



May 22, 2020

Molly Spearman
State Superintendent of Education
1429 Senate Street
Columbia, South Carolina 29201

Dear Superintendent Spearman:

The undersigned organizations and individuals write to you to express concern regarding the plan for distributing the \$216.3 million that South Carolina will receive from the Elementary and Secondary School Emergency Relief (ESSER) funding through the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

In guidance issued on April 30, the U.S. Secretary of Education Betsy DeVos directed local educational agencies (LEAs) receiving ESSER funds to set aside a proportionate share for the provision of equitable services in private schools based not on the number of low-income students enrolled in private schools but the *total* number of students enrolled in private schools, irrespective of a student's household income. We urge you to reject the April 30 guidance for the reasons outlined below.

Pursuant to the CARES Act, LEAs receiving ESSER funds are required to provide equitable services to students in non-public, or private, schools in the same manner as provided under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA). The equitable services calculation found in Title I depends on the number of *low-income students* in a public school district attendance area, regardless of whether they attend public or private school. Historically, LEAs determine their equitable services set-aside based on the number of low-income students attending participating

private schools in their attendance area. USED has affirmed this practice as recently as October 2019.

USED's April 30 guidance ignores the express language of the CARES Act, Title I, Part A, and USED's own longstanding practices. For that reason, various state and national leaders, including Indiana's Superintendent of Public Instruction and Maine's Education Commissioner, have already questioned the guidance or directed local districts to ignore it.

If followed, USED's guidance would redirect money from public schools to private schools far in excess of what Congress intended. For example, Greenville County Schools, the state's largest school district, estimates that it would be required to set aside approximately \$1.7 million of the \$19.3 million in ESSER funding that it receives. This is four times GCS' typical set-aside for equitable services. We predict that some district's set-aside percentages would be even greater, particularly smaller districts with higher rates of private school enrollment.

The clear intent of Congress was to direct ESSER funds to students and communities with the greatest need, and in South Carolina that need lies in our public schools. Consider that 62% of the 777,000 students enrolled in the state's public schools are experiencing poverty. These students face challenges of basic daily subsistence and basic access to the resources necessary to learn. 150,000 households are home to students with no broadband access, making distance learning difficult if not impossible. In Greenville County, one of the state's wealthiest counties, more than one million meals have been served to students since schools closed on March 16.

Private schools face an entirely different situation. Their poverty rates are relatively low, and their middle-income families are far wealthier than public school families. The average family income in private schools is 50% higher than those of families with students in public schools. Additionally, to the extent some private schools have faced challenges in South Carolina, they were already eligible for other relief provided by the CARES Act, including business loans through the Paycheck Protection Program (PPP). According to the Greenville News, at least 89 private schools applied for PPP relief and several have publicly reported securing funding.

ESSER funding was not intended to bail out private businesses; rather, it was clearly intended to bolster public school districts' best efforts to educate, feed, counsel, and care for those students most vulnerable to the pandemic's impacts. Diverting resources from public schools at this critical moment would make the already enormous task of providing a minimally adequate education during a global pandemic more challenging.

For these reasons, we urge you to direct the state's public school districts to set aside funds for equitable services to private schools in a manner consistent with the CARES Act, Title I, Part A, and long-observed USED practice by basing set-aside calculations on private school student poverty rates, not overall enrollments. In short, we are asking you to follow the law as written by Congress and reject USED's April 30 guidance.

Respectfully,



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John C. Stockwell
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Robert Lominack
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