

Section 312(d) EMERGENCY ASSISTANCE TO NON-PUBLIC SCHOOLS. —

(1) PROGRAM AUTHORIZED.—

(A) IN GENERAL.—With funds reserved under subsection (a)(2), the Secretary shall allot the amount described in subparagraph (B) to the Governor of each State with an approved application under paragraph (2) in order to provide services or assistance to non-public schools under this subsection. The Governor shall designate the State educational agency to administer the program authorized under this subsection.

(B) AMOUNT OF ALLOTMENT.—An allotment for a State under subparagraph (A) shall be in the amount that bears the same relationship to the total amount of the funds reserved under subsection (a)(2) as the number of children aged 5 through 17 at or below 185 percent of poverty who are enrolled in non-public schools in the State (as determined by the Secretary on the basis of the best available data) bears to the total number of all such children in all States.

(2) APPLICATIONS FROM STATES. —

(A) APPLICATION REQUEST AND REVIEW.—The Secretary shall—

- (i) issue a notice inviting applications for funds reserved under subsection (a)(2) not later than 30 days after the date of enactment of this Act; and
- (ii) approve or deny an application not later than 15 days after the receipt of the application.

(B) ASSURANCE.—The Governor of each State, in consultation with their respective State educational agency, shall include in the application submitted under this paragraph an assurance that the State educational agency will —

- (i) distribute information about the program to non-public schools and make the information and the application easily available;
- (ii) process all applications submitted promptly, in accordance with subparagraph (3)(A)(ii);
- (iii) in providing services or assistance to non-public schools, ensure that services or assistance is provided to any non-public school that,
 - (I) is a non-public school described in paragraph (3)(C);
 - (II) submits an application that meets the requirements of paragraph (3)(B); and
 - (III) requests services or assistance allowable under paragraph (4);
- (iv) to the extent practicable, obligate all funds provided under subsection (a)(2) for services or assistance to non-public schools in the State in an expedited and timely manner; and
- (v) obligate funds to provide services or assistance to non-public schools in the State not later than 6 months after receiving such funds under subsection (a)(2).

(3) APPLICATIONS FOR SERVICES OR ASSISTANCE.

(A) APPLICATION REQUEST AND REVIEW.—A State educational agency receiving funds from the Governor under this subsection shall--

- (i) make the application for services or assistance described in subparagraph (B) available to non-public schools by not later than 30 days after the receipt of such funds; and
- (ii) approve or deny an application not later than 30 days after the receipt of the application.

(B) APPLICATION REQUIREMENTS.—Each non-public school desiring services or assistance under this subsection shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require to ensure expedited and timely provision of services or assistance to the non-public school, which shall include--

- (i) the number and percentage of students from low-income families enrolled by such non-public school in the 2019–2020 school year;
- (ii) a description of the emergency services authorized under paragraph (4) that such non-public school requests to be provided by the State educational agency; and
- (iii) whether the non-public school requesting services or assistance under this subsection received a loan guaranteed under paragraph (36) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)) that was made before the date of enactment of this Act and the amount of any such loan received.

(C) TARGETING.—A State educational agency receiving funds under this subsection shall prioritize services or assistance to non-public schools that enroll low-income students and are most impacted by the qualifying emergency.

(4) TYPES OF SERVICES OR ASSISTANCE.—A non-public school receiving services or assistance under this subsection shall use such services or assistance to address educational disruptions resulting from the qualifying emergency for--

- (A) supplies to sanitize, disinfect, and clean school facilities;
- (B) personal protective equipment;
- (C) improving ventilation systems, including windows or portable air purification systems to ensure healthy air in the non-public school;
- (D) training and professional development for staff on sanitation, the use of personal protective equipment, and minimizing the spread of infectious diseases;
- (E) physical barriers to facilitate social distancing;
- (F) other materials, supplies, or equipment to implement public health protocols, including guidelines and recommendations from the Centers for Disease Control and Prevention for the reopening and operation of school facilities to effectively maintain the health and safety of students, educators, and other staff during the qualifying emergency;
- (G) expanding capacity to administer coronavirus testing to effectively monitor and suppress coronavirus, to conduct surveillance and contact tracing activities, and to support other activities related to coronavirus testing for students, teachers, and staff at the non-public school;
- (H) educational technology (including hardware, software, connectivity, assistive technology, and adaptive equipment) to assist students, educators, and other staff with remote or hybrid learning;
- (I) redeveloping instructional plans, including curriculum development, for remote learning, hybrid learning, or to address learning loss;
- (J) leasing of sites or spaces to ensure safe social distancing to implement public health protocols, including guidelines and recommendations from the Centers for Disease Control and Prevention;
- (K) reasonable transportation costs;
- (L) initiating and maintaining education and support services or assistance for remote learning, hybrid learning, or to address learning loss; or
- (M) reimbursement for the expenses of any services or assistance described in this paragraph (except for subparagraphs (C) (except that portable air purification systems

shall be an allowable reimbursable expense), (D), (I), and (L)) that the non-public school incurred on or after the date of the qualifying emergency, except that any non-public school that has received a loan guaranteed under paragraph (36) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)) as of the day prior to the date of enactment of this Act shall not be eligible for reimbursements described in this paragraph for any expenses reimbursed through such loan.

