NATIONAL GOVERNORS ASSOCIATION

M E M O R A N D U M

March 26, 2020

To: Governors' Offices
From: Bill McBride, Executive Director
Re: Pertinent Higher Education Provisions in the CARES Act

Background

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) includes an Education Stabilization Fund of $30.75 billion. Funding is available until September 30, 2021 and is intended to assist states as well as educational institutions and entities responding to COVID-19. The purpose of this memorandum is to outline the higher education provisions in the appropriations (Part I) and authorization (Part II) portions of the stimulus package.

Part I: Appropriations

Sec. 18001: Secretary's Discretion

Two percent of the Education Stabilization Fund will be allocated at the discretion of the Secretary of the U.S. Department of Education (ED). The three separate funding streams to be allocated by ED are:

- **$153,750,000** (0.5% of the Education Stabilization Fund) for outlying areas (commonwealths, territories, and minor outlying islands of the United States), based on need, in consultation with the Secretary of the Interior.
- **$153,750,000** (0.5% of the Education Stabilization Fund) for programs operated or funded by the Bureau of Indian Education, in consultation with the Secretary of the Interior.
- **$307,500,000** (1% of the Education Stabilization Fund) for states with the highest coronavirus burden. Applications for these funds will be made available to states no later than 30 days after enactment of the CARES Act and will be approved or denied no later than 30 days after submission.

Sec 18002: Governor's Emergency Education Relief Fund

ED will distribute grants to governors after receiving and approving an application. Applications for these funds will be made available to states no later than 30 days after enactment of the CARES Act and will be approved or denied no later than 30 days after submission. Governors must agree to maintain higher education funding in fiscal years 2020 and 2021 at levels that equal at least the average spending of the three preceding fiscal years. **This requirement can be waived by ED**.

- **$2,953,230,000** (9.8% of the Education Stabilization Fund) will be allocated based on the following formula:
  - 60% based on each state's relative population aged 5-24;
  - 40% based on the number of school-aged children counted under the Elementary and Secondary Education Act (ESEA).

Eligible Subgrantees and Uses

Governors may grant to local educational agencies, institutions of higher education (institutions), and other education-related entities. Grant funds may go towards operational support that allow the continuation of educational services as well as to provide childcare, early childhood education, social and emotional support, and protect education-related jobs. Any funds that the Governor does not award within a year of receipt must be returned to ED.

Sec. 18004: Higher Education Emergency Relief Fund
The largest higher education funding stream in the stimulus package is the Higher Education Emergency Relief Fund (HEERF). HEERF dollars will flow directly to institutions. Small portions of funding are designated for Minority Serving Institutions and institutions that participate in the Fund for the Improvement of Postsecondary Education (FIPSE) program. **Institutions must allocate at least half of HEERF funds to students in the form of emergency aid grants.** Students may use these funds for cost of attendance expenses such as food, housing, course materials, technology, healthcare, and childcare.

- **$13,952,505,000** (46.3% of the Education Stabilization Fund) will be allocated as follows:
  - 90% of HEERF dollars will be available to all U.S. institutions and appropriated based on the following formula:
    - 75% according to the relative share of full-time equivalent enrollment of Pell Grant recipients who were not enrolled exclusively in distance education courses prior to COVID-19.
    - 25% according to the relative share of full-time equivalent enrollment of students who are not Pell-eligible and were not enrolled exclusively in distance education courses prior to COVID-19.
  - 7.5% of HEERF dollars are designated for Minority Serving Institutions that receive grant funding under Titles III and Title VI of the Higher Education Act. Funding to these institutions will be awarded by ED in the same proportion as the fiscal year 2020 appropriations package.
  - 2.5% of HEERF dollars are designated for institutions that participate in the FIPSE program under the Higher Education Act. HEERF dollars will be allocated to FIPSE institutions based on the highest amount of unmet need related to coronavirus as determined by ED.

Additional Eligible Uses
Aside from student emergency grants, HEERF dollars may be used by institutions for defraying expenses including lost revenue, reimbursement for expenses already incurred, technology costs associated with transitioning to distance education, faculty and staff trainings, and payroll. These funds may not be used to contract with companies for pre-enrollment recruitment activities, endowments, or capital outlays associated with facilities related to athletics, sectarian instruction, or religious worship.

