



# STATE OF CONNECTICUT STATE BOARD OF EDUCATION



June 8, 2020

Dear Superintendents,

As you know, the United States Department of Education (USED) has approved the Department's application for funding under the federal CARES Act, Elementary and Secondary School Education Relief (ESSER). Section 18005 of the CARES Act requires LEAs who receive funding provide equitable services to local nonpublic schools "in the same manner" as Title I. You may be aware that a national dispute has arisen related to the equitable services guidance released by Secretary DeVos and the USED on April 30 (the Guidance). The Guidance provided by Secretary DeVos significantly broadens how "equitable services" are shared as compared to what is required under Title I and will require LEAs direct considerable resources to nonpublic schools.

The concern that the guidance is inconsistent with the plain language of the CARES Act is not unique to Connecticut. We join many other national organizations including the Council of Chief State School Officers (CCSSO), and members of Congress in urging the federal government to reconsider this aspect of the Guidance specific to the allocation of CARES Act funding for equitable services.

Ensuring equity and access to education has always been, and continues to be, a top priority in Connecticut. Putting LEAs at a disadvantage by calling for them to allocate a greater portion of their CARES Act funding to the provision of equitable services for non-public schools, we believe, is the undoing of the equity goal intended under Title I and the CARES Act.

With the support of the Office of the Governor, the Office of Policy and Management, and the Office of the Attorney General, we have determined that it is appropriate to enact the plain language of the CARES Act and follow the methodology under Title 1, rather than the Guidance. Other state departments of education have made similar determinations (including but not limited to D.C., Colorado, Indiana, Maine, Oklahoma, Pennsylvania, South Dakota, Washington and Wisconsin). This follows the well-established principle, as acknowledged in the Guidance, that "the contents of the guidance do not have the force and effect of law and are not meant to bind the public in any way." However, please be aware that Secretary DeVos plans to engage in a rulemaking process, including a public comment period, which may provide additional clarity as to whether the guidance will become enforceable. Unfortunately, that process takes time and we do not want to stall distribution of funds that we know are much needed now.

Accordingly, our grant application will calculate the funding pursuant to Title I. However, for informational purposes we will include an estimated calculation of the equitable services funding in accordance with Secretary DeVos' Guidance. We encourage you to discuss with your local counsel whether it is appropriate to reserve additional funds in escrow for the purposes of equitable services while this continues to evolve, as recommended by Secretary DeVos in the Guidance. Further, you may want to consult with counsel to ensure you are aware of any potential risk of litigation related to this approach.

In the meantime, if you have any questions please do not hesitate to contact our Chief Financial Officer, Kathy Demsey, at [kathy.demsey@ct.gov](mailto:kathy.demsey@ct.gov) or at (203) 206-4885.

Sincerely,

A handwritten signature in blue ink, reading "Miguel A. Cardona".

Dr. Miguel A. Cardona  
Commissioner of Education