

GaDOE FAQ on CARES Act & Other Federal COVID-19 Relief Bills

Updates in *BLUE* – 5-4-2020

Responses below are based on the latest available guidance from the U.S. Department of Education (USED) and the Georgia Department of Education (GaDOE)'s best interpretation, working along with national partners, of the Coronavirus Aid, Relief, and Economic Security (CARES) Act as passed by Congress and signed into law by President Trump on March 27, 2020. Below are some of the questions GaDOE has received related to the CARES Act.

Please continue to send your questions to: mcardoza@doe.k12.ga.us. We will update this document on a regular basis. Please note that the information is changing very quickly, and we will update outdated information as quickly as possible.

OVERARCHING INFORMATION

The CARES Act provides education funding to state education agencies and local education agencies to support schools as they are dealing with the effects of the COVID-19 Pandemic. Funding has not yet been distributed to state education agencies, but GaDOE is proactively planning to structure the CARES Act stimulus funding to LEAs to specifically address:

- **At-risk Student Populations**
- **Distance/Remote Learning**
- **School Meals**
- **Mental and Physical Health**
- **Supplemental Learning**
- **Facilities/Equipment**
- **Continuity of Core Staff and Services**

While the Elementary and Secondary School Emergency Relief Fund allocates funds to LEAs based on their Title I allocations, these are not Title I funds.

Do you know when LEAs should expect to receive funding?

We submitted our Certification and Agreement for Funding application on April 28 and received an approval letter April 29. [The State Board of Education approved final LEA allocations on May 4. A webinar will be hosted on May 5 to discuss details about receiving funds.](#)



FUND ALLOCATION AND USES OF FUNDS

Will the use of the funds for LEAs be flexible, with LEAs being permitted to spend the funds on all the same activities permitted under all the major programs in the Elementary and Secondary Education Act?

Yes, the uses of funds for this money are very flexible. While the Elementary and Secondary School Emergency Relief Fund allocates funds to LEAs based on their Title I allocations, these are not Title I funds. Under the law, funds may be used for any activity authorized by ESEA, IDEA, the Adult Education and Family Literacy Act, the Perkins Act (CTE), or the McKinney-Vento Homeless Assistance Act, in addition to other activities to help with the response to COVID-19 (including preparedness and response efforts, sanitation, professional development, distance learning, and others).

Examples of funding flexibility could include the following:

- **School Meals:** Offset costs due to serving school meals (not covered through USDA reimbursements). Cover additional personnel ('hazard pay', hours, etc.) or logistical costs (transportation, etc.).
- **Distance/Remote Learning:** Cover costs of devices, connectivity (hot spots, wireless, internet service, etc.), printing/preparing learning packets, instructional resources/tools, and other technology costs (hardware, software, assistive technology, outfitting buildings/buses with WiFi, online learning platforms, subscriptions, etc.).
- **Facilities/Equipment:** Cover costs of sanitizing/disinfecting buildings, additional personnel costs ('hazard pay', hours, etc.), and equipment (gloves, masks, PPE, cleaning supplies, etc.).
- **Mental and Physical Health:** Cover the costs of counseling, telehealth, school nursing, therapeutic services, and wraparound services and supports (contracted hours, professional learning, programs, etc.).
- **Supplemental Learning:** Cover costs of extended learning, remediation, and/or enrichment opportunities for students (summer learning, afterschool programs, additional pay for teachers and staff, extended schedules, etc.).
- **Professional Development:** Cover costs of additional professional development for school leaders, teachers, and staff (trainings, extended professional development days, consultants, programs, etc.).
- **At-risk Student Populations:** Cover costs of specific activities, services, supports, programs, and/or targeted interventions directly addressing the needs of low-income students, students with disabilities, racial and ethnic minorities, English Learners, migrant students, students experiencing homelessness, and children in foster care.
- **Continuity of Core Staff and Services.** Restore any potential LEA FY21 budget reductions due to decreased state and/or local revenue. Cover costs of offsetting the need to furlough or reduce the salaries of any state or locally funded, school-

based staff and/or continue core operations (transportation, utility, and other operating costs).

How do the funds allocated to LEAs through the Education Stabilization Fund (section 18003) compare to a typical fiscal year total Title I budget?

The Education Stabilization Fund is distributed in direct proportion to the percentage of state Title I funds LEAs received under Title I, Part A in 2020. This allocation is approximately 80% of the typical fiscal year Title I allocation.

