

Steve Sisolak
Governor

Jhone M. Ebert
Superintendent of
Public Instruction



Southern Nevada Office
2080 E. Flamingo Road,
Suite 210
Las Vegas, Nevada 89119
(702) 486-6458
Fax: (702) 486-6450

STATE OF NEVADA
DEPARTMENT OF EDUCATION
700 E. Fifth Street | Carson City, Nevada 89701-5096
Phone: (775) 687-9200 | www.doe.nv.gov | Fax: (775) 687-9101

April 3, 2020

TO: Local Educational Agencies Federal Titles Programs/McKinney-Vento Directors

FROM: Nevada Department of Education Federal Titles Programs/McKinney-Vento Staff

SUBJECT: COVID-19 Guidance for Federal Titles Programs Under the Every Student Succeeds Act (ESSA) and McKinney-Vento

Amidst the COVID-19 pandemic, education leaders are working nonstop to ensure that the needs of students and educators are met during this crisis. On April 1, 2020, Governor Sisolak extended his order of the closure of all schools in the state as of Monday, March 16, 2020 until April 30, 2020. In addition, local educational agencies (LEAs) have placed a ban on all in-state and out-of-state travel cancelling many planned activities including professional development and technical assistance opportunities for the foreseeable future. Due to this and other directives across the state and nationally, the Nevada Department of Education (NDE) understands that many dollars allocated in Titles I, A (including 1003(a)); I, C; II, A; III; IV; and V, B under the Every Student Succeeds Act (ESSA) and McKinney-Vento were earmarked for some activities that may not be able to be implemented or continued. As a result, districts have many questions regarding grant flexibilities and spending under these programs. This memo provides guidance on this topic using information that NDE currently has available. NDE is aware that the U.S. Department of Education (USED) continues to work on further guidance and we will continue to communicate updated information to districts as we receive it. If there is a question or scenario your district has that is not addressed in this memo, please contact your NDE program staff and we will attempt to get you a response as soon as possible. Please note the information in this memo is current as of the date stated above and NDE will provided updated information accordingly.

Flexibility of Allowable Costs

Please note that all funding requests for the Titles grants and McKinney-Vento must continue to be allowable, reasonable and necessary under ESSA and other applicable federal law. In addition, all grants must continue to support the specific student population(s) and/or schools, and program purpose as intended in federal law. These parameters cannot be altered. The short-term relief and added flexibilities increase the responsibility at every level to safeguard from waste, fraud, and abuse.

On March 9, 2020, the federal Office of Management and Budget (OMB) released [Memo M-20-11](#) to relieve short term administrative, financial management and audit requirements under 2 CFR 200, *Uniform Administrative Requirements, Cost principles and Audit Requirements for Federal Awards*, under 2 CFR 200, *Uniform Administrative Requirements, Cost principles and*

Audit Requirements for Federal Awards. OMB then released Memo [M-20-17](#) on March 19, 2020 providing similar administrative relief listed in M-20-11 to an expanded scope of recipients affected by the loss of operational capacity and increased costs due to the COVID-19 crisis. The most relevant sections of those memos, based on the questions we have been receiving from districts are below:

“Awarding agencies may allow recipients to continue to charge salaries and benefits to currently active Federal awards consistent with the recipients' policy of paying salaries (under unexpected or extraordinary circumstances) from all funding sources, Federal and non-Federal.”

“Awarding agencies may allow other costs to be charged to Federal awards necessary to resume activities supported by the award, consistent with applicable Federal cost principles and the benefit to the project.”

“Awarding agencies must require recipients to 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 salaries and other project activities costs related to interruption of operations or services.”

“Awarding agencies may allow recipients 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, to charge these costs to their 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”

As the awarding agency for the Titles and McKinney-Vento grants, NDE is allowing this flexibility for LEAs. To the extent practicable, employees paid with federal funds should continue to work remotely on allowable grant activities or should be paid under the LEAs established paid leave policy. This includes certified and hourly staff, contracted social workers, part-time staff and other vendors that are continuing to provide services and paid out of one or more of the Titles grants or McKinney-Vento.

As long as the LEA treats its non-federally funded employees the same as its federally funded employees (2 CFR 200.431(a)), then federally funded staff can continue to be paid as normal despite school closures and work duties not able to be completed. This does not require any amendments to your grants. In the event of a district/school closure, districts may permit such employees to continue working remotely if in compliance with all applicable laws and regulations. Otherwise, districts should authorize additional paid leave types for non-exempt employees during the state of emergency. NDE recommends that LEAs make employment and compensation related decisions in close consultation with their attorneys. Districts must ensure they continue to maintain appropriate records and documentation regarding this.

