

DEPARTMENT OF EDUCATION

Legislative Language for the Education Stabilization Fund

For an additional for "Education Stabilization Fund", \$81,880,000,000, to remain available through September 30, 2022, to prevent, prepare for and respond to corona virus, domestically or internationally: provided, that such amount is designated by the Congress as being for an emergency requirement pursuant to section 251 (b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

General Provisions - Department of Education | Sec. 311

(a) Allocation - From the amount made available under this heading in this Act to carry out the Education Stabilization Fund, the Secretary shall first allocate -

(1) one-half of 1 percent to the outlying areas for supplemental awards to be allocated not more than 30 calendar days from the date of enactment of this Act on the basis of the terms and conditions for funding provided under section 18001(a)(1) of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Public Law 116–136); and (2) one-half of 1 percent for a supplemental award to be allocated to the Secretary of Interior not more than 30 calendar days from enactment of this Act for programs operated or funded by the Bureau of Indian Education (BIE) under the terms and conditions established for funding provided under section 18001(a)(2) of the CARES Act (Public Law 116–136), for BIE-operated and funded elementary and secondary schools and Tribal Colleges and Universities, except that funding shall be allocated as follows:

(A) 60 percent for Bureau-funded schools, as defined in 25 U.S.C. 2021, provided that such schools may not be required to submit a spending plan before receipt of funding.

(B) 40 percent for Tribal Colleges and Universities, which shall be distributed according to the formula in section 316(d)(3) of the Higher Education Act of 1965 ("HEA").

(b) RESERVATIONS - After carrying out subsection (a), the Secretary shall reserve the remaining funds made available as follows:

(1) 5 percent to carry out section 312 of this title.

(2) 67 percent to carry out section 313 of this title.

(3) 28 percent to carry out section 314 of this title.

Governor's Emergency Education Relief Fund | Sec. 312

(a) PROGRAM AUTHORIZED -

(1) From funds reserved under section 311(b)(1) of this title and not reserved under paragraph (2), the Secretary shall make supplemental Emergency Education Relief grants to the Governor of each State with an approved application under section 18002 of division B of the CARES Act (Public Law 116–136). The Secretary shall award funds under this section to the Governor of each State with an approved application within 30 calendar days of the date of enactment of this Act.

(2) RESERVATION - From funds made available under section 311(b)(1) of this title, the Secretary shall reserve \$2,750,000,000 of such funds to provide Emergency Assistance to Non-Public Schools grants, in accordance with subsection (d), to the Governor of each State with an approved application under subsection (d)(2).

(b) ALLOCATIONS - The amount of each grant under subsection (a)(1) shall be allocated by the Secretary to each State as follows:

(1) 60 percent on the basis of their relative population of individuals aged 5 through 24.

(2) 40 percent on the basis of their relative number of children counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 ("ESEA").

(c) USES OF FUNDS - Grant funds awarded under subsection (a)(1) may be used to—

(1) Provide emergency support through grants to local educational agencies that the State educational agency deems have been most significantly impacted by coronavirus to support the ability of such local educational agencies to continue to provide educational services to their students and to support the on-going functionality of the local educational agency;

(2) Provide emergency support through grants to institutions of higher education serving students within the State that the Governor determines have been most significantly impacted by coronavirus to support the ability of such institutions to continue

(3) 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 for authorized activities described in section 313(d)(1) of this title or the HEA; the provision of child care and early childhood education, social and emotional support; and the protection of education-related jobs.

(d) EMERGENCY ASSISTANCE TO NON-PUBLIC SCHOOLS -

(1) PROGRAM AUTHORIZED -

(A) IN GENERAL - With funds reserved under subsection (a)(2), The Secretary shall allot the amount described in subparagraph (B) to the Governor of each State with an approved application under paragraph (2) in order to provide services or assistance to non-public schools under this subsection. The Governor shall designate the State educational agency to administer the program authorized under this subsection.

(B) AMOUNT OF ALLOTMENT - An allotment for a State under subparagraph (A) shall be in the amount that bears the same relationship to the total amount of the funds reserved under subsection (a)(2) as the number of children aged 5 through 17 at or below 185 percent of poverty who are enrolled in non-public schools in the State (as determined by the Secretary on the basis of the best available data) bears to the total number of all such children in all States.

(2) APPLICATIONS FROM STATES -

(A) APPLICATION REQUEST AND REVIEW - The Secretary shall - (i) issue a notice inviting applications for funds reserved under subsection (a)(2) not later than 30 days after the date of enactment of this Act; and (ii) approve or deny an application not later than 15 days after the receipt of the application.

