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## MEMORANDUM

TO: **Interested Parties**  
FROM: **Penn Hill Group**  
DATE: **March 26, 2020**  
SUBJECT: **Summary of Education- and Workforce-related Provisions in COVID-19 Legislative Relief Packages**

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This memorandum covers relevant education- and workforce-related provisions included in the various COVID-19 legislative relief packages being passed through Congress, updated to include the most recent, third relief package. Penn Hill Group will update this memorandum, as necessary, as Congress moves more relief packages.

### **COVID-19 Relief Package #1**

**Latest Action:** Signed into law.

**Summary:** The first COVID-19 relief package, the Coronavirus Preparedness and Response Supplemental Appropriations Act ([H.R.6074](#)), included \$8.3 billion in emergency funding and was signed into law on Friday, March 6. The bill was focused on vaccine development, research and equipment stockpiles, and supporting State and local health budgets. The bill did not contain any education- or workforce-related provisions.

### **COVID-19 Relief Package #2**

**Latest Action:** Signed into law.

**Summary:** The second COVID-19 relief package, the Families First Coronavirus Response Act ([H.R.6201](#)), provided \$1 billion in nutritional aid, expanded access to COVID-19 testing and expanded sick leave benefits, and was signed into law on Wednesday, March 18. Relevant education- and workforce-related provisions include:

- \$500 million for the Supplemental Nutrition Program for Women, Infants, and Children (WIC).
- \$400 million for the Commodity Assistance program.
- Emergency Supplemental Nutrition Assistant Program (SNAP) benefits for families with at least one child who would be receiving free and reduced-price meals and whose school has been closed for at least 5 consecutive days.
- \$160 million for home delivered meals.
- \$80 million for the Congregate Nutrition Services program under the Older Americans Act.

- Providing the U.S. Department of Agriculture (USDA) with authority to grant waivers (until September 30, 2020):
  - Of statutory and regulatory provisions under the Child Nutrition and School Lunch Acts in order to provide meals and meal supplements in the event of school closures due to COVID-19;
  - Of provisions in the School Lunch Act which prevent increased Federal costs when implementing summer food service programs;
  - To States for the purposes of providing meals and meal supplements in a manner that provides appropriate safety measures. These waivers would be automatically applied to States that seek them without further application by the State;
  - To provide non-congregate feeding under the Child and Adult Care Food program, if the waivers are connected to COVID-19;
  - Of requirements regarding the nutritional content of meals, if the waivers are connected to COVID-19;
  - Of administrative requirements under WIC for States, if the waivers are connected to COVID-19; and
  - Of the physical presence requirement at the time of WIC certification (current law requires WIC recipients to be physically present when they are certified for benefits). Anthropometric and bloodwork requirements would also be allowed to be waived.
- Providing an expansion of the Family and Medical Leave Act to provide:
  - Paid leave, connected to a public health emergency related to COVID-19, to employees at organizations with fewer than 500 total employees to care for a child if childcare is unavailable. Employees must be employed for at least 30 days by their employer and the U.S. Secretary of Labor is empowered to grant hardship exemptions for certain businesses with fewer than 50 employees and to exclude certain health care providers and emergency responders.
    - The first 10 days of such leave may consist of unpaid leave, with employees being able to substitute vacation, paid leave or sick leave for unpaid leave. Employers are required to provide paid leave for leave days after such initial 10-day period. The amount of pay is required to be at least 2/3rds of the pay an employee would receive based on an employee's normally scheduled hours of week. Paid leave would not have to exceed \$200 per day or \$10,000 in the aggregate.
- Providing an Employer provided paid sick leave benefit:
  - The benefit is provided to employees of private businesses with fewer than 500 employees and employees of public entities for illness or quarantine related to COVID-19 or the care of someone who is quarantined due to or ill because of COVID-19. Employers may exempt health care providers or emergency responders from this benefit.
  - Full-time employees can receive up to 80 hours, with part-time employees receiving up to the number of hours they would normally work over a 2-week period.

- The paid sick leave benefit is in effect through the end of 2020. Limits exist on daily and aggregate paid sick leave amounts provided to employees.
- The U.S. Secretary of Labor is empowered to grant hardship exemptions for certain businesses with fewer than 50 employees and to exclude certain health care providers and emergency responders from the benefit.

