

DATE:	March 20, 2020
SUBJECT:	ESSA Waiver Request to USDE
CATEGORY:	Notice
NEXT STEPS:	Share with district leadership and submit applicable comments by April 03, 2020

The novel coronavirus (COVID-19) has heavily impacted operations in over 1200 local educational agencies (LEAs) and private schools in the state. Texas Governor Greg Abbott has announced a public health disaster declaration and a series of Executive Orders relating to COVID-19 preparedness and mitigation. The four orders served to limit public gatherings and help reduce exposure for people across the state. These orders are in accordance with federal guidelines issued by the President and the Centers for Disease Control and Prevention (CDC), and will aid in the state's efforts to stop the spread of COVID-19.

Executive Order Number 4 specifically temporarily closed all public and private schools in accordance with the Guidelines from the President and the CDC. The order is effective on a statewide basis starting at 11:59 PM on March 20, 2020, and will end at 11:59 PM on April 3, 2020, subject to extension thereafter based on the status of COVID-19 in Texas and the recommendations of the CDC.

It is anticipated that LEAs will not be able to expend federal funds in the remainder of the 2019-2020 school year to serve the intended beneficiaries of the program areas with allowable uses of funds.

In order to assist LEAs affected by COVID-19 preparedness and mitigation activities TEA will be requesting, on behalf of Texas and its LEAs, waivers to certain requirements under ESSA, the General Education Provisions Act (GEPA), and the Education Department General Administrative Regulations (EDGAR). The state believes that the following waivers will provide LEAs with greater flexibility to effectively implement their federal education grants to serve the intended beneficiaries.

1. A waiver of ESSA, Section 1127(a) that statutorily limits carryover to 15% for Title I, Part A funds. This waiver would allow LEAs to carryover a greater percentage of their 2019-2020 Title I, Part A funds to use during the 2020-2021 school year to meet new identified needs.
2. A waiver of 421(b) of GEPA (Tydings Amendment) and 34 CFR 76.709 to extend the period of availability of all federal education grant funds ending September 30, 2020, to September 30, 2021. This waiver would apply to the State and all eligible LEAs to provide no-cost extensions to extend the "life" of the funds for an additional year. This will allow the state and eligible LEAs to have more time to expend these funds to meet new identified needs.
3. A waiver of 34 CFR 76.703 to extend the liquidation period for obligations made during the award period for all federal education grant funds ending September 30, 2020, for the State and all its eligible LEAs affected by COVID-19. This waiver would extend the amount of time eligible LEAs had to liquidate federal grant funds for obligations made during the grant period. This would allow eligible LEAs to have more time to receive goods and services that have been interrupted by the natural disaster and resulting closures.

4. A waiver of allowability of uses of federal funds and EDGAR regulations prohibiting subrecipients from paying for services not received. This would allow subrecipients to use federal grant funds to pay for activities and services that were properly procured and then cancelled due to COVID-19 without refunds to the subrecipient. This could include items such as conference registration fees that were 1) paid with federal grant funds, 2) the event was later cancelled, and 3) the event did not refund the paid registration fee.

Please submit any comments on these proposed waivers electronically to GrantSupport@tea.texas.gov by 5pm April 03, 2020, to be included in the state's waiver application to USDE.

If you have questions regarding these waiver requests, please contact me via electronic mail at cory.green@tea.texas.gov.

Sincerely,

Cory Green, Associate Commissioner
Department of Grants Compliance and Oversight

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