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Draft

The Honorable Betsy DeVos
Secretary of Education
United States Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary DeVos:

This letter is to formally request a waiver from specific statutory and regulatory requirements established under the *Elementary and Secondary Education Act (ESEA)* as amended by the *Every Student Succeeds Act (ESSA)*. Unless explicitly stated otherwise, all statutory citations in the remainder of this document refer to the *ESEA* as amended by *ESSA*.

The New Jersey Department of Education (NJDOE) is requesting to waive the 15 percent limitation on carryover of Title I, Part A funds¹ for a charter school or renaissance school (qualified school districts that partner with experienced non-profit organizations to open high-quality renaissance school projects in accordance with the Urban Hope Act [N.J.S.A. 18A:36C]) local educational agencies (LEAs) in the first year of operation without exhausting the NJDOE's authority to grant these LEAs a waiver once every three years.² Such a Title I, Part A carryover limit waiver would be granted to the first-year charter school or renaissance school LEAs by the NJDOE on a case-by-case basis dependent upon the reasonability and necessity of the request. Any such Title I, Part A carryover limit waiver request granted by the NJDOE to the first-year charter school or renaissance school would not constitute the charter school's or renaissance school's Title I, Part A carryover limit waiver permitted once every three years pursuant to Sec. 1127. If the waiver is granted, a charter school or renaissance school would be permitted up to two Title I, Part A carryover limit waivers in the first two years of operation: one in the first school year and one in the following school year. Beginning with the second year of operation and thereafter, the aforementioned charter school or renaissance school would be permitted one such carryover limit waiver every three years, pursuant to Sec. 1127.

In the past, the NJDOE derived the newly opened charter school allocations from projected charter school enrollment counts which allowed for a large margin of error that impacted both

¹ Sec. 1127(a)

² Sec. 1127(b)

charter schools, renaissance schools, and the LEAs with resident students attending either charter schools or renaissance schools. To minimize this margin of error with student enrollment counts and ultimately LEA funding, the NJDOE moved to basing the Title I, Part A allocation of newly opened charter schools and renaissance schools on actual enrollment data that are submitted in October and finalized in November of each year. This results in the newly opened charter schools and renaissance schools receiving their the Title I, Part A allocation notices in January for the completion of an *ESEA* Consolidated Subgrant Application in February, and obligation of funds no later than June 30.

Waiving the Title I, Part A carryover limitations stipulated in *ESEA* Section 1127 allows newly opened charter schools and renaissance schools the time and opportunity to plan, develop, and create a more focused and effective Title I, Part A program to meet the needs of their academically at-risk students. The current Title I, Part A carryover limitations not only impose the burden of implementing a Title I, Part A program in a condensed timeframe, but also forces a newly opened charter school or renaissance school to develop a program without historical perspective and baseline data on student performance.

If granted, the requested Title I, Part A carryover waiver will afford NJDOE the opportunity to allow a charter school or renaissance school some latitude with the competing priorities that come with the first year of a schools' operations. A charter school or renaissance school that is newly opened experiences a multitude of challenges in actively addressing the educational needs of their students. These obstacles include, but are not limited to the following: acquiring and/or maintaining facilities able to accommodate student enrollment needs safely; staffing capacities that are limited; becoming acclimated with students' specific academic needs; plus generating funding that is impacted by many factors such as variances in projected and actual student enrollment counts. With additional time to expend their Title I, Part A funds, newly opened charter schools and renaissance schools could conduct a comprehensive needs assessment with their stakeholders that results the identification and implementation of an LEA plan that includes appropriate interventions for participating students.

Authority

Section 8401(a)(3) of the *Elementary and Secondary Education Act (ESEA)* as amended by the *Every Student Succeeds Act (ESSA)* allows the Secretary of the U.S. Department of Education (Secretary) to waive, with the exceptions outlined in section 8401(c), "any statutory or regulatory requirement of this Act for which a waiver request is submitted." Section 8401(a)(1) of *ESEA* as amended by *ESSA* establishes that a state educational agency (SEA) may submit such a waiver request.

