

## Carryover Limitations

### **Notice of intent to request a waiver related to the carryover limitation in section 1127(b) of the ESEA**

The South Dakota Department of Education (State) is planning to submit a request to the Secretary of the U.S. Department of Education (US ED) to waive section 1127(b) of the Elementary and Secondary Education Act (ESEA). Prior to submitting this waiver request the State is required to provide all interested Local Education Agencies (LEAs) in the State with notice and a reasonable opportunity to comment on the request. The State will submit all comments it receives related to this request from the LEAs to US ED along with its waiver request. The State will accept comments related to the waiver request until August 2, 2009.

Section 1127(a) of the ESEA prohibits an LEA from carrying over to the next fiscal year more than 15 percent of its Title I, Part A, Subpart 2 allocation. Section 1127(b) permits the State to waive this limitation once every three years if: (1) the LEA's request is reasonable and necessary; or (2) a supplemental Title I, Part A appropriation becomes available. The waiver for which the State is requesting would enable the State to waive the carryover limitation more than once every three years for an LEA that needs the additional waiver because of the American Recovery and Reinvestment Act (ARRA), which provided a supplemental Title I, Part A appropriation.

If US ED grants the State's request for a waiver, the State will have the authority, for two years, to grant its LEAs a waiver of the carryover limitation more than once every three years. Although Title I, Part A ARRA funds must be obligated by September 30, 2011, it is possible that an LEA, particularly an LEA that receives a waiver of the carryover limitation with respect to its State Fiscal Year (SFY) 2010 allocation, may also need a waiver of the carryover limitation with respect to its SFY 2011 allocation because the LEA will likely have obligated its carried over ARRA funds before its regular SFY 2011 funds, resulting in an excess of SFY 2011 carryover funds. An LEA seeking a waiver of the carryover limitation in section 1127(a) must apply to the State for such a waiver for one fiscal year at a time.

An LEA that is interested in obtaining a waiver of the carryover limitation in section 1127(a) so that it may carry over more than 15 percent of its FY 2009 Title I, Part A, Subpart 2 allocation must apply to the State in accordance with the State's regular procedures for granting a waiver of the carryover limitation.

In light of the exceptional nature and size of the supplemental appropriation for Title I, Part A under the ARRA, the State will permit an LEA to apply for a waiver of the carryover limitation early in the 2009–2010 school year so that the LEA may plan to exceed the carryover limitation if the LEA anticipates needing the waiver of the carryover limitation because of the availability of Title I, Part A ARRA funds. This will provide the LEA with the ability to plan how it will spend its Title I, Part A ARRA funds over two years so that the LEA may ensure that it uses those funds in a prudent manner to improve the academic achievement of its students. The State will grant this waiver to an LEA that demonstrates that it has thoughtfully considered how it will spend its Title I, Part A ARRA funds over two years, and that demonstrates a reasonable basis for concluding that it will need to spend the funds over two years.

The information in this document is found in questions C-20 through C-27 in the Title I Waiver guidance online at: <http://doe.sd.gov/stimulus/title1waivers>

To provide comments on this waiver, click on the survey link provided on the web site (Question 8).