



**Policy Memorandum | April 17, 2020:**  
COVID-19 Federal Resource Summary

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*The following is a summary of information and resources released on the U.S. Department of Education (USED) Website, [COVID-19 Information and Resources for Schools and School Personnel](#), the U.S. Department of Agriculture Website, and the CDC Website to assist you in developing strategies related to the national health emergency.*

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### **Education Stabilization Fund & Uses of CARES Act Funding**

On April 13, 2020, USED unveiled its [Education Stabilization Fund](#) website. The site provides information on the \$30.75 billion in four grant programs created through the CARES Act:

1. [Education Stabilization Fund Discretionary Grants](#) – Congress set aside 1% of the Education Stabilization Fund for States with the highest coronavirus burden. The Department will make these grants available to State’s governor’s offices most affected by coronavirus.
2. [Governor’s Emergency Relief Fund](#) – On April 14, 2020, USED released information for this fund authorized under the CARES Act which sets aside \$3 billion to award State governor’s offices based on a formula stipulated in the legislation. The formula is summarized below. Questions can be addressed to [GEERF@ed.gov](mailto:GEERF@ed.gov).
  - a. 60% on the basis of the State’s relative population of individuals aged 5 through 24; and
  - b. 40% on the basis of the State’s relative number of children counted under § 1124(c) of ESEA.<sup>1</sup>
3. [Elementary and Secondary School Emergency Relief Fund](#) – Congress set aside \$13.5 billion of the funds authorized by the CARES Act for this fund. USED will award these grants to State Education Agencies (SEAs) based on the same proportion of its typical Title I formula grant in the most recent fiscal year.<sup>2</sup>

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<sup>1</sup> Elementary and Secondary Education Act (1965) as amended by the Every Student Succeeds Act (2015). § 1124 describes grants for Basic Grants to Local Education Agencies. Available at <https://legcounsel.house.gov/Comps/Elementary%20And%20Secondary%20Education%20Act%20Of%201965.pdf>

<sup>2</sup> Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015. Title I, Part A focuses on improving basic programs operated by local educational agencies for economically disadvantaged students.

4. [Higher Education Emergency Relief Fund](#) – Congress set aside \$14.25 billion of the allotment under the CARES Act for the HEERF. The Department will award these grants to institutions of higher education on a formula stipulated in the legislation. Funds may be used to defray expenses for institutions of higher education, such as lost revenue, technology costs associated with a transition to distance education, and grants to students for food, housing, course materials, technology, health care, and childcare. Questions can be addressed to [HEERF@ed.gov](mailto:HEERF@ed.gov).

**FACT SHEET:** On April 8, 2020, USED released a [fact sheet](#) on appropriate uses of funds for education grants during the coronavirus pandemic. Questions and comments related to this information can be addressed to [COVID-19@ed.gov](mailto:COVID-19@ed.gov).

1. A grantee or subgrantee that paid employees using grant funds from USED (including salaries, wages, and fringe benefits) may continue to charge the compensation to the grant if the organization pays similarly situated employees whose compensation is paid with non-Federal funds during an extended closure. A grantee may not charge compensation to the grant, however, if grant activities are shut down but non-grant programs funded by the organization are not closed down. *A grantee or subgrantee may amend an existing policy or create a policy to put emergency contingencies in place for Federal and non-Federal similarly situated employees.*  
A grantee and subgrantee must maintain appropriate records and cost documentation and substantiate the charging of any compensation costs related to interruption of operations or services. USED encourages grant recipients to “consider ways that employees paid with grant funds can support continuing activities, including distance learning opportunities for students served by the grant.”
2. Grantees and subgrantees can reimburse nonrefundable travel and registration costs for events cancelled due to COVID-19 after first seeking to recover them from the relevant entity that charged the fee. USED encourages grantees and subgrantees to exercise “act of God” provisions to “the extent possible in light of the COVID-19 outbreak.” Appropriate and reasonable cancellation costs that were incurred to carry out an allowable activity under the grant may be charged to the grant but USED points out that grantees and subgrantees should NOT assume additional funds will be available to eventually carry out the event or travel. As with other grant expenditures, appropriate records and cost documentation must be maintained.
3. Grant-supported travel “generally should not be occurring.” Only travel permitted by Federal, State, and local directives to carry out an “essential grant function that must be undertaken on a time-sensitive basis” is allowable. Travel insurance is

