

Using the CARES Act to Acquire the High-Quality Materials Students Need for Online and Classroom Learning

May 29, 2020

The CARES Act (P.L. 116-136) offers greatly needed assistance for states, school districts, and higher education institutions as they work to meet students' needs during the historic school closures caused by the pandemic. The unprecedented scale of the emergency – with over 50 million students displaced from their classrooms – calls for strategic steps to help students stay on track academically. The CARES Act provides education leaders with additional resources and policy flexibility to serve their students, including through expanded digital learning. The Act's resources also offer an opportunity for states and school districts to innovate in ways that will help students now and later when classrooms reopen, including by transitioning to more widespread use of high-quality open educational resources (OER) that are aligned to state academic standards.

Open Educational Resources (OER) are openly licensed course materials—from individual materials to open textbooks to entire curricula—that are free for people everywhere to use and repurpose. Created at educational institutions across the globe, OER can be freely and legally downloaded from a variety of online databases, content libraries and established sources.

The CARES Act provides \$30.75 billion in emergency aid to help early learning providers, elementary and secondary schools, postsecondary institutions, and students address the COVID-19 pandemic. This dedicated education funding is divided among three programs administered by the U.S. Department of Education:

- The \$3 billion **Governor's Emergency Education Relief Fund** may be used by governors to help the school districts and institutions of higher education that have been “most significantly impacted” by the pandemic to help them continue providing educational services and to support institutions “on-going functionality”, and to support any other institution of higher education, school district, or “education related entity” that the “Governor deems essential for carrying out emergency educational service”. (P.L. 116-136, §18002);
- The \$13.5 billion **Elementary and Secondary School Emergency Relief Fund** may be used by school districts or state education agencies for a wide array of purposes, including all activities authorized by the Elementary and Secondary Education Act, the Perkins Career and Technical Education Act, and the Individuals with Disabilities Education Act, among other allowable uses (P.L. 116-136, §18003).

- The \$14.25 billion **Higher Education Emergency Relief Fund** is divided evenly between institutions and students. Institutions' share of the funding may be used to "cover any costs associated with significant changes to the delivery of instruction due to the coronavirus...". The student funding must be allocated in the form of emergency financial aid grants for "expenses related to the disruption of campus operations". (P.L. 116-136, §18004)

Congress designed the CARES Act's education relief provisions to provide education leaders with significant flexibility to meet their students' learning and other needs. As you continue working to address students' needs during the emergency - and prepare for the expected slow transition back to classroom-based instruction - we encourage you to consider the following ideas for using CARES Act funding to acquire and use student- and teacher-friendly OER. Now, more than ever, students need access to high-quality learning materials and OER can help districts meet that need in an effective and prudent way during this time of significantly declining state and local revenues.

- **Use OER to Strengthen Online Learning.** School districts may use the local emergency funding provided by the K-12 Emergency Education Relief Fund and the Governor's Emergency Education Relief Fund for any purpose authorized by the Elementary and Secondary Education Act, including making high-quality instructional content widely available to students through a state repository of OER or district adoption. This specific investment is permitted by the ESEA's Student Support and Academic Enrichment Grants program (Title IV-A), but other ESEA provisions, including Title I, permit such investments. State education agencies should also consider using the state-level CARES Act funding (9.5% of a state's total K-12 emergency funding) for acquiring OER that could be used by schools statewide to support online learning now as well as later classroom instruction.
- **Train Teachers to use OER for Online Learning.** The K-12 Emergency Education Relief Fund and the Governor's Emergency Education Relief Fund may be used consistent with the ESEA's professional development provisions for teachers and school leaders (ESEA Title II) and digital learning (ESEA Title IV). Specifically, this investment can support training educators and school leaders to effectively use OER online, including using OER to promote student collaboration and engagement and applying online learning best practices. At the postsecondary level, Governor's Relief Funding could be used for salary for staff trainers to work with faculty and administrators or stipends for faculty to adopt OER.
- **Encourage Greater OER Use in Higher Education.** Postsecondary institutions should consider using their CARES Act funding to facilitate the adoption and use of open textbooks on their campuses. Institutions may use the institutional share of CARES Act higher education funding to cover "any costs associated with significant changes to the delivery of instruction." With millions of students now forced to learn from home and with many campuses expected to continue significant online learning during the next school year, institutions should consider adopting and using digital

OER as a way to support cost effective online and classroom instruction. This strategy would save money for institutions, and would allow students to put their CARES Act funding toward more urgent needs, such as food and housing.

State and local leaders who are interested in using OER as a tool for helping their students progress during the emergency should consider adopting these ideas. We also encourage decision-makers to learn more about other elementary, secondary, and postsecondary OER initiatives underway nationally - for example the ESSA, Title IV-A consortia that is pooling program funds for OER - to explore other innovative ideas that might align well with their educational goals.

FORESIGHT LAW + POLICY

800 Maine Avenue, SW, Suite 200
Washington, D.C. 20024
202.499.6996 | www.FLPAdvisors.com

