

## **USING CARES ACT FLEXIBILITY TO ADDRESS SYSTEMIC EDUCATIONAL INEQUITIES & BRING STUDENTS TOGETHER**

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Congress provided \$16.2 billion in the Coronavirus Aid, Relief, and Economic Security (CARES) Act for emergency relief to elementary and secondary schools. The CARES Act gives flexibility to governors and local education agencies (LEAs) to decide how to spend their coronavirus relief funding. Congress is currently considering another aid package to support states and school districts as they enter the new school year.

During a pandemic that is [already exacerbating](#) existing educational inequities that are shaped, in part, by segregation, providing funds to students most affected by the current health and economic crisis is more important than ever. Without [concerted efforts to direct funding](#) to students from low-income families, students of color, English learners, students with disabilities, those experiencing housing or food insecurity, and other historically underserved students, the [inequities already present](#) in education will become worse.

In addition to prioritizing funding to students and schools with the greatest need, states and LEAs can also promote equity by using some of their funding flexibility to address the [increasing double segregation](#) of students by race and poverty status. To the extent that districts continue to operate in a

remote or hybrid mode of learning, the COVID crisis presents an opportunity to mitigate the harms of segregation, by sharing resources across wealthy and poor districts and bringing together students (virtually) who are normally kept apart in separate schools.

Diverse schools provide [numerous benefits](#) to students of all races and socioeconomic backgrounds, and integration addresses key state goals such as improved academic achievement, lower dropout rates, and improved post-secondary outcomes.<sup>1</sup>

Social science also demonstrates the [democratic value](#) of meaningful, sustained cross-racial contact among youth.

### **QUICK TAKEAWAYS**

- Even in trying times, equity and integration in schools should be prioritized.
- The CARES Act provides flexibility for states and school districts to spend relief money to reduce systemic inequities and further school integration.
- Remote learning offers opportunities to share resources across districts and to expose students to the benefits of diversity.

## COVID-19 enables us—even forces us—to grapple with the meaning and utility of school district boundaries.

Much has been asked of educators during this pandemic. First, we asked them to teach their classes from behind a computer with very little support. As the school year ended, educators stepped in to support students through the initial stages of a racial justice reckoning spurred by acts of police brutality and anti-Blackness. Now, many are being asked to risk their safety for the sake of in-person schooling. Throughout this period, little has been done to acknowledge and address systemic inequities. Even in trying times, what we know about the harms of segregation and the benefits of school integration should guide our decisionmaking.

Segregation helps explain the disparate impact of COVID-19 on communities of color,<sup>2</sup> and shapes our attitudes, understandings, and decisions regarding race and resource allocation. COVID-19 enables us—even forces us—to grapple with the meaning and utility of school district boundaries. At the same time, the increased focus on systemic racism in the U.S. provides an opportunity for significant policy change—including in education. In the midst of a pandemic where resources are scarce, due in part to an inadequate federal response, we need to share resources and collaborate. As Professor Jack Schneider writes, “Schools in affluent neighborhoods often have more resources than their counterparts in poor neighborhoods, even

as research demonstrates a need for the opposite.”<sup>3</sup> We are not bound by the man-made lines separating districts, and CARES Act funding presents an opportunity to address [longstanding inequities in resources across these invisible lines](#). The COVID-19 crisis implores us to confront the fact that we are interdependent and our fates interconnected, but we still have a lot of work to do to actualize a fair public school system.<sup>4</sup>

### STATES CAN PROMOTE SCHOOL DIVERSITY BY SPENDING GEER FUNDS ON SCHOOL INTEGRATION POLICIES

The CARES Act provides \$3 billion in discretionary grant funding to governors through the Governor's Emergency Education Relief (GEER) Fund. Once governors apply for and receive GEER funds, they can distribute the money through grants to higher education schools and local education agencies (LEAs) most significantly affected by COVID-19.<sup>5</sup> For example, governors may use funds to “provide emergency support through grants to [LEAs]...most significantly impacted by coronavirus to support the



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ability of such [LEAs] to continue to provide educational services to their students and to support the on-going functionality of the [LEA].”<sup>6</sup>

Congress gave governors wide discretion to decide how to allocate their GEER funds. Governors should harness GEER's flexibility by using funds to implement [policies](#) that reduce inequities between schools and facilitate integration. Examples of using state CARES Act funds, and funds from future federal aid packages, to support school integration might include:

- Grants to support “magnetized” after-school programs (including Saturday Academies) that bring students from different school districts together to support students who have lost learning during the pandemic;
- Support for integrated remote classroom learning experiences across schools and districts (and enhancement of “sister school” relationships) which includes providing educators and staff with professional development to support the [effective use of technology](#) for different purposes;
- Planning sessions among parents, administrators, board members, students, and school facility planners on how to revise school assignment plans and develop magnet school offerings to promote integration;<sup>7</sup> and
- Investments in [pipelines](#) that support educator candidates of color in accessing high-quality, comprehensive pathways into the profession—especially because COVID’s impact on students of color in higher education may negatively impact this pipeline.