<u>Additional Appropriations</u>

Safe Schools and Citizenship Education: $100,000,000 to supplement the School Emergency Response to Violence (Project SERV) to help disinfect schools and assist with counseling, distance learning, and other associated costs.

Gallaudet University: $7,000,000 to respond to coronavirus, defray costs, and provide emergency grants to students.

Howard University: $13,000,000 to respond to coronavirus, defray costs, and provide emergency grants to students

<u>Notable Special Provisions</u>
- Local and state agencies, as well as institutions, must continue to pay their employees during the period of disruption or closure "to the greatest extent practicable."

- Title II, Subtitle B, Section 2206 of the CARES Act includes a provision that amends the Internal Revenue Code and incentivizes employers to contribute student loan assistance to employees. Contributions of up to $5,250 can be made by an employer per year. This loan assistance will not be subject to income or payroll tax.

Part II: Authorization

Authorization language in the CARES Act provides institutions flexibility with regards to allowable uses of previously awarded, federal grants, ensures that students are not academically or financially punished for with withdrawing due to a qualifying emergency, and provides relief for student borrowers.

Sec. 3503: Campus-Based Aid Flexibility:
ED will waive the 25% match required of institutions by HEA during the 2019-2020 and 2020-2021 academic years for Supplemental Educational Opportunity Grants (SEOG) and Federal Work-Study (FWS). Institutions will also be allowed to transfer 100% of FWS dollars into SEOG coffers in order to provide emergency grants to students.

Sec. 3504: Use of Supplemental Education Opportunity Grants for Emergency Aid:
Institutions can use SEOG funds (including funds transferred from FWS) to award emergency grants to students in a qualifying emergency. Institutions can also contract with scholarship-granting organizations to disburse funds. The eligibility calculation requirements for SEOG under HEA are waived for the purposes of emergency grants. Emergency grants awarded to students may not exceed $6,195.

Sec. 3505: Federal Work-Study During a Qualifying Emergency:
Institutions can award payments to students who were carrying out their FWS role prior to COVID-19, even if they can no longer fulfill this role due to a qualifying emergency. Payments cannot continue for more than one academic year, cannot exceed the wages the student would have otherwise earned, and can be made in a lump sum or multiple disbursements.

Sec. 3506 and 3507: Adjustment of Subsidized Loan Usage Limits; Exclusion from Federal Pell Grant Duration Limit:
Any semester not completed by a student due to a qualifying emergency will not count against them with regards to subsidized loan and Pell Grant eligibility.

Sec. 3508: Institutional Refunds and Federal Student Loan Flexibility:
ED shall waive the requirement that institutions return Title IV aid on behalf of students who withdrew due to a qualifying emergency. Students will not be required to return grant aid. Institutions must report the number of students and dollars that would've been otherwise returned. Institutions may also grant students more lenient terms for an approved leave of absence.

Sec. 3509: Satisfactory Academic Progress:
Institutions may exclude any attempted credits from satisfactory academic progress calculations that were not completed due to a qualifying emergency. Students will not be required to make an appeal for this waiver.

Sec. 3512: HBCU Capital Financing:
ED may grant deferments to Historically Black Colleges and Universities that receive federal loans under Title III, Part D of HEA. During the deferment period, which will last throughout the qualifying emergency, ED will make loan payments on behalf of the institutions. Institutions that use the deferment must reimburse ED thereafter.

Sec 3513: Temporary Relief for Student Borrowers:
Borrowers with a student loan held by ED will not need to make payments through September 30, 2020. Interest will not accrue during this time, and borrowers who have defaulted on their loans will not have their wages garnished or other government benefits involuntary collected. For the purpose of loan

forgiveness programs and loan rehabilitation, each month through September 30 will be treated by ED as if a borrower made an on-time payment.

Sec. 3517 and 3518: Institutional Waivers and Rule Modifications:
ED may waive eligibility data requirements, allotment requirements and restrictions, and wait-out periods through September 30 of the next fiscal year. The CARES Act also allows ED to modify statutory or regulatory language to ensure that institutions receiving aid under Titles III, V, and VII of HEA are not adversely impacted by formula calculations, and allows institutions receiving these grants to carry over unexpended funds into the next five-year period. ED may also modify the allowable uses of federal aid under Titles III, IV, V, or VI at the request of an institution, and may also waive any required, non-federal shares of funding programs.

For questions or concerns related to the contents of this memo, please contact NGA staff:

- *Amanda Winters (awinters@nga.org, 202.719.2872)*