



THE SECRETARY OF EDUCATION
WASHINGTON, DC 20202

September 25, 2020

Dear Chief State School Officer:

On March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, an emergency response to the COVID-19 pandemic and its devastation of our American families, schools, and communities.

The Department of Education responded immediately, strongly, and effectively. Moving with unprecedented speed, we pushed billions of CARES Act dollars to States and local school districts. We made available every Federal government resource at our disposal to help all children receive the educational and other special services they need, deserve, and are entitled to under law.

We started from a premise that I believe with every fiber of my being: all children are created equal, and all children matter. In the CARES Act, there is nothing suggesting Congress intended to deny some American students the help they need. In the real world, the pandemic harmed everyone. Sadly, that fact did not stop some from suing us, attempting to deny private-school children and teachers help they needed. Unfortunately for students, a U.S. District Court has vacated the Department's Interim Final Rule (IFR).

The Department strongly, but respectfully, disagrees with the ruling. However, we respect the rule of law and will enforce the law as the courts have opined. The Department will not appeal these rulings. As you likely know, the IFR has not been in effect since the court's decision on September 4, 2020, and we subsequently provided notice of the decision on our website.

The Department will not take any action against States or local districts that followed the guidance and/or the IFR prior to notice of the court's decision. Going forward, districts must calculate the minimal proportional share for CARES Act equitable services according to the formula provided in Section 1117(a)(4)(A) of the ESEA of 1965. Section 1117 requires robust consultation with private schools, among other things, and we will use our enforcement authority aggressively to ensure districts comply with this and other relevant equitable services requirements.

More broadly, the truth remains that *all* schools and *all* students have borne the pandemic's burden and need support. We hope, through meaningful consultation and honest assessment, education leaders will do right by all students they serve. You know as well as I do that many private schools serve disadvantaged, lower income families, and it is bad for these communities when those private schools close. Not only does it place a burden on families that chose a different school for their child, but it also places a burden on public schools as well.

To that end, I strongly encourage you to use the CARES Act dollars we provided to assist public schools and to provide equitable services to private schools as soon as possible.

Thank you for your continued efforts to serve every member of America's rising generation.

Sincerely,

A handwritten signature in black ink that reads "Betsy DeVos".

Betsy DeVos