Frequently Asked Questions (FAQs) for the Temporary Emergency Impact Aid for Displaced Students (Emergency Impact Aid) Program, CFDA Number: 84.938C

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Purpose of this Document

The purpose of this document is to provide general information about the Temporary Emergency Impact Aid for Displaced Students program, as authorized by the *Bipartisan Budget Act of 2018*, P.L. 115-123 (February 9, 2018). This document provides basic information about the program, including the award process and allowable uses of funds, and does not impose any requirements beyond those included in the *Bipartisan Budget Act of 2018* and other applicable laws and regulations. In addition, it does not create or confer any rights for or on any person.

The U.S. Department of Education (Department) will provide additional or updated information as necessary on the Temporary Emergency Impact Aid program website (https://www2.ed.gov/programs/eia/index.html) or the ED Disaster Relief website (https://www.ed.gov/disasterrelief). If you have questions that are not answered in this document, please e-mail K12EmergencyImpactAid@ed.gov.

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A. GENERAL QUESTIONS

A-1. What is the purpose of the Temporary Emergency Impact Aid for Displaced Students program?

The Temporary Emergency Impact Aid for Displaced Students (Emergency Impact Aid) program provides funds to assist with the cost of educating public and non-public students displaced by Hurricanes Harvey, Irma, and Maria, or the 2017 California wildfires for which a major disaster or emergency has been declared under sections 401 or 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 and 5190) (covered disaster or emergency). Under the Emergency Impact Aid program, the U.S. Department of Education (Department) awards grants to eligible State educational agencies (SEAs) to enable them to make emergency impact aid payments to eligible local educational agencies (LEAs) and eligible Bureau of Indian Education (BIE)-funded schools to assist with the cost of educating displaced students who are served by those agencies and schools or who attend eligible non-public schools located in the areas served by those agencies. See Section C in this document for more information about eligible LEAs and schools.

Congress authorized the 2018 Emergency Impact Aid program in the *Bipartisan Budget Act of 2018*, P.L. 115-123 (February 9, 2018), which instructed the Department to dispense aid under section 107 of the Hurricane Education Recovery Act (HERA) (P.L. 109-148) subject to certain modifications for the specific disasters identified above. Please see the redlined version of the HERA (P.L. 109-148) showing operational modifications made by the *Bipartisan Budget Act of 2018* (P.L. 115-123) and the *Consolidated Appropriations Act of 2018* (P.L. 115-141), which is referred to informally as the "modified Act" throughout these FAQs.

A-2. Who may be counted as a displaced student?

A "displaced student" is a student who:

- Resided in the area of a covered disaster or emergency on the date that is one week prior to the date that the major disaster or emergency was declared for the area; and
- As a result of the covered disaster or emergency, enrolled in an elementary school or secondary school other than the school that the student was enrolled in, or was eligible to be enrolled in, on the date that is one week prior to the date that the major disaster or emergency was declared for the area.

Throughout this document, the term "displaced student(s)" refers to this definition.

Note that the definition may include a student who enrolled in another school in the same LEA as a result of the covered disaster or emergency. It does not include a student who remains enrolled in the same school but the school has changed location because of the disaster. It is possible, however, that a school in this situation will qualify for Restart program services or assistance. An LEA or BIE-funded school in those States should consult with its SEA regarding the eligibility for Restart services or assistance. See the Restart program webpage (https://www2.ed.gov/programs/restart/index.html) for additional information.

A-3. What is an "area of a covered disaster or emergency" for purposes of the displaced student definition in Question A-2?

For the purpose of the "displaced students" definition, the areas of a covered disaster or emergency are the counties that the Federal Emergency Management Agency (FEMA) designated in the Federal Register as eligible for individual or public assistance, as a result of a Presidential declaration of a major disaster related to a covered disaster or emergency. Those counties are the following:

In Alabama: All counties

In California: Butte, Lake, Mendocino, Napa, Nevada, Orange, Solano, Sonoma and Yuba counties.

In Florida: All counties.

In Georgia: All counties.

In Louisiana: Acadia, Allen, Assumption, Beauregard, Calcasieu, Cameron, De Soto, Iberia, Jefferson Davis, Lafayette, Lafourche, Natchitoches, Plaquemines, Rapides, Red River, Sabine, St. Charles, St. Mary, Vermilion, and Vernon parishes.

In Puerto Rico: All municipalities.

In South Carolina: All counties.

In Texas: Aransas, Austin, Bastrop, Bee, Bexar, Brazoria, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, Dallas, DeWitt, Fayette, Fort Bend, Galveston, Goliad, Gonzales, Grimes, Guadalupe, Hardin, Harris, Jackson, Jasper, Jefferson, Jim Wells, Karnes, Kleberg, Lavaca, Lee, Liberty, Madison, Matagorda, Milam, Montgomery, Newton, Nueces, Orange, Polk, Refugio, Sabine, San Augustine, San Jacinto, San Patricio, Tarrant, Travis, Tyler, Victoria, Walker, Waller, Washington, and Wharton.

In U.S. Virgin Islands: All islands (county equivalent).

A-4. May preschool students be included in the counts of displaced students?

Preschool students in non-profit, publicly funded preschool programs may only be included in the displaced student counts if preschool education is included as a part of elementary education by State law. If State law defines elementary education as beginning with kindergarten, preschool students may <u>not</u> be included in the displaced student counts from that State.

A-5. What timelines apply to the Emergency Impact Aid Program?

LEAs and BIE-funded schools were required to apply to their SEA for funds under the program by May 25, 2018. SEAs must submit their initial applications to the Department by June 4, 2018. SEAs must submit any application amendments affecting allocations under the

Emergency Impact Aid program to the Department no later than July 20, 2018. An SEA may establish additional reasonable deadlines to collect necessary revisions from LEAs, Bureau of Indian Education schools, and non-public schools, to facilitate submission of SEA final application amendments by July 20, 2018.[1]

In addition to these application deadlines, the modified Act requires that LEAs make payments to accounts on behalf of non-public students within 14 calendar days of receiving payments from their SEAs. (See section 107(c)(2)(A)(iii) of the modified Act.) When students are enrolled in different non-public schools on different quarterly count dates, LEAs need to ensure that payments for these students are directed to the correct accounts on their behalf.

A-6. What data must each SEA, LEA, and BIE-funded school provide to receive Emergency Impact Aid funding?

In its application to its SEA for Emergency Impact Aid funding, each LEA and BIE-funded school must submit enrollment data for all four quarters of the 2017-18 school year on the numbers of displaced students enrolled in that LEA (in public and non-public schools, see Question B-2) or BIE-funded school as of four different count dates, disaggregated by students who are children with disabilities [2], English learners who are not reported as children with disabilities, and all other displaced students. The data for the fourth quarter may be estimated data.