Are the CARES Act funds for the entire LEA or just federal programs?

CARES Act funds can be used for all schools and programs in an LEA, not just for use by traditional federal programs.

If a district has some Title I schools and some non-Title I schools, how is the LEA required to allocate CARES Act funds to schools?

The CARES Act does not require the funds to be allocated down to the school level. It would be a district decision based upon the needs of the district. The CARES Act funds are not Title I, Part A funds.

Who at the LEA is responsible for managing the CARES Act funds? Title I Directors or someone else?

Responsibility for CARES Act Administration will be determined locally. For time and effort purposes, LEAs should be reminded that this does constitute a different cost objective than grant funds authorized under ESSA, IDEA, and McKinney-Vento.

Should LEAs spend local and other federal funds immediately for COVID-19 needs with the expectation that they can recode expenses to these new funds once they are allocated?

COVID-19-related expenses are retroactive to March 13, 2020, and after.

Are locally approved charter schools eligible to receive CARES Act funds?

The CARES Act does not require the funds to be allocated down to the school level. Allocation of funds to schools would be an LEA decision based upon the needs of the LEA. If the LEA uses CARES dollars to fund centralized supports or services, charter schools should have equitable access to these supports and services. If the LEA decides to allocate funds to schools, then the locally approved charter schools should receive funds based on the same considerations utilized to allocate funds to all schools within the system. LEAs must treat charter schools no less favorably than other schools within the system with respect to the provision of funds or in-kind services.

Can LEAs use funds to reimburse expenses they are incurring now (e.g. hotspots and technology equipment)?

Yes, COVID-19-related expenses are retroactive to March 13, 2020, and after.

Does the CARES act specify carryover and funding obligation timeframes? Do SEAs get a specific amount of time extension for obligating funds?

Funding for the new Elementary and Secondary School Emergency Relief Fund will be available for obligation through September 30, 2022.

Will the Title I set-aside for school improvement be required with this funding?

While the Elementary and Secondary School Emergency Relief Fund allocates funds to LEAs based on their Title I allocations, these are not Title I funds. Therefore, Title I's school improvement set-aside does not apply to funding provided under the Education Stabilization Act.

Does the CARES Act include a supplement not supplant requirement?

No. The Elementary and Secondary School Emergency Relief Fund does NOT include a supplement not supplant requirement.

What Title I maintenance of effort (MOE) considerations apply to CARES Act funding?

Local funds spent on supplemental expenses made as a result of a Presidentially declared disaster can be excluded from other programs' MOE calculations (like Title I and other ESEA programs). GaDOE may develop mechanisms for tracking such spending to facilitate future calculations.

Must LEAs continue paying employees in order to receive CARES Act funds?

Section 18006 of the CARES Act requires entities that receive Elementary and Secondary School Emergency Relief Funds **to continue to pay employees to the greatest extent practicable**. GaDOE encourages LEAs to consult with their General Counsel/LBOE Attorney to ensure their local emergency plan is followed and that appropriate documentation is maintained.

Must LEAs pay existing contracts in order to receive CARES Act funds?

Like the question above referring to employees, Section 18006 of the CARES Act requires entities that receive Elementary and Secondary School Emergency Relief Funds to continue to pay contractors to the greatest extent practicable. GaDOE encourages LEAs to consult with their General Counsel and ensure their local emergency plan is followed and that appropriate documentation is maintained.

What are the inventory management procedures we should follow now that we have purchased equipment to support online learning?

Chapter 6 of the Federal Programs Handbook addresses inventory management. In the section on equipment management, you will find information for LEAs aligned to the Code of Federal Regulations (2 CFR 200.313 and 34 CFR 81.31c). LEAs should review their procedures to ensure they are following what is written. If changes are needed, now is a good time for revisions.

What is required if online learning equipment purchased with federal funds is lost, damaged, or stolen?

- LEAs should follow their written procedures.
- State requirements are established by DOAS. Federal requirements are set by 2 CFR 200.313 and 34 CFR 81.31. GaDOE provides further guidance in chapter 6 of the Federal Programs Handbook.
- LEAs should review their procedures to ensure they are following what is written. If changes are needed, now is a good time for revisions.
- If items are lost or stolen, at a minimum an investigation (which may be formal or informal) needs to occur and the results must be included on the LEA's inventory management document/ log. (A police report for items reported as stolen is not required unless the LEA's written procedures require it.)

