**PDE issues updated guidance for calculation of CARES Act funds to private schools**

The Pennsylvania Department of Education (PDE) has updated its guidance on calculating and administering federal CARES Act funds for equitable services to private schools. The PDE guidance was updated to reflect the provisions of an [Interim Final Rule](https://oese.ed.gov/files/2020/06/Equitable-Services-Final-Interim-Rule.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=) (IFR) recently issued by the U.S. Department of Education (USDE) that further outlined expectations for school districts in distributing CARES funds to private schools. The new IFR revises the nonbinding, nonregulatory guidance issued by USDE in late April. The IFR has the full force of law and is effective immediately, although there is still a process for the public to provide comment for 30 days.

PDE’s original guidance published in May expressly disagreed with the USDE interpretation of how the CARES Act directs equitable services proportions were to be calculated, noting that the federal guidance advised that funds must be reserved to provide equitable services to *all* private schools, regardless of income. PDE suggested this is inconsistent with the CARES Act goal of ensuring that the emergency funds reach the most vulnerable students.

**PDE revised guidance**

While PDE continues to evaluate the new IFR, it continues to believe that USDE's instructions are inconsistent with CARES Act requirements and remains opposed to the rule. However, in issuing updated state guidance, PDE acknowledges that the IFR carries the force and effect of law. For this reason, the department is updating its guidance to align with the IFR in the event it is finalized and survives legal challenges. Following are updated provisions to PDE’s guidance.

**Calculating funds:** The revised guidance acknowledges the changes under the IFR that provide two options for calculating funds.

Option 1 allows a district to distribute aid only to Title I schools serving low-income students. In this instance, the district has two methodologies that can be used:

* Calculate the funds for equitable services based on the total number of low-income students in Title I and in participating private schools; or
* Calculate the funds using the district’s Title I, Part A share from the 2019-20 school year.

If a district uses one of the low-income student options, it must not violate the Title I supplement-not-supplant requirement in the ESEA. That is, the district cannot divert state or local funds from its Title I schools because they receive CARES Act funds.

Option 2 follows the original USDE guidance and states that if a school district chooses to use CARES Act funding for students in all its public schools, it still must calculate the funds for equitable services based on all students enrolled in private schools in the district, regardless of a student’s poverty level.

**Holding amounts in reserves:** School districts that cannot implement or choose not to implement Option 1 should calculate the difference between: 1) equitable services based on Title I, Part A; and 2) an amount associated with total enrollment of all participating private schools in the district, compared to the total enrollment in both public and participating private schools in the district, regardless of the student's poverty level, and hold this amount in reserve.

**Steps to take if a private school refuses to sign the equitable services affirmation form:** School districts must make timely and meaningful attempts at consultation and document such efforts, including the provision of the affirmation form. If an eligible private school will not sign the affirmation, the district may complete the ESSER subgrant application after compiling records that demonstrate that consultation has, or attempts at consultation have, occurred.

Read PDE’s full [Guidance on Calculating and Administering Equitable Shares Reservations](https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/CARESAct/Pages/Equitable-Services-Reservation-Guidance.aspx). PSBA will continue to report on this issue as changes may occur regarding the calculation of CARES Act funds.