



NAEA Legislative Update on COVID-19 and the Cultural and Education Sectors

July 6, 2020

NAEA is actively engaged in monitoring additional legislation to support for the arts, cultural and education sectors as part of Federal Funding to offset the impact of COVID-19.

- The CARES Act Paycheck Protection Program (PPP) has provided funding to nonprofit associations, including NAEA. Congress has extended the deadline for using it through August 8, 2020.
- The National Endowment for the Arts and State Arts Agencies have provided non-matching competitive grants through \$75 Million in CARES Act Funding to the National Endowment for the Arts. NAEA awarded \$50,000 non-matching grant through this program.
- U.S. Secretary of Education Announces Rules Change for CARES Act K-12 Education Block Grant Funding
- FY21 Federal Budget Status

Paycheck Protection Program (PPP) has provided funding to nonprofit organizations and associations, including NAEA. Congress has extended the deadline for using it through August 8, 2020.

The Administration has not issued any listing of those organizations who have received this funding. However, within the Cultural Advocacy Group meetings, the reports have indicated that a lot of cultural organizations received these funds, especially in the second round. It is unknown at this time if there will be an additional round of these grants and/or extensions of the \$600 federal funds for unemployment benefits beyond July 31.

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program>

Additional Funding to the National Endowment for the Arts Provides Support for Arts and Cultural Sector

The CARES Act provided a total of \$75 million in additional funds for the National Endowment for the Arts. Of that appropriation, \$30 million was awarded directly to State Arts Agencies, as per the standard Federal/State Partnership. State Arts Agencies developed their own guidelines to award this funding. The National Endowment for the Arts created a competitive grant program for organizations that have received NEA grants within the last four years. All of these grants are for payroll support and do not

require any matching funds. Awarded to all grantees at a level of \$50,000, these grants were announced on July 1. With appreciation, NAEA is the recipient of one of the new \$50,000 grants. Download a list of grantees [here](#).

U.S. Secretary of Education Announces Rules Change for CARES Act K-12 Education Block Grant Funding

[Secretary DeVos Issues Rule to Ensure CARES Act Funding Serves All Students](#)

Gives districts options for determining the amount of CARES Act funding for equitable services to private school students

June 25, 2020

WASHINGTON — Today, U.S. Secretary of Education Betsy DeVos issued a rule that would help to ensure all students whose learning was impacted by COVID-19 are served equitably by emergency funding authorized by the *Coronavirus Aid, Relief, and Economic Security (CARES) Act*, no matter where they attend school. The Interim Final Rule (IFR), which becomes effective immediately, outlines how local education agencies (LEAs) must calculate the emergency funds available for providing equitable services to students and teachers in private schools.

Providing equitable services is long-standing law under the Elementary and Secondary Education Act (ESEA). LEAs provide no money to private schools under these equitable services provisions. Instead, they provide secular, neutral, and nonideological services to nonpublic schools after consulting with private school leaders about the needs of students and teachers. Under the CARES Act, LEAs have broad latitude about the uses of funds, but it is expected that most of the emergency funding will go toward services like cleaning, equipment to protect student and teacher health, teacher training in remote instruction, and distance education tools. The Department's IFR discourages the limited number of financially secure private schools from seeking equitable services.

"The CARES Act is a special, pandemic-related appropriation to benefit all American students, teachers, and families impacted by coronavirus," said Secretary DeVos. "There is nothing in the law Congress passed that would allow districts to discriminate against children and teachers based on private school attendance and employment. In this new rule, we recognized that CARES Act programs are not Title I programs. There is no reasonable explanation for debating the use of federal funding to serve both public and private K-12 students when federal funding, including CARES Act funding, flows to both public and private higher education institutions."

Under the rule, if an LEA chooses to use CARES Act funding for students in all its public schools, it still must calculate the funds for equitable services based on students enrolled in private schools in the district. However, if an LEA chooses to use CARES Act funding only for students in its Title I schools, it has two options:

1. Calculate the funds for equitable services based on the total number of low-income students in Title I and participating private schools; or
2. Calculate the funds using the LEA's Title I, Part A share from the 2019-2020 school year.