(B) ASSURANCE - The Governor of each State, in consultation with their respective State educational agency, shall include in the application submitted under this paragraph an assurance that the State educational agency will - (i) distribute information about the program to non-public schools and make the information and the application easily available; (ii) process all applications submitted promptly, in accordance with subparagraph 9(3)(A)(ii); (iii) in providing services or assistance to non-public schools, ensure that services or assistance is provided to any non-public school that - (I) is a non-public school described in paragraph (3)(C); (II) submits an application that meets the requirements of paragraph 18(3)(B); and (III) requests services or assistance allowable under paragraph (4); (iv) to the extent practicable, obligate all funds provided under subsection (a)(2) for services or assistance to non-public schools in the State in an expedited and timely manner; and (v) obligate funds to provide services or assistance to non-public schools in the State not later than 6 months after receiving such funds under subsection (a)(2).

(3) APPLICATIONS FOR SERVICES OR ASSISTANCE -

(A) APPLICATION REQUEST AND REVIEW - A State educational agency receiving funds from the Governor under this subsection shall - (i) make the application for services or assistance described in subparagraph (B) available to non-public schools by not later than 30 days after the receipt of such funds; and (ii) approve or deny an application not later than 30 days after the receipt of the application.

(B) APPLICATION REQUIREMENTS - Each non-public school desiring services or assistance under this subsection shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency 25 may reasonably require to ensure expedited and timely provision of services or assistance to the non-public school, which shall include -

(i) the number and percentage of students from low-income families enrolled by such non-public school in the 2019–2020 school year; (ii) a description of the emergency services authorized under paragraph (4) that such non-public school requests to be provided by the State educational agency; and (iii) whether the non-public school requesting services or assistance under this subsection received a loan guaranteed under paragraph (36) of section 7(a) of the Small Business Act (15 U.S.C.636(a)) that was made before the date of enactment of this Act and the amount of any such loan received.

(C) TARGETING - A State educational agency receiving funds under this subsection shall prioritize services or assistance to non-public schools that enroll low-income students and are most impacted by the qualifying emergency.

(4) TYPES OF SERVICES OR ASSISTANCE - A non-public school receiving services or assistance under this subsection shall use such services or assistance to address educational disruptions resulting from the qualifying emergency for-

(A) Supplies to sanitize, disinfect, and clean school facilities;

(B) Personal protective equipment;

(C) Improving ventilation systems, including windows or portable air purification systems to ensure healthy air in the non-public school;

(D) Training and professional development for staff on sanitation, the use of personal protective equipment, and minimizing the spread of infectious diseases;

(E) Physical barriers to facilitate social distancing;

(F) Other materials, supplies, or equipment to implement public health protocols, including guidelines and recommendations from the Centers for Disease Control and Prevention for the reopening and operation of school facilities to effectively maintain the health and safety of students, educators, and other staff during the qualifying emergency;

(G) Expanding capacity to administer coronavirus testing to effectively monitor and suppress coronavirus, to conduct surveillance and contact tracing activities, and to support other activities related to coronavirus testing for students, teachers, and staff at the non-public school;

(H) Educational technology (including hardware, software, connectivity, assistive technology, and adaptive equipment) to assist students, educators, and other staff with remote or hybrid learning; (I) redeveloping instructional plans, including curriculum development, for remote learning, hybrid learning, or to address learning loss;

(J) Leasing of sites or spaces to ensure safe social distancing to implement public health protocols, including guidelines and recommendations from the Centers for Disease Control and Prevention;

(K) Reasonable transportation costs;

(L) Initiating and maintaining education and support services or assistance for remote learning, hybrid learning, or to address learning loss; or

(M) Reimbursement for the expenses of any services or assistance described in this paragraph (except for subparagraphs (C) (except that portable air purification systems shall be an allowable reimbursable expense), (D), (I), and (L)) that the non-public school incurred on or after the date of the qualifying emergency, except that any non-public school that has received a loan guaranteed under paragraph (36) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)) as of the day prior to the date of enactment of this Act shall not be eligible for reimbursements described in this paragraph for any expenses reimbursed through such loan.

(5) ADMINISTRATION - A State educational agency receiving funds under this subsection may reserve not more than the greater of \$200,000 or one-half of 1 percent of such funds to administer the services and assistance provided under this sub-section to non-public schools.

(6) REALLOCATION - Notwithstanding paragraph (1)(A), each State educational agency receiving funds under this subsection that complies with paragraph (2) but has unobligated funds remaining 6 months after receiving funds under this subsection shall return such remaining unobligated funds to the Governor, to use for any use authorized under sub-section (c).

