

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

gad-sept20item01

California State Board of Education
**September 2020 Agenda**
**Item #10**

## Subject

Request to Ratify Waiver to Extend the Period of Availability of Federal Fiscal Year 2018 Individuals with Disabilities Education Act Part B Grant Funds.

## Type of Action

Action, Information

## Summary of the Issue(s)

Beginning in March 2020 nearly all schools in California closed in response to California Governor Gavin Newsom’s Executive Order N-33-20, which issued a Statewide “shelter in place” to protect the health and well-being of all Californians and to establish consistency across the state in order to slow the spread of COVID-19. The impact of COVID-19 required educators, administrators, students, and families to adjust to a new learning environment in a short timeframe. This new learning environment created the urgency to redefine and adjust the approach to how services are being provided to California’s 6.2 million students.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, passed by Congress and signed into law on March 27, 2020, authorized the Secretary of Education to have the authority to offer a streamlined waiver process to State educational agencies.

On April 3, 2020, the U.S. Department of Education (ED) invited states to request a waiver which would allow for additional flexibilities of federal funds for the 2019–20 school year pursuant to the CARES Act.

On June 8, 2020, ED invited states to request a waiver that would permit the California Department of Education (CDE) and subgrantees, which are the Special Education Local Plan Areas (SELPAs), to use Federal fiscal year (FFY) 2018 Individuals with Disabilities Education Act (IDEA) Part B grant award funds for an additional year beyond what is known as the Tydings period.

Submission of this waiver would allow an extension for the period of availability for IDEA Part B Funds for FFY 2018. The waiver allows SELPA grantees to have the IDEA Part B grant award funds available through September 30, 2021. Without the waiver, SELPA grantees have until September 30, 2020, to spend their fiscal year 2018-19 IDEA Part B Grant awards.

On August 19, 2020, the California State Board of Education (SBE) and CDE submitted the waiver to ED. The expedited waiver template was signed by SBE President Linda Darling-Hammond.

On August 20, 2020, ED notified the CDE of their provisional approval of the waiver.

## Recommendation

The CDE recommends that the SBE ratify California’s waiver to extend the period of availability for IDEA Part B Funds for FFY 2018.

## Brief History of Key Issues

On March 27, 2020, in response to the COVID-19 pandemic, Congress passed the CARES Act. The CARES Act was a relief package that contained funding for states to respond to the pandemic, which included $30.75 billion in emergency education funding to states. Not only did the CARES Act give new funding to states for educational needs, but it also allowed for ED to have the ability to provide states and LEAs with a streamlined waiver process.

The streamlined waiver process has been vital to states due to the inability of states and LEAs to spend certain funds due to the impact of COVID-19. In response to the inability to spend funds, on April 3, 2020, ED invited states to request a waiver which would allow for additional flexibilities of federal funds for the 2019-20 school year pursuant to the CARES Act. Through this waiver, the CDE was able to approve LEAs for more flexibility in spending and extended timeframes in spending certain federal funds (this included an allowance for an LEA to carry over more than 15 percent of its Title I, Part A funds). ED approved of California’s application for this waiver on April 22, 2020.

Before ED invited states to apply for the streamlined waiver to extend FFY 2018 IDEA Part B funds, CDE had been receiving questions from the field inquiring into whether this was allowed under the previous funding flexibility waiver.

## Summary of Previous State Board of Education Discussion and Action

On July 9, 2020, The SBE unanimously approved the CDE’s request to ratify California’s application for the Education Stabilization Fund-Rethink K12 Education Models Grant as provided for under the CARES Act. (<https://www.cde.ca.gov/be/ag/ag/yr20/documents/jul20item22.docx>)

ED announced the states that were awarded grant funding on July 29, 2020 and California was not selected.

On May 7, 2020, the SBE ratified the Federal Funding Flexibility Waiver of the following provisions for the 2019–20 school year under ESEA Section 8401(b):

* Section 1127(b) of Title I, Part A of the ESEA so that the CDE may waive, more than once every three years, if necessary, the 15 percent carryover limitation in ESEA section 1127(a) for FY 2019 Title I, Part A funds.
* Section 421(b) of the GEPA to extend the period of availability of FY 2018 funds for programs in which the CDE participates under its approved consolidated State plan until September 30, 2021.
* Section 4106(d) of Title IV, Part A of the ESEA related to LEA needs assessments for the 2019–2020 school year.
* Section 4106(e)(2)(C), (D), and (E) of Title IV, Part A of the ESEA with respect to content-area spending requirements for FYs 2018 and 2019 Title IV, Part A funds.
* Section 4109(b) of Title IV, Part A of the ESEA with respect to the spending limitation for technology infrastructure for FYs 2018 and 2019 Title IV, Part A funds.
* Section 8101(42) of the ESEA, which defines “professional development,” for activities funded for the 2019–20 school year.

On May 7, 2020, the SBE ratified Assessment and Accountability Waiver for the 2019–20 school year of the following sections under ESEA Section 8401(b)

* Assessment requirements in section 1111(b)(2);
* Accountability and school identification requirements in sections 1111(c)(4) and 1111(d)(2)(C)-(D); and
* Reporting requirements related to assessments and accountability in section 1111(h).

Both the Federal Funding Flexibility Waiver and the Assessment and Accountability Waiver were presented to the SBE together as a single board item. (<https://www.cde.ca.gov/be/ag/ag/yr20/documents/may20item03.docx>)

## Fiscal Analysis (as appropriate)

None.

## Attachment(s)

None.