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<https://legcounsel.house.gov/Comps/Elementary%20And%20Secondary%20Education%20Act%20Of%201965.pdf>

allowable provided the cost is reasonable and allocable to the grant consistent with Federal cost principles outlined in the Code of Federal Regulations.<sup>3</sup>

## Fiscal Requirements Waivers

In a [letter](#) dated April 3, 2020, Secretary DeVos addressed Chief School State Officers to summarize funding flexibilities under the CARES Act. Requests for waivers can be submitted by the State on behalf of itself or districts to e-mailing [OESE.TitleI-a@ed.gov](mailto:OESE.TitleI-a@ed.gov).

The [waiver request template](#) is available on the Office of Elementary & Secondary Education website and the USED Coronavirus updates page. States requesting these waivers must commit to: (1) utilize funds in accordance with provisions applicable statutes and regulations not subject to the articulated waivers; (2) mitigate any negative effects that may result as a result of the requested waivers; and (3) *provide the public and all districts in the State with notice of, and the opportunity to comment on, the request by posting information regarding the waiver request and the process for commenting on the State website.*

The following provisions of the Elementary and Secondary Education Act (ESEA) may be waived upon a showing of necessity due to the coronavirus and with approval of the Secretary:

1. § 1127(b) of Title I, Part A so that States can waive the 15% carryover limitation for FY 2019 Title I, Part A funds. Typically, States can utilize roll over only once every three years. This provision waives that limitation. The State can extend for itself and its subgrantee districts the period of availability for FY 2018 funds for programs included in State ESSA Plans to allow additional time to obligate those funds.
2. § 421(b) of the General Education Provisions Act (GEPA) to extend the period of availability of 2018 funds for programs in which your State participates under its approved State ESSA plan until September 30, 2021.
3. § 4106(d) of Title IV, Part A relating to local educational agency needs assessments for the 2019-2020 school year.
4. § 4016(e)(2)(C), (D), and (E) of Title IV, Part A with respect to content-area spending requirements for FYs 2018 and 2019.
5. § 4109(b) of Title IV, Part A with respect to spending limitation for technology infrastructure for FYs 2018 and 2019.
6. § 8101(42) of ESEA, which defines “professional development,” for activities funded for the 2019-2020 school year. This allows States and districts to provide time-sensitive, one-time or stand-alone professional development focused on supporting educators in delivering education services and learning programs during school closures.

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<sup>3</sup> The Electronic Code of Federal Regulations is available at <https://www.ecfr.gov/cgi-bin/text-idx?node=2:1.1.2.2.1.5&rgn=div6>.

## ESSA Assessments & Accountability Waivers

On March 20, 2020, Secretary DeVos sent a [letter](#) to Chief State School Officers to announce flexibility for all states regarding assessment and accountability requirements under ESSA. The waivers outlined were finalized and refined with the passage of the [CARES Act](#) on March 27, 2020.

The Secretary has the authority to waive any statutory or regulatory requirements for a State educational agency, Indian tribe, or local educational agency related to assessments, accountability, and reporting requirements for assessments and accountability. *States and districts requesting waivers must notify stakeholders of such requests through publication and must allow an opportunity for the public to comment on the requests. State and local associations have the right and ability to communicate their concerns and interests pertaining to waivers of ESEA requirements.*

On March 20, 2020, USED released a [template](#) for the submission of waivers, including reporting requirements under ESEA. States can submit the form to cancel statewide assessments for 2019-2020, suspend annual meaningful differentiation and identification of schools for comprehensive, targeted, and additional targeted support and improvement based on data from 2019-2020, report card provisions, and implementation of interventions on the basis of failing to meet exit criteria or progress goals outlined in state plans.

