



Deputy Commissioner Jason Harmon
Office of P-12 Operational Support
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May 16, 2024

Adam Schott
Principal Deputy Assistant Secretary
Delegated the Authority to Perform the
Functions and Duties of the Assistant Secretary
Office of Elementary and Secondary Education
United States Department of Education
400 Maryland Ave., SW
Washington, DC 20024

RE: Waiver of Section 421(b) of the General Education Provisions Act, to extend the period of availability for consolidated State administrative funds under section 8201 of the Elementary and Secondary Education Act (ESEA)

Dear Principal Deputy Assistant Secretary Schott:

By way of this letter, the New York State Education Department (NYSED or “the Department”) is formally requesting a waiver of Section 421(b) of the General Education Provisions Act, to extend the period of availability for State administrative funds consolidated under ESEA section 8201, including ARP State administrative funds and fiscal year (FY) 2022 ESEA State administrative funds, through March 31, 2026.

Below is a detailed plan that addresses each requirement in Section 8401(b)(1):

(A) Identify the Federal programs affected by the requested waiver.

- American Rescue Plan Elementary Emergency Assistance to Nonpublic Schools Program (ARP EANS)
- American Rescue Plan Elementary and Secondary School Emergency Relief Fund (ARP ESSER)
- American Rescue Plan Homeless Children and Youth (ARP HCY)
- Title I, Part A of the ESEA (Improving Basic Programs Operated by LEAs)
- 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)

(B) Describe which Federal statutory or regulatory requirements are to be waived.

NYSED is seeking a waiver of Section 421(b) of the General Education Provisions Act, to extend the period of availability for consolidated State administrative funds under ESEA section 8201, including ARP State administrative funds and FY 2022 ESEA State administrative funds, for those ESEA programs identified in this request, through March 31, 2026.

(C) Describe how the waiving of such requirements will advance student academic achievement.

The waiver will allow NYSED to use funds reserved for administration under ESEA section 8201 to address ongoing administrative costs and avoid diverting funds away from critical services for LEAs, schools, students, and teachers and other educational staff.

(D) Describe the methods the State educational agency, local educational agency, school, or Indian tribe will use to monitor and regularly evaluate the effectiveness of the implementation of the plan.

The waiver will allow NYSED to implement the monitoring plans embedded in our United States Department of Education-approved State ARP Plan (see <https://www.nysed.gov/sites/default/files/programs/federal-education-covid-response-funding/nysed-arp-esser-plan.pdf>). Additionally, NYSED will retain the ability to provide technical assistance throughout the late liquidation and reporting periods to ensure quality implementation and data sharing by all LEAs in the state.

(E) Include only information directly related to the waiver request.

NYSED will use consolidated administrative funds under the respective programs in accordance with the provisions of all applicable statutes, regulations, program plans, and applications not subject to these waivers.

NYSED has provided notice and information to the public regarding this request for a waiver on their website. In accordance with normal procedures of the Department, the public was provided with a minimum of ten (10) business days to provide comments. NYSED also distributed notification of the waiver request and solicited comments via email to all district superintendents, school superintendents, charter school officials, and nonpublic school representatives. In accordance with normal procedures of the Department, LEA representatives were provided with a minimum of ten (10) business days to provide comments. Copies of all comments received are attached for review.

(F) Describe how schools will continue to provide assistance to the same populations served by programs for which waivers are requested and, if the waiver relates to provisions of subsections (b) or (h) of section 1111, describes how the State educational agency, local educational agency, school, or Indian tribe will maintain or improved transparency in reporting to parents and the public on student achievement and school performance, including the achievement of the subgroups of students identified in section 1111(b)(2)(B)(xi).

The waiver will allow NYSED to continue to focus its resources on meetings students' academic and other needs, including groups of students most impacted by the pandemic, and maintain transparency in reporting consistent with our approved State ARP Plan (see <https://www.nysed.gov/sites/default/files/programs/federal-education-covid-response-funding/nysed-arp-esser-plan.pdf>).

Should you have any questions or need additional information, please feel free to contact me directly at 518-605-3154 or via email at jason.harmon@nysed.gov.

Sincerely,

Jason Harmon
Deputy Commissioner

Enclosure

cc: Commissioner Betty A. Rosa
Jeff Matteson
Christina Coughlin
Theresa Billington
Ed Lenart
Erica Meaker

DRAFT FOR COMMENT