Adjustments to Funding

Many LEAs are experiencing cancellations of several events including professional development and contracted technical assistance activities where the LEA has already expended federal funds and may not be able to encumber all the budgeted funding within the current FY20/SY19-20

project period. LEAs should attempt to carryout alternative activities through the amendment process discussed below within the FY20/SY19-20 project period (please note, as noted on pages 3-4, USED has provided some flexibility in the period of availability for funds). Our staff listed below (pages 5-6) are available to assist LEAs in their budget amendment requests.

Other than the possible carryover funding that has not been encumbered for the cancellations of events or has not been redistributed through approved amendments for other activities, LEAs should not assume that funding lost for these planned activities to date will be available. LEAs should attempt to recoup all fees paid where appropriate so that the funding may be repurposed for alternate activities. In the case that certain funds cannot be recouped due to vendors that will not refund the costs but will provide vouchers, LEAs should consider rescheduling for a later date within the same project period, if possible. If any funds were unrecoverable due to event cancelations after the LEA paid travel costs or conference registration costs for Title II, Part A equitable services for private school teachers/administrators, the LEA may charge the private school's Title II, Part A for those unrecoverable costs. Likewise, if private school teachers/administrators paid Title II, Part A costs relying on reimbursement by the LEA, the LEA may reimburse unrecoverable costs to the teachers and administrators from the Title II, Part A equitable share.

If all else fails and certain funds are lost, the LEAs must keep documentation of the attempt to recoup the costs and may charge the lost funds to the federal Titles or McKinney-Vento award. If the LEA later receives a refund from the vendor after already seeking reimbursement from NDE, this serves as a rebate or cash on hand, and either the next reimbursement under the same project must be proportionally reduced or the funds must be returned to NDE.

Budget Amendments

NDE is aware that many LEA approved FY20/SY19-20 plans will need to be amended to include different activities, initiatives, etc. as a result of COVID-19. Any activity that is different than what was listed in your FY20 Titles or McKinney-Vento grant applications will require an amendment at this time. All these alternate activities must be reasonable, allowable and necessary. Please follow each grant's normal processes to request an amendment; please be sure to specify whether an amendment is related to the district's COVID-19 response and *briefly* indicate how (for example, "requesting to use \$XXXX for Chromebooks for students to implement digital/distance learning during school closures due to COVID-19"). NDE is dedicated to providing reasonable flexibilities that we know our districts need at this time and we understand that time is of the essence. As such, we will prioritize reviewing these types of budget amendments so that districts can plan accordingly.

Due to the NDE's current capacity during this crisis, we are encouraging all LEAs to consolidate their amendment requests into one submission for approval, if possible. This will allow for a more efficient, streamlined process. We recognize that additional amendments may have to take place as additional guidance is received and these current circumstances continue to evolve. Thus, districts should prioritize their highest need changes to their programming in order to accommodate the current school closure circumstances and district needs.

Coronavirus Aid, Relief, and Economic Security (CARES) Act

On March 27, 2020, the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act

was signed into law. The CARES Act provides grant funding to state educational agencies (SEAs) and LEAs to help with the response to COVID-19. It also gives new authority to the U.S. Department of Education to waive certain ESSA requirements, at the request of an SEA or LEA. At this time, such waivers would only apply for the 2019-2020 school year (except that implementation of a maintenance of effort (MOE) waiver under Title I may extend through additional fiscal years as applicable to the implementation) and SEAs are unsure if this will be extended to the 2020-2021 school year as well. Below is a summary of the waiver provisions.

Waivers that NDE can request under the CARES Act:

- State academic assessments under ESEA Title I (*Nevada's request already approved by USED*);
- State accountability systems under Title I (*Nevada's request already approved by USED*);
- Elements of the Title I State, local, and school report cards that draw on assessment or accountability information (*Nevada's request already approved by USED*); and
- The period of availability of USED funds.

Waivers that NDE can request under the CARES Act on behalf of its LEAs:

- The poverty threshold for implementation of a Title I schoolwide program;
- ESEA maintenance of effort (MOE) requirements under Title I;
- The 15 percent limitation on the carryover of Title I funds;
- The requirement for a local needs assessment under ESEA Title IV, Part A (Student Support and Academic Enrichment);
- The 15 percent cap on the use of Title IV, Part A funds for technology hardware (and thus, the restrictions on the 20 percent threshold for the well-rounded education and safe and healthy student content areas); and
- The ESEA definition of “professional development.”

