

Guide for the Distribution of the Student and Institutional Portions of the Higher Education Emergency Relief Fund¹

April 13, 2020
(updated July 1, 2020)

Section I – Student Portion

On April 9, 2020, Education Secretary Betsy DeVos announced the U.S. Department of Education (“Department”) was making immediately available to all Title IV postsecondary institutions approximately \$6.2 billion for students impacted by the Coronavirus pandemic and authorized in Section 18004(a)(1) of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”).² This first tranche of funding accounts for the student portion of the Higher Education Emergency Relief Fund (“HEERF”) that **must** be used to provide emergency financial aid grants directly to students. The second tranche of funding was made available to institutions on April 21, 2020 and is addressed in Section II – Institutional Portion of this Guide.

The use of the emergency financial aid grants under the HEERF is governed by Section 18004(c) of the CARES Act and mandates, in part, that:

*“Institutions of higher education shall use no less than 50 percent of such funds to provide emergency financial aid grants to students for **expenses related to the disruption of campus operations** due to coronavirus (including eligible expenses under a student’s cost of attendance, such as food, housing, course materials, technology, health care, and child care.” Emphasis added.*

This first tranche of funding, which represents 50 percent of an institution’s total allocation under the HEERF, must be used **exclusively** for student emergency financial aid grants. Secretary DeVos makes clear in her April 9 letter to college and university leaders that, “We (the Department) are prioritizing this funding stream in order to get money in the hands of students in need as quickly as possible.”

Secretary DeVos indicates that the leadership of each institution has significant discretion to develop its own system and process for determining how to allocate student emergency financial aid grants but encourages institutions to prioritize students with the **greatest need**. She also recommends establishing a maximum funding threshold for each student (e.g., the current maximum federal Pell Grant amount of \$6,195) to help ensure the funds are distributed as widely as possible.

In response to a host of questions from the higher education community about the student portion, the Department published a Frequently Asked Questions document (“FAQ”) on April

¹ This Guide does not, and is not intended to, constitute legal advice.

² See: <https://www.ed.gov/news/press-releases/secretary-devos-rapidly-delivers-more-6-billion-emergency-cash-grants-college-students-impacted-coronavirus-outbreak>

21, 2020.³ This FAQ supplements an institution’s applicable funding agreement with interpretative guidance on how the student portion of the HEERF can be used, including important limitations on which students are eligible for emergency financial aid grants.

The Department also published an interim final rule (“IFR”) on June 17, 2020 that implements and enforces the student eligibility provisions in the April 21, 2020 interpretative guidance.⁴ Unlike the interpretative guidance, the IFR is binding on institutions and carries the force of law.

CECU is emphasizing that in both the CARES Act, Secretary DeVos’s letter, and the IFR the repeated references to the definition of a student’s “cost of attendance” under Sec. 472 of the Higher Education Act of 1965 (“HEA”) as it relates to identifying eligible expenses for which a student’s emergency financial aid grant can be used.⁵

Finally, Secretary DeVos suggests that if you conclude your institution’s students do not have significant financial need, you should consider giving some or all your allocation to those institutions that might have students with significant need.

General principles institutions should consider when administering the student portion of the HEERF:

- To underscore, the first tranche of funding made available by the Department on April 10, 2020 represents 50 percent of an institution’s total allocation under the HEERF and does not include the institutional portion of funds. **One hundred percent of this first allocation must be used exclusively for student emergency financial aid grants.**
- Engage the institution’s financial aid office, student services team, and other senior leaders to guide this important work. You may want this working group to start by identifying potential students most in need of such financial support. Although a student’s financial need as recorded for federal financial aid purposes may be a helpful starting point, remember that some students will have developed new levels of financial need based on recent events related to the Coronavirus pandemic. For example, a student’s job may have been lost, someone in the immediate household may have contracted COVID-19, or the student may have relocated to a different state.
- Develop and follow a written policy and process for how the institution will determine and distribute the emergency financial aid grants to students. Maintain notes and supporting documentation when exceptions, errors, or omissions occur. Most institutions will have more student need than funds available. A well-reasoned policy and process that can be shared widely and publicly is in an institution’s best interest and justifies decisions made should families, policymakers, the press, or others request such explanations.
- Make readily available to students, faculty, and staff the person(s) to whom inquiries and issues should be addressed regarding the emergency financial aid grants. Some institutions have indicated they will be using the financial aid administrator, bursar, or the campus president/director as the individual(s) responsible for the administration of the emergency