**LEAs CAN USE ESSER AND GEER FUNDS FOR SCHOOL INTEGRATION PROGRAMS**

LEAs may receive funds through GEER grants from governors, but CARES Act funds to K-12 schools primarily comes from the Elementary and Secondary School Emergency Relief (ESSER) Fund. The CARES Act provides \$13.2 billion in emergency relief funding for K-12 schools through the ESSER Fund. ESSER funds are distributed to state education agencies (SEAs) based on their share of ESEA Title I-A funds.<sup>8</sup> Then, SEAs allocate their funds to LEAs in proportion to their Title I-A funding.<sup>9</sup>

Congress grants LEAs flexibility to decide how to use ESSER funds. For example, LEAs can spend funds to “[provide] principals and others school leaders with the resources necessary to address the needs of their individual schools.”<sup>10</sup> A catch-all provision enables LEAs to use ESSER funds as they best see fit, allowing spending on “[o]ther activities that are necessary to maintain the operation of and continuity of services in [LEAs] and continuing to employ existing staff of the [LEA].”<sup>11</sup>

With this spending flexibility, Congress intended to allow LEAs to use this funding to help students most in need. Specifically, Congress directs LEAs to spend ESSER funds to help students from low-income families, students with disabilities, students learning English, students of color, students with housing insecurity, and students in the foster care system.<sup>12</sup>

**LEAs in diverse areas can take this opportunity to address racial and socioeconomic isolation.**

Other provisions outlining acceptable uses of ESSER funds highlight Congress' intent to help these students. Such provisions include the ability to use funds to purchase educational technology to help students from low-income families and students with disabilities;<sup>13</sup> provide mental health services and supports for schools;<sup>14</sup> and implement summer learning or after-school programs that serve students from low-income families, students with disabilities, migrant students, and other historically underserved students.<sup>15</sup>

Pursuant to Congress' intent, LEAs should spend ESSER and GEER funding in ways that equitably serve students most affected by the COVID-19 crisis. In doing so, LEAs in diverse areas can take this opportunity to address racial and socioeconomic isolation, using some of these funds to bridge opportunity gaps and promote school integration.

**Examples of how LEAs can use CARES Act funds, and funds from future federal aid packages, to support school integration include:**

- Grants to support “magnetized” after-school programs (including Saturday Academies) that bring students from different schools/school districts together to support students who have lost learning during the pandemic;
- Offering integrated remote learning experiences across schools and school districts;
- Collaborative projects with nearby school districts to explore opportunities to promote cross-district school integration;
- Beginning a planning process to analyze school attendance zones and rethink student assignment policies to bring students from different racial and socioeconomic groups together when in-person learning resumes;
- Providing training in anti-racist, culturally responsive, and asset-based youth development practices for all teachers, administrators, and school-based staff; and
- Removing police from public schools and eliminating zero-tolerance policies, replacing them with policies that create safe and inclusive learning environments that meet the needs of the whole child, including investing in more social workers and mental health professionals.

LEAs should...allocate CARES Act funds according to “Option 1,” which targets Title I schools for funding, sending more funds to schools with low-income students.

### LEAs HAVE AN OPPORTUNITY TO ADDRESS LONGSTANDING INEQUITIES BETWEEN SCHOOLS BY TARGETING FUNDS TO TITLE I SCHOOLS

The CARES Act orders LEAs to redirect some of their relief funds to non-public schools to provide “equitable services,”<sup>16</sup> like tutoring or technology licenses, which typically go to serve disadvantaged students in private schools. Congress [plainly mandates](#) in the CARES Act that LEAs distribute equitable services funding “in the same manner as provided under section 1117 of the ESEA of 1965,” which is based on the enrollment of low-income students in non-public schools.<sup>17</sup>

However, the U.S. Department of Education (U.S. DOE) recently took troubling action on the equitable services provision. The U.S. DOE wants LEAs to distribute CARES Act funds for equitable services based on private schools’ total enrollment rather than their enrollment of low-income students. This misinterpretation of what equitable services require in law, urged by the U.S. DOE in April through [nonbinding guidance](#), would redistribute an additional [\\$1.35 billion](#) in federal relief money from public schools, whose students are more likely to be from low-income families and students of color, to private schools, whose students are more likely to be White and higher-income.

