

Possible flexibility for school districts to carry over additional Title I funds

The U.S. Department of Education has notified your Chief State School Officer regarding the option to request a waiver that would allow school districts to carry over more than 15 percent of their Title I, Part A funding from FY2012. The notification states that, “The uncertainty faced by LEAs concerning the amount of its Federal fiscal year (FY) 2013 Title I, Part A allocation due to the possibility of sequestration may be a reasonable and necessary reason for an SEA to grant an LEA a waiver of the carryover limitation with regard to Federal fiscal year (FY) 2012 Title I, Part A funds.” Also included is a [template](#) the Department forwarded to state education agencies that can be used to request the waiver for school districts.

You may want to contact your state department of education for further information.

MEMORANDUM

Date: April 11, 2013

To: Chief State School Officers

From: Deborah S. Delisle
Assistant Secretary

Subject: Waiver related to the Carryover Limitation in Section 1127(b) of the Elementary and Secondary Education Act of 1965, as amended (ESEA).

I am writing with respect to Section 1127(a) of the ESEA, which prohibits a local education agency (LEA) from carrying over to the next fiscal year more than 15 percent of its Title I, Part A allocation. Section 1127(b) permits a State education agency (SEA) to waive this limitation once every three years if: (1) the LEAs request is reasonable and necessary; or (2) a supplemental Title I, Part A appropriation becomes available. The uncertainty faced by LEAs concerning the amount of its Federal fiscal year (FY) 2013 Title I, Part A allocation due to the possibility of sequestration may be a reasonable and necessary reason for an SEA to grant an LEA a waiver of the carryover limitation with regard to Federal fiscal year (FY) 2012 Title I, Part A funds.

I believe it is important that each SEA ensure that its LEAs obligate their Title I, Part A funds in a timely manner. At the same time, I am aware of the enormous need to provide continued support for meaningful education reform and the need to offer flexibility to an SEA to enable its LEAs to conserve its remaining FY 2012 funds. This method carries additional benefits by allowing LEAs to use FY

2012 funds in combination with FY 2013 funds to support activities that might otherwise be affected by an FY 2013 Title I, Part A allocation that is reduced by the sequester.

Accordingly, under the waiver authority in ESEA Section 9401, I am inviting each SEA to request a waiver of ESEA Section 1127(b) to enable the SEA to waive the carryover limitation more than once every three years for an LEA that needs the additional waiver because of the sequestration with respect to FY 2012 Title I, Part A funds. To request this waiver, an SEA must:

- Identify the specific Federal program affected by the waiver — *i.e.*, Title I, Part A;
- Identify the statutory requirement to be waived — *i.e.*, ESEA section 1127(b);
- Describe how the waiver will enable the SEA to grant LEAs the flexibility to use the funds that are carried over after September 30, 2013 to increase the quality of instruction for students, improve their academic achievement, and continue to assist the same populations served by the programs for which the waiver is being requested in accordance with applicable program requirements; and
- Hold schools and LEAs accountable based on the SEA’s annual measurable objectives (AMOs).

If you choose to request this waiver, please submit your request to me via e-mail, with “Carryover Waiver Request” in the subject line at titlewaivers@ed.gov. You may also send a hard copy of your request to me at the following address:

Deborah S. Delisle
Assistant Secretary for Elementary and Secondary Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-6100

Please note that an LEA may not carry over more than 15 percent of its FY 2012 Title I, Part A funds after September 30, 2013 unless the SEA has approved the LEA’s carryover waiver request. Therefore, I urge you to submit your waiver request as soon as possible. The Department will make every effort to respond to waiver requests quickly to facilitate your planning and that of your LEAs.

To assist you in requesting a waiver, I am attaching a [template](#) that you may wish to use. Prior to submitting a waiver request, you must provide all Title I LEAs with notice and a reasonable opportunity to comment on the request. Please attach copies of any comments received with your request. States must also

provide notice and information regarding your waiver request to the public in the manner in which your SEA customarily provides such notice and information to the public (*e.g.*, by publishing a notice in newspapers or by posting information regarding the waiver request on the SEA’s website).

If you have any questions about this waiver invitation, please address them to titlewaivers@ed.gov. My office will be monitoring this mailbox frequently and will get back to you as soon as possible.

Attachment

Senate “Dear Colleague” Letter re: Special Education Funding – Please Contact Your Senators

NSBA has been asked by staff for Senators [Jean Shaheen \(D-NH\)](#) and [Richard Blumenthal \(D-CT\)](#) to reach out to Senate offices regarding this [“Dear Colleague” letter](#) that urges the Senate Appropriations Subcommittee on Labor, Health & Human Services, Education to request the highest possible funding level for special education in Fiscal Year 2014. The close date for letter is Friday, April 26.

Please contact your senators and request that they sign the “Dear Colleague” letter.

Thank you for your continued support. Sincerely, Kathleen & NSBA’s Advocacy Team

Kathleen Branch, MEd, CAE
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Office of Federal Advocacy & Public Policy
National School Boards Association