³ See: <https://www2.ed.gov/about/offices/list/ope/heerfstudentfaqs.pdf>

⁴ 85 Fed. Reg. 36,494 (June 17, 2020).

⁵ See: <https://www.govinfo.gov/content/pkg/COMPS-765/pdf/COMPS-765.pdf>, p. 520.

financial aid grants and as the direct point of contact for students and families with questions.

- If your institution is in a state or city with a “stay-at-home order” and has not set up a process for someone to handle financial matters from home, do so immediately. The distribution of emergency financial aid grants to students should not be delayed.
- The Department has retained a small amount of funds (\$50 million) for unanticipated and special needs. Your institution might consider doing the same from its allotment, but remember, most funds should be distributed to students **promptly** and not held by the school. Any institutional reserve that has been set aside should be justified and documented.
- An institution should keep detailed accounting records of every emergency financial aid grant (i.e., the recipient’s name, how the amount was calculated, the date and amount disbursed, the form of such disbursement, the student’s intended use of such funds, and any instructions or directions that the institution gave to the student about the grant).
- Create a separate interest-bearing depository account for the emergency financial aid grants with a bank insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration. Include the phrase *federal emergency grant funds* in the name of the account. This process will enable an institution to reject any allegations of using/co-mingling such funds with the school’s general operations. Some institutions have inquired if they can use an existing account, such as one that already handles student disbursements. We discourage this simply to protect an institution from any accusation of using such grants intended for students for other purposes. As an institution develops its written process, do so knowing there is a chance someone – from the Department to a Congressional staffer or even hostile press – will want a detailed account/audit of how such funds were handled. Be prepared and welcome such transparency.
- Institutions should minimize the amount of time between the drawdown and the expenditure of funds from their bank account(s). Funds drawn only to meet an institution’s immediate cash needs will minimize interest accrual. According to the Department, interest earned in excess of \$500 must be returned to the federal government.⁶
- The Department requests that institutions be mindful of each student’s socioeconomic circumstance. Carefully account for the emergency financial aid grant awarded to each student, how the determination was made for a specific amount, and any instructions you might have provided to the student.
- Create a form (not a contract) of award or attestation that articulates to the student the exact amount of the emergency financial aid grant he or she will receive. If it is given for a specific purpose, include such language. Such an award should have signatures by both the institution’s staff person(s) administering the grant program and the student. Include language, to be signed by the student, which both acknowledges receipt of this amount of emergency assistance and serves as a student’s commitment to using the funds as stated.

⁶ U.S. Department of Education, Higher Education Programs Technical Assistance webinar, June 23, 2020, <https://mediasite.ed.gov/webcast/Play/9bfe4d2621b642c19e7904b993f1dcfd1d>

Although the CARES Act makes clear these grants must go directly to students, you also want some level of protection for the institution if a student uses the funds for a different purpose.