Can you clarify provisions around professional development under the CARES Act?

The CARES Act allows LEAs to use funds for any activity authorized by ESEA, IDEA, the Adult Education and Family Literacy Act, the Perkins Act (CTE), or the McKinney-Vento Homeless Assistance Act. Many of these grants, and Title II, Part A of ESSA particularly, use the ESSA definition of professional development. Under the CARES Act, the existing ESSA definition for professional development has been waived to allow increased flexibility in meeting the professional learning needs of teachers, principals and other school and district leaders.

STUDENTS WITH DISABILITIES/IDEA

Does the CARES Act include funds for compensatory education services for students with an Individualized Education Program (IEP)?

Yes, the authorized uses of funds under the K-12 portion of the Education Stabilization fund include, among others, any activity authorized under ESEA or IDEA. Thus, the K-12 portion of the Education Stabilization fund could be used for compensatory services for students with disabilities as determined by each LEA.

Will the costs of printing materials and providing home access to assistive technology be allowable uses of CARES Act funds?

Yes. The CARES Act may be used for any activity authorized under IDEA.

MCKINNEY-VENTO

Can you clarify the MCKINNEY-VENTO provisions under the CARES Act?

Funds provided in the CARES Act can be used for activities authorized under the McKinney-Vento Act. LEAs receiving a McKinney-Vento allocation are encouraged to coordinate funds with the CARES Act funds. Additionally, LEAs set aside part of their Title I, Part A allocation. These set-asides should also be coordinated with the CARES Act funds.

NUTRITION (separate funding source from CARES Act)

How will the U.S. Department of Agriculture (USDA) support state agencies given there are fewer meals being served and a lower National School Lunch Program (NSLP) meal reimbursement? Would they adjust the state funding allocations?

The second COVID-19 package, the Families First Coronavirus Response Act, provided \$1 billion in nutritional aid, among other things. The bill also provided the U.S. Department of Agriculture (USDA) with authority to grant waivers (until September 30, 2020) for various provisions of Child Nutrition and School Lunch Acts. This flexibility relates to the existing structure but does not necessarily pertain to reimbursement rates. GaDOE will continue working with appropriate parties to see what additional changes might be necessary to provide meals in the states.

How will the per meal reimbursement funding be reviewed?

USDA has not presently made any announcements with respect to per meal reimbursement. Congress has not addressed this issue specifically in any of the COVID-19 packages.

WAIVERS

Does the CARES Act allow for additional flexibility in K-12 education funding in ESEA with waivers of certain statutory or regulatory requirements with these funds?

Yes, under the “National Emergency Educational Waivers” authority created under Section 3511 of the CARES Act, an SEA may waive the requirements relating to:

- Section 1127(b) of Title I, Part A of the ESEA so that an SEA may waive, more than once every three years, if necessary, the 15 percent carryover limitation in ESEA section 1127(a) for fiscal year (FY) 2019 Title I, Part A funds.
- Section 421(b) of the *General Education Provisions Act* (GEPA) to extend the period of availability of federal FY 2018 funds for programs in which your SEA participates under its approved consolidated State plan until September 30, 2021.
- Section 4106(d) of Title IV, Part A of the ESEA related to LEA needs assessments for the 2019-2020 school year.
- Section 4106(e)(2)(C), (D), and (E) of Title IV, Part A of the ESEA with respect to content-area spending requirements for FYs 2018 and 2019 Title IV, Part A funds.
- Section 4109(b) of Title IV, Part A of the ESEA with respect to the spending limitation for technology infrastructure for federal FYs 2018 and 2019 Title IV, Part A funds.
- Section 8101(42) of the ESEA, which defines “professional development,” for activities funded for the 2019-2020 school year.

Through these waivers, GaDOE would be able to approve an LEA to carry over more than 15 percent of its Title I, Part A funds, even if the LEA had received approval to exceed this limitation in the past three years. GaDOE would be able to extend for itself and its subgrantees the period of availability of federal FY 2018 funds for programs included in our consolidated State plan to allow additional time to obligate those funds. GaDOE would also be able to permit an LEA or consortium of LEAs to use its Title IV, Part A funds to best meet its needs without regard to content-area spending requirements, spending limits on technology

infrastructure, or completing a needs assessment. Finally, by waiving the definition of professional development, GaDOE and subgrantees would be able to conduct time-sensitive, one-time or stand-alone professional development focused on supporting your educators to provide effective distance learning.