Each SEA that applies for Emergency Impact Aid funding must provide to the Department in its application data for all four quarters of the 2017-18 school year, which may include estimated data for the fourth quarter, on the aggregated numbers of displaced students enrolled in public, non-public, and BIE-funded schools on four different count dates also disaggregated by students who are children with disabilities, English learners who are not reported as children with disabilities, and all other displaced students. The Department will use the data that are included in the SEA applications to make initial payments under the Emergency Impact Aid program.

The Department has identified four suggested quarterly count dates for an SEA and each LEA and BIE-funded school to identify numbers of displaced students: October 1, 2017; December 1, 2017; February 1, 2018; and April 1, 2018. An SEA may use these dates or select count dates that fall within a 21-day range for each of the quarters, i.e., within 10 calendar days before or after these dates. If an SEA selects other count dates, the SEA must select four specific dates and require that each LEA or BIE-funded school that applies use those dates.

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[1] The Department announced application deadlines in the April 25, 2018 Federal Register Notice of Availability of Funds, 83 FR 18015. Some SEAs requested additional time to collect and submit more accurate data from their affected LEAs, BIE and non-public schools. In response to these requests, the Department extended the SEA and LEA application deadlines via a Notice of Extension of Deadlines published in the Federal Register on May 24, 2018, 83 FR 24092.

[2] As used in this document and as noted in the response to Question C-1, the term "child with a disability" has the same meaning given the term in section 602(3) of the Individuals with Disabilities Education Act (IDEA). See section 8101(4) of the ESEA.

An LEA or BIE-funded school must provide as an update to its application to the SEA any updated enrollment data generally and any unreported fourth quarter data for the 2017-18 school year once those data become available but no later than the deadline set by the SEA. The SEA must then provide any updated enrollment data generally and any unreported fourth quarter data for the 2017-18 school year to the Department by July 20, 2018. See Section B in this document for more information.

B. STATE AND LOCAL APPLICATION REQUIREMENTS

B-1. What must an SEA include in its application to the Department?

An SEA's application must include the following data and descriptions, along with the SEA contact name, address, and other identifying information and assurances:

a) Numbers of displaced students enrolled in public, non-public, and BIE-funded schools as of four quarterly count dates. SEAs must report separate counts of displaced students who are reported as children with disabilities, English learners who are not reported as children with disabilities, and all other displaced students (see Question A-6);

b) A description of the process for the parent or guardian of a displaced student enrolled in a non-public school to indicate to an eligible LEA serving the area in which the non-public school is located that the student enrolled in the non-public school;

c) A description of the procedure to be used by eligible LEAs to provide payments to accounts on behalf of non-public school displaced students;

d) A description of the process to be used by eligible LEAs in the State to obtain:

i. Attestations from eligible non-public schools of attendance of displaced students; and

ii. Attestations from eligible non-public schools that accounts established for non-public school displaced students will be used only for allowable purposes; and

e) A description of the criteria, including family income, to be used to determine the eligibility for and the amount of assistance provided on behalf of a displaced student attending an eligible non-public school.

Please note that SEAs may adapt the Department sample template applications for LEAs and BIE schools to apply to the SEA for Emergency Impact Aid funds. The Department has also provided sample templates for parents of non-public school displaced students to submit to the LEAs in which the non-public school is located or the SEA, as applicable, as well as a sample certification from non-public schools. An SEA should consider how to adapt templates to include all of the relevant information needed to complete the application.

B-2. What must an LEA include in its application to the SEA?

An LEA's application to the SEA must include the following information consistent with any procedures as established by the SEA:

a) Numbers of displaced students enrolled in public schools as of four quarterly count dates specified by the SEA, including separate counts of students who are reported as children with

disabilities, English learners who are not reported as children with disabilities, and all other displaced students;

b) Numbers of displaced students enrolled in non-public schools as of four quarterly count dates specified by the SEA, including separate counts of students who are reported as children with disabilities, English learners who are not reported as children with disabilities, and all other displaced students;

c) An assurance that the LEA will make payments to all accounts established for displaced students enrolled in non-public schools within 14 days of receiving its allocation;

d) An assurance that the LEA will comply with the procedures established by the SEA to receive applications for assistance from the parents or guardians of non-public school displaced students;

e) An assurance that the LEA will comply with the procedures established by the SEA to make payments to accounts for non-public school displaced students; and

f) An assurance that the LEA will comply with the procedures established by the SEA to obtain:

i. Certifications of attendance from non-public schools for displaced students;

and

ii. Certifications from non-public schools that payments for displaced non-public school students will be used only for allowable purposes.

B-3. What must a BIE-funded school include in its application to the SEA?

A BIE-funded school's application must include numbers of displaced students enrolled in the school as of four quarterly count dates specified by the SEA (see Question A-6), including separate counts of numbers of students who are reported as children with disabilities, English learners who are not reported as children with disabilities, and all other displaced students, along with contact information and assurances consistent with any procedures established by the SEA.

B-4. What must a parent or guardian of a non-public school student submit to an LEA (or SEA, as applicable) so that the school receives Emergency Impact Aid funding for that student?

The SEA will establish procedures for a parent or guardian[3] of a non-public school displaced student to request that the LEA in which the non-public school is located apply for Emergency Impact Aid funding. The parent of a non-public school displaced student should promptly submit the data and supporting documentation that is required under those procedures to the LEA or SEA, as applicable, so that program funds can be received on behalf of the student. In particular, parents of a non-public school displaced student must provide verification and

[3] For purposes of this guidance, references to parents includes both parents and guardians.

evidence that the student on whose behalf they are applying meets the definition of displaced student. (See Question A-2.) Parents must also supply evidence, such as a registration form, that they enrolled their child in an eligible, non-public school for the quarter(s) claimed and prior to February 9, 2018. (See Question F-8.)

B-5. What count dates must an LEA use for identifying numbers of eligible displaced students?

The LEA must use quarterly count dates established by its SEA. The Department has identified four suggested quarterly count dates for identifying numbers of displaced students: October 1, 2017; December 1, 2017; February 1, 2018; and April 1, 2018. An SEA may use these dates or select count dates that fall within a 21-day range for each of the quarters, i.e., within 10 calendar days before or after these dates.

B-6. How does an LEA identify eligible displaced students?

An LEA must take a count of the displaced students it has enrolled on each of the count dates, based on the definition of a "displaced student." (See Question A-2.)

In doing so, it must document that each such student --

1) Resided in the area of the covered disaster or emergency on the date that is one week prior to the date that a major disaster or emergency was declared for the area; and
2) As a result of the covered disaster or emergency, is enrolled in an elementary school or secondary school other than the school that the student was enrolled in, or was eligible to be enrolled in, on the date that is one week prior to the date that a major disaster or emergency was declared for the area.

Similarly, for displaced students enrolled in non-public schools, the LEA must take a count of such students on whose behalf parents have applied for assistance under the program.

Examples of how an LEA might document that a student is displaced include, but are not limited to, a student registration form with a former address of the student within the disaster areas, verification of enrollment from an SEA, a transcript from the student's former school, a utility bill, or a copy of a parent's driver's license.