If an LEA uses one of the low-income student options, the LEA must not violate the Title I supplement-not-supplant requirement in section 1118(b)(2) of the ESEA. That is, LEAs cannot divert state or local funds from its Title I schools because they receive CARES Act funds.

Most private schools serving low- and middle-income communities are under great financial strain due to COVID-19 because they are typically dependent on tuition from families and donations from their communities. Because the economic disruptions are shrinking these revenue sources, more than 100 private schools have already announced they will not be able to reopen following the pandemic, and hundreds more are facing a similar fate. The local public schools may have to absorb thousands of students transferring from private schools at a time when public schools are already under their own financial strain.

The Department previously issued [guidance](#) on equitable services under the CARES Act on April 30, 2020. In the April 30 guidance, the Department advised LEAs to calculate the funds that must be reserved to provide equitable services to private school students and teachers under the CARES Act programs based

on enrollment data in a district. So, if private-school students represented 8% of enrollment, the funds for equitable services would be set at 8% of the total funds the LEA received under a CARES Act program.

The IFR has been unofficially published [here](#) on the Department's website. Once the rule is officially published in the Federal Register, it will be effective immediately and open for public comment for 30 days.

Washington Post articles about this rule change:

[DeVos makes official her controversial plan to push virus aid to private schools](#)

[DeVos issues rule steering more virus aid to private schools](#)

FY21 Federal Budget Status: Due to Congressional Legislative Efforts Related to COVID-19 and other matters, no recent action has taken place regarding the Federal Budget for FY21. The Federal Fiscal Year Begins October 1, 2020.

▪ **Appropriations: FY21 Budget**

The NEA's FY2020 Budget is \$162.25 million, just 0.004% of the federal budget and 49 cents per capita. While the Administration's FY2020 budget called for termination, the House approved a \$12.5 million increase and the Senate approved a \$2 million increase. Ultimately, Congress agreed upon a \$7.25 million increase from last year's allocation, which reflects steady and consistent bipartisan support over the last several years. Advocates hope to continue this trajectory, calling upon a funding level of \$170 million for FY21 despite the Administration's proposal, again, to terminate the Federal Cultural Agencies (NEA, NEH, Institute of Museum and Library Services, Corporation for Public Broadcasting). In FY20, the National Endowment for the Humanities (NEH) received the same increase as the National Endowment for the Arts, with an appropriation of \$162.25 million. Note: As of July 6, the House Interior Appropriations Subcommittee draft bill has the NEA and NEH at \$170 million, as requested in the Art Action Summit Issues Brief, which would be a \$7.75 million increase. The Subcommittee will vote July 7 and the full Committee will vote on July 10.

▪ **U.S. Department of Education Funding for Arts Education**

The Assistance for Arts Education (AAE) program at the U.S. Department of Education is authorized under Title IV of the *Every Student Succeeds Act* (ESSA) and is a continuation of the programs previously authorized under the Elementary and Secondary Education Act as the "Arts in Education" program fund.

ESSA recognizes the arts as essential to a "well-rounded" education. The arts education programs have received consistent bipartisan support from Congress year after year. On June 19, 2019, the House approved an FY20 Labor, Health and Human Services, Education, and Related Agencies funding bill that recommended a \$6 million increase for the program. In December of 2019, the House and Senate agreed to full support for the program fund and the final FY2020 bill signed into law included a \$1 million increase to \$30 million for the Assistance in Arts Education program.

The Administration's budget proposal for FY2021 calls for the AAE program to be ended by combining it into a broad block grant. Advocates for the Arts Action Summit (formerly Arts Advocacy Day) are calling for a \$40 million appropriation for the Assistance for Arts Education (AAE) programs in the FY2021 Labor-HHS-Education appropriations bill. The AAE program is authorized under Title IV of the *Every Student Succeeds Act* (ESSA).

Additional Resources

[NAEA COVID-19](#)

[Letter from NAEA President Thom Knab: Visual Arts/Design Instruction for All Learners is More Essential Than Ever](#) (May 19, 2020)

[Arts Education is Essential](#) (May 27, 2020)

[U.S. Department of Education COVID-19](#)

[National Endowment for the Arts COVID-19 Government Support, including the CARES Act](#)