



# THE CARES ACT

## *Equitable Services Funding Guidance for Private Schools*

*May 2020*

### *Update as of June 25, 2020*

In response to comments on U.S. Department of Education (Department) guidance on how states and local education agencies (LEA) should determine equitable services for non-public schools under the CARES Act, the Department issued an [interim final rule](#) (IFR) on June 25, 2020. The IFR confirms the guidance, stating that LEAs should count all students in participating private schools that operate within a district, regardless of income, residency or Title I status, for the purposes of determining each non-public school's proportionate share of equitable services. However, the IFR also allows an LEA to choose to distribute CARES funds only to its Title I schools and students; if it makes this choice, it may then distribute equitable services only to qualifying non-public school students, using one of the following two methods:

1. Calculate the funds for equitable services based on the total number of low-income students in Title I and participating private schools; or
2. Calculate the funds using the LEA's Title I, Part A share from the 2019-2020 school year.

There is a 30-day comment period on the IFR, but the rule has the force of law from the date it was issued.

## BACKGROUND

On April 30, 2020, the U.S. Department of Education (Department) released [guidance](#) on "equitable services" non-public schools and teachers can access under the CARES Act. The guidance, which applies to the Governor's Emergency Education Relief (GEER) Fund and the Elementary and Secondary School Emergency Relief Fund (ESSER) Fund, allows non-public schools broader access to CARES funding than other federal programs. Importantly, this guidance recognizes that all schools and students—public and private—are facing hardship due to COVID-19-related school closures.

## DISTRIBUTION OF EQUITABLE SERVICES FUNDING

The federal government will distribute CARES funding to states using the same formula that applies to Title I of the Elementary and Secondary Education Act. State Education Agencies (SEAs) also follow Title I guidelines to distribute the money to local education agencies (LEAs). As with Title I, LEAs are accountable for reaching out to non-public schools to apprise them of their right to receive equitable services within the 12 categories outlined in the CARES Act.

Districts and non-public schools then undertake a consultation process to determine which services the non-public school will receive and how they will be delivered. Services or property that a non-public school receives must remain in the "public domain."

For example, if a non-public school wants to use its share of funding to purchase computer hardware or software, the LEA can purchase these items and provide them to the non-public school, which needs to return the items when it no longer has use for them. Or, if a non-public school wants to provide professional development for teachers, it could opt to send its teachers to courses that the LEA provides or request that the LEA contract with a third-party for the provision of service. This provision prevents non-public schools from directly receiving government money and having to follow regulations that might be attached.

## DELIVERY OF FUNDING

Key differences between the delivery of Title I and CARES funding pertain to student and school eligibility and the way in which the LEA must determine each non-public school's "share" of funding for services. The following unique guidance applies to CARES:



- All non-public school students and teachers are eligible to receive equitable services, regardless of income, prior achievement, residency in the LEA where the non-public school is located, or prior participation in federal programs. If a governor or SEA targets funds for a specific population of students, those funds may only be used for that population, whether in the LEA or a non-public school.
- An LEA must determine the number of non-public schools and non-public school students in its boundaries that request equitable services. Eligible students need only attend a non-public school within the LEA's boundaries. They do not have to reside within the district.
- Using its count of participating non-public school students, the LEA compares that number to the number of public-school students it enrolls to determine the proportionate share of the LEA's total allocation for non-public schools.
- The LEA determines the amount of money it must set aside for the non-public school proportionate share before "reserving funds for allowable expenses" or making allocations to public schools and students.
- The LEA determines the per-pupil amount of equitable services for each participating non-public school after accounting for administrative expenses associated with the delivery of services. From the remaining fund, the LEA determines a per-pupil amount to provide equitable services to non-public schools and multiplies that per-pupil amount by the number of students enrolled in an individual non-public school to determine the amount of money each school will receive for equitable services.

## RECOMMENDATIONS FOR PRIVATE SCHOOL LEADERS

### 1. Raise Your Hand

LEAs are responsible for making non-public schools aware of their right to equitable services, but private school leaders should proactively apprise LEAs of their intent to participate in equitable services as soon as possible.

### 2. Know Your Students

The total count of non-public school students directly impacts the proportion of federal funds LEAs will make accessible to available to non-public schools. When stating your intent to participate in equitable services, be prepared to tell the LEA how many students you enroll. Although all students, regardless of income or achievement are eligible for CARES funds, knowing how many of students would qualify for free or reduced-price lunch or Title I, Part A funding can be helpful.

### 3. Know Your Needs

Conduct a full assessment of what your school needs in relationship to the allowable uses of funding under the CARES Act. During the consultation process, be prepared to tell the LEA which services you are requesting and how you would like those services delivered (either by the LEA or with a contracted third party).

### 4. Raise Awareness

Each state is responsible for appointing an ombudsman to ensure that non-public schools are aware of and able to access equitable services and resolve any questions or disputes that may arise during the consultation process. Making the SEA and your ombudsmen aware of your intent to participate, your student enrollment and the services that you desire promotes transparency in the consultation process.

### 5. Prioritize Accountability



Each LEA's calculation of proportionate share should follow the guidelines outlined above and be transparent to all stakeholders. Private school leaders should collaborate with LEAs while holding them accountable. Each private school has the right to understand LEA calculations, ask for state confirmation of the accuracy of those calculations, and, when necessary, verifying those calculations.

## 6. Leverage Peers

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All schools are overwhelmed by the pandemic, and school leaders have many competing priorities. Identify other non-public schools in your LEA and walk through the equitable services process together. State partners and professional support networks can also provide insight into how to approach consultation for schools that haven't previously participated in federal programs.