



**Celina Moreno, J.D.**  
*President & CEO*

**Re: CARES Act Programs, Equitable Services to Students and Teachers in Non-Public Schools,**  
Docket ID: ED-2020-OESE-0091

July 31, 2020

IDRA submits this comment respectfully urging the U.S. Department of Education to withdraw its interim final rule, which requires certain public school districts to reserve additional CARES Act relief funds for services for private schools within their districts, published July 1, 2020 (Federal Register No. 2020-14224). Specifically, the provision of the rule that requires local education agencies that spend funds outside of Title I schools to reserve more of their emergency relief funds for private school services is inconsistent with the CARES Act and will divert critical resources from the public schools and students that need them most.

IDRA is a national non-profit that works to ensure equitable educational opportunities for every student through strong, safe, and well-funded public schools that prepare all young people to access and succeed in college. Through actionable research and data products, training for educators, timely policy analyses, and authentic community engagement, IDRA addresses the systems, policies and practices that create barriers to educational success.

Public schools are core to IDRA's mission because they serve as the educational centers for most students in this country. When well-funded and fairly resourced, public schools can provide critical supports for students and their families, including meals, counseling, and health services, in addition to ensuring safe environments for academic and social development.

Unfortunately, many schools struggle to do this because of a long history of inequitable funding and other systems that compromise their ability to serve all students. With its rule, the Department threatens to make those struggles and inequities worse. Funneling critical CARES Act funds away from public schools that need them toward private schools is harmful for public schools and students. It is inconsistent with the intent and clear language of the CARES Act, which instructs schools to reserve equitable services funds in accordance with formulae found in the Every Student Succeeds Act.

## Applying the Department of Education’s Rule in Texas Schools

IDRA’s analysis shows a potential equitable services reserve increase of \$38.7 million for 185 Texas school districts with the Department’s new interpretation of the CARES Act equitable services requirement.<sup>1</sup>

Equitable Services for Texas Private Schools under Department of Education’s New Rule			
	Total CARES Act Funds (185 Texas LEAs)	CARES Act Funds for Public Schools	CARES Act Funds for Private Schools
Scenario 1: Calculating Spending by Private School Family Income	\$805,098,349	\$799,623,681	<b>\$5,474,668</b>
Scenario 2: Calculating Spending by Total Private School Population	\$805,098,349	\$760,857,340	<b>\$44,241,009</b>
<b>Additional Funds Diverted Away from Public Schools to Private Schools with New Population-Based Calculation</b>		<b>-\$38,766,341</b>	<b>+\$38,766,341</b>

*Note: The LEAs in this analysis set aside approximately 0.68% of their Title I, Part A funds for equitable services, based on the number of students from families with limited incomes enrolled in private schools. The new Department of Education rule basing equitable services funds on total private school enrollment would result in an equitable services reserve of approximately 5.49% if those private schools participate in a CARES Act program.*

The rule achieves the Department’s goal of increasing funding to private school students regardless of financial circumstance. But, it does so to the great detriment of the public school students and schools that need critical CARES Act funds to ensure some stability as education budgets are impacted by the recession and to address new costs associated with the pandemic.

States across the country are projecting billions of dollars in budget shortfalls.<sup>2</sup> The equitable services funds that would be reserved in Texas could be used to address basic needs, pay for the services of additional counselors, social workers, and nurses, and cover the costs of personal protective equipment and digital devices for thousands of students. The funds could be used to address district-wide needs, including the needs of students from families with limited incomes who do not attend Title I schools. Yet using funds for these allowable expenses outside of Title I schools would force districts to set aside more relief funds for private school students, regardless of income.

The Department’s rule is not only arbitrary and inconsistent with the law, it is harmful to public schools and the students who have long faced inequitable access to resources in their schools, particularly students of color, students from families with limited incomes, English learners, and students with disabilities. The Department’s interpretation of the CARES Act increases inequities in schools making it more difficult for schools to tackle the digital divide, address learning losses, and meet basic student needs. And, it does so with no rational explanation for the change in the rule.

While everyone in the country is certainly facing challenges related to COVID-19, some students and communities are disproportionately impacted by the pandemic because they were

<sup>1</sup> Craven, M., & Johnson, R. (July 16, 2020). [Cutting Public School Relief Funds to Subsidize Private Schools](#), Intercultural Development Research Association.

<sup>2</sup> Wilson, T. (May 22, 2020). [Without Intervention, COVID-19-Induced Budgetary Shortfalls Will Fall Hardest on Marginalized Students in the South](#), Intercultural Development Research Association.

disproportionately impacted by systemic inequities long before the disease. We must target our limited emergency relief resources in these communities and toward the public schools that serve them. We respectfully urge the Department to withdraw its interim final rule related to the reservation of public CARES Act monies for equitable services for private schools. Should you have any questions or concerns, please contact me at [morgan.craven@idra.org](mailto:morgan.craven@idra.org).

Sincerely,

Morgan Craven, J.D.  
National Director of Policy, Advocacy, and Community Engagement  
IDRA (Intercultural Development Research Association)

*The Intercultural Development Research Association is an independent, non-profit organization, led by Celina Moreno, J.D. Our mission is to achieve equal educational opportunity for every child through strong public schools that prepare all students to access and succeed in college. IDRA strengthens and transforms public education by providing dynamic training; useful research, evaluation, and frameworks for action; timely policy analyses; and innovative materials and programs.*