Upon a State or local educational agency showing that the waiver(s) are “necessary and proper,” the Secretary may waive the following requirements for the 2019-2020 school year:

1. § 1111(b)(2) of ESEA, requiring Statewide assessments and State standards;
2. § 1111(c)(2) of ESEA, detailing Statewide accountability systems, including reporting of all students and student subgroups on statewide assessments, additional academic indicators schools without a Grade 12, and the Opportunity Indicator;
3. § 1111(d)(2)(C)-(D) of ESEA, requiring identification of schools for comprehensive, targeted, and additional targeted support and improvement and identification of consistently underperforming schools with struggling subgroups; resource allocation reviews and identification of resource inequities required for schools identified for additional targeted support and improvement and districts with high numbers of CSI/TSI schools;
4. § 1111(h) of ESEA, requiring school report card data pertaining to English learner progress toward proficiency, Opportunity Indicator(s), progress of all students and student subgroups toward meeting State-identified long-term goals, students assessed and not assessed (including those with the most significant cognitive disabilities taking an alternative assessment), and comparisons of how students in a district achieved on academic assessments as compared to students in the State.

## Office for Civil Rights: Online Education, Website Accessibility, and Protecting Students' Civil Rights

OCR is responsible for enforcing the following provisions with respect to public educational institutions under two statutes:

1. § 504 of the Rehabilitative Act (1973) applies to entities that receive federal financial assistance from the Department of Education.
2. Title II of Americans with Disabilities Act applies to public entities.

On March 16, 2020, the Office for Civil Rights (OCR) released a [fact sheet](#) which discusses how school officials should keep in mind federal civil rights requirements and respond appropriately to allegations of discrimination. OCR advised “schools have significant latitude and authority to take necessary actions to protect the health, safety, and welfare of students and school staff,” including the discretion to make decisions in response to the evolving conditions related to the coronavirus.

The general rule is that if a school district closes its schools and does not provide any educational services to the general student population, it would not be required to provide services to students with disabilities during that same period of time.

In the event of extended school closures, the student’s IEP Team, or appropriate personnel under Section 504, must make an individualized determination whether and to what extent compensatory services are needed consistent with the respective applicable requirements, including to make up for any skills that may have been lost. IEP Teams are not required to meet in person while schools are closed. Face-to-face evaluations or observations should be delayed until schools are reopened. Evaluations that do not require face-to-face assessments or observations may take place while schools are closed, so long as a student’s parent or legal guardian consents. The same principles apply to a student with a disability who has a plan under Section 504.

Schools that receive federal funds must take prompt and appropriate action to respond to bullying and harassment on the basis of actual or perceived disability, race, color, or national origin. Schools also have an obligation to avoid discrimination on the basis of a disability, and should work with public officials and others to ensure that students with disabilities have access to the school’s education program. If a student who has an individualized education program (IEP) through the Individuals with Disabilities Education Act (IDEA) or is receiving services under Section 504 is required or advised to stay home, OCR states, “provision[s] should be made to maintain education services.”

The Assistant Secretary for Civil Rights of USED, Kenneth L. Marcus, delivered a short [webinar presentation](#) on March 17, 2020 about online education and website accessibility. The Assistant Secretary pointed out that online learning can be powerful, but must be accessible to all persons, including individuals with disabilities unless an “equally effective alternate access” is provided in another manner.

Individuals with disabilities must be able to access the same information, engage in the same interactions, and enjoy the same interactions and activities as their non-disabled

peers with approximately the same ease of use. Assistive technology such as speech recognition software, eye sticks or navigation implements, screen reader software, and other tools. Websites for online learning should be compatible for individuals with a variety of disabilities and usable with the types of assistive technology that individuals may use. Automated and human “checkers” should evaluate whether websites are appropriately accessible.