Waiver Request Components

I. Identify the federal programs affected by this waiver request.

This waiver request will affect Title I, Improving the Academic Achievement of the Disadvantaged, Part A, Improving the Basic Programs Operated by Local Educational Agencies, Subpart 2, Allocations. Specifically, this waiver request will affect Sec. 1127(b) regarding waivers from limitations on carryover of Title I, Part A allocations.

II. Describe which federal statutory or regulatory requirements are to be waived.

Sec. 1127(b) of the *ESEA* as amended by *ESSA*.

The NJDOE requests a waiver from the constraint imposed on SEAs at Sec. 1127(b) to waive the percentage limitation on carryover of Title I, Part A funds at Sec. 1127(a) only once every three years for a given LEA. Specifically, the NJDOE requests the authority to waive the Sec. 1127(a) percentage limitation on Title I, Part A carryover for a charter school LEA once in its first year of operation in addition to once every three years. Under these terms, NJDOE would be authorized to waive the Sec. 1127(a) Title I, Part A carryover limit for a charter school LEA up to two times in that charter school's first three years of operation: once in the charter school's first year of operation and once in the second year of operation. For the remainder of the charter school's and/or renaissance school's operation, the provisions of Sec. 1127 would apply, authorizing the NJDOE to waive Sec. 1127(a) carryover limitations once every three years.

Describe how the waiving of the requirements indicated above will advance student academic achievement.

The waiving of the above requirements in the manner requested by NJDOE would advance student academic achievement by allowing newly opened charter schools and/or renaissance schools the time and opportunity to plan, develop, and create a more focused and effective Title I, Part A program that addresses the needs of the academically at-risk students.

III. Describe the methods that will be used to monitor and regularly evaluate the effectiveness of the implementation plan of this waiver request.

Through the NJDOE's Electronic Web Enabled Grant System (EWEG), any eligible LEA that requests a Title I, Part A carryover waiver to NJDOE must complete a Title I Carryover Waiver Application, which is reviewed by Title I personnel in the Office of Supplemental Education. Each Title I Carryover Waiver Application is reviewed based on reasonableness and necessity. The newly opened charter school or renaissance school that opts to exercise the proposed option would have to complete a Title I Carryover Waiver Application through EWEG.

Additionally, the NJDOE collects student performance data from LEAs in the annual Title I, Part A Performance Report. The review of data submitted by newly opened charter schools or renaissance schools will enable the NJDOE to monitor the effectiveness of the school's Title I, Part A program.

IV. Describe how schools will continue to provide assistance to the same populations served by programs for which waivers are requested.

The requested waiver will not impact charter schools' and renaissance schools' ability to serve their academically at-risk students. The waiver will not impact school's ability to identify students for participation in the Title I, Part A or to develop a program that includes interventions and strategies to increase the academic achievement of participating students.

V. If the waiver relates to provisions of subsections (b) or (h) of section 1111 of ESEA-ESSA, describe how the SEA requesting the waiver will maintain or improve 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) of ESEA-ESSA.

The requested waiver would not impact transparency in reporting to parents and the public on student achievement and school performance.

VI. Describe how the public was informed of this waiver request and provided opportunity to provide public comment on the request.

On December 12, 2017, consistent with the manner in which the NJDOE customarily provides similar notice and opportunity for comment to the public, the NJDOE posted to its [website](#) and distributed to its LEAs a request for public comment on this waiver request.

VII. Attach or describe the public comments received regarding this waiver request.

To be completed at the conclusion of the public comment period.

Please reach out to Karen Campbell, acting chief accountability officer, Division of Learning Supports and Specialized Services at Karen.Campbell@doe.state.nj.us or via phone at (609) 376-9080 if you have any questions or need any more information.

Sincerely,

Kimberley Harrington
Commissioner

KH/PM

c: Peggy McDonald
Senior Staff
Karen Campbell