



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

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TO: BOCES District Superintendents
School District Superintendents
School District Business Officers
Charter School Leaders
Religious and Independent School Leaders

FROM: Phyllis D. Morris, Chief Financial Officer *Phyllis D. Morris*

RE: Federal Coronavirus Aid, Relief, and Economic Security (CARES) Act Funding – Revised Instructions for Eligible Local Educational Agencies (LEAs) on Applying for Elementary and Secondary School Emergency Relief Funds (ESSER) and Governor’s Emergency Education Relief Funds (GEER)

As a follow-up to my [April 30, 2020](#), [June 9, 2020](#), [July 7, 2020](#), [July 20, 2020](#) and [September 11, 2020](#) memoranda providing information on the federal Education Stabilization Fund funding allocated to New York State under the CARES Act, this memorandum provides revised instructions for eligible LEAs on applying to the New York State Education Department (NYSED) for GEER and ESSER funds.

Application Process, Application Deadline and Guidance: Eligible LEAs are asked to submit a single *CARES Act Combined Funding Application* for both ESSER and, if applicable, GEER, funding using the [SED Monitoring and Vendor Reporting System](#). Completed applications are due by November 23, 2020 (with extensions by request) and will be reviewed on a rolling basis. Guidance on both GEER and ESSER funds and answers to frequently asked questions may be found [here](#).

Governor’s Emergency Education Relief Funds: New York State has been allocated \$164.2 million in GEER funding. Pursuant to the direction of the Governor’s Office and the Division of the Budget, GEER funding has been allocated to the State’s 673 major school districts. GEER funds are not being allocated to LEAs that are charter schools, Special Act School Districts, or school districts employing fewer than eight teachers. These funds have been allocated to eligible school districts using the relative shares of grants awarded under Title I, Part A of the ESEA for the most recent fiscal year (2019-20). Each eligible school district’s GEER allocation may be found [here](#).

Elementary and Secondary School Emergency Relief Funds: New York State has been allocated \$1.037 billion in ESSER funding. ESSER funding is being allocated to all LEAs that received 2019-20 Title I, Part A subgrants, including charter schools, Special Act School Districts and school districts employing fewer than eight teachers. Pursuant to the terms of the CARES Act, LEA allocations were calculated using the relative shares of grants awarded under Title I, Part A of the Elementary and Secondary Education Act (ESEA) for the most recent fiscal year (2019-20). Each eligible LEA’s ESSER allocation may be found [here](#).

Provision of Equitable Services to Non-Public Schools: On September 4, 2020, in *NAACP v. DeVos*, the U.S. District Court for the District of Columbia issued an opinion and an order vacating the Interim Final Rule (IFR) previously issued by the U.S. Department of Education (USDE) on July 1, 2020 which directed how Local Educational Agencies (LEAs) were to calculate the amount of ESSER and GEER funds available for providing equitable services to students and teachers in non-public schools. On September 9, 2020, USDE published a statement on its [website](#) that the IFR is no longer in effect. On September 25, 2020, USDE Secretary Betsy DeVos sent a letter to Chief State School Officers stating that USDE will not appeal the court ruling, and directing state educational agencies to calculate the minimal proportional share for CARES Act equitable services according to the formula provided in Section 1117(a)(4)(A) of the ESEA of 1965. On October 9, 2020, USDE issued non-binding guidance affirming the requirement that an LEA must calculate the proportional share in accordance with section 1117(a)(4)(A) of the ESEA.

The court ruling, and USDE's subsequent direction, make clear that section 18005 means a local educational agency receiving funds under sections 18002 or 18003 of the CARES Act shall provide equitable services to students and teachers in non-public schools in the same manner as provided under section 1117 of the ESEA of 1965, as determined in consultation with representatives of non-public schools. Therefore, in accordance with section 1117 of the ESEA, NYSED is requiring that the equitable share calculation be based on the number of students from low-income families who reside in Title I attendance areas and who attend participating non-public schools regardless of the non-public school's location. LEAs must consult with each non-public school serving resident students to determine the total number of low-income students served by each non-public school. This includes non-public schools located inside the district's boundaries and non-public schools located in other districts.

Control of funds for services and assistance provided to non-public school students and teachers under the CARES Act programs, and title to materials, equipment and property purchased with such funds, must be in a public agency, and a public agency must administer such funds, materials, equipment, and property. No funds may go directly to a non-public school, even for reimbursement purposes. LEAs must submit a completed [CARES Act: Written Affirmation of LEA Consultation with Non-Public School Officials](#) form with their *CARES Act Combined Funding Application*.

Thank you for everything you are doing for your students in these unprecedented circumstances. Please direct questions to the Office of ESSA-Funded Programs at (518) 473-0295 or via e-mail at CARESAct@nysed.gov.

Attachments

cc: Commissioner Rosa
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