



## CARES Act—Equitable Services Legal/Legislative Report April 22, 2020

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### CARES ACT—EQUITABLE SERVICES FOR PRIVATE SCHOOLS

On Friday, March 27, Congress passed the third stimulus bill, the [CARES Act](#), to combat the COVID-19 pandemic. The CARES Act provides \$30.75 billion for an Education Stabilization Fund to aid in the educational costs incurred in the adjustments that have been made to combat the coronavirus. Of that amount, \$16.5 billion is directed towards K–12 education, provided through two funding streams: The Governor’s Emergency Education Relief Fund (\$3 billion) and the Elementary and Secondary School Emergency Relief Fund (\$16.5 billion).

The law requires both programs to **provide equitable services to nonpublic schools** in the same manner that the services are provided under the Every Student Succeeds Act (ESSA). As such, any private school wishing to participate and receive services will **maintain its autonomy**. Additionally, it is important to note that the **schools will receive services, not funds**, to aid them in the adjustments they have made. Section 18005 specifically addresses the assistance to non-public schools and opportunity for equitable services:

#### **Section 18005: ASSISTANCE TO NON-PUBLIC SCHOOLS**

*(a) IN GENERAL. —A local educational agency receiving funds under sections 18002 or 18003 of this title shall provide equitable services in the same manner as provided under section 1117 of the ESEA of 1965 to students and teachers in non-public schools, as determined in consultation with representatives of non-public schools.*

*(b) PUBLIC CONTROL OF FUNDS. —The control of funds for the services and assistance provided to a non-public school under subsection (a), and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds, materials, equipment, and property and shall provide such services (or may contract for the provision of such services with a public or private entity).*

### PROVISIONS:

**The Governor’s Emergency Education Relief Fund** (Section 18002) provides grants to governors to distribute to schools and educational institutions in their states that have been significantly impacted by coronavirus in their ability to provide educational services. These funds can be used to provide support to a local educational agency, higher educational institution, or “education-related entity within the State that the Governor deems essential for carrying out emergency educational services to students,” including “the provision of child care and early childhood education, social and emotional support, and the protection of education-related jobs.”

The allowance for funds to be used for an “education-related entity” would include private schools. Some private school advocates have also suggested that governors could distribute funds to scholarship granting organizations or any non-profit organization which then delivers assistance to students attending private schools. This could help absolve any concerns that private schools are recipients of federal funds, while also providing the assistance the schools need.

Any private school wishing to participate in this benefit should contact its Governor’s office or follow the steps at the end of this document to contact the local educational agency (LEA). As governors can direct the funds to the LEA and also to educational institutions, a contact to both offices could be helpful.

If a school chooses to contact the governor’s office, the following points could be helpful in communication:

- **Private schools, including Christian schools, serve a large number of students in your state, which in turn saves the state a lot of money.** If these students were suddenly absorbed into the public school system, the financial burden on public schools would be extremely significant. Providing support to private educational institutions and their students provides important support to the educational system.

*\*You can calculate the fiscal impact in your state by taking the [number of private school students in your state](#) and multiplying this by the [cost per pupil for public school students](#). This would **show the amount of money private schools currently save the public education system** in your state. For specific information on the numbers in your state, contact the AACCS Legislative Office at [info@aaccs.org](mailto:info@aaccs.org).*

- Private schools, including **Christian schools, operate with private funds**, including tuition, donations, and student scholarship grants. **The current economic crisis puts many of these schools at risk to close**; this in turn would not only hurt the educational options that are helping parents and students, but it would also put a great strain on the public schools (also under great financial strain right now) as they would absorb these students.
- Private schools, including **Christian schools, offer innovative and excellent educational options, often helping special needs and low-income students**. It is important that this education continues for these students, especially during this time of crisis.

**The Elementary and Secondary School Emergency Relief Fund** (Section 18003) provides funds to the State Educational Agencies (SEAs) to distribute to their Local Educational Agencies (LEAs), which in turn determine the distribution to schools, including private schools choosing to participate in the equitable services. There are twelve uses for money provided under this fund, including the following:

- Activities included in the Individuals with Disabilities Education Act.
- Providing principals and other school leaders with necessary resources to address the needs of their schools.
- Training and professional development for staff of the LEA on sanitation and minimizing the spread of infectious diseases.
- Purchasing supplies to sanitize and clean facilities.
- Planning for and coordinating during long-term closures (including how to provide technology for online learning to all students).
- Purchasing educational technology (including hardware, software, and connectivity).
- Providing mental health services and support.
- 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.
- Other activities that are necessary to maintain the operation and continuity of services.

According to the law, the Local Education Agency (LEA) should be contacting private schools in the near future to inquire of their interest in participating in the equitable services. All non-public schools are eligible to participate in these services. Even if a school has declined equitable services for the year, that school is still eligible to participate in the services available through the CARES Act.

#### **STEPS TO TAKE FOR SCHOOLS WISHING TO PARTICIPATE:**

1. **Assess your current needs and make a list based on the services that are available through the equitable services provisions (listed above).** A list is not required, but it would help to identify your needs on paper in an effort to aid communication with the LEA representative. For example, does your school need supplies to sanitize and clean your building? Do you need technology to assist with distance learning? Do your teachers need training or professional development to aid in their capabilities to provide online instruction? Remember, the services are to help the students; so as you make the list, tie the requests to meeting the needs of students.
2. **Contact the LEA person responsible for equitable services to let him/her know you are looking forward to the consultation for the equitable services in the Education Stabilization Fund.** A phone call or email is the quickest way to indicate your interest in receiving equitable services. If a school has not participated in equitable services before, this initial contact provides an important opportunity for you to introduce yourself and the school. State Educational Agencies (SEAs) and Local Educational Agencies (LEAs) should not be making plans for the funds until the U.S. Department of Education releases guidance on the new law. That said, an initial contact from the private school can help the communication process once they are ready to disperse the services.

- **\*What if the school does not know who its LEA representative is?** Private schools should have received communication from the LEA person responsible for equitable services at the beginning of the year, inquiring if the school wanted to participate in equitable services (provided under the Every Student Succeeds Act). This communication will be helpful in finding the contact information for that person. Other avenues to identify the LEA contact would be to contact your state association leader or your state department of education.
3. **Have ready the actual bill text for Section 18005 (Assistance to Non-public schools).** This text is listed above and may be helpful in the conversation. The equitable services available to private schools through this law are expanded from the equitable services available during the school year through Title 1 in ESSA. Some LEAs may not be aware of this expansion or may be hesitant to include all the services available to private schools. Having this language ready will aid in the discussion and help them understand the necessity of including your school.
  4. **Contact your state ombudsman.** A state ombudsman can also help a school cooperate with the LEA and receive equitable services. To find your state's ombudsman, visit this Department of Education list [here](#).