B-7. How does an LEA generally identify an eligible displaced student who is a child with a disability?

An LEA can identify a displaced student as a child with a disability under section 602(3) of the Individuals with Disabilities Education Act (IDEA) based on the student's last individualized education program (IEP) as defined in Section 614(d) of the IDEA, or in the case of a non-public school student who is a child with a disability under IDEA, based on the student's most recent IDEA eligibility determination or the student's last services plan as defined in 34 CFR §300.37. For additional information on identifying and serving students who are children with disabilities, please see Question H-2 and visit the Department's IDEA website. For additional information about equitable services for non-public school students with disabilities, see https://innovation.ed.gov/what-we-do/non-public-education/individuals-with-disabilities-education-improvement-act-idea/.

B-8. What is an "English learner" for purposes of this program?

An ''English learner'' is an individual—

a) who is aged 3 through 21;

b) who is enrolled or preparing to enroll in an elementary school or secondary school;

c) i. who was not born in the United States or whose native language is a language other than English;

ii. (I) who is a Native American or Alaska Native, or a native resident of the outlying areas;

and

(II) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

iii. who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant;

and

d) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

i. the ability to meet the challenging State academic standards;

ii. the ability to successfully achieve in classrooms where the language of instruction is English; or

iii. the opportunity to participate fully in society.

See section 8101 of the Elementary and Secondary Education Act of 1965, as amended (ESEA) and section 101(b) of the modified Act. See also Question A-1.

C. ELIGIBLE LOCAL EDUCATIONAL AGENCIES AND SCHOOLS

C-1. For the purposes of this program, what is a "local educational agency"? What other definitions apply to this program?

The definition of LEA that applies to the Emergency Impact Aid program is the same that applies to programs authorized by the ESEA. Briefly, an LEA is a public board of education legally constituted within a State for administrative control or direction of, or to perform a service function for, public elementary and secondary schools (including public, nonprofit charter schools). In general, the definitions in section 8101 of the ESEA apply to this program, including "child with a disability."

C-2. Which LEAs are eligible to receive funds under this program?

For purposes of the Emergency Impact Aid program, an eligible LEA is one that serves:

a) an elementary school or secondary school (including a public, non-profit charter school) in which there is enrolled a displaced student; or

b) an area in which there is located an eligible non-public school.

(See section 107(b)(2) of the modified Act.)

C-3. May educational service agencies apply for funds on behalf of LEAs?

An educational service agency may apply for funds only if one or more LEAs elect to have it apply for funds and carry out program activities on their behalf. Under the definition of "local educational agency," in section 8101(30) of the ESEA, an educational service agency is considered an LEA and, thus, such an agency is eligible to apply for and receive funds under the program. However, an SEA may not make payments on behalf of the same child to two different agencies for the same quarter.

C-4. May charter schools receive program funds?

A public, nonprofit charter school that enrolls one or more displaced students is eligible for funds under the program. Depending on State law, a charter school is generally considered either an LEA (and thus would receive a payment directly from the SEA) or a school within an LEA (and thus would receive funds from the payment to the LEA under which it is established). LEAs that have within their jurisdictions charter schools that enroll displaced students must ensure that those charter schools receive the amount of funding generated by the displaced students in those charter schools. (See requirements in 34 CFR Part 76, Subpart H (How Does a State or Local Educational Agency Allocate Funds to Charter Schools.)

The parent of a displaced student who is enrolled in a non-public, nonprofit charter school may apply for funds on behalf of that student in the same manner as parents of displaced students enrolled in other non-public schools.

C-5. What is an eligible BIE-funded school? Are tribal schools included?

A BIE-funded school is eligible if at least one displaced student was enrolled in the school on the date of a quarterly child count and if it is:

a) Operated by the BIE; or

b) Operated by a tribe or an organization controlled or sanctioned by an Indian tribal government, for the children of that tribe, under a contract with or grant from the Department of the Interior.

C-6. May an SEA submit estimated enrollment data for the fourth quarter and provide updated enrollment data later?

An SEA must include in its Emergency Impact Aid application that is due June 4 enrollment data for all four quarters of the 2017-18 school year, which may include estimated data for the fourth quarter. SEAs must provide any application amendments affecting allocations (including updated enrollment data generally and any unreported fourth quarter data for the 2017-18 school year) by July 20, 2018. The Department will use the enrollment data that are included in the initial SEA applications to make initial payments under the Emergency Impact Aid program. (See Questions A-6 and B-5.)

The Department also is aware that it may take some time for SEAs and LEAs to count, retroactively for all four quarters of the 2017-18 school year, all displaced students, including students who subsequently may have moved to other States or LEAs. Therefore, SEAs and LEAs are encouraged to provide their best available data on of eligible students for each count date in their initial applications, and, in the event that they collect more satisfactory data that were not available at the time of their initial application, to amend their applications if they need to make upward or downward revisions to their initial child counts. The Secretary will make appropriate upward or downward revisions to subsequent payments, or request a refund for any overpayment, based on the final data provided by an SEA. SEAs must submit any application amendments affecting allocations under the Emergency Impact Aid program to the Department no later than July 20, 2018.

C-7. Must a parent of a displaced student who was enrolled in a non-public school in one LEA and is enrolled in a subsequent quarter in a non-public school in another LEA complete separate applications?

Yes. In order to be reimbursed under this program, the parent of a displaced student who enrolled in more than one eligible non-public school in the 2017-2018 school year must file applications with each of the LEAs where the eligible non-public schools are located for the different quarters that the student was enrolled on the State count dates. (See also Section G in this document.) If a parent needs assistance in completing a second application with the LEA where the previously attended non-public school was located, the parent should contact that LEA or the SEA for that location.

C-8. Are for-profit schools eligible to receive funding under this program?

No. For-profit (public and non-public) schools are not eligible to receive funding under this program. The Emergency Impact Aid Program uses the definitions in section 8101 of the ESEA that specify that elementary and secondary schools must be nonprofit.

D. PAYMENTS

D-1. How does the Department calculate an SEA's payment?

For each quarter, the Department will provide each State with a payment equal to:

a) $2,125 multiplied by the number of displaced students who are not reported as children with disabilities or English learners determined by the State to be enrolled in public and non-public schools for that quarter, plus

b) $2,250 multiplied by the number of displaced students who are English learners (who are not reported as children with disabilities) determined by the State to be enrolled in public and non-public schools for that quarter, plus

c) $2,500 multiplied by the number of displaced students who are reported as children with disabilities (regardless of whether the students are English learners) determined by the State to be enrolled in public and non-public schools for that quarter.

The aggregate amount of Emergency Impact Aid funds that the Department may provide per displaced student for the 2017-2018 school year is:

a) $8,500 for each displaced student who is not reported as a child with a disability or English learner;

b) $9,000 for each displaced student who is reported as an English learner who is not reported as a child with a disability; and

c) $10,000 for each displaced student who is reported as a child with a disability (regardless of whether the student is an English learner).

