



## The current impact of the CARES Act on K-12 education

April 2, 2020

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), also known as the “third COVID-19 supplemental relief bill,” was signed into law on March 27, 2020. The CARES Act provides economic relief to public school districts in a variety of ways, allocating funding to COVID-19 response measures, afterschool and summer learning programs, student nutrition and mental health supports. Although the CARES Act does not expressly dedicate monies for the provision of internet services to students, funds received under the CARES Act may be used to facilitate remote student learning and to purchase technology, such as internet-connected devices.

The CARES Act further provides U.S. Department of Education Secretary DeVos the ability to grant school districts relief from the accountability and testing requirements imposed by the Every Student Succeeds Act (ESSA), which is the 2015 federal legislation that reauthorized the Elementary and Secondary Education Act of 1965 (ESEA). The CARES Act loosens stringent school achievement, reporting and spending requirements under Title I, allowing states to request waivers of testing requirements in reading, math and science and the identification of low-performing schools and also allowing schools to apply remaining Title I funds to the following school year.

Finally, the CARES Act requires Secretary DeVos to make recommendations to



**Rebecca C. Princehorn**  
Partner  
Columbus  
614.227.2302  
rprincehorn@bricker.com



**Catherine M. Swartz**  
Partner  
Cleveland  
216.523.5465  
cswartz@bricker.com



**Beverly A. Meyer**  
Partner  
Dayton  
937.224.1849  
bmeyer@bricker.com

Congress within a period of 30 days that are geared toward providing schools “limited flexibility” from other statutory requirements under key education laws, including the Individuals with Disabilities in Education Act (IDEA), the Rehabilitation Act and the Carl D. Perkins Career and Technical Education Act (Perkins Act), and further relief from the mandates of the ESSA. For that reason, school districts can expect to see the enactment of additional education-oriented legislation after both houses of Congress reconvene on April 20. Until then, school districts are left to evaluate the impact of funding currently available under the CARES Act as they continue to meet their students’ many needs.

#### Education Stabilization Fund

The CARES Act establishes an Education Stabilization Fund, funded at \$30.75 billion, with funds mostly split between emergency relief funds for higher education (\$14.25 billion) and elementary and secondary schools (\$13.5 billion). The Stabilization Fund also earmarks approximately \$3 billion for state governors to disburse through grants to local school districts that the applicable state education agency considers most impacted by COVID-19.

- Available funds: A total of \$30.75 billion is available as federal stimulus funds to support higher education and K-12 education through September 30, 2021.
  - Allocation: Generally, and after certain small percentages are allocated to outlying areas, the Bureau of Indian Education and states with the highest coronavirus burden, the remainder of the funds will be allocated to state governors, elementary and secondary education, and higher education.
  - Eligibility for funds hinges on a commitment to employ: The general commitment for any entity receiving funds is “to the greatest extent practicable, continue to pay its employees and contractors during the period of any disruptions or closures related to coronavirus” (emphasis added). School districts will want to continue paying their employees and contracted vendors to the fullest reasonable extent to ensure they remain eligible to receive monies sourced from the Stabilization Fund. Districts that are unable to continue paying should fully document and be prepared to explain the reasons why they have discontinued payments, in the event that they may attempt to retain eligibility for the receipt of funds.
  - ESCs and joint vocational schools are local educational agencies eligible to receive monies under the CARES Act.
    - Local educational agency: As defined in the ESEA, a public board of education or other public authority legally constituted within a state for either administrative control or direction of, or to perform a service function for, public

elementary schools or secondary schools in a city, county, township, school district or other political subdivision of a state or for a combination of school districts or counties that are recognized in a state as an administrative agency for its public elementary schools or secondary schools. In Ohio, educational service centers may currently receive Title I ESEA funds.

- Elementary education and secondary education: This has the same meaning as under state law. In Ohio, career-technical education is mandated to be provided under R.C. 3313.90.
- Governor's Emergency Education Relief Fund: Approximately \$3 billion of the funds will be directly disbursed to applying state governors and allocated to those states according to both population and number of children.
  - Uses of funds: State governors may use their portions to make grants to those local educational agencies most significantly impacted or essential for emergency educational services.
- Elementary and Secondary School Emergency Relief Fund: Approximately \$13.5 billion of the funds will go to those state educational agencies that apply for funds in the same proportion as they received funds under Part A of Title I for the most recent fiscal year. The Ohio Department of Education, as such, is then to provide 90 percent of the funds received as subgrants to local educational agencies in similar proportions. The remainder is to be used for emergency COVID-19-related needs and state administrative costs (not to exceed one-half of 1 percent of the state allocation).
  - Uses of funds: Local educational agencies may use their portions of the funds for:
    - Any activity authorized by ESEA, the Individuals with Disabilities Education Act, the Adult Education and Family Literacy Act, the McKinney Vento Homeless Youth Act and the Perkins Act
    - Providing resources necessary to address the needs of individual schools, including online learning
    - Purchasing educational technology for students, including one-on-one devices and internet connectivity
    - Providing mental health services and supports
    - Planning and implementing summer learning and supplemental afterschool programs
    - Activities to address the needs of low-income students, students with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness and foster care youth
    - Planning and coordinating student meal services
    - Developing and implementing procedures to improve virus

- emergency preparedness and response efforts
- Training staff on sanitation and minimizing the spread of infectious disease
- Purchasing sanitation and cleaning supplies
- Planning for and coordinating during long-term closures
- Other activities necessary to maintain the operation of and continuity of services and continuing to employ existing staff
- Working with partner organizations and nonprofits to address community needs
- State eligibility for funds hinges on the maintenance of educational support: States applying for funds to disburse must commit to maintaining financial supports to elementary and secondary schools in fiscal years 2020 and 2021 at the average level of support provided during the three preceding fiscal years. However, the Secretary of Education may waive this requirement for states that have “experienced a precipitous decline in financial resources.”

#### Safe Schools and Citizenship Education monies

The CARES Act separately allocates \$100 million in funds to schools for Safe Schools and Citizenship Education initiatives through Project SERV, which provides education-related services, including counseling and referrals for mental health services, to local educational agencies. These funds are also available through September 30, 2021.