The field of online learning is rapidly changing, especially given the national health emergency. OCR’s Web Access Team is available to educators to respond to questions. They can be reached via e-mail at [OCRWebAccessTA@ed.gov](mailto:OCRWebAccessTA@ed.gov).

## **Career & Technical Education (CTE) Plan Flexibility**

Letters to State CTE Directors from the Office of Career, Technical, and Adult Education outlining these flexibilities were released on [March 31, 2020](#) and [April 13, 2020](#). They outline Perkins V State Plans and critical questions for implementing CTE programs in the midst of the COVID-19 pandemic.

The transition to digital learning has created a host of unprecedented challenges for Perkins-funded state formula and discretionary grant programs, otherwise known as career and technical education (CTE). Now that states are in the midst of determining how to adjust their CTE programs and trainings, USED is providing additional time for states to submit their Perkins V State Plans.

Additionally, USED is providing flexibility for states to award subgrants to local grant recipients, and is providing states the flexibility to give local recipients more time to complete applications for Perkins V subgrant funding. While USED encourages states to meet the original April 15 deadline to submit their Perkins V State Plans, it will allow an extension to June 15, 2020, and in special cases, up to September 15, 2020 to ensure timely disbursement of grant funds.

USED is also permitting states to grant local recipients their Perkins V funding when they deem applications “approvable” and is allowing the application deadline for local recipients to be extended by three months when needed. According to the Department, these adjustments and flexibilities should provide states time to adjust their Perkins V State Plans without the fear of missing out on much needed grant funding to continue to meet the needs of millions of CTE students across the country.

## Department of Agriculture (USDA) Meals, Waivers, and Best Practices

On March 10, 2020 USDA [announced](#) proactive flexibilities and authorized School Food Authorities (SFAs) and other eligible community organizations to continue serving meals to students affected by school or childcare closures.

The USDA granted a [nationwide waiver](#) that will allow program operators to serve meals in a non-congregate setting, provides flexibility to the meal service time requirement, allows operators to forgo the educational/enrichment activity requirement, and permits caregivers to pick up school meals without the presence of a child.

The recent COVID-19 federal relief legislation enables states to provide emergency allotments (supplements) to SNAP households and give income-eligible families with children in closed schools Electronic Benefit Transfer (EBT) cards to use at food stores and farmer's markets. States will need to inform the USDA of their plans to take part in these programs.