However, if the amount available to the Department is not sufficient to make these payments in full, the Secretary will proportionately reduce each SEA's payment.

D-2. When does the Secretary make payments to SEAs?

The Secretary will issue an initial payment to an SEA as soon as possible after receiving the State's application.

D-3. How does the SEA calculate an LEA's payment?

An SEA calculates LEA payments in the same manner that the Secretary calculates the State allocations. That is, for each quarter, the SEA will provide each LEA applying for assistance with a payment equal to:

a) $2,125 multiplied by the number of displaced students who are not reported as children with disabilities or English learner determined by the LEA to be enrolled in the schools of the LEA, or in non-public schools in the area served by the LEA, for that quarter, plus

b) $2,250 multiplied by the number of displaced students who are reported as English learners (who are not reported as children with disabilities) determined by the LEA to be enrolled in the schools of the LEA, or in non-public schools in the area served by the LEA, for that quarter, plus

c) $2,500 multiplied by the number of displaced students who are reported as children with disabilities (regardless of whether the students are English learners) determined by the LEA to be enrolled in the schools of the LEA, or in non-public schools in the area served by the LEA, for that quarter.

However, if the amount available to the SEA for that quarter is insufficient to make those payments in full, the SEA will proportionately reduce each LEA's payment.

The aggregate amount of a payment on behalf of a displaced student enrolled in a non-public school may not exceed the lesser of—

a) $8,500 for a student who is not reported as a child with a disability or English learner;

b) $9,000 for a student who is reported as an English learner;

c) $10,000 for a student who is reported as a child with a disability; or

d) The cost of tuition and fees (and transportation expenses, if any) at the non-public school for the 2017-2018 school year. (See section 107(d)(2)(B) of the modified Act.)

D-4. When does the SEA make payments to LEAs?

The SEA should make every effort to issue payments to its applicant LEAs and BIE-funded schools within 14 days following receipt of a payment from the Secretary.

D-5. When must funds under this program be obligated and spent? What happens if an LEA or SEA has not obligated all funds by December 31, 2018?

SEAs, LEAs, and BIE schools must obligate funds received under this program by December 31, 2018. Emergency Impact Aid funds may only be used for expenses incurred during the 2017-2018 school year and the SEA must return to the Department any funds that are not obligated by any of these entities by December 31, 2018. Obligations must be liquidated within 90 days of the December 31, 2018 date.

For example, one of the allowable uses of funds is to pay for the compensation of personnel, including teacher aides, in schools that enrolled displaced students. Since the 2017-2018 school year is already complete at this point, when an LEA receives its Emergency Impact Aid payment, it is permissible, consistent with its specific State laws and requirements, to adjust its accounting records to demonstrate that these funds were used to replace its other General Account funds that previously paid for the district's personnel costs for displaced students for the 2017-2018 school year. This accounting adjustment would need to be completed before the December 31 deadline.

D-6. May an SEA retain any of the funds it receives under this program for its own use?

An SEA may retain up to one percent of its allocation to pay the costs of administering the program. We encourage SEAs to distribute as much of these funds as possible to LEAs and BIE-funded schools.

D-7. Are there any special requirements for an SEA if an eligible LEA is unable to implement the program?

In the case of the States or territories affected by a covered disaster or emergency, the SEA must carry out this program's activities for eligible LEAs that are unable to implement this program.

D-8. May a State take aid under this program into consideration in determining the amounts of State aid that its LEAs may receive?

An SEA may not consider Emergency Impact Aid payments received in determining the eligibility of its LEAs for State aid, or the amount of State aid, with respect to free public education of children.

However in limited circumstances, if prior to February 9, 2018 (i.e., the date the President signed into law the legislation creating this program), an SEA had made a payment to an LEA to cover the additional costs of educating displaced students, the SEA may retain a portion of the LEA's Emergency Impact Aid payment. This retained amount may not exceed the proportionate amount of the total cost of education of a displaced student that the SEA's earlier advance payment represented.

For example, a State has available $2,125 per displaced student as its per quarter allocation under the Emergency Impact Aid program. Prior to February 9, the SEA provided an LEA with $3,800 per student for the costs of educating displaced students, which constituted 40 percent of the full cost of education per student in the LEA ($9,500). In that case, the State

could retain up to $850 (40 percent of $2,125) of that LEA's allocation per quarter. If a student was claimed for all four quarters (payments totaling $8,500), the SEA may retain up to $3,400 (4 quarters x $850) and must provide the LEA at least $5,100.

In the above example, the SEA would be required to provide at least $5,100 of Emergency Impact Aid received ($8,500- $3,400) to the LEA for a student claimed for all four quarters and could not consider those funds in determining eligibility for, or the amount of, State aid that it provides.

D-9. What should an LEA do with the "extra" funds for a non-public school displaced student when the amount of tuition, fees, and reasonable transportation costs is less than the per-student distribution it receives?

These excess amounts should be returned to the SEA. The Department will work with SEAs to consider these funds in making any subsequent distribution for this program. These adjustments will keep the per-student payments to SEAs and LEAs at the appropriate level for each public school and non-public school displaced student.

D-10. What will count as an obligation and liquidation for LEAs that make payments into accounts on behalf of non-public school displaced students?

The Department considers an LEA's funds to be obligated and liquidated on the date that the LEA transfers funds to an account on behalf of an eligible non-public school student.

D-11. May a State consider monthly payments attributable to displaced students transmitted after February 9, 2018, as eligible for State retention of assistance under section 107(d)(1)(C) of the modified Act?

The Department interprets section 107(d)(1)(C) of the modified Act together with the cross-referenced quarterly installment language in section 107(d)(2)(A)(ii) of the modified Act to mean that a State may keep its proportionate share of the quarterly Emergency Impact Aid payments for the whole year. The retained amount may not exceed the State's proportion of the total cost of education of a student. States must use the per-pupil expenditure (PPE) figure for the 2016-2017 school year for each applicant LEA in the State to establish or approximate the quarterly proportions that the SEA may retain for this school year.

For example, if the PPE figure was $8,000 for one district and the State aid for the 2017-2018 school year provided to that district for educating an "extra" or displaced child would comprise 75 percent of that PPE figure, the State could not keep the full amount of Emergency Impact Aid funds that it might receive on behalf of that child. Rather, the SEA could keep up to 75 percent of those funds so that it and the LEA would be reimbursed in proportion to the percentage of expenditures for the whole year that each entity has made on behalf of displaced students. A State could, however, choose to retain a lesser portion of the Emergency Impact Aid funds or none at all.

D-12. May an SEA retain funds for payments it is legally required to make to LEAs for the attendance of displaced students during the 2017-2018 school year when those payments are not scheduled to be transmitted until the 2018-2019 school year?

