



## LEGAL UPDATES

# Higher Ed Alert: DOE Issues Additional Guidance and Interim Final Rule Regarding CARES Act Grants

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On June 17, 2020, the U.S. Department of Education issued an interim final rule (IFR) aligning student eligibility for CARES Act funds with eligibility requirements for Title IV student aid. Effective immediately, higher education institutions may be subject to enforcement action by the U.S. Department of Education. The eligibility requirement extends to any funds issued to a college or university under the CARES Act, including emergency financial aid grant and institutional funds.

The Title IV eligibility requirements are outlined in Section 484 of the Higher Education Act. To be eligible for CARES Act grants, students must:

1. enroll or be accepted for enrollment in a program leading to a recognized credential at an eligible higher education institution, and not be enrolled in elementary or secondary school;
2. if presently enrolled in a program, be maintaining satisfactory academic progress;
3. not owe a refund on a federal student grant or be in default on a federal student loan;
4. submit a statement of educational purpose;
5. be a U.S. citizen, national or eligible noncitizen;
6. not have been convicted of or plead guilty to a crime involving fraud to obtain federal student aid;
7. have a high school diploma or equivalent;
8. have a valid social security number;
9. register for the Selective Service, if required; and
10. not been convicted of possession or sale of a controlled substance.

## Related People

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The full text of the IFR is available on the U.S. Department of Education's website:  
<https://www2.ed.gov/about/offices/list/oep/caresactifeligibility6112020.pdf>.

In addition to the IFR, the Department also recently issued Supplemental Frequently Asked Questions regarding CARES Act funds. This additional guidance states:

- Higher education institutions must spend all CARES Act funds by September 30, 2022
- Guidance for Direct Emergency Financial Aid Grants to Students under Section 18004(a)(1)
  - The Department encourages student grants be disbursed "immediately"
  - Funds remaining after the spring 2020 semester may be directly disbursed to eligible students during other terms using the same distribution method used for spring 2020 disbursements
  - Eligible students not enrolled during the spring 2020 semester may receive emergency financial aid grants during subsequent terms, provided that they are eligible, enrolled, and will receive the funds directly
  - Funds earmarked by the CARES Act as emergency financial aid grants to students cannot be used by the institution to purchase laptops or other equipment, even if the institution intends to distribute equipment to students
- Guidance for Institutional Funds under Section 18004(a)(1)
  - Higher education institutions can use the institutional portion of CARES Act funds to pay salaries and benefits for employees who work in the dining halls and dorms who would otherwise been paid through student housing fees had coronavirus not disrupted campus operations
  - An institution cannot use funds to pay a student's regular tuition and fee costs, but may use funds to cover costs associated with significant changes to the delivery of instruction due to the coronavirus, such as the cost to access an online library, computers and internet access, and subsidizing the added cost of off-campus housing

The Supplemental FAQs are available at:  
<https://www2.ed.gov/about/offices/list/oep/caresactsupplementalfaqs61620.pdf>.

Although institutions retain significant discretion in identifying the methods used to distribute emergency cash grants to students and utilize institutional funds, colleges and universities should ensure that such methods comply with the IFR and take the Department's advice into consideration.

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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 [Kathryn Nash](#) or your regular Lathrop GPM contact.