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**CAPE member
organizations:**

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Educational Fellowship

Seventh-day Adventist
Board of Education

United States Conference
of Catholic Bishops

Wisconsin Evangelical
Lutheran Synod Schools

Affiliated State
Organizations

March 18, 2020

The Honorable Richard Shelby
Chairman
Committee on Appropriations
United States Senate
Room S-128, The Capitol
Washington, DC 20510

The Honorable Lamar Alexander
Chairman
Committee on Health, Education,
Labor and Pensions
United States Senate
428 Senate Dirksen Office Building
Washington, DC 20510

The Honorable Patrick Leahy
Vice Chairman
Committee on Appropriations
United States Senate
Room S-128, The Capitol
Washington, DC 20510

The Honorable Patty Murray
Ranking Member
Committee on Health, Education,
Labor and Pensions
United States Senate
428 Senate Dirksen Office Building
Washington, DC 20510

Dear Senators:

As the Senate crafts legislation responding to the coronavirus pandemic, the Council for Private Education (CAPE) would like to take this opportunity to offer the following suggestions in the area of K-12 education. CAPE is a coalition of national organizations and state affiliates serving private elementary and secondary schools. There are over 33,000 private schools in America. One in four of the nation's schools is a private school. More than five million students attend these schools. CAPE member organizations represent more than 80 percent of private school enrollment nationwide.

SUMMARY

The non-public school community is grateful for inclusion in the proposed Supporting Students in Response to Coronavirus Act (S. 3489). We appreciate language that requires “assurance” that the Local Education Agency (LEA) “has taken the needs of...non-public schools into account” and that non-public schools receive notification of funds awarded to the LEA. We also support the “Control of Funds” language.

However, in practice, we have seen from experience that if the LEAs do not officially count the non-public school community in the grant request, they are almost certain to not include non-public schools in the expediting of services or materials purchased with awarded funds. LEAs are familiar with this element of equity in other federal education programs, and the use of already existing language would aid in ensuring smooth implementation of a new relief package. In the Every Student Succeeds Act

(ESSA), this fairness is referred to as “equitable services,” and in the Individuals with Disabilities Education Act (IDEA), this is referred to as a “proportionate share.”

It is vital that the language in the relief bill direct the grant writing entity (presumably a state’s department of education) to include a count of non-public schools and a child count of students attending non-public schools in the grant application itself. With this count, an equitable funding share can be determined.

HISTORICAL REFERENCE

In addition to ESSA and IDEA, there is historical precedent for such language in an emergency relief package, dating back to the Katrina Relief package in 2006 (PL 109-148):

SEC. 102. IMMEDIATE AID TO RESTART SCHOOL OPERATIONS.

(a) Purpose.--It is the purpose of this section--

(1) to provide immediate services or assistance to local educational agencies and non-public schools in Louisiana, Mississippi, Alabama, and Texas that serve an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina or Hurricane Rita; and

(2) to assist school administrators and personnel of such agencies or non-public schools with expenses related to the restart of operations in, the re-opening of, and the re-enrollment of students in, elementary schools and secondary schools in such areas.

(b) Payments Authorized.--From amounts appropriated to carry out this subtitle, the Secretary of Education is authorized to make payments, on such basis as the Secretary determines appropriate, taking into consideration the number of students who were enrolled, during the 2004-2005 school year, in elementary schools and secondary schools that were closed on September 12, 2005, as a result of Hurricane Katrina or on October 7, 2005, as a result of Hurricane Rita, to State educational agencies in Louisiana, Mississippi, Alabama, and Texas to enable such agencies to provide services or assistance to local educational agencies or non-public schools serving an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina or Hurricane Rita.

(c) Eligibility, Consideration, and Equity.--

(1) Eligibility and consideration.--From the payment provided by the Secretary of Education under subsection (b), the State educational agency shall provide services and assistance to local educational agencies and non-public schools, consistent with the provisions of this section. **In determining the amount to be provided for services or assistance under this section, the State educational agency shall consider the following:**

(A) The number of school-aged children served by the local educational agency or non-public school in the academic year preceding the academic year for which the services or assistance are provided.

(B) The severity of the impact of Hurricane Katrina or Hurricane Rita on the local educational agency or non-public school and the extent of the needs in each local educational agency or non-public school in Louisiana, Mississippi, Alabama, and Texas that is in an

area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina or Hurricane Rita.

(2) Equity.--Educational services and assistance provided for eligible non-public school students under paragraph (1) shall be equitable in comparison to the educational services and other benefits provided for public school students under this section, and shall be provided in a timely manner.

NEEDS TAKEN INTO ACCOUNT

Below are some suggestions for stronger language to ensure non-public schools are included in the grant application, rather than simply having their “needs taken into account.”

SEC. 2. EDUCATION PREPAREDNESS AND SUPPORT GRANTS.

(d) USE OF FUNDS; SUBGRANTS.—

(2) APPLICATION.—An eligible entity desiring to receive a subgrant under this section shall submit to the State, or the Bureau of Indian Education, as applicable, an application containing—

(D) in the case of an eligible entity that is a local educational agency, an assurance that the local educational agency—

(i) has taken the needs of public schools and non-public schools into account prior to the application for funds;

a. has included a count of the number of non-public schools and students attending non-public schools in the boundary of the LEA in order to determine and allocate the equitable share of grant funds to serve non-public schools;

b. has consulted with non-public school representatives to determine the needs of non-public schools, students and teachers;

(ii) will notify all public schools and non-public schools in its boundaries of the receipt of grant funds under this section;

a. Will notify non-public schools of the equitable share of funds available for non-public schools

(iii) based on the severity of impact and demonstrated need, will equitably address the needs of both public schools and non-public schools in its boundaries; and

(g) PUBLIC CONTROL OF FUNDS.—For an eligible entity that is a local educational agency—

(1) the control of funds for the services and assistance provided to a non-public school under this section, and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds, materials, equipment, and property and shall provide such services (or may contract for the provision of such services with a public or private entity);

(2) when carrying out subsection (e), the local educational agency must equitably serve non-public schools based on demonstrated need and impact

(h) REPORTING.—

(1) REPORT TO THE SECRETARY.—At the end of the grant period, a grantee shall prepare and submit to the Secretary a report containing the following information:

(A) The number of subgrants awarded, disaggregated by the type of eligible entity.

(B) A list of subgrantees.

(C) The average subgrant award amount.

(D) The number of subgrant applicants.

(E) A summary of the activities that eligible entities carried out using subgrant funds.

i. The equitable share of funds that served non-public schools for each subgrant that is an LEA and how that equitable share was determined.

USE OF FUNDS

Finally, in the section regarding eligible use of funds, we request clarification that technology can include hardware, software, and online connectivity to address the need to serve students from home for long periods of time.

(e) USES OF FUNDS FOR SUBGRANTS.—An eligible entity receiving a subgrant under this section shall use subgrant funds to carry out one or more of the following activities:

(9) Purchasing educational technology (including hardware, software and connectivity) for students who are served by the eligible entity, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment.

CONCLUSION

Thank you very much of your consideration of these suggestions. I can be reached at michael@capenet.org for further information.

Sincerely,



Michael Schuttloffel
Executive Director