information as it becomes available. DEED is committed to working with Alaska school districts and grantees to the maximum operational flexibility necessary to continue operations during the COVID-19 pandemic.

1. Question: What waivers are available?

(Revised 4/14/20) Answer: In response to Novel Coronavirus Disease 2019 (COVID-19), the U.S. Department of Education (US ED) is offering flexibility in K-12 education funding, in particular the Elementary and Secondary Education Act of 1965 (ESEA), as the CARES Act authorizes the Secretary to provide additional flexibility through waivers of specific requirements. The Alaska Department of Education and Early Development (DEED) submitted a request to US ED on April 8, 2020 to waive the following provisions:

- Section 1127(b) of Title I, Part A of the ESEA so that your State educational agency (SEA) may waive, more than once every three years, if necessary, the 15 percent carryover limitation in ESEA section 1127(a) for State fiscal year (FY) 2020 Title I, Part A funds.
- Section 421(b) of the General Education Provisions Act (GEPA) to extend the period of availability of State FY2019 funds for programs in which your SEA participates under its approved consolidated State plan until September 30, 2021.
- Section 4106(d) of Title IV, Part A of the ESEA related to local educational agency (LEA) needs assessments for the 2019-2020 school year.
- Section 4106(e)(2)(C), (D), and (E) of Title IV, Part A of the ESEA with respect to content-area spending requirements for State FYs 2019 and 2020 Title IV, Part A funds.
- Section 4109(b) of Title IV, Part A of the ESEA with respect to the spending limitation for technology infrastructure for State FYs 2019 and 2020 Title IV, Part A funds.
- Section 8101(42) of the ESEA, which defines “professional development,” for activities funded for the 2019-2020 school year.

The public may submit comment on this waiver by completing [the Flexibility for States on K-12 Education Funding Waiver Survey](#). The survey will remain open until May 6, 2020.

2. Question: Can a district receive a Title I-A 15% excess carryover waiver from 2019-2020 into 2020-2021 even if the district has received a waiver in the past 3 years and would normally not be eligible?

(Revised 4/14/20)

Answer: Yes, districts are allowed to carry over Title I-A funds if they received a waiver in the past three years. See Question 1 above.

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3. **Question: Can districts continue to pay district and school staff out of federal funds during the period of mandated school closures?** *The answer below is derived from:*
<https://www2.ed.gov/documents/coronavirus/factsheet-fiscal-questions.pdf>.

(Revised 4/14/20) **Answer:** Yes. Generally, a grantee or subgrantee may continue to charge the compensation (including but not necessarily limited to salaries, wages, and fringe benefits) of its employees who are paid by a currently active grant funded by the Department to that grant, consistent with the organization's policies and procedures for paying compensation from all funding sources, Federal and non-Federal, under unexpected or extraordinary circumstances, such as a public health emergency like COVID-19.¹ Thus, if the organization pays, consistent with its policies and procedures, similarly situated employees whose compensation is paid with non-Federal funds during an extended closure, those paid with grant funds from the Department may also continue to be paid.² However, an employee who is being paid with Department grant funds while the program grant activities are closed in whole or in part due to the COVID-19 pandemic may not also be paid for the time during which the program is closed by the organization or another organization for working on other activities that are not closed down.

If a grantee or subgrantee does not currently have in place a policy that addresses extraordinary circumstances such as those caused by COVID-19, the grantee or subgrantee may amend or create a policy in order to put emergency contingencies in place for Federal and non-Federal similarly situated employees. If the conditions exist for charges to be made to the Federal grant, charges may also be made to any non-Federal sources that are used by a grantee or subgrantee in order to meet a matching requirement.

A grantee and subgrantee must maintain appropriate records and cost documentation as required by 2 CFR § 200.302 (financial management), 2 CFR § 200.430(i) (standards for documenting personnel expenses), and 2 CFR § 200.333 (retention requirements for records) to substantiate the charging of any compensation costs related to interruption of operations or services.

At the same time, recipients should consider ways that employees paid with grant funds can support continuing activities, including distance learning opportunities for students served by the grant

4. **Question: What are expectations for English Learner identification during the period of mandated school closures?**

Answer: *While we await further guidance from the US ED, DEED is providing the following guidance:*

Upon receipt of a Home Language Survey that indicates the student may be an English Learner (EL), the district may, if feasible, reach out to conduct a phone interview with the family and the

¹ See Office of Management and Budget (OMB) Memorandum M-20-17, <https://www.whitehouse.gov/wpcontent/uploads/2020/03/M-20-17.pdf>.