SEAs are awaiting guidance from the USED on the funding and waiver processes, including the timeline. As such, currently, NDE is unable to provide specific information for waivers or the additional grant funding under the CARES Act. We will share additional information as soon as we have it from USED.

FY20/SY2019-20 Carryover of Funds into FY21/SY2020-21

For Title I, A, per the CARES Act, an LEA can request a waiver to carryover more than the 15% limit under ESSA (for FY20/SY19-20 funds into FY21/SY20-21). More details on that will be forthcoming once NDE receives further guidance from USED.

For Title I, 1003(a), NDE is allowing any unused funds LEAs have from FY20/SY19-20 to carry over into FY21/SY20-21; there is no limitation.

For Title I, C, Migrant Education Program, NDE is removing the 15% limitation for this school year and is allowing districts to carryover funds that were not used the initial funding period into FY21/SY20-21.

For Title II, A, there is no statutory limitation regarding carryover funds. Title II, A will request and expect appropriate and adequate records and documentation to substantiate decisions made to pause, postpone, adjust/modify, and/or suspend use of funds in supporting planned activities.

For Title III, NDE is removing the 15% limitation for this school year and is allowing districts to carryover funds that were not used the initial funding period into FY21/SY20-21.

For Title IVA, an LEA is allowed to carryover any funds that were not used in the initial FY20/SY19-20 funding period; there is no limitation.

For Title V, there is no limit to the amount of funds allocated to a district in FY20/SY19-20 that can be carried over into FY21/SY20-21.

For McKinney-Vento, there is no change in NDE's carryover policy. LEAs may carryover funding from FY20/SY19-20 into FY21/SY20-21 as this grant is on a three-year cycle.

For equitable services, carryover of unspent equitable share will occur if expenditure is delayed due to pandemic-related challenges. If conditions allow, districts may prepare to use some funds in the summer of 2020, if possible, but advise the private school leaders to plan for robust programs in SY20-21. As a reminder, any district carryover funding set aside for equitable services from FY20/SY19-20, must continue to be earmarked for that purpose in FY21/SY20-21.

Data, Reporting, Monitoring and Private School Consultation

NDE is delaying reporting for FY20/SY19-20 related to the federal Titles and McKinney-Vento grants. More information will be forthcoming.

In addition, desktop and onsite monitoring for the federal Titles grants and McKinney-Vento have also been delayed. Program staff will communicate to districts their updated timelines and processes (if applicable) for FY20/SY19-20 monitoring in the coming weeks.

Further, LEAs should continue to follow their equitable services consultation timeline to the best of their ability. Completing consultation and the equitable services plan is the focus and can be accomplished via conference calls and/or telecommunication. Please make sure each party has a copy of the equitable services consultation documents and the final *Equitable Services Plan and Affirmation* template (there should be a plan for each ESEA Title program in which the private school(s) participate).

The final *Equitable Services Plan and Affirmation* documents must be uploaded to the LEA Document Library in ePAGE no later than **June 30, 2020**. Electronic signatures on these documents are permitted. This means a party may type his/her name into the signature area as his/her signature. This method dispenses with excessive scanning and printing.

Additional Information

Thank you for all that you do for our kids across the state. As NDE receives additional guidance, we will create a Consolidated Federal Titles Programs and McKinney-Vento Q & A posted on the NDE website under "COVID-19 Resources." We encourage districts to check back often for updated information. If you have any questions or need any assistance, please contact your NDE program staff below:

- Title I: Education Programs Professionals assigned to your district and Gabby Lamarre (glamarre@doe.nv.gov)

- Title I, 1003(a): Tina Winquist (twinquist@doe.nv.gov) and Gabby Lamarre
- Title I, C: Karl Wilson (karlwilson@doe.nv.gov)
- Title II: Silvana Gorton (sgorton@doe.nv.gov)
- Title III: Karl Wilson (karlwilson@doe.nv.gov)
- Title IVA: Maria Sauter at (msauter@doe.nv.gov) and/or Greg Severance at (TitleIVA@doe.nv.gov)
- Title V: Rhonda Hutchins (rhutchins@doe.nv.gov)
- McKinney-Vento: Chris James (chrisjames@doe.nv.gov)
- Equitable Services: Melissa Schroeder (mschroeder@doe.nv.gov)