Some SEAs make payments based on estimates of student enrollment at the time the State budget is adopted. At the end of a school year, to the extent a district has exceeded the original estimate, the district is entitled to State payments to make up the difference. This process pays

districts for expenses incurred in the prior year due to the attendance of extra students. Thus, those districts will receive, during the 2018-2019 school year, State payments for the 2017-2018 school year for the attendance of displaced students.

So long as the SEA can meet the obligation of funds deadline under section 107 of the modified Act, and it pays its full share of costs to affected LEAs in the 2018-2019 school year, it would be permissible for the SEA to keep its proportionate share of the costs that it will bear in the 2018-2019 school year for these extra students who were educated during the 2017-2018 school year. SEAs, LEAs, and BIE schools must obligate funds received under this program by December 31, 2018 and ensure that the payments received are only used for expenses for the 2017-2018 school year. The SEA must return to the Department any funds that are not obligated by any of these entities by the December 31, 2018 deadline. Obligations must be liquidated within 90 days of this December 31 date. See 34 C.F.R. 76.707 for examples of when an obligation occurs.

D-13. Is it permissible for an SEA to distribute more aid on a per-pupil basis to some LEAs?

Except for the partial retention provision related to State aid and referenced in Questions D-8 and D-11, SEAs may not make payments at different per student rates. The Department provides funds on a per-student basis to each State, using the same dollar figures for all public and non-public school displaced students, who are not English learners or children with disabilities, and for all public and non-public school displaced students reported as English learners or children with disabilities.

Under section 107(d)(1)(C) of the modified Act and as described in Question D-11, SEAs are able to retain a portion of Emergency Impact Aid funds based on payments they provide to LEAs for displaced students for the 2017-2018 school year. An SEA might not have provided extra State aid for all districts serving displaced students, which might explain why some LEAs might receive a different proportion of the federal amount than others would receive.

In addition, an SEA must retain, or request the return of, aid to an LEA for payments to an account on behalf of a displaced student enrolled in a non-public school if the cost of tuition and fees (and transportation expenses, if any) at the non-public school is lower than the applicable per-student aggregate payment amount. (See Question D-3.)

D-14. What per-pupil expenditure figure must an SEA use to calculate the amount it may retain due to State aid?

An SEA must calculate any amount that it is retaining on an LEA-by-LEA basis, using the per-pupil expenditure figure for the 2016-2017 school year for each LEA.

E. USES OF FUNDS

E-1. For what activities and services may an LEA, BIE-funded school, or non-public school expend program funds?

These entities may use program funds to provide instructional opportunities for displaced students who enroll in their schools and for expenses the recipient incurs in serving displaced students. Examples of allowable expenses include:

a) Paying the compensation of personnel, including teacher aides, in schools enrolling displaced students;

b) Identifying and acquiring curricular material and classroom supplies;

c) Acquiring or leasing mobile educational units or leasing sites and spaces (to the extent that those costs are not met by FEMA);

d) Providing basic instructional services for displaced students, including tutoring, mentoring, or academic counseling;

e) Paying reasonable transportation costs;

f) Providing health and counseling services; and

g) Providing education and support services.

The recipients may use these funds for pre-award costs, including the reimbursement of expenditures incurred prior to the receipt of a grant. (See also Question E-6 regarding uses of funds for displaced students who are children with disabilities.)

E-2. Must those activities and services be specifically related to serving displaced students?

While the activities and services provided with Emergency Impact Aid funds must be related to serving displaced students, there is no requirement that they be provided only to those students. For instance, one of the allowable activities under the law is provision of basic instructional services. There is no requirement that program funds be used to provide those services only to displaced students; rather, LEAs may use the funds to support regular classroom programs in which both displaced and other students participate. Similarly, the law authorizes the use of funds for reasonable transportation costs. LEAs are under no obligation use these funds to transport only displaced students. They may instead use the money to support their regular transportation budget, taking care to ensure that the transportation needs of displaced students are met.

E-3. How much of its grant may an LEA or BIE school use for administration?

An LEA or BIE school may use up to two percent of its allocation for administration of the program.

E-4. How is "administration" defined for the purposes of this program?

Administrative costs include costs (direct and indirect) involved in the proper and efficient performance and administration of this Federal grant. This use of funds, as well as indirect costs and rates, must comply with 2 CFR part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) and the Department's administrative regulations. (See 34 CFR 76.560-76.569 on indirect costs.)

E-5. What restrictions or conditions apply to the funds that LEAs and BIE-funded schools receive on behalf of displaced students who are children with disabilities?

Recipients of funds under this program for displaced students who are children with disabilities may use those funds only to pay for special education and related services consistent with the IDEA. However, the law does not require that these funds be used to provide special education and related services only to students displaced by the covered disaster or emergency. They may become part of an LEA's or school's special education

budget, and the LEA or school may use them to provide special education and related services to both displaced and other students who are children with disabilities, taking care to ensure that the special education needs of displaced students with disabilities are met. Notwithstanding the requirement that payments be expended for special education and related services consistent with the IDEA, this program places no other obligation on non-public schools to administer any part of the IDEA.

E-6. What requirements apply to the use of funds for "special education and related services consistent with the IDEA"?

The requirements that apply to the use of funds provided for displaced students who are children with disabilities are the same as those that apply to the LEAs use of funds provided under Part B of the IDEA. They include the requirement that the funds be used for the excess costs of providing special education and related services to children with disabilities, consistent with maintenance-of-effort and supplement, not supplant, requirements. Because these fiscal provisions have special meaning under the IDEA, distinct from the way these terms are applied under the ESEA, we advise you to consult with your State and local staff who administer the IDEA if you need additional information on IDEA requirements. The applicable regulations regarding these requirements can be found at 34 CFR sections 300.202-300.208.

E-7. Are any uses of funds specifically prohibited by statute?

LEAs may not use program funds for construction or for major renovation of schools. If reasonable and necessary, these funds may be used for minor remodeling or repairs.

E-8. What is minor remodeling?

Minor remodeling refers to minor alterations in a previously completed building. The term also includes the extension of utility lines, such as water or electricity, from points beyond the confines of the space in which the minor remodeling is undertaken but within the confines of the previously completed building. The term does not include building construction, structural alteration to buildings, building maintenance, or repairs. (See 34 CFR 77.1.)

E-9. Even though this program is not part of the ESEA, may an LEA's administrative funds be combined into its Consolidated Administrative Account under Title VIII of the ESEA?

Consistent with sections 8201(a)(2) and 8203(a) of the ESEA, the Secretary designates Emergency Impact Aid as a program whose State and local administrative funds may be consolidated, subject to the respective Emergency Impact Aid statutory caps of one percent for SEAs and two percent for LEAs and BIE-funded schools. The other Federal administrative funds included in the Consolidated Administrative Account, however, are available for obligation for a shorter period of time than the Emergency Impact Aid administrative funds. Thus, if an LEA chooses to consolidate its Emergency Impact Aid administrative funds with other funds, the Emergency Impact Aid administrative funds are considered to be timely obligated if the LEA can document that, between the time those funds were consolidated and December 31, 2018, it obligated an amount of Consolidated Administrative funds that is at least as great as the amount of Emergency Impact Aid administrative funds that it consolidated. In addition, the LEA must be able to document that it timely obligated any of its other administrative carry-over funds that had to be obligated by September 30, 2018.

