



THE CARES ACT:

Summary and Recommendations for Private School Leaders April 2020

BACKGROUND

The Coronavirus Aid Relief and Economic Security Act (CARES) is the third piece of legislation Congress has enacted to provide economic relief in the wake of the Coronavirus pandemic. The first two pieces of legislation provided relief for small businesses, money for COVID-19 testing, funding for unemployment benefits, and nutritional assistance. The CARES Act is the first piece of legislation that directly addresses education. It provides:

1. A \$30.75 billion Education Stabilization Fund (applies to state education agencies (SEAs) and institutions of higher education (IHEs);
2. A \$2.95 billion Governor's Emergency Educational Relief Fund;
3. \$25 million for distance learning, focused on rural communities;
4. \$25 million "to help elementary, secondary and postsecondary schools clean and disinfect affected schools, and assist in counseling and distance learning and associated costs" (allocated to Project School Emergency Response to Violence Program (SERV));
5. \$15.5 million for the Supplemental Nutrition Assistance Program (SNAP); and,
6. \$8.8 billion for child nutrition programs to help students not currently in school receive meals.

State Educational Agencies (SEAs) will receive roughly 44% (\$13.23 billion) of the Educational Stabilization fund. This allocation is called the Elementary and Secondary Schools Emergency relief fund. USDOE will distribute funds to SEAs based on their proportion of Title I funding. 90% of the funds that states receive must be distributed to LEAs, including charter schools.

CARES outlines 12 allowable uses for these funds (Section 18003(d)), including any activities authorized by federal programs such as ESEA and IDEA, activities to address the unique needs of low-income students and students with disabilities, developing and implementing systems and procedures to improve preparedness and response efforts, training and professional development, and purchases of educational technology. (See the end of this document for an excerpt of allowable uses).

RELIEF FOR PRIVATE SCHOOLS THROUGH THE PAYCHECK PROTECTION PROGRAM

CARES allocates \$349 billion in federally guaranteed loans to small businesses. As non-profit organizations, non-public schools are eligible for these loans and the **Paycheck Protection Program**. "Businesses can borrow up to 2.5 times their average monthly payroll from the previous year and can include U.S.-based contractors and part-time employees in their calculations. However, for the purposes of this loan, payroll is capped at \$100,000 per employee. This loan is capped at \$10 million" (analysis from [EdChoice](#)).

Loans will be forgiven under the following conditions:

- Schools maintain staff and payroll for the term of the loan (salaries may not decrease by more than 25% for any employee that makes under \$100,000);
- No more than 25% of the loan is used for mortgage interest, rent, or utilities.

The Paycheck Protection Program is available on a first come, first served basis. Private school leaders should consider filing immediately.



SHOULD FAITH-BASED SCHOOLS BE CONCERNED ABOUT REGULATIONS THAT MAY BE ATTACHED TO LOAN APPLICATIONS?

The CARES Act states: All loans guaranteed by the SBA pursuant to the CARES Act will be made consistent with constitutional, statutory, and regulatory protections for religious liberty, including the First Amendment to the Constitution, the Religious Freedom Restoration Act, 42 U.S.C. 2000bb-1 and bb-3, and SBA regulation at 13 C.F.R. 113.3-1h, which provides: “Nothing in [SBA nondiscrimination regulations] shall apply to a religious corporation, association, educational institution or society with respect to the membership or the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution or society of its religious activities” (Small Business Administration, 13 CFR Part 120, Interim Final Rule p. 27).

THE EDUCATION STABILIZATION ACT AND GOVERNOR’S RELIEF FUND

Private schools are eligible to receive CARES ACT relief through two different mechanisms (Section 18005):

When local education agencies (LEAs) receive funds from either the Education Stabilization Act or the Governor’s Emergency Educational Relief Fund, they must provide private school students and teachers with equitable services (in the same manner they provide Elementary and Secondary Education Act (ESEA) funds). The funds provided remain under “public control.” Non-public schools must consult with LEAs to determine allocation and receipt of funds (Section 18005).

The CARES Act also provides governors with great flexibility in how they spend money allocated under the Governor’s Emergency Educational Relief fund. Governors can use funds to “provide support to any other institution of higher education, local educational agency, or education related entity within the State that the Governor deems essential for carrying out emergency educational services to students.” **Non-public K-12 schools qualify as an “education related entity.”**

Recommendations for Private School Leaders

- **Apply** for the Paycheck Protection Program immediately. Loans are available on a first come, first served basis. Small local banks may have more capacity to help private schools;
- **Advocate:** Ask your state ombudsmen to ensure that non-public schools receive their share of Education Stabilization and Governor’s Emergency Relief Fund under the equitable services provision;
- **Advocate:** Ask your governor to consider reserving some share of the Relief Fund to send directly to non-public schools. Remind your governor that:
 - Non-public schools in the U.S. serve [5.7 million pre-K-12](#) students. More than 20% of non-public school students live at or below the poverty line. (gather these data for your state and alert your governor);
 - Non-public schools provide customized, innovative options for families, and many exist to serve students with various special educational needs;
 - Non-public schools rely on tuition or, in some cases, funds from private school choice programs. Either way, our schools are at risk of closure during the financial crisis;
 - If non-public schools are forced to shutter, local education agencies, which are also burdened by the financial crisis, would be unable to absorb the number of students flowing back into the system;
 - When they are operating, non-public schools save states and localities money. Note: you can quantify the savings to your state (roughly) by multiplying the average per-pupil allotment for public schools by the number of students who attend private schools in your state by paying tuition or using a tax-credit scholarship.



CARES ACT, 12 USES OF FUNDING, SECTION 18003(D)

1. Any activity authorized by the ESEA of 1965, including the Native Hawaiian Education Act and the Alaska Native Educational Equity, Support, and Assistance Act, the Individuals with Disabilities Education Act. (“IDEA”), the Adult Education and Family Literacy Act, the Carl D. Perkins Career and Technical Education Act of 2006, (“the Perkins Act”), or subtitle B of title VII of the McKinney Vento Homeless Assistance Act.
2. Coordination of preparedness and response efforts of local educational agencies with State, local, Tribal, and territorial public health departments, and other relevant agencies, to improve coordinated responses among such entities to prevent, prepare for, and respond to coronavirus.
3. Providing principals and others school leaders with the resources necessary to address the needs of their individual schools.
4. Activities to address the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including how outreach and service delivery will meet the needs of each population.
5. Developing and implementing procedures and systems to improve the preparedness and response efforts of local educational agencies.
6. Training and professional development for staff of the local educational agency on sanitation and minimizing the spread of infectious diseases.
7. Purchasing supplies to sanitize and clean the facilities of a local educational agency, including buildings operated by such agency.
8. Planning for and coordinating during long-term closures, including for how to provide meals to eligible students, how to provide technology for on-line learning to all students, how to provide guidance for carrying out requirements under the Individuals with Disabilities Education Act and how to ensure other educational services can continue to be provided consistent with all Federal, State, and local requirements.
9. Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the local educational agency that aids in regular and substantive educational interaction between students and their classroom instructors, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment.
10. Providing mental health services and supports.
11. Planning and implementing activities related to summer learning and supplemental after-school programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care.
12. Other activities that are necessary to maintain the operation of and continuity of services in local educational agencies and continuing to employ existing staff of the local educational agency.