Ohio | Department of Education

Special Note: On September 9, 2020, the U.S. Department of Education (USED) made it known that the Interim Final Rule that they published on July 1, 2020 is no longer in effect. The USED decision was reached after various legal challenges and court rulings. The impact of this change and the updates to the Ohio Department of Education (Department) guidance is being reviewed. The Department will provide guidance as it is developed. In the meantime, the Department's Office of Federal Programs (OFP) provided the most current recommendations in CCIP Note 448 (link here). Please review this note and any subsequent CCIP note releasing guidance. (9/25/20)

CCIP Note # 439

Re: Spending of Equitable Services Limitations and Spreadsheet Correction
Date: May 29, 2020
To: Public School District and Community Schools Superintendents, Treasurers, Title I Directors/Coordinators and Consolidated Application Contacts; Nonpublic Principals and Superintendents

Guidance on the Short-Term Provision of Services to Nonpublic Students and Educators

Unfortunately, there is still significant disagreement at the national level on the process for addressing the equitable services requirements under the CARES Act. The Ohio Department of Education believes we have taken the appropriate steps to ensure that the state and districts are meeting the federal law and expectations for administering the grant requirements. The U.S. Department of Education will be issuing a regulation and seeking feedback to help render a final determination. This process could take months before a resolution. In order to ensure that students at nonpublic schools receive support and services that they are entitled to, and until there is a final determination in which the Ohio Department of Education can provide final guidance and direction to districts and nonpublic schools, we are requesting districts and nonpublic schools do the following:

- Districts consult with and engage all impacted nonpublic schools in a collaborative manner to collect the necessary data, identify eligible schools including ensuring that participating nonpublic schools are not for-profit, and determine the appropriate equitable service amounts for all eligible nonpublic schools under both of the following scenarios:
    1. Total number of low-income students residing in the district that attend nonpublic schools within or outside of the district (excluding any for-profit schools).
    2. Total enrollment of the not-for-profit nonpublic schools within the district (excluding any for-profit schools).
- The districts will need to make the calculations under both scenarios, upload the data in available spreadsheets and reserve the highest amount of the calculations for their district set aside for nonpublic equitable services.
- The district will not be permitted to request or spend ESSER funds over the amount of the highest reserve for equitable services until a final determination is made by the state.
- Instructions for this process are provided within the nonpublic equitable services page in the CCIP application. Helpful spreadsheets are linked within the application to determine calculations. These spreadsheets contain information that was collected as of May 15, 2020. In the course of consultation with nonpublic school leaders, districts should confirm or revise this information.
    - ***Special Note***: **Revisions to the spreadsheets were made on May 27, 2020 at 11:00 AM.** If your district downloaded these files **prior** to the revised date and time, you will need to download the revised spreadsheets currently on the nonpublic service page. If you have any questions, please contact your Office of Federal Programs Consultant.
- ***New: Providing Services/Spending Nonpublic Equitable Services***: The Department requests districts reserve the higher of the two calculations noted above and, until a final decision is rendered, districts should expend no more than the lower of the amounts reserved based on the calculations for each school. In other words, until a final determination is made, a district must consult and plan accordingly with each impacted nonpublic school to the amount and method for rendering services and supports to the students

and teachers under both scenarios. However, when it comes to actually rendering services and seeking reimbursement of funds to the state, the district should only provide services for the lower of the two calculations for each school. In most instances this will be equal to the amounts calculated for low-income students enrolled in the nonpublic schools **residing within the district boundaries.** Below is an example of the limitations for spending equitable services for a district with resident low-income students enrolled in nonpublic schools both within their district boundaries as well as outside the district.

Example: District dollar calculation and temporary spending limitations using four nonpublic school examples

Impacted Nonpublic School	Description of Nonpublic School	Amount of equitable services reserved for each building under the Low-Income Approach (1)	Amount of equitable services reserved for each building under the ADM or Enrollment Approach (2)	Temporary Spending Limitation (amount of equitable services that may be expended prior to final guidance)
A	Out of district nonpublic school with low-income students from the district	$100	$0	$0
B	In district nonpublic school with no low-income students from the district	$0	$100	$0
C	In district nonpublic school with low-income students from the district	$50	$100	$50
D	In district nonpublic school with low-income students from the district	$100	$75	$75
Total		$250	$275	$125

Summary

The amount that should be reserved on the nonpublic line of the budget until a resolution of the final guidance is $275. This satisfies the higher of both calculations. However, until a decision is final, the limit of spending by the district from the reservation should be the lowest amount at the building level since the building and students served could be duplicative across programs/districts. In this scenario, the limit would be $125. The district would not need to provide services to low-income students attending nonpublic schools outside of the district or to provide services to nonpublic school buildings within the district where there are no low-income students residing in the district, as long as it is the lower of the two approaches. Under this scenario, the district would be held to providing services to nonpublic students and teachers based on the low-income calculation for students within the district boundaries until a final decision is

rendered. The district would not have to reclaim funds already rendered and would still have the reservation of funds for services needed should there be a different determination. The scenarios below describe the process for deriving the amount of equitable services that may be expended prior to final guidance.

First scenario (Nonpublic School A): This represents a nonpublic school that does not lie within the district's boundary. The district would have an equitable service amount obligation under Approach 1, but no equitable service amount under Approach 2. This district would not provide equitable services with funds until a final decision is made.

Second scenario (Nonpublic School B): This represents a nonpublic school that lies within the district's boundary but the nonpublic school does not have any low-income students from the district that attend that nonpublic school. Because no low-income students from the district attend the nonpublic school, the district would not have a nonpublic equitable service requirement for students at that school under Approach 1. However, the district would have an equitable service obligation under Approach 2. This district would not provide equitable services with funds until a final decision is made.

Third scenario (Nonpublic School C): This represents a nonpublic school that lies within the district's boundary that also has low-income students from the district that attend the school. While the district would have obligations under both approaches, the district should only provide nonpublic equitable services for students at this school at the lower of the two amounts until a final decision is made. In this case, the Low-Income Approach produces the lower amount.

Fourth scenario (Nonpublic School D): As with the third scenario, this represents a nonpublic school that lies within the district's boundary that also has low-income students from the district that attend the school. While the district would have obligations under both approaches, the district should only provide nonpublic equitable services for students at this school at the lower of the two amounts until a final decision is made. In this case, the ADM or Enrollment Approach produces the lower amount.