



May 8, 2020

Secretary Betsy DeVos
U.S. Education Department
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Secretary DeVos:

We are writing on behalf of the Association of California School Administrators and the California School Boards Association (ACSA-CSBA Federal Partnership) to voice our concerns with the recently released non-binding guidance *Providing Equitable Services to Students and Teachers in Non-Public Schools* under the CARES Act Programs. We strongly urge you to revise the guidance, so it aligns with the underlying law.

The CARES Act directs local educational agencies (LEAs) that receive education stabilization funds to provide equitable services to non-public schools in the same manner as provided under Title I of the Elementary and Secondary Education Act (ESEA). Title I has always been premised on supporting schools with high concentrations of students from low-income families in order to direct federal resources to students in need. Title I's equitable services provision is no different - LEAs determine how much Title I money to spend on services for private school students based on poverty levels.

However, the Department's CARES Act equitable services guidance directs LEAs to determine how much CARES Act money to spend on services for private school students based on total enrollments. This is not the same as Title I and overlooks that CARES Act funds, specifically Elementary and Secondary School Emergency Relief (ESSER) funds, are allocated to states and LEAs based on their respective share of FY19 Title I dollars. That is, allocation of ESSER funding to both the state and local levels is driven by the concentration of low-income students, and the calculation of the allocation depends on how many low-income students reside in each state and district in accordance with section 1117 of ESEA Title I.

The guidance just released regarding providing equitable services under CARES Act programs is inconsistent with this precedent. To be consistent with both the historical application of equitable services, and to treat public and private schools equitably under the CARES Act, this guidance must be revised to ensure that the equitable services share for private schools is determined by poverty rates rather than overall enrollment.

Absent these edits, the CARES Act equitable services guidance is inequitable and creates an environment where all children in private schools are counted and used to generate the equitable services share of ESSER for their private schools at the direct expense of low-income children remaining in public schools. To restore equity within the equitable services guidance it should be revised to allocate resources to private schools

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relying on a proportional calculation, much like how state and local education agencies receive their CARES share. Each LEA would calculate what proportion of their FY19 Title I allocation was used for equitable services and would make that same share of CARES funding available for private school equitable services.

As states and school districts work towards providing appropriate education programs and re-opening schools, we must ensure that CARES Act resources are utilized to meet the needs of public school students and educators, while providing equitable services to eligible students enrolled in private schools.

COVID-19 has disrupted education services for all students, educators, and school district communities. In that light we request clarification in the guidance that proportionate share determinations of ESSER funds must follow section 1117 of ESEA Title I. We look forward to the appropriate revision of the guidance to ensure that the equitable share of CARES Act funding is calculated in a manner consistent with the CARES Act law.

Sincerely,



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cc: The California Congressional Delegation