² 2 CFR §§ 200.403(c) (allowability of costs), 200.404 (reasonable costs), 200.405 (allocable costs), 200.430(b) (compensation for personal services), and 200.431(a)-(b) (fringe benefits).

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student as well. If the conversation leads the interviewer to believe that the student is likely an EL, the student may be “identified” and served as such until they may be formally identified with an approved screener assessment. If the district is unable to conduct a phone interview, the district may serve the student as they see fit until formal identification is possible. Once normal school resumes, districts should work to formally identify potential ELs using one of the approved screeners. This procedure was also supported by WIDA.

5. Question: Due to the cancellation of several events and planned activities, must we amend our FY20 ESEA Consolidated Application?

Answer: Generally, yes. If an activity is different than what is stated within your grant, then an amendment must be submitted. If the district needs more or less funds for an activity already approved within a grant, remember that an overage of 10% for any allowable grant activity is automatically approved and no amendment is needed. All activities must be reasonable, necessary, and allocable to the program.³

6. Question: What is the allowability of using Federal Title Program funding to pay for internet to provide remote instruction to students?

Answer: GCI has special offers in response to COVID-19. Visit www.gci.com to learn about [free internet plan upgrades](#) for current customers and [free entry level internet until May 31, 2020](#) for households without current GCI internet. ACS is offering free unlimited internet through the end of the school year. Visit <https://www.alaskacommunications.com/Coronavirus> for further information.

Also, lawmakers and the White House have come to an agreement over a legislative package (CARES Act) to provide economic relief in response to the impact of the COVID-19 pandemic. The legislation gives substantial local authority and discretion for purchasing educational technology.

7. Question: Can districts use Federal Title Program funding to pay for the salary of district and school staff that are sent to the lower 48 during the period of mandated school closures?

Answer: This would be a district decision. If district and school staff are teleworking, their physical location shouldn't be a factor.

8. Question: In the event that schools are closed for an extended period of time to mitigate the risk of COVID-19 exposure, what are a school district's obligation for providing educational services for other specific subgroups with dedicated federal programs/funding streams – e.g. homeless students? Any best practices or guidance for reaching these students?

Answer: *Response below based on CCSSO COVID-19 (coronavirus) Frequently Asked Questions as of March 24, 2020.*

- US ED has not issued any guidance on the topic of homelessness. However, US ED also has not waived any of the McKinney-Vento Act's requirements. Therefore, the law remains in effect. In terms of McKinney-Vento funding, districts that have McKinney-

³ 2 CFR § 200.403-405

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Vento funds must continue to use those funds to support their McKinney-Vento programs and to support children and youth experiencing homelessness. We have heard from McKinney-Vento liaisons that they are seeking to amend their program budgets to reallocate funds toward urgent needs of homeless children and youth. For example, funds that were intended for professional development that will no longer take place, transportation to schools that are closed for the year, and other budget line items that are no longer relevant or necessary, could be reallocated to support internet hotspots, devices, transportation to deliver food and other items, increased staff time for outreach and support, and other services for homeless students that are needed at this time. SEAs could consider offering a streamlined and fast process to funded districts to amend their budgets, as long as new uses for funds fall under one of the 16 allowable uses of McKinney-Vento funds found in 42 USC 11433(d).

- In terms of McKinney-Vento services, schools must enroll McKinney-Vento students immediately, even during this pandemic. 42 USC 11432(g)(3)(C). Enrollment means “attending classes and participating fully in school activities.” 42 USC 11434a(1). If the school is offering no services or activities whatsoever to any students at this time, then the student would not receive services at this time. In that context, enrollment may mean simply putting the student into the school database, with a flag or other identification as McKinney-Vento eligible. That kind of identification is required and important, even if schools are completely closed and offering no services, because it will allow the school to reach out to homeless students quickly upon reopening.
- All districts that receive Title I-A funds are required to do a set-aside. Given an anticipated increase in homelessness, and a documented increase in the needs of homeless children and youth, districts should revisit the amount of their Title I-A set-asides and how those funds are being used to support homeless students.
- School staff will need to maintain contact with families and youth to know where to provide food and other services. The following resources from [Schoolhouse Connection](#) can be provided to districts to support their efforts to provide needed supports to students experiencing homelessness.
 - Checklist for districts and local early childhood providers to support students experiencing homelessness: <https://www.schoolhouseconnection.org/wp-content/uploads/2020/03/COVID19-and-Homelessness-Checklist.pdf>
 - Strategies for schools and early learning programs on supporting students experiencing homelessness: <https://www.schoolhouseconnection.org/wp-content/uploads/2020/03/COVID-19-and-Homelessness.pdf>
 - Q & A and Discussion on COVID-19 and Homeless Students: <https://www.schoolhouseconnection.org/covid19-and-homelessness/#questions>

- 9. Question: Is it appropriate to allow small group tutoring via Zoom meetings for specific groups such as English learners, migratory children, etc. delivered by paraprofessionals, when they cannot control who is in the room with the students? Is this a FERPA violation?**

Answer: Group tutoring via Zoom can be done but with considerations.

