



June 3, 2020

The Honorable Gurbir S. Grewal
Attorney General of New Jersey
R.J. Hughes Justice Complex
25 W. Market St.
Trenton, New Jersey 08625

Re: CARES Act Equitable Services

Dear General Grewal:

Education Law Center (ELC) seeks your immediate intervention on the issue of equitable services to private school students because we have not received any response to our letter to Governor Murphy dated May 15, 2020 and our letter to Governor Murphy and Commissioner Repollet dated May 11, 2020 (both enclosed).

As our letters make clear, legally erroneous guidance has been issued by both the United States Department of Education (USED)¹ and the New Jersey Department of Education (NJDOE)² directing calculations of equitable services allocations under the Coronavirus Aid, Relief, and Economic Security (CARES) Act using private school total enrollment, rather than low-income student enrollment.

We urge you to instruct the NJDOE to reject the non-binding USED guidance and to promptly correct its own guidance regarding

¹ USED, "Providing Equitable Services to Students and Teachers in Non-Public Schools Under CARES Act Programs" (April 30 2020), available at <https://oese.ed.gov/files/2020/04/FAQs-Equitable-Services.pdf>.

² NJDOE, "CARES Act Elementary and Secondary School Emergency Relief (ESSER) Funds Allocations and Application" (May 11, 2020), available at <https://www.state.nj.us/education/broadcasts/2020/may/11/CARES%20Act%20Elementary%20and%20Secondary%20School%20Emergency%20Relief%20Funds%20Allocations%20and%20Application.pdf>.

equitable services allocations for the reasons expressed in our prior letters. Specifically, the method of allocation proposed by U.S. Education Secretary Betsy DeVos violates the express language of the CARES Act, is at odds with longstanding USED interpretations of the Elementary and Secondary Education Act, and serves only to advance her personal political ideology of diverting public funds to private schools. More troubling, the improper diversion of CARES Act funds would deprive New Jersey low-income students and students of color with urgently needed resources to address the digital divide while benefitting even the most wealthy students in private schools.

New Jersey, like other states, has an independent obligation to implement federal law and fulfill its constitutional duty to our public school students. We are aware of nine states that have rejected Secretary DeVos' flawed guidance. We respectfully ask you to advise New Jersey to join the ranks of the states that have done so, namely, Indiana, Maine, Michigan, Mississippi, New Mexico, Oklahoma, Pennsylvania, Washington, and Wisconsin.

Thank you for your attention to this critical matter. We stand ready to assist your Office in properly addressing this issue.

Sincerely,



David G. Sciarra, Esq.
Executive Director

Via Electronic Mail

Encls.

Cc: Honorable Phil Murphy, Governor
Commissioner Lamont Repollet, Ed.D
Michelle Miller, Director, Division of Law
Jennifer Hoff, DAG, Asst. Chief, Ed. & Higher Ed.
Matt Platkin, Governor's Chief Counsel
George Helmy, Governor's Chief of Staff
Laura Console, Governor's Education Policy Advisor
Deborah Cornavaca, Deputy Chief of Staff of Outreach
Assistant Commissioner Peggy McDonald