- Many institutions are requesting that students complete a request for emergency funds form/application, which documents a student's need for an emergency financial aid grant. An example used by one such school is at [Attachment A](#).
- Test the formula before it becomes final. Once an institution decides on the criteria and formula for the distribution of emergency financial aid grants, ensure that you carefully run the numbers to verify they work for your student population. Do not risk running out of funds because you did not make sure that the formula has enough covered funds for all students eligible under the criteria the Department and institution established.
- Transparency and accountability matter. Make sure relevant institutional personnel understand the formula the school is using to allocate the emergency financial aid grants. An institution may not want to share the formula before students fill out a request for emergency funds form/application. Still, you should be prepared to explain how the funds were awarded at the time of distribution.
- Many institutions are projecting that their students will be engaged in online learning through much of summer 2020. As a result, some institutions are choosing to distribute emergency financial aid grants to students in two or more disbursements. The rationale for multiple disbursements is both to encourage proper use of the funds and as motivation for students to remain enrolled and engaged in their education. Although we recognize some merit in multiple disbursements, institutions should not create burdensome criteria that critics can then accuse your institution of withholding funds intended for students.
- Most institutions are using the same process currently used to disburse student stipends – either check, electronic transfer payment, debit card, and/or payments apps. All methods used to distribute emergency financial aid grants must still adhere to the Department's requirements for paying credit balances to students. Do not disburse cash to students.
- Track and audit all funds carefully. Institutions are expected to file reports with the Department regularly on the use/distribution of the emergency financial aid grants.⁷
- Institutions may want to engage their third-party auditor early in the process to determine how best to account for the student portion in the audited financial statements.
- The CARES Act makes clear that this first half of an institution's total allocation under the HEERF must go directly to students. An institution should keep track of the staff time involved in the management and distribution of the emergency financial aid grants. Keep track of every hour of staff time and account for how every dollar is distributed. An institution will likely need this level of data for audits and reports later, and certainly, for the sector's transparency in proving to critics the funds were used properly and wisely. Covering staff time in administering the emergency financial aid grants may be an

⁷ For example, see: <https://ifap.ed.gov/electronic-announcements/050620HigherEdEmergencyReliefFundRptg>

acceptable use of some of the institutional portion.

- CECU has publicly called for full transparency and accountability of all actions related to an institution's receipt, use, and distribution of funds.⁸ We know our critics are already accusing the proprietary sector of forthcoming fraud in the use these such stabilization funds. Only full transparency can answer such allegations.

Potential formulas for distributing emergency financial aid grants to students:

Many institutions have asked for guidance on how to fairly and equitably distribute the emergency financial aid grants to students. Below are a few options to consider that are based on conversations with institutional leaders.

1. Distribution based on cost of attendance factors:

Once an institution has created a list of potential students in need, list each of the allowable expenses for which the emergency grants may be used, as provided for in the CARES Act and the HEA's cost of attendance formula (e.g., food, housing, course materials, technology, health care, child care, etc.).

Organize students based on their needs, recognizing that some of those most in need will likely require funds for multiple expenses. For example, a student needs funds for food, housing, and technology for his or her program that was transitioned online due to the Coronavirus pandemic.

Once you have established the needs you seek to support and the number of students with one or more specific needs, you can begin to divide the institution's allocation in ways that best support these different needs.

2. Pell eligibility and enrollment status:

Use a formula based on Pell Grant eligibility and the total number of credit hours (or the equivalent). Establish the enrollment status and course load of each eligible student. Divide the total allocation by the number of credit hours of eligible students to determine the amount each student receives.

Example:

An institution received \$100,000 in emergency grant funds

A school has 200 Pell Grant eligible students

Half (100) carry a full-time course load of 12 credit hours 1200 credit hours

Half (100) carry a course load of 8 credit hours 800 credit hours

⁸ See: <https://cecu.informz.net/cecu/data/images/CECU%20Ltr%20Secretary%20DeVos%20CARES%20Act%20Higher%20Education%20Emergency%20Relief%20Fund%202020-4-9.pdf>

Total hours: 2,000 credit hours

\$100,000 divided by 2,000 credit hours equals \$50/credit hour

A student with 12 credit hours receives a grant of \$600

A student with 8 credit hours receives a grant of \$400

3. Prioritize exceptional need and set a maximum amount:

Consider a higher grant amount for those students with the greatest need first (based on a low expected family contribution).

