CARES ACT: 2020-21 WRITTEN AFFIRMATION OF LEA CONSULTATION WITH NON-PUBLIC SCHOOL OFFICIALS - UPDATED

BACKGROUND INFORMATION

EQUITABLE SERVICES REQUIREMENTS:

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) requires that a local educational agency (LEA) receiving funds under sections 18002: The Governors Emergency Education Relief Fund (GEER) or 18003: Elementary and Secondary School Emergency Relief Fund (ESSER) of the CARES Act shall provide equitable services to non-public schools.

On September 4, 2020, in *NAACP v. DeVos*, the U.S. District Court for the District of Columbia issued an opinion and an order vacating the Interim Final Rule (IFR) issued by the U.S. Department of Education (USDE) on July 1, 2020 which directed how Local Educational Agencies (LEAs) were to calculate the amount of Elementary and Secondary School Emergency Relief (ESSER) and Governor's Emergency Education Relief (GEER) funds available for providing equitable services to students and teachers in non-public schools. On September 9, 2020, USDE published a statement on their website that the IFR is no longer in effect. On September 25, 2020, USDE Secretary Betsy DeVos sent a letter to Chief State School Officers stating that USDE will not appeal the court ruling, and directing state educational agencies to 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.

** Please note that this ruling does not eliminate the equitable services requirement. **

This ruling, and USDE's subsequent direction, make clear that section 18005 means a local educational agency receiving funds under sections 18002 or 18003 of the CARES Act shall provide equitable services in the same manner as provided under section 1117 of the ESEA of 1965 to students and teachers in non-public schools, as determined in consultation with representatives of non-public schools. Therefore, the equitable share calculation must be based on the number of number of students from low-income families who reside in Title I attendance areas and who attend PARTICIPATING NON-PUBLIC SCHOOLS regardless of the non-public school's location. LEAs must consult with each non-public school serving resident students to determine the total number of low-income students served by each non-public school. This includes non-public schools located inside the district's boundaries AND non-public schools located in other districts.

PROGRAMS REQUIRING CONSULTATION:

Section 18005 of the CARES Act requires that LEAs consult with appropriate non-public school officials from any non-public school serving district-resident students residing in Title I attendance areas regarding any use of funds as defined under section 18002 or 18003.

PUBLIC CONTROL OF FUNDS:

Non-Public schools may not use CARES Act funds to pay staff salaries directly. The control of funds for the services and assistance provided to a non-public school under section 18005 (a) of the CARES Act, 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 non-public entity). All services and benefits must be secular, neutral, and nonideological.

DOCUMENTATION:

Each local educational agency must maintain in the agency's records and provide to the New York State Education Department (NYSED), a written affirmation signed by officials of **each** participating non-public school that the meaningful consultation required by this section has occurred. The written affirmation shall provide the option for non-public school officials to indicate that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to eligible non-public school children. If non-public school officials do not provide such affirmation within a reasonable period of time, the LEA shall forward the documentation that such consultation has, or attempts at such consultation have, taken place to the New York State Education Department.

OMBUDSMAN:

To ensure such equity for non-public school children, teachers, and other educational personnel, NYSED will designate an ombudsman to monitor and enforce the requirements of equitable services. Copies of all written affirmation forms will be provided to the ombudsman for the purposes of review, technical assistance, and monitoring related to the LEA's programmatic and fiscal obligations. Questions and/or concerns about the provision of equitable services may be directed to the NYSED Ombudsman at OMBUDSMAN@nysed.gov.

The LEA must provide a copy of this document to NYSED and appropriate non-public officials and maintain copies on file.

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LEA Name	Stockbridge Valley C. S	**LEA Contact Person**	Beth S. Lamb

Non-Public School Name	St. Patrick School	**Contact Person / Title**	Ms. Kristin Healt- Principal
Street Address	354 Elizabeth St.	**Contact Telephone**	315-363-3620
City/Town, Zip Code	Oneida, NY 13421	**Contact Email**	khealt@syrdiocese.org
BEDS Code[1]	25140015522	**District of Location**	Oneida City School District

CARES ACT CONSULTATION

The following information must be collected and discussed during the **ongoing consultation** process as required for GEER or ESSER:

CARES Act Program	K-12 Low Income Students Living in Title I Attendance Areas Attending the Non-Public School	Per Pupil Amount	Non-Public School Allocation	Participation
GEER	0	$207.97	$0	☐ Receiving Services ☑ Declining Services
ESSER	0	$1,227.07	$0	☐ Receiving Services ☒ Declining Services

Non-Public school students, parents, and teachers may receive appropriate benefits and services from the CARES Act, but non-public schools cannot receive direct funding from these programs. The district must maintain control of the funds.