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- Although not specific to tutors, Scenario #4 in the attached [FERPA and Virtual Learning During Covid-19](#) webinar addresses part of the concern. “Can non-students observe a virtual lesson?” -
 - Assuming that during the virtual lesson, PII from student education records is not disclosed, FERPA would not prohibit a non-student from observing the lesson.
 - As a best practice, educational agencies and institutions should discourage non-students from observing virtual classrooms in the event that PII from a student’s education record is, in fact, disclosed in such virtual classrooms.
 - Schools may wish to include instructions for students participating in the virtual classroom regarding not sharing or recording any PII from education records that may be disclosed in the virtual classroom or to obtain prior written consent to permit any such sharing of PII from education records.”
- Additionally, the following link contains several more federal resources related to FERPA and eLearning:
https://studentprivacy.ed.gov/sites/default/files/resource_document/file/FERPA%20%20Virtual%20Learning%20032020_FINAL.pdf. Some key pieces from these resources:
 - From the [Protecting Student Privacy While Using Online Educational Services: Requirements and Best Practices](#) document—
 - “Consider that parental consent may be appropriate. Even in instances where FERPA does not require parental consent, schools and districts should consider whether consent is appropriate. These are individual determinations that should be made on a case-by-case basis.”
 - “Be transparent with parents and students. The Department encourages schools and districts to be as transparent as possible with parents and students about how the school or district collects, shares, protects, and uses student data.”
 - From the [Letter to Ms. Mamas](#): “FERPA does not protect the confidentiality of information in general; rather, FERPA applies to the *disclosure* of tangible records and of information derived from tangible records.”

10. **(New 4/14/20)** Question: If a conference, training, or other activity related to a grant from the US ED is cancelled due to COVID-19, may grant funds be used to reimburse nonrefundable travel (e.g., conveyance or lodging) or registration costs that were properly chargeable to the grant at the time of booking? *The answer below is derived from:*
<https://www2.ed.gov/documents/coronavirus/factsheet-fiscal-questions.pdf>.

Answer: Yes, provided that a grantee or subgrantee first seeks to recover nonrefundable costs (e.g., travel, registration fees) associated with a grant from the Department from the relevant entity that charged the fee (e.g., airline, hotel, conference organizer). Some businesses are offering flexibility with regard to refunds, credits, and other remedies for losses due to the

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COVID-19 outbreak. Moreover, many agreements or contracts for conferences, training, or other activities related to a grant contain an emergency or “act of God” provision, and the grantee and its subgrantees must seek to exercise those clauses to the extent possible in light of the COVID-19 outbreak.

If a grantee or subgrantee is unable to recover the costs, the grantee or subgrantee may charge the appropriate grant for the cancellation costs, provided the costs were reasonable and incurred in order to carry out an allowable activity under the grant, consistent with the Federal cost principles described in 2 CFR Part 200 Subpart E of the Uniform Administrative Requirements, Cost Principles, And Audit Requirements For Federal Awards (Uniform Guidance).

Grantees and subgrantees should not assume additional funds will be available should the charging of cancellation or other fees result in a shortage of funds to eventually carry out the event or travel. Grantees and subgrantees must maintain appropriate records and cost documentation as required by 2 CFR § 200.302 (financial management) and 2 CFR § 200.333 (retention requirements for records) to substantiate the charging of any cancellation or other fees related to the interruption of operations or services.

11. **(New 4/14/20)** **Question: If a grantee or subgrantee is planning future travel under a grant from the Department, may it purchase travel insurance with grant funds?** *The answer below is derived from: <https://www2.ed.gov/documents/coronavirus/factsheet-fiscal-questions.pdf>.*

Answer: Due to health concerns related to COVID-19, grant-supported travel generally should not be occurring. However, if travel is permitted by Federal, State, and local directives and is the only means to carry out an essential grant function that must be undertaken on a time-sensitive basis during the COVID-19 pandemic, consistent with the grantee’s or subgrantee’s travel policy, travel insurance is allowable provided the cost is reasonable and allocable to the grant consistent with the Federal cost principles described in 2 CFR Part 200 Subpart E of the Uniform Guidance.