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April 24, 2020

To: BOCES District Superintendents
School District Superintendents
School District Business Officers
Charter School Leaders
Title I Coordinators

From: Phyllis D. Morris, Chief Financial Officer

RE: Guidance on Federal Funds Impacted by COVID-19

Purpose/Background

The New York State Education Department (NYSED) is issuing guidance on general fiscal flexibilities for federal funding sources to assist Local Educational Agencies (LEAs) during this unprecedented public health emergency. This guidance provides information on flexibilities that LEAs may apply to federal funds and their associated programs. This guidance is pursuant to Memorandum M-20-17 issued by the U.S. Office of Management and Budget (OMB) on March 19, 2020 and waivers NYSED has received to date authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

Allowability of Costs not Normally Chargeable to Awards

LEAs who incur costs related to the cancellation of events, travel, or other activities necessary and reasonable for the performance of the award, or the pausing and restarting of grant funded activities due to the public health emergency, may charge these costs to their federal award without regard to 2 CFR § 200.403, Factors affecting allowability of costs, 2 CFR § 200.404, *Reasonable costs*, and 2 CFR § 200.405, *Allocable costs*.

LEAs may charge the full cost of cancellation when the event, travel, or other activities are conducted under the auspices of the grant. LEAs 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.

LEAs must attempt to recover nonrefundable costs (e.g., travel, registration fees) associated with a USDE grant 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 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 LEAs must seek to exercise those clauses to the extent possible in light of the COVID-19 outbreak.

LEAs must maintain appropriate records and cost documentation as required by 2 CFR § 200.302 - *Financial management* and 2 CFR § 200.333 *Retention requirement of records*, to substantiate

the charging of any cancellation or other fees related to interruption of operations or services to federal awards.

Budget Changes due to Impact of School Closures on Federal Grant Funds

If a budget change is necessary to any LEA federal grant awards due to the impact of COVID-19 school closures, please complete a budget amendment form (FS-10A) and submit the FS-10A electronically to your program office contact. To expedite any requests that are an immediate need, please e-mail your program office contact for prior approval and follow up with the FS-10A form as soon as possible.

Carry-Over Limits and Period of Funding Availability

LEAs may not be able to fully expend federal funds during the remainder of the 2019-2020 school year as a result of school closures due to the public health emergency. NYSED has requested and received approval from the U.S. Department of Education (USDE) to provide LEAs with waivers of certain provisions of the Elementary and Secondary Education Act of 1965 (ESEA) and the General Education Provisions Act (GEPA), as authorized by The Coronavirus Aid, Relief, and Economic Security (CARES) Act. Specifically:

- The period of availability for school year (SY) 2018-2019 federal funds for programs in which New York State participates under our approved consolidated State plan has been extended through the end of the 2020-21 school year. These 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 B of the ESEA (State Assessment Formula Grants);
 - 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); and
 - McKinney-Vento Education for Homeless Children and Youth Program.
- In addition, the period of availability for school year (SY) 2018-2019 federal funds for the following programs has been extended through the end of the 2020-21 school year:
 - State grants authorized by Title I of the Carl D. Perkins Career and Technical Education Act of 2006; and
 - State grants authorized by Title II of the Workforce Innovation and Opportunity Act (i.e., the Adult Education and Family Literacy Act).
- Local Educational Agencies (LEAs) may carry-over up to 100% of 2019-20 Title I, Part A funds to use during the 2020-21 school year to meet new identified needs without submitting a waiver request to NYSED. This waiver will allow LEAs to carry-over a greater percentage of their 2019-2020 Title I, Part A funds to use during the 2020-2021 school year.

Extension of Financial, Performance, and Other Reporting

LEAs may delay submission of financial, performance and other reports up to three (3) months beyond the normal due date. LEAs may continue to draw down federal funds without the timely submission of these reports. However, these reports must be submitted at the end of the postponed period.

Extension of Closeout

LEAs may delay submission of any pending financial, performance and other reports required by the terms of the award for the closeout of expired projects, provided that proper notice about the reporting delay is given by the LEA to NYSED. This delay in submitting closeout reports may not exceed one year after the award expires.

Single Audit Timeline Submission Extension

LEAs that have fiscal year-ends through June 30, 2020 that have not yet filed their single audits with the Federal Audit Clearinghouse as of March 19, 2020 may delay the completion and submission of the Single Audit reporting package, as required under Subpart F of 2 CFR § 200.501 -*Audit Requirements*, to six (6) months beyond the normal due date. This extension does not require LEAs to seek approval by NYSED; however, LEAs should maintain documentation of the reason for the delayed filing. LEAs taking advantage of this extension would still qualify as a "low-risk auditee" under the criteria of 2 CFR § 200.520 (a)-*Criteria for a low-risk auditee*.

Additional Flexibilities Being Sought by NYSED

The CARES Act requires the Secretary of Education to report to Congress within 30 days of enactment on recommendations for additional waivers of provisions in the Individuals with Disabilities Education Act (IDEA), the Rehabilitation Act, the Every Student Succeeds Act (ESSA) and the Carl D. Perkins Career and Technical Education Act. NYSED is requesting to have the extended period of federal funding availability applied to both SY 2019-20 and SY 2020-21 ESSA funds, and to have the same flexibility accorded to funds provided to states under IDEA, WIOA, the Rehabilitation Act and Perkins. In addition to extending the carry-over flexibility to SY 2020-21 ESSA funds, NYSED is requesting to have the same flexibility accorded to funds provided to states under IDEA, WIOA, the Rehabilitation Act and Perkins. Should some or all of NYSED's requests be granted, LEAs will be notified accordingly.

Thank you for everything you are doing for your students during this unprecedented time. If you have questions or need additional information, please contact Ed Lenart at Edward.Lenart@nysed.gov.

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