E-10. May Emergency Impact Aid funds be combined in Title I, Part A, schoolwide program campuses to upgrade the entire educational program of the campus?

Emergency Impact Aid funds may be combined in a schoolwide program school that serves displaced students and used for any activities included in the schoolwide plan. See 69 FR 40360, 40361, July 2, 2004: "[T]he Secretary authorizes a schoolwide program school to consolidate funds that the school receives from any Federal education program, administered by the Secretary, whose funds can be used to carry out activities in a public elementary or secondary school. This authority also extends to services, materials, and equipment purchased with those funds and provided to a public elementary or secondary school."

We note that section 107(e)(4) of the modified Act states that, in general, payments of Emergency Impact Aid funds for a displaced student who is a child with a disability must be used to pay for special education and related services consistent with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.). If a school combines Emergency Impact Aid funds with other Federal, State, and local funds in a schoolwide program school, the school need not track funds made available for a displaced student who is a child with a disability to specific services for that student. However, displaced students with a disability, like all other children with disabilities in the schoolwide program, must be provided services in accordance with a properly developed individualized education program (IEP) and be afforded all of the rights and services guaranteed to children with disabilities and their parents under the IDEA.

E-11. What kinds of transportation expenses can be supported with Emergency Impact Aid funds?

Reasonable transportation costs can include:

- Supporting costs of transporting students to and from school, after-school programs, tutorials, remediation programs, extended-year programs, and enrichment programs;
- Providing funds for additional bus drivers for displaced students;
- Replacing buses and supporting repair costs to buses; and
- Replacing other LEA or school vehicles.

E-12. What are some examples of allowable "education and support services" expenses?

- In addition to typical costs associated with education and support services, such as security, examples of other allowable expenses that could be considered in this category include:
- Supporting the minor repair of facilities;
- Providing meals for extended-day programs; and purchasing uniforms for displaced students attending an eligible public or non-public school.

F. RECORDKEEPING & ADMINISTRATION

F-1. What records must an LEA or BIE-funded school keep after submitting its application?

In general, all LEA and BIE recipients of Emergency Impact Aid must maintain adequate written records to support the amount of payments that are received and the allowable expenditures that are made under the program for the fiscal year. At a minimum, recipients must keep auditable records documenting the enrollments of the displaced children that they claimed as the basis for receiving payments and evidence that the children claimed met the definition of a displaced student. On request, any recipient must make its records available to the Department for the purpose of examination or audit. (See 2 CFR §§ 200.333-200.337; GEPA section 443, 20 U.S.C. 1232f). The full requirements regarding recordkeeping are in

the Uniform Administrative Requirements regulations at 2 CFR 200.333-200.337. In addition, this program is deemed to be "susceptible to significant improper payments" for purposes of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note.) As noted in Question F-3, this will result in additional requirements for grantees under the program, including making expenditure information and documentation available for review by the Department.

F-2. What records must a non-public school keep after receiving funds from accounts on behalf of displaced students?

At a minimum, a non-public school that receives Emergency Impact Aid funds from student accounts must maintain adequate written records to support the amount of funds that are received and the allowable expenditures that are made under the program for the fiscal year. Recipients must keep auditable records documenting the enrollment of the displaced student on whose behalf the non-public school received payments.

F-3. What records must an SEA keep after submitting an application?

Similarly, all SEA recipients must maintain adequate written records to support the amount of payments that are received, spent, and disbursed under the program for the fiscal year. These records must include the LEA and BIE school applications received. The records must be made available to the Department, if requested, for the purpose of examination or audit. The full requirements regarding recordkeeping are in the Uniform Administrative Requirements regulations at 2 CFR 200.333-200.337.

In addition, the *Bipartisan Budget Act of 2018* designates the Emergency Impact Aid program to be "susceptible to significant improper payments" for purposes of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note.) This will result in additional requirements for grantees under the program, including making expenditure information and documentation available for review by the Department, starting with the Fiscal Year 2019 reporting period. ED will provide additional information about this requirement after we make awards, providing advanced notice to ensure grantees understand their responsibilities for documenting all expenditures. In general, these documentation requirements are identical to those ordinarily required for all Federal education program expenditures; the primary impact of the Improper Payments Information Act will be increased review of this documentation.

F-4. Will SEAs be responsible for ensuring that any BIE-funded schools receiving allocations in their States meet the requirements of the program?

Although SEAs typically do not have administrative control or jurisdiction over BIE-funded schools, they are responsible for ensuring that any such schools within their boundaries receiving Emergency Impact Aid grants meet the terms and conditions associated with those grants.

F-5. Should SEAs, LEAs, and BIE-funded schools establish separate fund codes or other processes for tracking these grant funds?

Yes. All SEAs and LEAs should establish separate fund codes or other processes for tracking their Emergency Impact Aid grants in order to allow for appropriate accountability for these funds. If these funds are not kept in separate accounts at the SEA and LEA levels, it may be difficult to document that they have been obligated and liquidated by the statutory deadlines. For example, if an SEA or LEA deposited these funds in a general account, an auditor might assume that an end-of-year balance contains Emergency Impact Aid funds in the same

proportion that those funds represented of the state's or district's revenues. This could result in audit findings and the required return of funds to the Department. If the specifics of an individual State's accounting system require it, States have the flexibility to issue their own additional accounting requirements or guidance, so long as they are consistent with these guidelines.

Also, Emergency Impact Aid funds provided for displaced students reported as children with disabilities must be recorded and tracked separately from Emergency Impact Aid funds provided for students without disabilities

F-6. What is the obligation and liquidation period for the administrative funds associated with this program?

The December 31, 2018, obligation deadline applies to all Emergency Impact Aid program funds, including the administrative portion, and it applies to SEAs, LEAs, and BIE-funded schools. In addition, the 90-day liquidation period following that obligation deadline also applies to all of the funds, including the administrative portions. (See Question D-10 regarding when LEAs (or some SEAs) obligate and liquidate funds for payments on behalf of non-public school students.)

F-7. Does a non-public school have to waive all tuition in order to access an account on behalf of a non-public school student whose parents applied for these funds?

A non-public school would not have to waive all of its normal tuition charges in order to access the Emergency Impact Aid support, but the school must waive or reimburse at least the amount equal to the Emergency Impact Aid funds that it received on behalf of a displaced student. In the case of a student who is not a student reported as a child with a disability or an English learner, if a non-public school's tuition was $12,000, the school could access a maximum of $8,500 from that student's Emergency Impact Aid account and use that amount to reimburse the parents for the portion of the tuition that the parents paid.

