pennsylvania
DEPARTMENT OF EDUCATION

May 7, 2020

The Honorable Frank T. Brogan
Assistant Secretary for Elementary and Secondary Education
Office of Elementary and Secondary Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Assistant Secretary Brogan:

Thank you for your leadership in ensuring timely, clear communication from the U.S. Department of Education (USDE) as states respond to the immediate effects of the COVID-19 pandemic, implement state-level waivers granted by your agency, and work to administer emergency funding under the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

As Pennsylvania's CARES planning unfolds, I am seeking clarification concerning USDE's "Providing Equitable Services to Students and Teachers under the Coronavirus Aid, Relief, and Economic Security (CARES) Act Programs" document issued April 30, 2020. While I understand that this guidance does not have the force and effect of law, the document has created confusion as Pennsylvania works to ensure timely allocation of CARES Act funds.

Under the CARES Act statute and USDE's longstanding interpretation of equitable participation, local education agency (LEA) reservations for services to nonpublic schools are based on the number of low-income children in each participating non-public school in the LEA. USDE's guidance, suggesting that LEAs should instead base these calculations on the total number of nonpublic students, is inconsistent with the CARES statute; the fiscal year 2019 Title I-A administration that serves as the basis of CARES Act allocations; and, crucially, our shared goal of ensuring that limited, one-time, emergency funding reaches our most vulnerable students, wherever they attend school.

Initial analysis by the Pennsylvania Department of Education over the past 24 hours, using data derived from approximately 45 percent of the commonwealth's school districts, indicates that USDE's April 30 guidance would roughly double Equitable Services reservations, compared with the statutorily defined calculation. These sharply increased reservations would impact districts of every type—large urban, small urban, suburban, and rural; please see below for a sampling of these impacts.

School districts	**Increase in support flowing from <u>most disadvantaged to more advantaged students</u>**
Large Urban	
Philadelphia	53%
Pittsburgh	124%
Small Urban	
Altoona	605%
Erie City	104%
Greater Johnstown	110%
Scranton	797%
Williamsport Area	564%
York City	354%
Suburban	
Bristol Borough	2324%
Manheim Township	1617%
Rose Tree Media	4634%
Upper Darby	1104%
York Suburban	4084%
Rural	
Blue Ridge	3873%
Clarion Area	735%
Mifflin County	335%
Northeast Bradford	932%
Warren County	248%

These outcomes, observed in districts and communities of every type, are clearly inequitable. Accordingly, I urge USDE to clarify the April 30 guidance, outline data elements and procedures for calculating equitable services consistent with the CARES Act, and encourage LEAs to use the percentage of FY 2019 Title I funds set aside for equitable services and apply that percentage to ESSER allocations and any GEER funds. This approach will ensure that critical CARES support is provided in a consistent, transparent, and equitable manner.

Sincerely,

Pedro A. Rivera
Secretary of Education

cc: Council of Chief State School Officers