(7) PUBLIC CONTROL OF FUNDS -

(A) IN GENERAL - The control of funds for the services or assistance provided to a non-public school under this subsection, 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, services, assistance, materials, equipment, and property.

(B) PROVISION OF SERVICES OR ASSISTANCE - (i) PROVIDER - The provision of services or assistance to a non-public school under this subsection shall be provided - (I) by employees of a public agency; or (II) through contract by such public agency with an individual, association, agency, or organization. (ii) REQUIREMENT - In the provision of services or assistance described in clause (i), such employee, individual, association, agency, or organization shall be independent of the non-public school receiving such services or assistance, and such employment and contracts shall be under the control and supervision of such public agency described in subparagraph (A).

(8) SECULAR, NEUTRAL, AND NON-IDEOLOGICAL - All services or assistance provided under this subsection, including providing equipment, materials, and any other items, shall be secular, neutral, and non-ideological.

(9) INTERACTION WITH PAYCHECK PROTECTION PROGRAM -

(A) IN GENERAL - In order to be eligible to receive services or assistance under this subsection, a non-public school shall submit to the State an assurance, including any documentation required by the Secretary, that such non-public school did not, and will not, apply for and receive a loan under paragraphs (36) or (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)(37)) that is made on or after the date of enactment of this Act.

(B) ALLOWANCE - A non-public school that received a loan guaranteed under paragraph (36) of section 7(a) of the Small Business Act (15 U.S.C.636(a)) that was made before the date of enactment of this Act shall be eligible to receive services or assistance under this subsection.

(e) RESTRICTIONS-

(1) Funds provided under this section shall not be used-

(A) to provide direct or indirect financial assistance to scholarship granting organizations or related entities for elementary or secondary education; or

(B) to provide or support vouchers, tuition tax credit programs, education savings accounts, scholarships, scholarship programs, or tuition-assistance programs for elementary or secondary education.

(2) EXCEPTION - Notwithstanding paragraph (1), a State may use funds provided under subsection (a)(1) to provide assistance prohibited under paragraph (1) only to students who receive or received such assistance with funds provided under section 18002(a) of division B of the CARES Act 22 (20 U.S.C. 3401 note), for the 2020–2021 school year and only for the same assistance provided such students under such section.

(3) RULE OF CONSTRUCTION - Nothing in this subsection shall be interpreted to apply any additional restrictions to funds provided in section 18002(a) of division B of the CARES Act (205 U.S.C.3401 note).

(f) REALLOCATION - Each Governor shall return to the Secretary any funds received under paragraph (1) or (2) of subsection (a) that the Governor does not award or obligate not later than 1 year after the date of receipt of such funds, and the Secretary shall reallocate such funds to the remaining States in accordance with sub-section (b) for uses authorized under subsection (c).

Elementary and Secondary School Emergency Relief Fund | Sec. 313

(a) GRANTS - From funds reserved under section 311(b)(2) of this title, the Secretary shall make supplemental elementary and secondary school emergency relief grants to each State educational agency with an approved application under section 18003 of division B of the CARES Act (Public Law 116–136). The Secretary shall award funds under this section to each State educational agency with an approved application within 30 calendar days of the date of enactment of this Act.

(b) ALLOCATIONS TO STATES - The amount of each grant under subsection (a) shall be allocated by the Secretary to each State in the same proportion as each State received under part A of title I of the ESEA of 1965 in the most recent fiscal year.

(c) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES - Each State shall allocate not less than 90 percent of the grant funds awarded to the State under this section as subgrants to local educational agencies (including charter schools that are local educational agencies) in the State in proportion to the amount of funds such local educational agencies and charter schools that are local educational agencies received under part A of title I of the ESEA of 1965 in the most recent fiscal year.

(d) USES OF FUNDS - A local educational agency that receives funds under this section may use the funds for any of the following:

- (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 (20 U.S.C.6301 et seq.), the Individuals with Disabilities Education Act (20 U.S.C.1400 et seq.) (“IDEA”), the Adult Education and Family Literacy Act (20 U.S.C. 1400 et seq.), the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) (“the Perkins Act”), or subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.).
- (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, coordinating, and implementing activities during long-term closures, including providing meals to eligible students, providing technology for online learning to all students, providing guidance for carrying out requirements under the IDEA and ensuring 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 children 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, children with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care.

(12) Addressing learning loss among students, including low-income students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children and youth in foster care, of the local educational agency, including by-

- (A) Administering and using high-quality assessments that are valid and reliable, to accurately assess students' academic progress and assist educators in meeting students' academic needs, including through differentiating instruction.
- (B) Implementing evidence-based activities to meet the comprehensive needs of students.
- (C) Providing information and assistance to parents and families on how they can effectively support students, including in a distance learning environment.
- (D) Tracking student attendance and improving student engagement in distance education.