The Department published an [Interim Final Rule](#) on July 1st to make this guidance binding on LEAs. The interim final rule would provide LEAs two options on how to calculate the amount of equitable services funds redirected to private schools from the LEA’s pool of relief funds.

### Calculating equitable services based on U.S. DOE’s interim final rule

The **first option** (“**Option 1**”) allows LEAs to calculate equitable services funds based on the number of low-income students in private schools but requires LEAs that choose this option to spend CARES Act funds only on Title I schools. This option minimizes the number of public schools that can receive funds—resulting in millions lost for non-Title I schools—but keeps more funds in public schools and directs them to poorer schools.

The **second option** requires LEAs to allocate equitable services funds based on the total enrollment of students in private schools (consistent with U.S. DOE’s recent guidance), but allows LEAs to distribute funds to all public schools in their district (not just Title I schools). This option would divert more funding to private schools, but allows more of an LEA’s public schools to receive funds.

[At least five states, the District of Columbia, and several school districts](#) are suing the U.S. DOE to challenge this rule. Until the rule is struck down or withdrawn, LEAs should choose to allocate CARES Act funds according to “Option 1,” which targets Title I schools for funding, sending more funds to schools with low-income students.



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## ENDNOTES

- 1 See, e.g. JENNIFER AYSUCUE ET AL., NAT'L COALITION ON SCH. DIVERSITY, THE COMPLEMENTARY BENEFITS OF RACIAL AND SOCIOECONOMIC DIVERSITY IN SCHOOLS (2017), <https://school-diversity.org/pdf/DiversityResearchBriefNo10.pdf>; ROSLYN ARLIN MICKELSON, NAT'L COALITION ON SCH. DIVERSITY, SCHOOL INTEGRATION AND K-12 OUTCOMES: AN UPDATED QUICK SYNTHESIS OF THE SOCIAL SCIENCE EVIDENCE (2016), <https://school-diversity.org/pdf/DiversityResearchBriefNo5Oct2016Big.pdf>; GENEVIEVE SIEGEL-HAWLEY, NAT'L COALITION ON SCH. DIVERSITY, HOW NON-MINORITY STUDENTS ALSO BENEFIT FROM RACIALLY DIVERSE SCHOOLS (2012), <https://www.school-diversity.org/pdf/DiversityResearchBriefNo8.pdf>.
- 2 Territorial Empathy, *Segregation is Killing Us*, <https://storymaps.arcgis.com/stories/b9d7b073400c4c18950469ef79efe98a> (last visited Aug. 7, 2020).
- 3 Valerie Strauss, *How Covid-19 Has Laid Bare the Vast Inequities in U.S. Public Education*, THE WASH. POST, Apr. 14, 2020, <https://www.washingtonpost.com/education/2020/04/14/how-covid-19-has-laid-bare-vast-inequities-us-public-education/> (featuring Jack Schneider as guest author).
- 4 See NAT'L COALITION ON SCH. DIVERSITY & POVERTY AND RACE RESEARCH ACTION COUNCIL, MODEL STATE SCHOOL INTEGRATION POLICIES (2020), [https://school-diversity.org/wp-content/uploads/NCSDPB11\\_Final.pdf](https://school-diversity.org/wp-content/uploads/NCSDPB11_Final.pdf).

- 5 CARES Act, Pub. L. No. 116-136, § 18002(c)(1)-(2), 134 Stat 281 (2020).
- 6 § 18002(c).
- 7 The Los Angeles Unified School District is one district that is using this time to assess enrollment and access by race, ethnicity, and income.
- 8 § 18003(b).
- 9 § 18003(c).
- 10 § 18003(d)(3).
- 11 § 18003(d)(12).
- 12 § 18003(d)(4).
- 13 § 18003(d)(9).
- 14 § 18003(d)(10).
- 15 § 18003(d)(11).
- 16 § 180005(a).
- 17 *Id.* This was noted in long-standing guidance and affirmed as recently as October 2019 by the Department of Education—LEAs must calculate the share of Title I funds for equitable services by determining “an accurate count of children from low-income families who attend public and private schools and reside in participating Title I public school attendance areas.” U.S. Dep’t. of Educ., Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act: Providing Equitable Services to Eligible Private School Children, Teachers, and Families Updated, Non-Regulatory Guidance (Oct. 7, 2019), at 34, <https://www2.ed.gov/about/inits/ed/non-public-education/files/equitable-services-guidance-100419.pdf>.