### **COVID-19 Relief Package #3**

**Latest Action:** Passed by the Senate. The House is presently scheduled to consider the bill Friday morning, March 27.

**Summary:** The third COVID-19 relief package, the Coronavirus Aid, Relief, and Economic Security (CARES) Act ([H.R.748](#)), includes roughly \$2 trillion in emergency funding for States, businesses and individuals. The package includes a significant amount of education- and workforce-related funding and provisions, summarized below.

#### **Funding**

*U.S. Department of Education (ED)* – The bill provides funding for a number of programs to be administered by ED, most notably to the Education Stabilization Fund, which distributes funding to States, local educational agencies (LEAs) and institutions of higher education (IHEs).

**Education Stabilization Fund.** This authority provides \$30.75 billion in largely formula grant funding to Governors in each State, State educational agencies (SEAs) and institutions of higher education (IHEs). The timing for implementation of these funds depends on when the bill becomes enacted and how quickly ED can set up the necessary structures to deliver funding as would be required. The program structure is as follows:

- Initial reservations by ED: ½ percent reserved for the outlying areas, ½ percent reserved for Bureau of Indian Education (BIE) schools, and 1 percent reserved for States with the highest coronavirus burden (ED is required to issue an application within 30 days for the funds under this 1 percent authority).
- After reservations, ED allocates funds as follows:
  - 9.8 percent to Governors.
    - Governors receive funding via a formula that is 60 percent based on the State’s population ages 5 through 24 and 40 percent based on the State’s Elementary and Secondary Education Act (ESEA) Title I child count.
    - Uses of funds include providing funding to significantly impacted LEAs (as deemed by the SEA), IHEs or education-related entities to continue to provide educational services, the provision of childcare and early childhood education, social and emotional support, and the protection of education-related jobs.
    - Governors must return to ED any funds that are not awarded within one year, with ED reallocating such returned funds to remaining States.
  - 43.9 percent to SEAs for SEA activities and grants to LEAs.



- SEAs receive an allocation based on their ESEA Title I share.
  - SEAs will allocate not less than 90 percent of this funding to LEAs (including charter schools that are LEAs), according to LEAs' ESEA Title I share. SEAs can retain 10 percent for SEA level activities.
  - Uses of funds include: any activities authorized under ESEA, the Individuals with Disabilities Education Act (IDEA), the Adult Education and Family Literacy Act, the Carl D. Perkins Career and Technical Education (CTE) Act and Subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act; activities to prevent, prepare for, and respond to COVID-19; activities to address the unique needs of low-income students, students with disabilities, English learners, racial and ethnic minorities, foster care youth and students experiencing homelessness; providing meals for eligible students; providing technology for online learning to all students, including the purchasing of technology; mental health services and supports; and activities related to summer learning and supplemental afterschool programs.
  - Title I equitable participation requirements apply to K-12 funding (i.e. LEAs must reserve the proportion of funds equivalent to the number of children attending private schools in the school district compared to all children in the school district).
  - SEAs may reserve up to ½ percent for administrative costs and use the remainder for needs related to COVID-19, which may include the use of grants or contracts.
  - SEAs are required to return any funds to ED that are not awarded within 1 year with ED reallocating such returned funds to remaining States.
- 46.3 percent to IHEs.
    - 90 percent of IHE funds will be allocated to IHEs via a formula that is based on 75 percent Pell Grant student enrollment (excluding those students who are exclusively online) and 25 percent non-Pell Grant student enrollment (excluding those students who are exclusively online). These formula funds will be distributed to IHEs through the same systems ED uses to distribute Pell Grant and Federal student loan funds to IHEs.
    - 7.5 percent of funds will be allocated to Minority-Serving Institutions (MSIs) with funding going through MSI programs in the Higher Education Act (HEA) in the same proportion as funding was provided for those programs in the Fiscal Year (FY) 2020 appropriations bill.
    - 2.5 percent for IHEs with the greatest unmet need (with priority given to IHEs not getting at least \$500,000 under the other IHE allocations).
    - IHEs must use at least 50 percent of their allocations to provide emergency financial aid to students, including eligible expenses under a student's cost of attendance, such as food, housing, course materials, technology, health care, and childcare.
    - Uses of funds include covering any costs associated with significant changes to the delivery of instruction due to COVID-19, except funds may

not be used to make payment to contractors for pre-enrollment recruitment activities; and for endowments and capital outlays associated with facilities related to athletics, sectarian instruction, or religious worship. Funds may be used to defray expenses already incurred.

