

United States Senate

WASHINGTON, DC 20510

June 10, 2020

The Honorable Betsy DeVos
Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1510

Dear Secretary DeVos:

I am writing to express serious concern about the problems your agency has caused for the implementation of the Coronavirus Aid, Relief, and Economic Security (CARES) Act's funding for elementary and secondary schools.

Congress passed the CARES Act with overwhelming bipartisan support, and it was signed into law by President Trump on March 27. This law included more than \$13 billion to help elementary and secondary schools cope with the enormous burdens they are facing as a result of the COVID-19 pandemic. My state of New Hampshire was allocated more than \$37 million of these funds. However, our schools have had their access to this funding delayed for more than two months after this critical law was enacted, and confusion still persists over the total amount of funding that will be available to support our public school students.

Congress was very clear in our intent when we appropriated this funding. The CARES Act explicitly states that funding to school districts shall be allocated "in proportion to the amount of funds such local educational agencies and charter schools that are local educational agencies received under part A of title I of the ESEA of 1965 in the most recent fiscal year." The law further states that equitable services for private schools must be provided "in the same manner as provided under section 1117 of the ESEA of 1965."

There is no ambiguity in this statutory language. Funding must go to school districts based on their low-income student population, and any funding used to provide equitable services to private school students must be based on the numbers of low-income students at private schools in that district.

However, despite this clarity in the statute, the Department inexplicably issued a document on April 30 that directs school districts receiving CARES Act funding to provide funds for equitable services for private school students based on the enrollment of "all students...without regard to poverty, low achievement, or residence in a participating Title I public school attendance area." This direction explicitly contravenes the statute, which clearly states that funding for equitable services must be provided based on school districts' low-income student populations, not on the total number of students who attend private schools.

This unfounded direction from your agency is a blatant attempt to redirect resources and services to wealthier private school students, in the midst of a global pandemic and in clear contradiction

to the law. Additionally, the April 30 document has caused serious confusion for states and school districts as they struggle to comply with the law despite this conflicting direction from your department.

I am hearing from school leaders across my state who are desperate for this funding and deeply frustrated with the delay and confusion you have caused. I am further disturbed by the announcement that you intend to issue new rulemaking affirming this problematic guidance. Such rulemaking would substantially reduce the amount of funding going to support public school students.

I urge you to instead revise the April 30 guidance and implement the law correctly to allow schools to receive this funding as Congress intended.

Sincerely,



Jeanne Shaheen
United States Senate

CC:

The Honorable Christopher T. Sununu, Governor, State of New Hampshire
Commissioner Frank Edelblut, New Hampshire Department of Education