



WISCONSIN CATHOLIC CONFERENCE

Submitted Electronically

July 31, 2020

Amy Huber
U.S. Department of Education
400 Maryland Avenue SW, Room 3W219
Washington, DC 20202

Re: CARES Act Programs; Equitable Services to Students and Teachers in Non-Public Schools, RIN 1810-AB59

Dear Ms. Huber:

At the request of the United States Conference of Catholic Bishops (USCCB) and in accord with the bishops of Wisconsin, we submit the following comments on the U.S. Department of Education's Interim Final Rule (IFR), "CARES Act Programs; Equitable Services to Students and Teachers in Non-Public Schools" (RIN 1810-AB59).

The Wisconsin Catholic Conference (WCC) is the public policy voice of the Catholic Church in Wisconsin and is a nonprofit organization that represents the nearly 280 Catholic schools serving approximately 53,000 Wisconsin students. Our Catholic teaching has long recognized that education is the surest path to full participation in social, economic, and political life. Our nation must remain committed to ensuring that students receive a quality education in both public and private schools.

Under the Coronavirus Aid, Relief, and Economic Security (CARES) Act section 18005(a), local educational agency (LEA) receiving CARES Act funding is directed to provide equitable services "in the same manner as provided under section 1117 of the Elementary and Secondary Education Act of 1965 ('ESEA') to students and teachers in non-public schools, as determined in consultation with representatives of non-public schools." On April 30, 2020, the United States Department of Education (Department) issued guidance that clarified how this provision should be implemented in terms of the allocation of services:

The services that an LEA may provide under the CARES Act programs are clearly available to *all* public school students and teachers, not only low-achieving students and their teachers as under Title I, Part A.... For CARES Act services to be equitable in comparison to public school students and teachers, it follows that the same principles must apply in providing equitable services to non-public school students and teachers.

In the IFR, the Department affirmed its position by stating that a LEA may use either the low-income (Title I) or all-student population methodology, but that the same method must be uniformly applied for all students and schools. Given that not all private schools participate in Title I, the low-income approach is inherently unfair and we would advocate for an interpretation that would benefit all schools in an equitable manner, especially as the current pandemic has impacted all schools. However, we do

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acknowledge that there should be special attention and consideration for those schools that are dedicated to serving the poor and vulnerable.

For many states, including Wisconsin, the IFR's interpretation regarding the equal application of either methodology was considered intolerable. As a result, Wisconsin Attorney General Josh Kaul opted to join a federal complaint seeking an injunction against the IFR.

The WCC contends that the IRF approach is far more equitable than employing a Title I methodology, which relies upon inconsistent data collection and fosters inequities for *both* public and private students. Some districts would be forced to use Title I data gathered in the pre-pandemic 2019-2020 school year for public school children, while using income data obtained for private school students during the current pandemic. Using these two different points in time for collection does not reflect changes in family income for public school students, which is inequitable on its face.

Gathering income data for a federal program after the school year has ended is also outside the norm of usual practice for good reason. It is extremely difficult to reach low-income families, especially in the summer. However, to instead use poverty data from last fall – for either private or public school students – is to ignore the basic reason CARES Act funding was provided, which is to address the current economic impact of COVID-19.

The data collection required by the Title I formula can take nearly a full school year to compile. However, since not all private schools participate in Title I, some districts would just be starting this data collection. Add to that the difficulty of collecting accurate data and the inequality grows. For example, a year ago in Racine, Wisconsin, the district had to physically visit several private schools to collect data to finish its required data collection. That is not possible when schools are closed due to public health concerns or for the regularly-scheduled summer break.

The all-student methodology outlined in the USDE guidance and affirmed in the IFR allows states to avoid these structural inequities. The “total enrollment” approach provides a quicker and less cumbersome formula for all parties to administer, enabling both public and private school communities to move forward addressing the urgent needs of their students and faculty.

Plus, it is in the public interest to ensure that emergency relief is distributed fairly to all impacted. In a pluralistic society, the state recognizes the work of both public and private actors. In the same way that Catholic hospitals, charitable agencies, and universities, along with their public counterparts, receive public funds to assist the poor and vulnerable, so too do parental choice and equitable access to educational services recognize the vital ministry that Catholic schools provide in our communities.

For all these reasons, we support the IFR provisions that ensure both public and private school students receive equitable services that meet the unique and extraordinary challenges they are facing. The all-student allocation under the IFR allows for private school participation that is timely, meaningful, and equitable.

Thank you for the opportunity to submit these comments.

Sincerely,



Kim Vercauteren
Executive Director