

Strict Reporting Requirements and Taxability Information for Emergency Financial Aid Grants to Students

Here are two breaking developments we do not want you to miss. On May 6, 2020, the same day the U.S. Department of Education's Office for Civil Rights issued its sweeping Title IX Final Rule, the Department's Office of Federal Student Aid announced that all recipients of funding from the Higher Education Emergency Relief Fund (HEERF) under the Coronavirus Aid, Relief, and Economic Security (CARES) Act **must post on their primary websites** specific details about how they allocated funding for emergency grants to students. This posting must be done within 30 days of receipt of the funds from the federal government.

As with other provisions of the CARES Act, the federal guidance applicable to the HEERF trickled out slowly following President Trump's signing of the Act on March 27, 2020. In accordance with the relevant statutory provisions of the CARES Act, no less than 50 percent of the HEERF allocated to any higher education recipient must be used "to provide emergency financial aid grants to students for expenses related to the disruption of campus operations due to coronavirus (including eligible expenses under a student's cost of attendance, such as food, housing, course materials, technology, health care and child care)." The statutory reporting requirement related to these emergency grants refers to the institutional recipient's submission of a report "at such time and in such manner as the Secretary [of the Department] may require, that describes the use of funds..."

On April 9, 2020, the Department issued the Recipient's Funding Certification and Agreement for student emergency grant funds, which constitutes the actual application for the funds. That document provides that within 30 days of the signing of the Certification and Agreement, the higher education institution shall report to the Secretary the following information:

1. how grants were distributed to students;
2. the amount of each grant awarded to each student;
3. how the amount of each grant was calculated, and
4. any instructions or directions given to students about the grants.

As of May 6, 2020, the Department **now** requires that within 30 days of receipt of the allocated funds through HEERF, the recipient must post on its "primary website" the following information:

1. an acknowledgement that the institution signed and returned to the Department the Certification and Agreement;
2. the total amount of funds that the institution will receive or has received from the Department for Emergency Financial Aid Grants to Student;
3. the total amount of Emergency Financial Aid Grants distributed to students, updated as the funds are distributed;

4. the estimated total number of students at the institution eligible to participate in Title IV financial aid, and thus eligible to receive Emergency Financial Aid Grants to students under CARES Act;
5. the total number of students who have received an Emergency Financial Aid Grant to students under Section 18004(a)(1) of the CARES Act;
6. the method(s) used by the institution to determine which students receive Emergency Financial Aid Grants and how much they receive; and
7. any instructions, directions or guidance provided by the institution to students concerning the Emergency Financial Aid Grants.

Higher Education institutions should understand that the reports to the Department, and the information on their websites, must be updated every 45 days if they distribute the grants to students on a rolling basis.

Also on May 6, 2020, the IRS published guidance that provides that the grants for expenses related to the disruption of campus operations due to covid are qualified disaster relief payments pursuant to Section 139 of the Code, and are accordingly not to be treated as income.

If you have any questions, please contact [Monica Barrett](#), [Jane Sovern](#), [Phil Zaccheo](#), any attorney in the [Higher Education Practice Group](#) or the attorney in the firm with whom you are regularly in contact.



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