

Steve Sisolak
Governor

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Superintendent of
Public Instruction

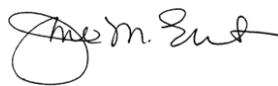


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MEMORANDUM

TO: All District Superintendents
State Public Charter School Authority

FROM: Jhone M. Ebert, Superintendent of Public Instruction 

DATE: September 24, 2020

SUBJECT: CARES Act Equitable Services: District Court Summary Judgment

This memorandum is an update to the [memorandum](#) from the Nevada Department of Education (NDE) sent on August 28, 2020, entitled “CARES Act Equitable Services: Orders for Preliminary Injunctions”. To provide ongoing assistance to school districts with equitable services under the Coronavirus Aid, Recovery, and Economic Security (CARES) Act, this memo notifies all Nevada School Districts of a recent United States District Court [ruling](#) in the *NAACP vs. DeVos and U.S. Department of Education* (USED) case that has vacated USED’s [July interim final rule \(IFR\)](#) for CARES Act equitable services requirements. The decision is an order for summary judgment which voids the IFR in its entirety nationwide (in contrast to the more limited preliminary injunctions which have been issued by courts in Washington and California). USED has not yet issued guidance based on this order and may appeal the order to pursue additional litigation on the rule.

Because the IFR is no longer in effect, school districts that are holding the Elementary and Secondary School Emergency Relief (ESSER) formula CARES Act equitable services amount difference per previous NDE guidance may now use those funds to support public school students, teachers, and families. The equitable services amount set aside for services to private school students, teachers, and families must be equal to the per-pupil allocation based on Title IA methodology, taking into account student residency – this is also the case for school districts who are awarded ESSER competitive funding. Participation in both the ESSER formula grant and the ESSER competitive grant equitable services is restricted to private schools with Title IA eligible students. Participating private schools with Title IA eligible students are not restricted to using the equitable share funding solely on the Title IA eligible students and may use the equitable share funds for any of the allowable uses identified for ESSER funds under the CARES Act.

School districts that have allocated funding to their private schools based on the IFR must now ensure that the participating private schools meet the Title IA eligibility requirement to remain compliant with the CARES Act. If ESSER equitable share funds have been allocated to a private school that does not have any Title IA eligible students enrolled, the school district should contact their ineligible private schools if they desire to recoup funds that have already been

spent. NDE advises districts to bring this to their legal counsel's attention for continued monitoring; NDE will continue to monitor this situation and keep school districts informed of any shifts in our guidance.

School districts with eligible private schools may choose to reach out to those private schools to explain this situation. Additionally, private schools can reach out to Dr. Melissa Schroeder within the Office of Student and School Support at mschroeder@doe.nv.gov if more information is needed.

cc: Dr. Jonathan Moore, Deputy Superintendent of Student Achievement
Dr. Seng Dao-Yang Keo, Director of Office of Student and School Supports
Gabrielle Lamarre, Esq., Title I Director and Federal Liaison