F-8. When an LEA does not have documentation from a parent that a non-public school student was displaced or was enrolled in the school on the count date, must it still make a payment to a an account on behalf of that student within 14 days of receiving funds from the SEA?

The parents of non-public school displaced students are required to submit applications to LEAs for this program on behalf of their children. In addition, LEAs must obtain attestations from the non-public schools that the displaced students attend in order to verify their enrollment on the count dates identified by the state and certify that they will use program funds only for allowable costs. LEAs must not make a payment into an account on behalf of a non-public school displaced student unless all of the appropriate paperwork has been received on behalf of that student. The LEA should release funds for all other eligible non-public school displaced students while waiting for the required documents for any students for whom the paperwork is incomplete.

G. PAYMENTS ON BEHALF OF DISPLACED STUDENTS ENROLLED IN NON-PUBLIC SCHOOLS

G-1. What is an eligible non-public school?

An eligible non-public school is a nonprofit elementary or secondary school that is accredited or otherwise operates in accordance with State law, was in existence on the date that is one week prior to the date that the major disaster or emergency was declared for the area, and serves at least one displaced student whose family has applied for assistance under the program. In addition, participating non-public schools must abide by certain civil rights requirements, described below. (See Question G-13.) A non-public school must also waive some or all of a displaced student's tuition or reimburse some or all of the tuition paid in order to receive funds under this program. (See Question F-7.)

G-2. Do additional requirements apply to displaced students enrolled in non-public schools?

Displaced students attending a non-public school must meet certain additional criteria beyond the requirements in Question A-2. They must have enrolled in an eligible non-public school prior to February 9, 2018 (i.e., the date the President signed into law the legislation creating this program). The students' parents must have chosen to enroll the students in a non-public school, and the students' parents must submit a timely application for funding under this program to the LEA, including all required documentation.

G-3. Must a non-public school have waived tuition for an eligible displaced student at the time of the displaced student's enrollment in the non-public school?

A non-public school must have waived some or all of the student's tuition or reimburse tuition previously paid for a displaced student in order to receive funds under this program. If it has not previously waived or reimbursed tuition, the school must reimburse tuition that was previously paid for a displaced student in order to meet the requirement referenced in Question G-1. (See Question F-7.)

G-4. How and where does an LEA establish an "account" for displaced non-public school students?

These accounts may be established as part of the LEA's financial recording system, at the non-public schools the displaced students attend, or through some other means such as an account at a financial institution. The LEA makes the funds in these accounts available to the non-public schools that these displaced students attend. The LEAs and non-public schools must record (such as in a ledger or spreadsheet) the names of the displaced students, the funds provided for each student, and the disbursement of those funds to a particular non-public school.

G-5. What type of notice must the SEA provide to parents of displaced students attending non-public schools?

An SEA must provide notice to each parent of a displaced student attending a non-public school informing the parent that:

a) The parent or guardian has the option to enroll his or her child in a public school or a non-public school; and

b) Emergency Impact Aid is a temporary program that will be available only for the 2017-2018 school year.

An SEA may work through its LEAs to meet this requirement and may also reach out to State-level non-public school organizations. For additional information about State-level non-public

school organizations, contact the Office of Non-Public Education via the K12EmergencyImpactAid@ed.gov mailbox.

G-6. Are SEAs required to limit the payment of assistance on behalf of non-public school students to students from families that fall below a certain income level?

As described above (Question B-1), the SEA must include in its application to the Department a description of the criteria it will use, including family income, in determining eligibility for, and the amount of, assistance provided on behalf of a student attending a non-public school. SEAs have broad flexibility in determining the extent to which they establish family income or wealth criteria for the receipt of this assistance.

G-7. What goods and services may non-public schools purchase using program funds?

As noted in Question E-1, non-public schools that receive payments from accounts on behalf of displaced students enrolled in their schools may use those funds for any of the following services and activities:

a) Paying the compensation of personnel, including teacher aides;

b) Identifying and acquiring curricular material and classroom supplies;

c) Acquiring or leasing mobile educational units or leasing sites and spaces (to the extent that those costs are not met by FEMA);

d) Providing basic instructional services for displaced students, including tutoring, mentoring, or academic counseling;

e) Paying reasonable transportation costs;

f) Providing health and counseling services; and

g) Providing education and support services.

As with payments made on behalf of displaced students enrolled in public schools, there is no requirement that the non-public schools use these funds for activities and services that serve only displaced students.

Non-public schools may not use the funds for construction or major renovations.

Additionally, SEAs are responsible for ensuring that all of the program requirements are met. Consistent with the requirements of 2 CFR 200.328, all SEA grantees for Department programs are also responsible for monitoring grant and subgrant activities to ensure compliance with applicable Federal requirements.

SEAs are responsible for monitoring the non-public schools with respect to applicable requirements including ensuring that: 1) a school's certification regarding its enrollment of displaced students as defined in section 107(c)(1)(D) of the modified Act is adequately documented; 2) the school is an eligible non-public school as defined in section 107(b)(3) of the modified Act; and 3) the funds from accessed accounts are used only for allowable goods and services. The SEA must take appropriate enforcement actions if it determines that a non-public school has not met any of these requirements.

G-8. What requirements apply to payments made to accounts on behalf of displaced students who are reported as children with disabilities who are enrolled in non-public schools?

Recipients of funds under the program on behalf of displaced students who are children with disabilities may use those funds only to pay for special education and related services consistent with the IDEA. However, the law does not require that these funds be used to provide special education and related services only to children with disabilities displaced by the hurricanes. They may become part of a school's special education budget, and the school may use them to provide special education and related services to both displaced and other children with disabilities, taking care to ensure that the special educational needs of displaced students who are children with disabilities are met. Notwithstanding the requirement that payments be expended for special education and related services consistent with the IDEA, this program does not place other obligations on non-public schools to administer any part of the IDEA.

G-9. If an LEA provides special education and related services to a displaced student attending a non-public school who is reported as a child with a disability may the LEA retain a portion of the funding it would otherwise place in that student's account?

Under the IDEA, LEAs typically provide equitable services to eligible children with disabilities enrolled by their parents in non-public schools located in the LEA pursuant to section 612(a)(10)(A) of the IDEA, 20 U.S.C. §1412(a)(10)(A). An LEA that provided such services to a displaced student who is reported as a child with a disability enrolled by their parents in a non-public school may retain a portion of the money that it would otherwise place in the student's account in order to cover its cost of providing equitable services. Each SEA must establish guidelines based on the customary cost of providing equitable services under section 612(a)(10)(A) of the IDEA and must ensure that its LEAs retain an appropriate portion of the funds for this purpose. The SEA must also establish guidelines to ensure that an appropriate portion of tuition is available for the non-public school and must ensure that its guidelines are applied consistently throughout the State.