The GaDOE has received a waiver for each of the statutory and regulatory requirements listed above.

EQUITABLE SERVICES/NON-PUBLIC SCHOOLS

What Georgia private schools are eligible to receive CARES Act equitable services?

In accordance with the April 30, 2020 Equitable Services FAQs, private schools eligible to receive equitable services include all Georgia non-profit non-public elementary and secondary schools that (A) are accredited, licensed, or otherwise operate in accordance with State law; and (B) were in existence prior to the date of the qualifying emergency for the CARES Act programs. A for-profit non-public school is not eligible to receive equitable services for its students and teachers under the CARES Act programs. An LEA must offer to provide equitable services under the CARES Act programs to students and teachers in all non-public schools located in the LEA, even if a non-public school has not previously participated under Title I, Part A or Title VIII of the ESEA.

- **State Law:** In accordance with the Official Code of Georgia (O.C.G.A § 20-2-690), private schools who reported 2019-2020 attendance information to LEAs will be eligible. The list of schools can be found on the Georgia Department of Education Website. If your school is not listed, but submitted a DE1111 during the 2019-2020 school year, please reach out to the State Ombudsman Carly Ambler at ombudsman@doe.k12.ga.us.
- **Nonprofit Status:** Current non-profit status will be verified using the Georgia Secretary of State business search. If the school is registered/covered under another business, the school must provide foundational documentation to verify the relationship between the school and other organization and will require the legal business name of the umbrella business to verify nonprofit status.

Which Georgia LEA is responsible for providing equitable services to non-public school students and teachers under the CARES Act programs?

USED has determined that, under the CARES Act programs, the LEA in which a non-public school is located is responsible for providing equitable services to students and teachers in the school. LEAs are responsible for verifying that each participating private school is physically located within the LEA's geographic boundaries.

How will the proportionate share for private schools be determined?

In accordance with the April 30, 2020 Equitable Services FAQ, the proportionate share available to both the public-school district and private schools is based on total K-12 enrollment. In Georgia, in order to reduce the duplication of students and ensure the highest per pupil total for both public and private school students, enrollment counts will be determined

by enrollment in the public and private schools on April 30, 2020. This date is the most recent official enrollment count of public-school students.

What are the requirements for consultation for equitable services under the CARES Act?

- **Guidance:** GaDOE will host and record an online session outlining expectations for implementation of CARES Act Equitable Services specific to Georgia. This will be communicated to public and nonpublic schools and is available to the public at large.
- **Invitation to Consult and Intent to Participate:** In Georgia, GaDOE will email all known private schools using the contacts listed in the official data collection. In addition, LEAs must make a good faith effort to reach out to private schools using available contact information. LEAs are strongly encouraged to use multiple methods of communication to reach private schools including emails, phone calls, letters, website posting and social media. Private schools are encouraged to verify on the Georgia Department of Education website that the most current contact information is available. If not, please contact ombudsman@doe.k12.ga.us. This information will be collected using a GaDOE hosted online form.
- **Timely and Meaningful Consultation:** LEAs are responsible for scheduling timely and meaningful consultation to cover required consultation topics and develop a mutually agreed upon plan that will address the needs of the private school's students and teachers. Meetings between the LEA and nonpublic school officials need not occur in person if they cannot be conducted due to closed schools or social distancing rules. In this case, US Ed recommends LEAs and non-public school officials consult remotely. The LEA must maintain and provide to the SEA written affirmation (developed by GaDOE) signed by non-public school officials that timely and meaningful consultation has occurred and, if non-public school officials do not provide such affirmation, the LEA must forward to the SEA the documentation that such consultation has, or attempts at such consultation have, taken place.

Are all students and teachers in a non-public school eligible to receive equitable services under the CARES Act programs?

Yes. All students and teachers in a non-public school are eligible to receive equitable services under the CARES Act ESSER Fund. Unlike Title I, Part A, equitable services under the CARES Act programs are not based on residence in a participating Title I public school attendance area and are also not limited only to low-achieving students and their teachers. Equitable services under the CARES Act programs are much broader than under Title I, Part A. Equitable services under the CARES Act programs, by definition, may benefit a non-public school, such as purchasing supplies to sanitize and clean the facility, or all students in a nonpublic school, such as any activity authorized under the ESEA. Moreover, the CARES Act does not have a supplement not supplant requirement.