



LEGAL UPDATES

First Wave of CARES Act Funding to Higher Education Institutions is Announced

04/17/2020 | 3 minute read

Approximately \$14 billion in grants will be distributed to U.S. colleges and universities that are working to weather the significant financial strain and operational disruption caused by the COVID-19 pandemic. These funds are being made available as part of the Higher Education Emergency Relief Fund established through the federal stimulus package entitled the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") enacted by Congress on March 27, 2020. The U.S. Department of Education recently announced more information on how \$12.5 billion of these funds will be allocated across the higher education sector and when funds will be available.

Specifically, more than \$6 billion of these funds will be sent to higher education institutions immediately for use as emergency cash grants to students for expenses related to unanticipated changes to their lives and education. Details will be announced in coming weeks about a second wave of funding from the Higher Education Emergency Relief Fund in the form of an additional \$6 billion in direct grants to colleges and universities.

To determine how much funding a particular college or university is eligible to receive under the Higher Education Emergency Relief Fund, you should refer to the sortable table published by The Chronicle of Higher Education, which is available online at: https://www.chronicle.com/article/How-Much-Coronavirus-Stimulus/248471?utm_source=at&utm_medium=en&utm_source=Iterable&utm_medium=email&utm_campaign=campaign_1135830&cid=at&source=ams&sourceid=5172070. The amount of CARES Act funding allocated to each institution is established by a formula set forth in the CARES Act that is significantly weighted by the number of full-time students who are eligible for Pell Grants, but the formula also considers the total enrollment of the school and excludes students who were enrolled full-time online before the COVID-19 outbreak.

To access its share of the immediately available \$6 billion for student grant funds, a college or university must provide a signed certification form to the U.S. Department of Education affirming that it will distribute the funds to students in accordance with applicable law, which may be done via the website www.grants.gov. The terms of the certification prohibit a college or university from

Related People

Kathryn Nash

Partner

Minneapolis

612.632.3273

kathryn.nash@lathrogpm.com

Megan Anderson

Partner

Minneapolis

612.632.3004

megan.anderson@lathrogpm.com

Catherine (Catie) Bitzan Amundsen

Partner

Minneapolis

612.632.3277

catie.bitzanamundsen@lathrogpm.com

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using student grant funds to reimburse itself for any costs or expenses, including refunds or other benefits previously issued to students. After submitting the certification, the college or university may then move forward with determining which of its students will receive cash grants. Students may use grant funds to pay for direct education-related expenses, such as the cost of course materials, computers and technology, and also broader life expenses such as food, housing, health care, and child care expenses during this time. The CARES Act provides institutions with significant discretion as to how to award this emergency assistance to students. This means that schools may establish their own criteria and processes for awarding funds, subject to any legal requirements. As institutions exercise their discretion, the Department of Education is encouraging schools to prioritize students that demonstrate financial need and consider imposing a cap on the amount of assistance that any one individual student may receive under the program.

The Department of Education expects to announce additional guidance for the institutional share of the Higher Education Emergency Relief Fund in the coming weeks. Colleges and universities will be able to use these funds to cover costs associated with significant changes to the delivery of instruction due to the coronavirus.

In total, the CARES Act provides just over \$30 billion for distribution by the Department of Education to students, K-12 schools, and higher education institutions. Most of these funds are allocated among the Higher Education Emergency Relief Fund, the Governor's Emergency Education Relief Fund, and the Elementary and Secondary School Emergency Relief Fund, with the remaining share dedicated to minority-serving institutions and some small colleges.

The CARES Act also increases regulatory flexibility for colleges and universities while the Act is in effect, such as by providing campus-based aid waivers, permitting allocation of SEOG funding as emergency grant aid to students, and authorizing continued work-study payments to students. In addition, the CARES Act provides student loan relief to student borrowers by setting all federally held student loan interest rates to zero percent and allowing borrowers to defer payments for six months without interest. The Department of Education has also stopped all federal wage garnishments and collections actions for borrowers with federally held student loans in default. The CARES Act became effective April 1, 2020, and is effective through December 31, 2020.

Additional information on the Higher Education Emergency Relief Fund and how to apply for direct student grant funding is available on the Department of Education's website, at:
https://www2.ed.gov/about/offices/list/ope/caresact.html?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=.

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If you have any questions on the Higher Education Emergency Relief Fund or other federal stimulus funding available to your college or university, please contact [Megan Anderson](#), [Catie Bitzan Amundsen](#), [Higher Education Practice Group Chair Kathryn Nash](#), or your regular Lathrop GPM contact.