Provide a minimum grant amount to any student who has incurred expenses due to significant disruptions caused by the Coronavirus pandemic. Additionally, students who have been financially responsible for food, housing, course materials, technology, health care, and child care expenses will be awarded an additional amount for each responsibility, up to a total maximum grant amount.

Determine whether only active students and those who are in good standing should be included in this formula. Institutions should be as flexible as possible regarding a student's financial and academic standing due to Coronavirus-related issues.

4. Prioritize Pell and then more:

Once an institution prioritizes those students with the greatest financial need, as indicated by their expected family contribution and Pell Grant status, then consider prioritizing students facing two specific issues important to their continued enrollment: students who had to acquire technology to continue their education and students who had to leave institutionally owned or operated housing and find new living accommodations.

5. Manage delays while supporting students:

Contemplate distributing a small amount of emergency financial aid grants to all eligible students immediately, making clear that the funds may only be used for eligible expenses. After these initial funds are disbursed, then invite students to apply for additional funds based on significant financial need.

Section II – Institutional Portion

On April 21, 2020, Secretary DeVos announced the Department was making immediately available to all Title IV postsecondary institutions the institutional portion of the HEERF.⁹ This approximately \$6.2 billion allocation represents the remaining 50 percent of an institution’s total allocation under the HEERF. The first tranche of funds, which is designated exclusively for emergency financial aid grants to students, was made available to institutions on April 10, 2020 and is addressed in Section I – Student Portion of this Guide. In her announcement, Secretary DeVos explained an institution must have first applied for the student portion **before** it applies for the institutional portion.

The use of the institutional portion under the HEERF is governed by Section 18004(c) of the CARES Act and mandates, in part, that:

*“...an institution of higher education receiving funds under this section may use the funds received to cover any costs associated with **significant changes to the delivery of instruction** due to coronavirus...”* Emphasis added.

In an April 21, 2020 briefing with higher education stakeholders, Secretary DeVos encouraged institutions to use the institutional portion to expand remote learning programs, build IT capacity, and prepare faculty and staff to function at higher levels in remote learning environments. For those institutions that already have sophisticated online learning systems, Secretary DeVos hoped institutions would use their institutional share to provide additional emergency financial aid grants to students who have the most need.¹⁰

The Department published a FAQ on April 21, 2020 that serves to supplement an institution’s applicable funding agreement with interpretative guidance on how the institutional portion of the HEERF can be used.¹¹

The Department also hosted a webinar on June 23, 2020 that provided technical assistance to institutions of higher education on the institutional portion of the HEERF.¹²

General principles institutions should consider when administering the institutional portion of the HEERF:

- The CARES Act requires that the institutional portion be used to cover costs associated with **significant changes to the delivery of instruction** due to the Coronavirus pandemic. Institutions should document that each expense paid with the institutional portion has a clear relationship to significant changes to the delivery of instruction due to Coronavirus.

⁹ See: <https://www.ed.gov/news/press-releases/secretary-devos-delivers-6-billion-additional-grant-funding-support-continued-education-americas-colleges-universities>

¹⁰ See: <https://cecu.informz.net/cecu/data/images/CECU%20Readout%202020-4-21.pdf>

¹¹ See: <https://www2.ed.gov/about/offices/list/ope/heerfinstitutionalfaq.pdf>

¹² U.S. Department of Education, Higher Education Programs Technical Assistance webinar, June 23, 2020, <https://mediasite.ed.gov/webcast/Play/9bfe4d2621b642c19e7904b993f1dcfd1d>