(5) ADMINISTRATION.—A State educational agency receiving funds under this subsection may reserve not more than the greater of \$200,000 or one-half of 1 percent of such funds to administer the services and assistance provided under this subsection to non-public schools.

(6) REALLOCATION.—Notwithstanding paragraph (1)(A), each State educational agency receiving funds under this subsection that complies with paragraph (2) but has unobligated funds remaining 6 months after receiving funds under this subsection shall return such remaining unobligated funds to the Governor, to use for any use authorized under subsection(c).

(7) PUBLIC CONTROL OF FUNDS. —

(A) IN GENERAL.—The control of funds for the services or assistance provided to a non-public school under this subsection, and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds, services, assistance, materials, equipment, and property.

(B) PROVISION OF SERVICES OR ASSISTANCE.—

(i) PROVIDER.—The provision of services or assistance to a non-public school under this subsection shall be provided --

(I) by employees of a public agency; or

(II) through contract by such public agency with an individual, association, agency, or organization.

(ii) REQUIREMENT.—In the provision of services or assistance described in clause (i), such employee, individual, association, agency, or organization shall be independent of the non-public school receiving such services or assistance, and such employment and contracts shall be under the control and supervision of such public agency described in subparagraph (A).

(8) SECULAR, NEUTRAL, AND NON-IDEOLOGICAL. -- All services or assistance provided under this subsection, including providing equipment, materials, and any other items, shall be secular, neutral, and non-ideological.

(9) INTERACTION WITH PAYCHECK PROTECTION PROGRAM.—(A) IN GENERAL.—In order to be eligible to receive services or assistance under this subsection, a non-public school shall submit to the State an assurance, including any documentation required by the Secretary, that such non-public school did not, and will not, apply for and receive a loan under paragraphs (36) or (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)(37)) that is made on or after the date of enactment of this Act.

(B) ALLOWANCE.—A non-public school that received a loan guaranteed under paragraph (36) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)) that was made before the date of enactment of this Act shall be eligible to receive services or assistance under this subsection.

(e) RESTRICTIONS.—

(1) Funds provided under this section shall not be used --

(A) to provide direct or indirect financial assistance to scholarship granting organizations or related entities for elementary or secondary education; or

(B) to provide or support vouchers, tuition tax credit programs, education savings accounts, scholarships, scholarship programs, or tuition-assistance programs for elementary or secondary education.

(2) EXCEPTION.—Notwithstanding paragraph (1), a State may use funds provided under subsection (a)(1) to provide assistance prohibited under paragraph (1) only to students who receive or received such assistance with funds provided under section 18002(a) of division B of the CARES Act (20 U.S.C. 3401 note), for the 2020-2021 school year and only for the same assistance provided such students under such section.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be interpreted to apply any additional restrictions to funds provided in section 18002(a) of division B of the CARES Act (20 U.S.C. 3401 note).

(f) REALLOCATION.—Each Governor shall return to the Secretary any funds received under paragraph (1) or (2) of subsection (a) that the Governor does not award or obligate not later than 1 year after the date of receipt of such funds, and the Secretary shall reallocate such funds to the remaining States in accordance with subsection (b) for uses authorized under subsection (c).

DEFINITIONS

SEC. 315. Except as otherwise provided in sections 311 through 316 of this title, as used in such sections—

(1) the terms “elementary education” and “secondary education” have the meaning given such terms under State law;

(2) the term “institution of higher education” has the meaning given such term in title I of the Higher Education Act of 1965 ;

(3) the term “Secretary” means the Secretary of Education;

(4) the term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico;

(5) the term “cost of attendance” has the meaning given such term in section 472 of the HEA .

(6) the term “Non-public school” means a non-public elementary and secondary school that –
(A) is accredited, licensed, or otherwise operates in accordance with State law; and
(B) was in existence prior to the date of the qualifying emergency for which grants are awarded under this section;

(7) the term “public school” means a public elementary or secondary school;

(8) any other term used that is defined in section 8101 of the ESEA of 1965) shall have the meaning given the term in such section; and

(9) the term “qualifying emergency” has the meaning given the term in section 3502(a)(4) of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136).

MAINTENANCE OF EFFORT

Section. 317. (a) At the time of award of funds to carry out sections 312 or 313 of this title, a State shall provide assurances that such State will maintain support for elementary and secondary education, and for higher education (which shall include State funding to institutions of higher education and state needs-based financial aid, and shall not include support for capital projects or for research and development or tuition and fees paid by students) in fiscal year 2022 at least at the proportional levels of such State’s support for elementary and secondary education and for higher education relative to such State’s overall spending, averaged over fiscal years 2017, 2018, and 2019.

(b) The Secretary may waive the requirement in subsection (a) for the purpose of relieving fiscal burdens on States that have experienced a precipitous decline in financial resources.

Section 315. Except as otherwise provided in sections 311 through 316 of this title, as used in such sections—