GEER PROGRAM SERVICES TO BE PROVIDED

Check the box(es) of the program services to be provided. Include the amount of funds allocated to the school for each service.

[1] A BEDS Code is not required for a non-public school to participate in CARES Act programs subject to equitable participation.

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Program Services (Check All That Apply)	Planned Cost
☐ Any activity authorized by the ESEA of 1965, including the Native Hawaiian Education Act and the Alaska Native Educational Equity, Support, and Assistance Act (20 U.S.C. 6301 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) ("IDEA"), the Adult Education and Family Literacy Act (20 U.S.C. 1400 et seq.), the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) ("the Perkins Act"), or subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.) (Section 18002(c)(3)).	$
☐ The provision of child care and early childhood education. (Section 18002(c)(3)).	$
☐ The provision of social and emotional support (Section 18002(c)(3)).	$
☐ The protection of education-related jobs (Section 18002(c)(3)).	$
☐ To continue provision of educational services to students (Section 18002(c)(1)).	$
☐ To support the ongoing functionality of the local educational agency (Section 18002(c)(1)).	$

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ESSER PROGRAM SERVICES TO BE PROVIDED

Check the box(es) of the program services to be provided. Include the amount of funds allocated to the school for each service.

Program Services (Check All That Apply)	Planned Cost
☐ Any activity authorized by the ESEA of 1965, including the Native Hawaiian Education Act and the Alaska Native Educational Equity, Support, and Assistance Act (20 U.S.C. 6301 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) ("IDEA"), the Adult Education and Family Literacy Act (20 U.S.C. 1400 et seq.), the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) ("the Perkins Act"), or subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.) (Section 18003(d)(1)).	$
☐ Coordination of preparedness and response efforts of local educational agencies with State, local, Tribal, and territorial public health departments, and other relevant agencies, to improve coordinated responses among such entities to prevent, prepare for, and respond to coronavirus (Section 18003(d)(2)).	$
☐ Providing principals and others school leaders with the resources necessary to address the needs of their individual schools (Section 18003(d)(3)).	$
☐ Activities to address the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including how outreach and service delivery will meet the needs of each population (Section 18003(d)(4)).	$
☐ Developing and implementing procedures and systems to improve the preparedness and response efforts of local educational agencies (Section 18003(d)(5).	$
☐ Training and professional development for staff of the local educational agency on sanitation and minimizing the spread of infectious diseases (Section 18003(d)(6))	$
☐ Purchasing supplies to sanitize and clean the facilities of a local educational agency, including buildings operated by such agency (Section 18003(d)(7))	$
☐ Planning for and coordinating during long-term closures, including for how to provide meals to eligible students, how to provide technology for online learning to all students, how to provide guidance for carrying out requirements under the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.) and how to ensure other educational services can continue to be provided consistent with all Federal, State, and local requirements (Section 18003(d)(8)).	$
☐ Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the local educational agency that aids in regular and substantive educational interaction between students and their classroom instructors, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment (Section 18003(d)(9)).	$
☐ Providing mental health services and supports (Section 18003(d)(10))	$
☐ Planning and implementing activities related to summer learning and supplemental afterschool programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care (Section 18003(d)(11)).	$
☐ Other activities that are necessary to maintain the operation of and continuity of services in the local educational agencies and continuing to employ existing staff of the local educational agency (Section 18003(d)(12)).	$

The non-public school representative must check <u>one</u> of the following:

☒ I agree that timely and meaningful consultation occurred before the LEA made any decision that affected the participation of eligible non-public school students.

☐ I <u>do not</u> agree that timely and meaningful consultation occurred before the LEA made any decision that affected the participation of eligible non-public school students.

Non-Public School Representative Name		LEA Representative Name	
Kristin Healt		Beth S. Lamb	
Non-Public School Representative Signature	Date	LEA Representative Signature	Date
Kristin J. Healt	11/9/2020	Beth S. Lamb	11/9/2020