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OFFICE OF PUBLIC INSTRUCTION  
STATE OF MONTANA

Putting Montana Students First **A+**



**June 24, 2021**

**The Montana OPI is seeking public comment on a funding flexibility waiver related to Title I, Part A carryover limitations and period of availability of funds**

**Dear Partners in Education,**

As part of waiver requirements, the OPI is posting an opportunity for public comment pursuant to §8401(b) requirements within the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA) of 2015 from the U.S. Department of Education (USED). The USED requires state educational agencies, when seeking waivers from statutory or regulatory requirements, solicit and respond to public comment on the request and provide evidence of the available comment period.

**Purpose of the Waiver:**

The purpose of the waiver is to provide the OPI and its subgrantees with the flexibility needed to continue to support continuity of academic and support services during the recovery period of the COVID-19 pandemic. In seeking these waivers, the OPI will use and ensure that its subgrantees use funds under the respective programs in accordance with the provisions of all the applicable statutes, regulations, program plans, and applications not subject to these waivers, and will work to mitigate, and ensure that its subgrantees work to mitigate, any negative effects that may occur as a result of the requested waivers.

**Funding Flexibility Waiver:**

The funding flexibility waiver is on behalf of the OPI and its subgrantees, pursuant to section 8401 of the Elementary and Secondary Education Act of 1965 (ESEA), for the requirements outlined below.

- Carryover limitation in section 1127(b) of the Elementary and Secondary Education Act of 1965 (ESEA) for Federal fiscal year (FY) 2020 Title I, Part A funds: the requirement that limits an SEA's ability to grant to its LEAs a waiver of the 15 percent Title I, Part A carryover limitation in section 1127(a) more than once every three years.

Period of availability of funds in section 421(b) of the General Education Provisions Act (GEPA): to extend the period of availability of FY 2019 funds for programs in which the SEA participates under its approved consolidated State plan until September 30, 2022. The programs are:

- Title I, Part A of the ESEA (Improving Basic Programs Operated by LEAs), including the portions of the SEA's Title I, Part A award used to carry out section 1003 school improvement, section 1003A direct student services, if applicable, and Title I, Part D, Subpart 2
- Title I, Part C of the ESEA (Education of Migratory Children)
- Title I, Part D, Subpart 1 of the ESEA (Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At Risk)
- Title II, Part A of the ESEA (Supporting Effective Instruction)
- Title III, Part A of the ESEA (English Language Acquisition, Language Enhancement, and Academic Achievement)
- Title IV, Part A of the ESEA (Student Support and Academic Enrichment Grants)
- Title IV, Part B of the ESEA (21st Century Community Learning Centers)
- Title V, Part B, Subpart 2 of the ESEA (Rural and Low-Income School Program)
- McKinney-Vento Education for Homeless Children and Youth Program

Therefore, the Montana OPI is seeking public comment on this waiver. Any comments on this waiver should be directed to [essainput@mt.gov](mailto:essainput@mt.gov).

Below is a **Timeline** outlining the process with stakeholder involvement:

June 24, 2021: Initiate public comment, by sending email to stakeholders and posting the waiver on the OPI webpage.

July 20, 2021: Consultation with the Governor's office

July 20, 2021: Presentation and discussion with Education Advocates

July 14-16, 2021: Presentation and discussion with the Montana Board of Public Education

July 24, 2021: Public comment deadline

July 30, 2021: Final Draft prepared and submitted to the USED

**Please send feedback, input and questions to [ESSAinput@mt.gov](mailto:ESSAinput@mt.gov)**

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