UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 21, 2020

The Honorable Clayton Burch
Superintendent of Schools
West Virginia Department of Education
1900 Kanawha Boulevard East
Charleston, WV 25305-0330

Dear Superintendent Burch:

I am writing in response to West Virginia's request on April 7, 2020 that the U.S. Department of Education (Department) waive, pursuant to section 3511 of Division A of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136 (H.R. 748), 34 Stat. 281 (Mar. 27, 2020), the requirements enumerated below on behalf of West Virginia and its subgrantees (e.g., local educational agencies (LEAs)):

- Carryover limitation in section 1127(b) of the Elementary and Secondary Education Act of 1965 (ESEA) for Federal fiscal year (FY) 2019 Title I, Part A funds (i.e., the Title I, Part A funds that will become carryover funds on October 1, 2020): the requirement 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 2018 funds for programs in which the State participates under its approved consolidated State plan until September 30, 2021. 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 B of the ESEA (State Assessment Formula Grants).
  - Title I, Part D, Subpart 1 of the ESEA (Preventon 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.
- The following requirements in Title IV, Part A of the ESEA. Note: These requirements are only applicable to LEAs that received $30,000 or more in Title IV, Part A funds:
  - Needs assessment requirements in section 4106(d) for the 2019-2020 school year.

  - Content-area spending requirements in section 4106(e)(2)(C), (D), and (E): the requirements to use a minimum percentage of Title IV, Part A funds for activities under section 4107, 4108, and 4109 for FY 2019 funds and any available FY 2018 carryover funds.
  - Spending limitation in section 4109(b): the 15 percent limit on the use of funds under section 4109 to purchase technology infrastructure for FY 2019 funds and any available FY 2018 carryover funds.
- The definition of professional development in section 8101(42) of the ESEA for the 2019-2020 school year.

After reviewing West Virginia's request, I am pleased to approve a waiver of the requirements listed above.

As part of this waiver, West Virginia assures that:

- It will use, and ensure that its subgrantees use, funds under the respective programs in accordance with the provisions of all applicable statutes, regulations, program plans, and applicatons not subject to these waivers.
- It will work to mitigate, and ensure that its subgrantees work to mitigate, negative effects, if any, that may occur as a result of the requested waivers.
- It will provide the public and all LEAs in the State with notice of, and the opportunity to comment on, this request by posting information regarding the waiver request and the process for commenting on the State website.

I continue to thank you for the work you are doing to help ensure learning continues for all your State's students in this difficult time. The U.S. Department of Education is committed to supporting you with every tool at our disposal and extending all flexibilities within our control. I know that you are doing all in your power to support your districts and schools to ensure the health and well-being of students and educators. If you have any questions about this waiver, please contact my staff at OESE.Titlei-a@ed.gov.

Sincerely,

Frank T. Brogan
Assistant Secretary
for Elementary and Secondary Education