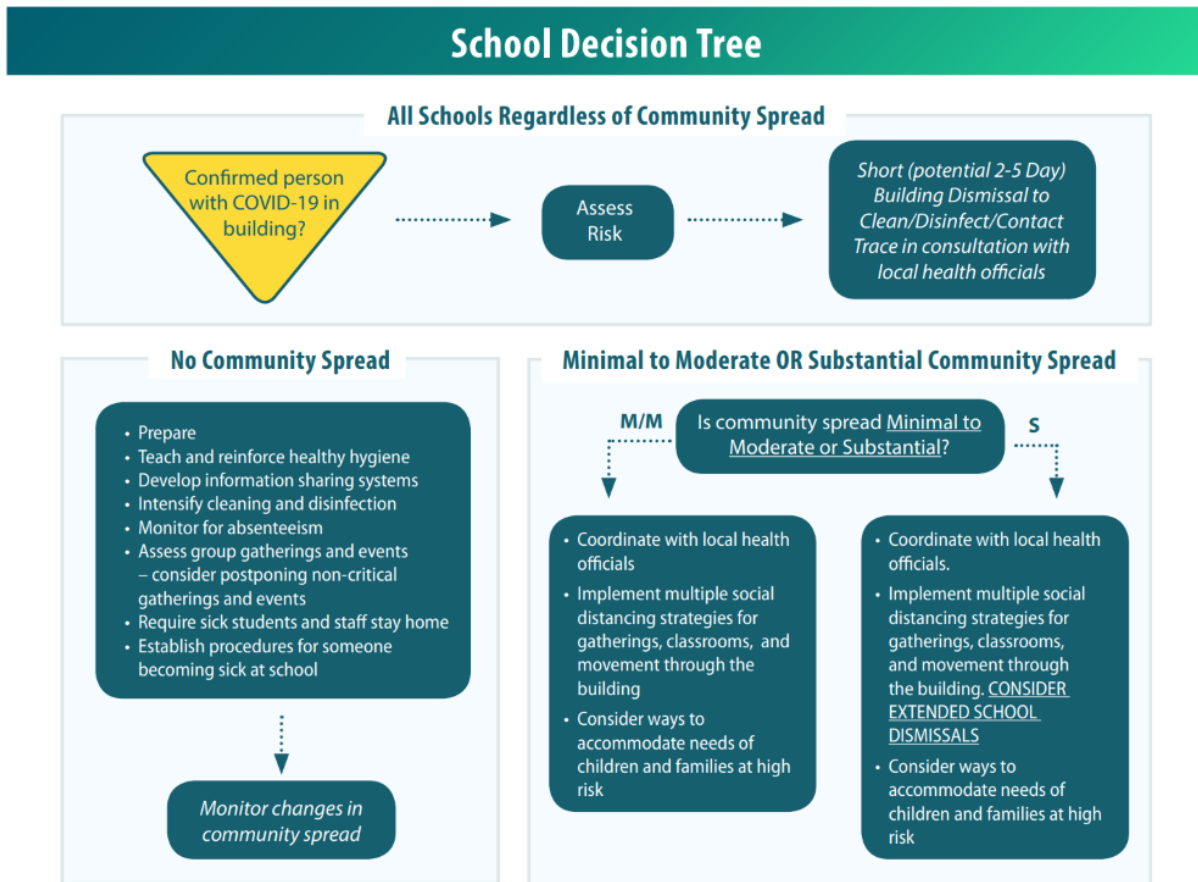
### References

1. [USDA Food Nutrition Service Guidance on Human Pandemic Response](#)
2. [USDA: SFSP and SSO Meal Delivery Using Existing Authority](#)
3. [USDA: State Plan for Pandemic EBT](#) (March 20, 2020)
4. [USDA: Request to Provide Emergency Allotments \(Supplements\) to SNAP Households](#) (March 20, 2020)

## Centers for Disease Control (CDC) and Prevention Guidance for Schools and Programs/ Colleges & Universities

CDC's updated guidance for [P-12 Schools & Programs](#) and [Colleges & Universities](#) now includes a school closure decision tree. In addition, the resources [Considerations for School Closings](#) and [Supplemental Guidance for Child Care Programs That Remain Open](#) continue to be available for public consumption. Generally applicable guidance includes the following:

1. Make hand cleaning supplies readily available.
2. Encourage students and staff to stay home if sick.
3. Monitor absenteeism.
4. Plan for digital and distance learning.
5. Be prepared to temporarily dismiss or close schools and cancel events. Short term dismissals may be appropriate for cleaning and contact tracing if you have a case. Longer dismissals may be appropriate if you have substantial spread in your area.
6. Plan ways to continue student services such as school meal programs if schools close.
7. Stagger staffing or schedules to reduce in-person interaction.
8. Work with your local health department for guidance on closures and re-openings.



Ongoing General Guidance

At all times, the CDC advises schools to (1) encourage staff and/or community members to [protect their personal health](#), and (2) post the signs and [symptoms of COVID-19](#): fever, cough, shortness of breath. You can see all of the CDC’s guidance by accessing the agency’s dedicated [coronavirus website](#).

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*For more information from the National Education Association on schools and coronavirus, please visit the NEAToday [website](#).*

*NEA’s Education Policy & Practice Department is available to answer questions and receive comments and stories. You can contact EPP via e-mail at [ESSAinfo@nea.org](mailto:ESSAinfo@nea.org).*