(13) School facility repairs and improvements to enable operation of schools to reduce risk of virus transmission and exposure to environmental health hazards, and to support student health needs.

(14) Inspection, testing, maintenance, repair, replacement, and upgrade projects to improve the indoor air quality in school facilities, including mechanical and non-mechanical heating, ventilation, and air conditioning systems, filtering, purification and other air cleaning, fans, control systems, and window and door repair and replacement.

(15) 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.

(e) STATE FUNDING - With funds not otherwise allocated under subsection (c), a State may reserve not more than one-half of 1 percent for administrative costs and the remainder for emergency needs as determined by the state educational agency to address issues responding to coronavirus, including measuring and addressing learning loss, which may be addressed through the use of grants or contracts.

(f) REPORT - A State receiving funds under this section shall submit a report to the Secretary, not later than 6 months after receiving funding provided in this Act, in such manner and with such subsequent frequency as the Secretary may require, that provides a detailed accounting of the use of funds provided under this section, including how the State is using funds to measure and address learning loss among students disproportionately affected by coronavirus and school closures, including low-income students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children and youth in foster care.

(g) REALLOCATION - A State shall return to the Secretary any funds received under this section that the State does not award within 1 year of receiving such funds and the Secretary shall reallocate such funds to the remaining States in accordance with subsection (b).

Higher Education Emergency Relief Fund

Sec. 314. (a) IN GENERAL - From funds reserved under section 311(b)(3) of this title the Secretary shall allocate amounts to institutions of higher education with an approved application as follows:

(1) 89 percent to each institution of higher education as defined in section 101 or section 102(c) of the HEA to prevent, prepare for, and respond to coronavirus, by apportioning it-

(A) 37.5 percent according to the relative share of full-time equivalent enrollment of students who were Federal Pell Grant recipients and who were not exclusively enrolled in distance education courses prior to the qualifying emergency;

(B) 37.5 percent according to the relative share of the total number of students who were Federal Pell Grant recipients and who were not exclusively enrolled in distance education courses prior to the qualifying emergency;

(C) 11.5 percent according to the relative share of full-time equivalent enrollment of students who were not Federal Pell Grant recipients and who were not exclusively enrolled in distance education courses prior to the qualifying emergency;


(D) 11.5 percent according to the relative share of the total number of students who were not Federal Pell Grant recipients and who were not exclusively enrolled in distance education courses prior to the qualifying emergency;

(E) 1 percent according to the relative share of full-time equivalent enrollment of students who were Federal Pell grant recipients and who were exclusively enrolled in distance education courses prior to the qualifying emergency; and

(F) 1 percent according to the relative share of the total number of students who were Federal Pell grant recipients and who were exclusively enrolled in distance education courses prior to the qualifying emergency.

(2) 7.5 percent for additional awards under parts A and B of title III, parts A and B of title V, and subpart 4 of part A of title VII of the HEA to address needs directly related to coronavirus, that shall be in addition to awards made in subsection (a)(1), and allocated by the Secretary proportionally to such programs based on the relative share of funding appropriated to such programs in the Further Consolidated Appropriations Act, 2020 (Public Law 116-94) and distributed to eligible institutions of higher education, except as otherwise provided in subparagraphs (A) through (C), on the basis of the formula described in subparagraphs (A) through (F) of subsection (a)(1):

(A) Except as otherwise provided in sub-paragraph (2)(B), for eligible institutions under part B of title III and subpart 4 of part A of title VII of the HEA, the Secretary shall allot to each eligible institution an amount using the following formula: (i) 70 percent according to a ratio equivalent to the number of Pell Grant recipients in attendance at such institution at the end of the school year preceding the beginning of the most recent fiscal year and the total number of Pell Grant recipients at all such institutions; (ii) 20 percent according to a ratio equivalent to the total number of students enrolled at such institution at the end of the school year preceding the beginning of that fiscal year and the number of students enrolled at all such institutions; and (iii) 10 percent according to a ratio equivalent to the total endowment size at all eligible institutions at the end of the school year preceding the beginning of that fiscal year and the total endowment size at such institution;



(B) For eligible institutions under section 326 of the HEA, the Secretary shall allot to each eligible institution an amount in proportion to the award received from funding for such institutions in the Further Consolidated Appropriations Act, 2020 (Public Law 116–94); and
(C) For eligible institutions under section 316 of the HEA, the Secretary shall allot funding according to the formula in section 316(d)(3) of the HEA.