



UNITED STATES DEPARTMENT OF EDUCATION

January 14, 2021

MEMORANDUM

TO: Lindsay Abate
Office of Management and Budget Desk Officer

FROM: Hilary Malawer
Deputy General Counsel

RE: Emergency request for Paperwork Reduction Act (PRA) approval

Pursuant to the Office of Management and Budget (OMB) procedures established at 5 CFR 1320, ED requests that the following collection of information, Waiver Requests Related to the Adult Education and Family of Literacy Act and the Carl D. Perkins Career and Technical Education Act under Section 3511 of the CARES Act, be processed in accordance with section 1320.13 Emergency Processing. ED has determined that this information must be collected prior to the expiration of time periods established under Part 1320, and that this information is essential to the ED's ability to effectively implement section 3511 of the CARES Act, Pub. L. No. 116-136 (March 27, 2020) and address the economic disruption posed by the Novel (new) Coronavirus ("2019-nCoV").

Section 3511(b)(1) of the CARES Act directs the Secretary of Education to "create an expedited application process" to enable State educational agencies to request waivers authorized by the CARES Act, including waivers of section 421(b) of the General Education Provisions Act (GEPA), often referred to as the "Tydings Amendment," to extend the period of availability for obligation of State formula grant funds authorized by the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins Act) and the Adult Education and Family Literacy Act (AEFLA). ED is requesting an emergency clearance to allow for immediate outreach to State educational agencies to carry out the statutory direction that ED establish an "expedited application process" for waivers.

Waivers of section 421(b) of GEPA are critically important in States in which extensive school and program closures and disruptions prevent State educational agencies and their subgrantees from obligating all of their Fiscal Year (FY) 2018 Perkins Act and AEFLA formula grants before the period of availability of these funds for obligation ends on September 30, 2020. If this emergency collection is not approved, the Department's G5 grant management system indicates that \$101.6 million in unexpended FY 2018 Perkins Act funds and \$113.3 million in unexpended FY 2018 AEFLA funds may be in jeopardy of lapsing. These funds are particularly needed in States that have experienced the greatest

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economic and educational disruptions caused by 2019-nCoV in order to support their recovery and the resumption of educational services. As States start planning how they will restart services for their students, they need to know as soon as possible whether they can count on these funds being available to assist their efforts.

Given the short timeframe, ED is unable to consult with the public prior to issuing the forms, however ED has ample experience designing other similar forms in a way that is clear and minimizes burden. We estimate that the streamlined form we have created for State educational agencies to request waivers will require 15 minutes to complete. ED requests approval of the submission by April 14, 2020. Given the inability to seek public comment during such a short timeframe, ED requests a waiver from the requirement to publish notice in the Federal Register seeking public comment during the period of OMB review. Public comment will be solicited within a reasonable period, but not later than May 30, 2020, of the approval to collect this information beyond the emergency clearance period.