



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING


GRETCHEN WHITMER
GOVERNOR

MICHAEL F. RICE, Ph.D.
STATE SUPERINTENDENT

MEMORANDUM

DATE: August 4, 2020

TO: Local and Intermediate School District Superintendents
Public School Academy Directors

FROM: Michael F. Rice, Ph.D., State Superintendent 

SUBJECT: Summary of Available State and Federal Waivers –
MEMO #COVID-19-082

Due to the COVID-19 pandemic, the governor ordered the closure of all schools for the remainder of the 2019-2020 school year. In response to the challenges presented by the closure of school buildings, multiple flexibilities and waivers of federal and state laws and regulations were afforded to school districts.

This memo provides a summary of those waivers and flexibilities. It should not be considered a substitute for the original memos on each topic. Links to each memo are included below.

1) Waivers received from the federal government

Assessments and Accountability

- MDE's request of the U.S. Department of Education to waive Every Student Succeeds Act (ESSA) assessment and accountability requirements for the 2019-20 school year was [approved](#).
- MDE has applied to the U.S. Department of Education to waive the same assessment and accountability requirements for the 2020-21 school year. That waiver request is pending.

Career and Technical Education

- On May 6, 2020, MDE submitted a request to the Office of Career, Technical, and Adult Education, U.S. Department of Education on behalf of the department and its subgrantees for Tydings Amendment waiver of section 421(b) of the General Education Provisions Act (GEPA). The request was granted on July 28, 2020.

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The waiver applies to state grants authorized by Title I of the Carl D. Perkins Career and Technical Education Act of 2006, extending the period of availability of federal fiscal year (FFY) 2018 funds for programs in which the MDE participates as the eligible agency through September 30, 2021.

E-Rate Programming

- [COVID-19-017](#) – FCC Waives USF Restrictions on Vendor Gifts

ESEA Fiscal Flexibility

- [COVID-19-032](#) – Fiscal Flexibility for ESEA Title Programs

Food and Nutrition Programs

- A summary of all current food and nutrition waivers can be found on the [MDE website](#).

Special Education

- On July 13, 2020, MDE submitted a waiver request to the Office of Special Education and Rehabilitative Services, U.S. Department of Education on behalf of the department and its subgrantees for Tydings Amendment waiver of Section 421(b) of the General Education Provisions Act (GEPA). The waiver request approval is pending.

The waiver would apply to state grants authorized under the Individuals with Disabilities Act (IDEA), Part B Funds for FFY 2018, specifically IDEA Part B grants to states (section 611) and IDEA Part B preschool (section 619) and would extend the period of availability of FFY 2018 IDEA Part B grant funds for which the state education agency participates as the eligible agency through September 30, 2021.

MDE will issue a notification memo when approval is received.

2) Waivers granted by the governor by Executive Order 2020-65, continued through September 30, 2020 by Executive Order 2020-142

[Executive Order 2020-142](#), Part 6.(a), has extended provisions of [Executive Order 2020-65](#) that suspended strict compliance with the School Aid Act or the Revised School Code for the 2019-2020 school year—including all provisions in Part I(2) through Part I(13) and all provisions in Parts IV, VII, VIII, and IX. Under the authority of E.O. 2020-142, these provisions will remain in effect through the fiscal year ending September 30, 2020.

3) Waivers granted by the state superintendent (through authority granted in E.O. 2020-65), extended to the end of the fiscal year (September 30, 2020) by E.O. 2020-142

Educator Permitting and Evaluation

- [COVID-19-027](#) (Memo issued April 9, 2020)—partial waiver of **continuing education requirement** to require 120 hours instead of 150 hours for progression from standard to professional certification and for renewal of

educator credentials that expire on June 30, 2020. This change has already been made for educators with certificates with an expiration date of June 30, 2020 and no additional action is needed. (R 380.109(1), R 380.206(7), R 390.1129b(2), R 390.1133(1)(d), R 390.1135(1), R 390.1138(1)(b), R 390.1163(5), R 390.1164a(1)(c), R 390.1164a(4)).

- [COVID-19-040](#) (Memo issued April 21, 2020)—waiver of the **90-calendar-day validity of daily substitute permits** under R 390.1143(2)(b) and **extension of the validity of daily permit extensions** under R 390.1143(2)(e) to August 31, 2020. This memo also incorporated several waivers granted by Executive Orders 2020-35 and 2020-65. This waiver applies only to permits issued for the 2019-2020 school year.
- [COVID-19-060](#) (Memo issued May 22, 2020)—waiver of observation and evaluation requirements for **renewal of expert substitute permits and school administrator permits** under R 390.1145(8) and R 380.116(3)(a)(i) during the 2019-2020 school year. This memo also incorporated several waivers granted by Executive Orders 2020-35 and 2020-65. This waiver has been applied and the permit application has been modified. No additional action is required.

Special Education

- [COVID-19-063](#) (Memo issued May 27, 2020)—Waiver of the following requirements in the Michigan Administrative Rules for Special Education (MARSE) for all districts for the remainder of the 2019-2020 school year will remain in effect until September 30, 2020 as follows:
 1. R 340.1733(b)-(f): Programs and services for students with disabilities are not subject to the age span requirements described in these subdivisions.
 2. R 340.1738(b)(ii): Programs for students with a severe cognitive impairment program are not subject to 1,150 hours of instruction with no breaks greater than 10 consecutive days. Programs must be available for 200 days.
 3. R 340.1746(a): Homebound services are not subject to physician verification of the student need to be confined to the home.
 4. R 340.1748(2)(b): Programs for students with a severe multiple impairment are not subject to 1,150 hours of instruction with no breaks greater than 10 consecutive days. Programs must be available for 200 days.
 5. R 340.1754 (2)(e): Early childhood special education programs for students with disabilities are not subject to 360 clock hours. Programs must be available for 144 days.

6. R 340.1755(2)(c): Early childhood special education services are not subject to 72 clock hours over one school year. Services may be provided over a calendar year.
7. R 340.1862(4)(c): Special education services for children with a disability are not subject to 72 clock hours over one school year. Services will continue to be provided over one year from the signed date of parent consent.

cc: Michigan Education Alliance
Confederation of Michigan Tribal Education Directors