- States receiving these funds must provide an assurance they will maintain support for elementary and secondary education and postsecondary education in FYs 2020 and 2021, with ED being able to waive this requirement for States that have experienced a precipitous decline in financial resources.
- States, LEAs and IHEs are required “to the greatest extent practicable” to continue to pay employees and contractors.

Other Specific program allocations for ED include:

- Project School Emergency Response to Violence (SERV) – \$100 million
- Student Aid Administration – \$40 million
- ED administrative and management expenses – \$8 million
- ED’s Inspector General – \$7 million

*U.S. Department of Labor (DOL)* – The bill provides \$345 million in funding for the Dislocated Workers National Reserve to respond to COVID-19 issues.

*U.S. Department of Health and Human Services (HHS)* – The bill provides \$750 million for Head Start and \$3.5 billion for the Child Care and Development Block Grant (CCDBG) program. For CCDBG, funds can be:

- Used to provide assistance to providers due to decreased enrollment, closures or to remain open. States are encouraged to place conditions on providers to use a portion of funds to continue to pay staff wages.
- Used to provide childcare assistance to health care workers, emergency responders and sanitation workers without regard to income eligibility requirements.
- Available to providers even if providers were not receiving CCDBG assistance prior to COVID-19.
- Used for expenses incurred prior to the bill’s enactment for previously mentioned purposes.

*Corporation for Public Broadcasting (CPB)* – The bill provides \$75 million in funding for CPB to prevent, prepare for, and respond to COVID-19, including for fiscal stabilization grants to public telecommunications entities, to maintain programming and services and preserve small and rural stations threatened by declines in non-Federal revenues.

*Institute of Museum and Library Services (IMLS)* – The bill provides \$50 million in funding for IMLS to prevent, prepare for, and respond to COVID-19, including grants to States, territories and Indian tribes to expand digital network access, purchase internet accessible devices and provide technical support services. The bill does not require matching funds for IMLS.



## Flexibility Provisions

*ESEA* – The bill includes a new U.S. Secretary of Education waiver authority under ESEA (National Emergency Educational Waivers). Under this authority, ED could waive certain provisions, upon request by a State, Indian tribe or LEA due to the COVID-19 emergency. At the State level, this includes the use of a streamlined application process and allows for the waiver of the following provisions:

- Assessments;
- Certain accountability system requirements;
- Certain requirements related to school identification under the accountability system (currently identified schools must maintain their designation and continue to receive supports and interventions);
- Any ESEA report card reporting requirements related to these areas; and
- Provisions regarding time periods to obligate funds (the Tydings amendment).

States, Indian tribes and LEAs may request waivers on a different set of provisions under a process other than the streamlined process described above. Waivers under this process must be approved or disapproved within 30 days and this process requires an applicant to provide an assurance of how negative consequences, if any, of the waiver will be mitigated. Waiver requests must include how the COVID-19 emergency requires the flexibility that is being requested. Provisions which may be waived under this process include:

- The poverty threshold necessary to do a school-wide program;
- Maintenance of effort;
- Restrictions on carry over limitations (unused funds from one year to the next);
- Certain requirements under the Student Supports and Academic Enrichment Grants program, including the needs assessment, spending certain percentages among the three programmatic focuses, and the limitation on technology spending; and
- Requirements related to the definition of professional development.

Waivers issued apply to all schools including public charter schools (for charter schools in accordance with State charter school law). Waivers are applicable for the 2019-2020 academic year, except in the carrying out the implementation of a maintenance of effort waiver granted during the 2019-2020 academic year for future academic years.

*HEA* – The bill provides flexibility around a number of HEA provisions related to student aid, including:

- Waiving the requirement to provide a non-Federal match for Federal Supplemental Educational Opportunity Grants (SEOG) and Federal Work-Study (FWS) for the 2019-20 and 2020-21 award years.
- Allowing IHEs to transfer unexpended funds from FWS to SEOG during the COVID-19 emergency.
- Permitting IHEs to use SEOG funds to provide emergency financial aid grants to assist students with unexpected expenses due to COVID-19 emergency.



