

CARES ACT: WRITTEN AFFIRMATION OF LEA CONSULTATION WITH PRIVATE SCHOOL OFFICIALS

BACKGROUND INFORMATION

CONSULTATION REQUIREMENT:

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) requires that a local educational agency (LEA) receiving funds under sections 18002: The Governors Emergency Education Relief Fund (GEER) or 18003: Elementary and Secondary School Emergency Relief Fund (ESSER) of the CARES Act shall provide equitable services to non-public schools.

On July 1, 2020, the U.S. Department of Education published in the Federal Register an [Interim Final Rule \(IFR\)](#) which outlines how LEAs are to calculate the amount of ESSER and GEER funds available for providing equitable services to students and teachers in non-public schools. The IFR was effective immediately upon publication, and NYSED intends to comply with the IFR. The IFR provides two options for LEAs to choose from as they move forward with the implementation of CARES Act (ESSER and GEER) funding.

1. Proportional: If an LEA chooses to use CARES Act funding for students in all its public schools, it must calculate the funds for equitable services based on the proportionate number of students enrolled in private schools in the district.
2. Low-Income: If an LEA chooses to use CARES Act funding only for students in its Title I schools, it may:
 - a. Calculate the funds for equitable services based on the total number of low-income students in Title I and participating private schools; or
 - b. Calculate the funds for equitable services using the LEA's Title I, Part A share from the 2019-20 school year.

PROGRAMS REQUIRING CONSULTATION:

Section 18005 of the CARES Act requires that LEAs consult with appropriate private school officials from any private school located within the district geographic attendance area regarding any use of funds as defined under section 18002 or 18003.

PUBLIC CONTROL OF FUNDS:

Private schools may not use CARES Act funds to pay staff salaries directly. The control of funds for the services and assistance provided to a non-public school under section 18005 (a) of the CARES Act, 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). All services and benefits must be secular, neutral, and nonideological.

DOCUMENTATION:

Each local educational agency must maintain in the agency's records and provide to the New York State Education Department (NYSED), a written affirmation signed by officials of each participating private school that the meaningful consultation required by this section has occurred. The written affirmation shall provide the option for private school officials to indicate that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to eligible private school children. If private school officials do not provide such affirmation within a reasonable period of time, the LEA shall forward the documentation that such consultation has, or attempts at such consultation have, taken place to the New York State Education Department.

OMBUDSMAN:

To ensure such equity for private school children, teachers, and other educational personnel, NYSED will designate an ombudsman to monitor and enforce the requirements of equitable services. Copies of all written affirmation forms will be provided to the ombudsman for the purposes of review, technical assistance, and monitoring related to the LEA's programmatic and fiscal obligations. Questions and/or concerns about the provision of equitable services may be directed to the NYSED Ombudsman at OMBUDSMAN@nysed.gov.

The LEA must provide a copy of this document to NYSED and appropriate private school officials and maintain copies on file.

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LEA Name

LEA Contact Person

Private School Name
Street Address
City/Town, Zip Code
BEDS Code¹

Contact Person / Title
Contact Telephone
Contact Email
District of Location

CARES ACT CONSULTATION

The following information must be collected and discussed during the **ongoing consultation** process as required for GEER or ESSER:

| CARES Act Program | Fund Distribution [check one] | K-12 Student Count | Per Pupil Amount | School Allocation | Participation |
|-------------------|--|--------------------|------------------|-------------------|--|
| GEER | <input type="checkbox"/> Proportional – Total Enrollment <input type="checkbox"/> Low Income – Enrollment <input type="checkbox"/> Low Income – Title I Part A 19-20 Share | | \$ | \$ | <input type="checkbox"/> Receiving Services <input type="checkbox"/> Declining Services |
| ESSER | <input type="checkbox"/> Proportional – Total Enrollment <input type="checkbox"/> Low Income – Current Enrollment <input type="checkbox"/> Low Income – Title I Part A 19-20 Share | | \$ | \$ | <input type="checkbox"/> Receiving Services <input type="checkbox"/> Declining Services |

Private school students, parents, and teachers may receive appropriate benefits and services from the CARES Act, but private schools cannot receive direct funding from these programs. The district must maintain control of the funds.

GEER PROGRAM SERVICES TO BE PROVIDED

Check the box(es) of the program services to be provided. Include the amount of funds allocated to the school for each service.

| Program Services (Check All That Apply) | Planned Cost |
|---|--------------|
| <input type="checkbox"/> 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.) (Section 18002(c)(3)). | \$ |
| <input type="checkbox"/> The provision of child care and early childhood education. (Section 18002(c)(3)). | \$ |
| <input type="checkbox"/> The provision of social and emotional support (Section 18002(c)(3)). | \$ |
| <input type="checkbox"/> The protection of education-related jobs (Section 18002(c)(3)). | \$ |
| <input type="checkbox"/> To continue provision of educational services to students (Section 18002(c)(1)). | \$ |
| <input type="checkbox"/> To support the ongoing functionality of the local educational agency (Section 18002(c)(1)). | \$ |

¹ A BEDS Code is not required for a private school to participate in CARES Act programs subject to equitable participation.

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ESSER PROGRAM SERVICES TO BE PROVIDED

Check the box(es) of the program services to be provided. Include the amount of funds allocated to the school for each service.

| Program Services (Check All That Apply) | Planned Cost |
|---|-----------------|
| <input type="checkbox"/> 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.) (Section 18003(d)(1)). | \$ |
| <input type="checkbox"/> 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 (Section 18003(d)(2)). | \$ |
| <input type="checkbox"/> Providing principals and others school leaders with the resources necessary to address the needs of their individual schools (Section 18003(d)(3)). | \$ |
| <input type="checkbox"/> 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 (Section 18003(d)(4)). | \$ |
| <input type="checkbox"/> Developing and implementing procedures and systems to improve the preparedness and response efforts of local educational agencies (Section 18003(d)(5)). | \$ |
| <input type="checkbox"/> Training and professional development for staff of the local educational agency on sanitation and minimizing the spread of infectious diseases (Section 18003(d)(6)). | \$ |
| <input type="checkbox"/> Purchasing supplies to sanitize and clean the facilities of a local educational agency, including buildings operated by such agency (Section 18003(d)(7)). | \$ |
| <input type="checkbox"/> Planning for and coordinating during long-term closures, including for how to provide meals to eligible students, how to provide technology for online learning to all students, how to provide guidance for carrying out requirements under the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.) and how to ensure other educational services can continue to be provided consistent with all Federal, State, and local requirements (Section 18003(d)(8)). | \$ |
| <input type="checkbox"/> 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 students with disabilities, which may include assistive technology or adaptive equipment (Section 18003(d)(9)). | \$ |
| <input type="checkbox"/> Providing mental health services and supports (Section 18003(d)(10)). | \$ |
| <input type="checkbox"/> Planning and implementing activities related to summer learning and supplemental afterschool programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care (Section 18003(d)(11)). | \$ |
| <input type="checkbox"/> Other activities that are necessary to maintain the operation of and continuity of services in the local educational agencies and continuing to employ existing staff of the local educational agency (Section 18003(d)(12)). | \$ |

The private school representative must check one of the following:

- ☐ I agree that timely and meaningful consultation occurred before the LEA made any decision that affected the participation of eligible private school students.
- ☐ I do not agree that timely and meaningful consultation occurred before the LEA made any decision that affected the participation of eligible private school students.

Private School Representative Name

LEA Representative Name

Private School Representative Signature

Date

LEA Representative Signature

Date