For example, if a non-public school's tuition cost was $11,000 and an LEA receives $10,000 Emergency Impact Aid funds on behalf of a non-public displaced student reported as a child with a disability, it would be reasonable for an SEA's guidelines to specify that the LEA could retain up to $1,500 for the provision of special education and related services consistent with the IDEA (the difference between $8,500 for a displaced student who is not a child with a disability and the $10,000 that is available for a displaced student who is reported as a child with a disability). In that case, the non-public school would receive $8,500 for the cost of the child's tuition at the non-public school, and the LEA would receive $1,500 for the additional cost of the equitable services that it provided under section 612(a)(10)(A) of the IDEA.

G-10. Is there a deadline for when an LEA must make a quarterly payment to the account of a student attending a non-public school?

In its application to the SEA, an LEA must assure that it will make payments to the accounts of students enrolled in non-public schools within 14 calendar days of receiving those funds. Each LEA must abide by this deadline.

G-11. What actions must an LEA take to ensure that non-public schools use funds from student accounts only for allowable goods and services?

SEAs are responsible for ensuring that any such schools receiving Emergency Impact Aid funds meet the terms and conditions associated with those grants. SEAs may wish to request

that the non-public schools submit regular reports to them with listings of expenditures from the Emergency Impact Aid funds they have received from student accounts.

Participating non-public schools that access funds from student accounts should cooperate with SEAs in meeting all applicable program requirements including those related to allowable uses of funds and promptly provide required data and supporting documentation to their appropriate SEA. (See Question G-7.)

G-12. What happens if an SEA or LEA is unable to implement the non-public school provisions of the program?

As noted in Question D-7, if an LEA is unable to implement the provisions of this program, including those related to non-public schools, the SEA in a State or territory affected by a covered disaster or emergency is authorized to act on its behalf. If an LEA in any State is unable to implement the provisions, they should notify and consult immediately with its SEA. If an SEA is unable to implement the non-public school provisions, it should notify the Department as soon as possible and we will work with that SEA in order to ensure that the provisions are appropriately implemented, including, if appropriate, through a "bypass" arrangement.

One example of the SEA's role is that it must ensure that parents of eligible displaced students are informed of the Emergency Impact Aid program EVEN if their non-public schools or applicable LEAs choose not to participate in ESEA or other federal education programs. Any LEA or non-public school that has displaced students is eligible to be included in the SEA application for Emergency Impact Aid. (See sections 107(a)(3), 107(k) and 107(l) of the modified Act.)

G-13. What civil rights requirements apply to non-public schools whose students receive assistance under the program?

Non-public schools that receive funds on behalf of displaced students under this program must comply with the modified Act's non-discrimination provision, which prohibits discrimination on the basis of race, color, national origin, religion, disability, or sex. (See section 107(m) of the modified Act.) Additionally, non-public schools receiving funds on behalf of displaced students under this program are recipients of Federal financial assistance for the 2017-2018 school year, and are subject to the provisions of title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972 ("Title IX"), Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act, which are enforced by the Department's Office for Civil Rights.[4] See also the response to Question H-1 for further information about Title IX. More details on these requirements can be found on OCR's website (http://www.ed.gov/about/offices/list/ocr/index.html).

In addition, any entity that employs 15 or more employees is subject to Title VII of the Civil Rights Act of 1964, which prohibits discrimination in employment on the basis of race, color, national origin, religion, or sex, except that Title VII may not apply to the employment of

[4] All public schools, as recipients of Federal financial assistance, are already subject to these statutory requirements.

individuals of a particular religion by a religious organization, such as a non-public religious school. Title VII is enforced by the Equal Employment Opportunity Commission.

H. OTHER ISSUES

H-1. What other requirements apply to schools that educate displaced students on whose behalf payments are made under this program?

A public or non-public school that enrolls displaced students who generate payments under this program must not discriminate against students on the basis of race, color, national origin, religion, disability, sex or age. Section 107(m) of the modified Act. However, the prohibition on religious discrimination is limited with respect to a non-public school that is controlled by a religious organization or organization that is operated on the basis of religious tenets in that it only applies to displaced students who generate payments under this program.

In addition, under Title IX of the Education Amendments of 1972 (Title IX), a non-public school that is controlled by a religious organization is exempt from Title IX to the extent that compliance would conflict with the religious tenets of that religious organization.

A recipient may offer to enroll displaced students in a single-sex school or a school with single-sex classes as long as the recipient is in compliance with requirements under Title IX related to single-sex schools, classes, or activities. (See section 107(m)(2)(B) of the modified Act.)

H-2. What additional requirements apply to identifying and serving displaced students who are children with disabilities?

Under the IDEA, all children who are suspected of having a disability and who are in need of special education and related services, including displaced children, must be identified, located, and evaluated in a timely manner and without undue delay so that eligible children can receive a free appropriate public education. 34 CFR §§ 300.101, 300.111, and 300.201. In general, the requirements in section 614(d)(2)(C) of the IDEA, which is entitled "Program for Children Who Transfer School Districts", would apply to displaced students who are children with disabilities. If the displaced student has an individualized education program (IEP) from a previous LEA and enrolls in a new school in a new LEA in the same State in the same school year, the new LEA in the same State either must adopt the student's IEP from the previous LEA or develop, adopt, and implement a new IEP that meets applicable IDEA requirements.

If the displaced student does not have an IEP from the previous LEA in the same State, the new LEA in the same State would need to conduct its own evaluation and make its own eligibility determination if it suspects that the student has a disability and needs special education and related services under IDEA. However, if the eligible displaced student moves into a new State, even if the student already has an IEP from the previous LEA, the new LEA in the new State may either conduct its own evaluation and make its own eligibility determination, if determined necessary, or accept the eligibility determination from the previous LEA in which the student was enrolled. Any funds received by an LEA on behalf of a displaced student who is a child with a disability must be used for special education and related services consistent with the IDEA. The definition of "special education" is found in section 602(29) of the IDEA, 20 U.S.C. § 1401(29). The definition of "related services" is found in section 602(26) of the IDEA, 20 U.S.C. § 1401(26).

H-3. May LEAs that receive regular Impact Aid payments include displaced students in their child counts for school year 2017-2018 applications?

In order to avoid duplicate Federal funding, an LEA may not claim any displaced student in its annual section 7003 Impact Aid Basic Support application (authorized by the ESEA (20 U.S.C. § 7703)) if the LEA receives an Emergency Impact Aid payment, for any quarter, for that student under this program.

H-4. Do Davis-Bacon prevailing wage requirements apply to this program?

Although LEAs and schools may not use these funds for construction or major renovation, any laborers and mechanics employed by contractors or subcontractors on minor remodeling projects assisted with these Federal education funds must be paid in accordance with prevailing wage requirements in the Davis-Bacon Act.

H-5. May any of these requirements be waived?

Because this is a stand-alone program and not a part of the ESEA, SEAs (including ED-Flex States) and LEAs may not apply for waivers of any of these program requirements.