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DEPARTMENT OF EDUCATION

Working Together for Student Success

To: Superintendents, Program Administrators, and Treasurers of LEAs
Non-Public School Administrators

From: Jennifer McCormick, Superintendent of Public Instruction

Date: May 12, 2020

Subject: Final Language for Equitable Share of CARES Act Funds

After a thorough review of the CARES Act statutory language, and discussion with the Indiana Attorney General's office, and our national partners, the Indiana Department of Education (IDOE) will be enacting the CARES Act as written in the law and as previously communicated including the provision to administer equitable services according to Sec. 1117 of the *Every Student Succeeds Act*.

This final decision ensures that the funds are distributed according to Congressional intent and a plain reading of the law, which prioritizes communities and schools with high-poverty who are at most risk and in need of the additional funds.

In addition, the recently released guidance from the U.S. Department of Education counters the President's Executive Order. According to the Indiana Attorney General's Office, "the guidance issued by the [U.S.] Department of Education is just that, guidance."

Therefore, all local education agencies (LEAs) shall do the following as previously communicated in order to administer the CARES Act Elementary and Secondary School Emergency Relief (ESSER) funds:

- 1) Request data from participating nonpublic schools that include the information listed below. LEAs may utilize data collected from the 2019-2020 school year for nonpublic schools that participated in Title I, and only request the following from nonpublic schools that want to participate in CARES but have declined Title I in the past:
 - a. Student addresses
 - b. Student grade levels
 - c. Student poverty information

- 2) Utilizing data collected in item #1, LEAs will determine which students live within Title I attendance boundaries and who are in poverty. Only those students will generate an equitable share, although the funding generated can be used for any purpose permitted by the CARES Act.
 - a. A Title I attendance boundary is determined by the schools that the LEA chooses to serve with Title I funding. For example, if an LEA does not serve its one high school with Title I, then any child of high school age, no matter if in poverty or not, will not generate any funds for the participating nonpublic school. Similarly, if an LEA has two elementary schools in the entire district, and only Elementary School A is Title I, whereas Elementary School B is not; then only children who live within the boundaries to attend Elementary School A (if they went to the public school rather than the nonpublic school) will generate an equitable share.
- 3) Since the children who enroll in nonpublic schools live in many different LEAs, then LEAs may transfer the equitable share funds to one another to form a “Lead LEA” that will deliver the equitable services on behalf of the nonpublic school(s), just as what occurs in the Title I equitable share process.

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