- Develop a written policy and procedure describing the internal controls in place to ensure funds are used by the institution only for allowable purposes and in accordance with cash management principles.
- Keep in mind significant changes to the delivery of instruction are not limited to transitioning ground-based courses to online delivery. For example, a truck driving program that remained open during the pandemic at the request of State officials may have new costs as a result of more stringent social distancing and sanitization protocols.
- Track and audit all funds carefully. Institutions are expected to file reports with the Department regularly.¹³
- Institutions may want to engage their third-party auditor early in the process to determine how best to account for the institutional portion in the audited financial statements.
- Determine whether the institutional portion will go toward eligible institutional costs and/or additional emergency financial aid grants for students. When an institution can do so, it should devote as much of its institutional portion for additional emergency financial aid grants for students as possible.
- Assess what investments to make to improve the institution's online learning environment. With the second wave of Coronavirus infections anticipated in fall 2020, institutions should expect and plan for high-quality online learning into 2021. For some institutions, this may require substantial investment in a learning management system, IT capacity, instructional designers, faculty training, and disability services.
- Research what eligible institutional costs already incurred can be reimbursed using the institutional portion. For example, if in the rapid transition to online learning, an institution purchased laptops on or after March 13, 2020 for its students to use, the institution can use the institutional portion to reimburse itself.
- The institutional portion cannot be used for senior administrator and/or executive salaries, benefits, bonuses, contracts, incentives; stock buybacks, shareholder dividends, capital distributions, and stock options; any other cash or other benefit for a senior administrator or executive; payment to contractors for the provision of pre-enrollment recruitment activities, which include marketing and advertising; endowments; or capital outlays associated with facilities related to athletics, sectarian instruction, or religious worship.
- Consider a public release describing the use of the institutional portion. Many institutions issued press releases about how the student portion was distributed, and similar transparency regarding how the institutional portion was used may serve to enhance both your school's image and credibility with the community, policymakers, and critics.
- Like the student portion, transparency and accountability matter when managing the institutional portion.

¹³ Directions and deadlines regarding these reports will be published by the Department in a forthcoming Federal Register notice.

Section III – Additional Resources

On March 13, 2020, CECU launched an information webpage for institutions responding to the Coronavirus pandemic. CECU's Coronavirus webpage includes a multitude of helpful resources to assist higher education leaders understand the various legal and operational implications of COVID-19, including temporarily closing a campus or adapting courses to online learning.¹⁴

For questions or concerns related to the Higher Education Emergency Relief Fund, please do not hesitate to contact GovernmentRelations@career.org or (571) 970-6471.

¹⁴ See: <https://www.career.org/coronavirus.html>

Attachment A

**Emergency Financial Aid Grants to Students
Under the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act**

The U.S. Department of Education has made Emergency Financial Aid Grants to students of our institution who are in need of financial support for their expenses related to the disruption of campus operations due to Coronavirus. This application permits students to apply for these need-based grants. Campus administration will use the information you provide here to determine your eligibility for a grant and the amount for which you will be eligible. Each student will be eligible for only one grant, and only one application will be considered per student. Please fill out this information neatly and completely and provide it to your campus Financial Aid Officer, Bursar, or Campus Director. Only active students who are participating in courses actively and who are in good standing will be eligible to receive a grant.

Student Name: _____ Email: _____

Postal Address: _____ City: _____ State: _ Zip: _____

Last Four Digits of SSN: _____ Phone Number: _____

Have you incurred expenses due to disruptions caused by the Coronavirus pandemic?

Yes No

Check all situations that apply to you.

- I am financially responsible for my food expenses
- I am financially responsible for my housing expenses
- I am financially responsible for expenses related to my course materials to attend school
- I am financially responsible for paying for technologies associated with attending online classes
- I am financially responsible for my own health care costs
- I have children and am financially responsible for childcare expenses

I attest that all information is true and accurate, and I am requesting a one-time Emergency Financial Aid Grant to help cover the cost of expenses incurred due to the Coronavirus pandemic. I understand that I will be unable to revise this request after submitting it, and I understand that the administration of my school will determine my eligibility for grant monies based on my responses to the questions above.

Signature

Date

For Administration Use Only

Administrator Name: _____ Administrator Position: _____

Student Eligibility Amount: _____