- Permitting IHEs to continue to make FWS payments to who were participating in the program but are unable to fulfill their FWS obligation due to the COVID-19 emergency for up to one academic year.
- Requiring ED to exclude any period of enrollment during which a student was unable to complete due to the COVID-19 emergency, for the purposes of usage limitations on subsidized loans.
  - As a reminder, current Direct Loan borrowers are generally limited to receiving subsidized loans for up to 150% of the length of program – i.e. for a 2-year program the limit would be 3 years.
- Requiring ED to exclude any semester in which a student is unable to complete due to the COVID-19 emergency from the student’s Pell Grant lifetime usage limits (if the Secretary is able to administer the policy in a manner that limits complexity and burden on the student).
- Relieving both IHEs and students of Return of Title IV Funds requirements during a term in which they withdraw due to the COVID-19 emergency.
- Requiring ED to cancel a borrower’s loan obligation if a borrower withdraws from an IHE as a result of the COVID-19 emergency. This applies to the portion of loan attributable to the payment period.
- Allowing IHEs to provide a student with an approved leave of absence due to the COVID-19 emergency under certain conditions.
- Allowing IHEs to exclude any attempted credits not completed by a student from the student’s satisfactory academic progress calculation due to the COVID-19 emergency.
- Allowing foreign IHEs to offer programs via distance learning to Title IV-eligible students during the COVID-19 emergency for the payment period during such emergency and the following payment period. Programs offered via distance education from March 1, 2020 through the date of enactment of the bill are covered by the previous sentence.
- Allowing foreign IHEs to enter into agreements with U.S.-based IHEs to allow a student of a foreign IHE to take courses at a U.S.-based IHE due to a qualifying emergency.
- Allowing ED to defer payments on Historically Black Colleges and Universities (HBCU) Capital Financing Loans due to COVID-19 issues.
- Allowing ED to modify matching requirements and required and authorized uses of funds under certain HEA programs.
- Allowing ED to waive certain requirements related to wait out periods, allotment requirements and other matters for IHEs receiving assistance under certain MSI program authorities
- Allowing ED to modify service requirements related to TEACH Grants and Teacher Loan Forgiveness due to the COVID-19 emergency.

*Corporation for National and Community Service (CNCS)* – The bill provides flexibility to alter service and age requirements and provide the full education award for COVID-19 impacted individuals.



### Student Loan Payment Suspension

The bill also includes several provisions which would suspend payment and interest on Direct Loans and Federal Family Education Loans (FFEL) that are held by ED, including:

- Automatically suspending payments on these loans until September 30, 2020, with no interest accruing during this period of suspension. Eligibility for Public Service Loan Forgiveness (PSLF) and other loan forgiveness programs and requirements for borrowers who are rehabilitating their loans will not be negatively affected by any suspension of payments.
- Ensuring that any payment that is suspended would be treated as a payment made by the borrower for consumer reporting agency purposes.
- Suspending involuntary collections during the suspension period described above (such as wage garnishment and social security withholding).

### Tax Benefit Pertaining to Companies that Contribute Toward Student Loans of Employees

Under the bill, employers could provide a student loan repayment benefit to employees on a tax-free basis. An employer would be able to contribute up to \$5,250 annually toward an employee's student loans, and such payment would be excluded from the employee's income. The provision applies to any student loan payments made by an employer on behalf of an employee after date of enactment and before January 1, 2021.

### Child Nutrition

The bill provides \$8.8 billion to the Food and Nutrition Services at USDA for child nutrition programs to prevent, prepare for, and respond to COVID-19.

### Provisions Related to Nonprofits

Questions have been raised about provisions in the bill that would normally be thought of as applying to for-profit businesses also applying to nonprofits. Below are five provisions in the bill that include or relate to nonprofits explicitly:

- Charitable Contributions – the bill allows individuals to make contributions up to \$300 to qualifying charities and deduct the contribution “above the line” in computing adjusted gross income (AGI). The bill also modifies the AGI limitations on charitable contributions for 2020, to 100 percent of AGI for individuals and 25 percent of taxable income for corporations.
- Employee Retention Credit – the bill provides a credit against social security payroll taxes (6.2 percent) for any business, including nonprofits, that close or suspend its operations due to the virus.
- Delay of Tax Payment – the bill would allow employers, including nonprofits, struggling to make payroll to be able to pay their share of the 6.2 percent Social Security tax, that would otherwise be due, from now until the end of the year.



- Paycheck Protection Program – the bill provides \$350 billion for 8-weeks of cash-flow assistance to small business and small nonprofits (under 500 employees) through guaranteed loans. Loan may be forgiven if they largely maintain their payroll.
- Economic Injury Disaster Loan (EIDL) – the bill creates expedited access to capital by establishing a \$10 billion program for small businesses, including nonprofits, who have applied for EIDL to request an advance of up to \$10,000 on the loan to provide paid sick leave to employees, maintaining payroll and other debt obligations.