

**UPDATED APRIL 9, 2020**

## **The Coronavirus Aid, Relief, and Economic Security (CARES) Act Frequently Asked Questions**

The CARES Act, signed into law by President Trump on March 27, 2020, provides \$2 trillion in broad-based economic relief in response to the COVID-19 national pandemic. This is the third in a series of bills designed for this purpose. The main focus of the bill is to keep people employed through either direct assistance or by making it economically feasible for employers to retain employees.

Institutions of higher education have programs that will affect them as employers which we have included here, but also have a dedicated \$14 billion fund set-aside for their institutions and students.

---

**Q. How much relief is included specifically for higher education in the CARES Act?**

A. The CARES Act provides **\$14 billion for all sectors of higher education** to provide direct assistance to institutions of higher education to respond to student and campus needs related to the crisis. The Act directs that half of the funds shall be used for emergency grants for students and half for institutions.

Overview:

1. **Institutional Funds:** 90% of the \$14 billion (\$12.558 billion) is allocated directly to institutions through the Title IV distribution system.
  - a. At least 50% of funds (\$6.279 billion) awarded to institutions must be used to provide direct emergency aid to students.
2. **HBCUs and Minority Serving Institutions:** 7.5% (\$1.047 billion) is reserved for HBCUs and minority serving institutions.
3. **FIPSE Grants to Institutions:** 2.5% (\$349 million) is reserved for grants to institutions particularly impacted by the coronavirus, to be administered through FIPSE. Priority for these grants goes to smaller institutions that received less than \$500,000 under the formula and MSI/HBCU grants (#s 1 & 2 above) and still have significant unmet need.

There is an additional \$3 billion for states to provide funds for early childhood, K-12, and higher education. Private colleges could be eligible for these funds, but we believe it is more likely that states will dedicate these resources for early childhood and K-12 education since both public and private institutions were provided for in the separate \$14 billion higher education fund.

## **Institutional & Student Funds**

**Q. UPDATED 4-9-20 What formula will be used to allocate the relief funds?**

A. Allocated amounts will be based 75% on an institution's Pell FTE enrollment and 25% on an institution's overall FTE enrollment relative to the national total, except that students who were enrolled exclusively online prior to the pandemic outbreak will not be in the count. Institutions must use 50% of such funds to provide emergency financial aid grants to students for expenses related to the disruption of campus operations due to coronavirus.

The Department of Education issued the formula [methodology](#) it used to create individual [institutional distribution tables](#). Colleges and universities can look up their allocation and minimum amount to be distributed to students in this table, alphabetically by institution name.

**Q. UPDATED 4-9-20 How will the relief funds be distributed?**

A. Relief funds provided by the CARES Act directed to institutions, including MSIs and HBCUs, will be distributed through the existing Title IV infrastructure to institutions so the funds can be disbursed as quickly as possible.

The Department of Education issued instructions on how institutions can access the \$6.3 billion for emergency student grants on April 9, 2020. Institutions must submit a [certification of agreement](#) before accessing funds. If your institution does not have an account on [www.grants.gov](#), institutions must create an account, which takes 24-48 hours to activate. Once the certification is submitted, funds can be accessed via the Department's G5 distribution system for Title IV student financial aid within about 24-72 hours.

**Q. UPDATED 4-9-20 When will the relief funds be distributed?**

A. Funds for the emergency student grants are expected to be available beginning on Wednesday, April 15, 2020. Information on the availability of the institutional emergency grants is expected in the next two weeks.

**Q. UPDATED 4-9-20 What expenses can I count in this category?**

A. According to the CARES Act, *institutions of higher education* can use 50% of the funds for institutional purposes, and 50% of the funds for student purposes. Specifically, the act says, the institutional funds are "to prevent, prepare for, and respond to coronavirus" so long as such costs do not include payment to contractors for the provision of pre-enrollment recruitment activities; endowments; or capital outlays associated with facilities related to athletics, sectarian instruction, or religious worship. The Department of Education intends for this portion of funds to be fairly flexible for institutions to use, and will issue specific information in the coming weeks.

With regard to *student expenses*, the Act states "Institutions of higher education shall use no less than 50% of such funds 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 Department of Education [issued](#) information on these funds April 9, 2020.

**Q. UPDATED 4-9-20 How flexible is the 50% of funding for students?**

A. In new [information](#) provided on April 9, 2020 makes clear that student funds are not to be used by institutions to reimburse institutions for costs and expenses related to corona virus previously provided to students. Otherwise, the department is flexible as to how institutions distribute and allocate funds. It is suggested, but not required, that the neediest students be given grants first.

And it is suggested, but not required, that a maximum emergency award mirror the maximum Pell Grant of \$6,195.

**Q. What does it mean when it says an institution “shall to the greatest extent practicable, continue to pay its employees and contractors during the period of any disruptions or closures related to coronavirus”?**

A. Congress uses the term “extent practicable” to express their intent that fund recipients will take reasonable consideration of this goal when making decisions. The fact that this language was used for this fund, while other areas of the bill, such as the business loan sections, have hard employment limits, indicates that Congress was aware they were not providing enough funding to institutions to prevent lay-offs.

### **HBCUs and Minority-Serving Institutions**

**Q. How does the set-aside to HBCUs and MSIs work?**

A. There is \$1 billion available to MSIs and HBCUs through the CARES Act. MSIs and HBCUs have a series of separately authorized programs under Title III and Title V of the HEA. Please note that being “designated” a minority-serving institution is different than having received grant funding in FY2020.

According to the CARES Act, the money will go directly to institutions based on the proportion of funds each institution received under these programs in the FY 2020 appropriations process. This year’s appropriated amounts totaled \$759 million, so we believe you could estimate for your planning purposes that institutions can expect about 1 1/3 of the amounts they received previously this year. **We do not know if the Department will issue any further guidance in this area or simply distribute funds directly to institutions according to a plain reading of the statute.** These funds are in addition to any funds received under the base allocation to all institutions included in the CARES Act.

**Q. When will the relief funds for MSIs and HBCUs be distributed?**

A. **The Department of Education has not determined when these funds will be distributed.**

**Q. How can funds allocated for MSIs and HBCUs be used?**

A. According to the CARES Act, funds may be used to defray expenses (including lost revenue, reimbursement for expenses already incurred, technology costs associated with a transition to distance education, faculty and staff trainings, payroll) incurred by institutions of higher education and for grants to students for any component of the student’s cost of attendance (as defined under section 472 of the Higher Education Act), including food, housing, course materials, technology, health care, and child care.

Please note that being “designated” a minority-serving institution is different than having received grant funding in FY2020.

### **FIPSE Grants to Institutions**

**Q. What is the plan regarding allocation of the FIPSE grant for institutions that received less than \$500,000?**

- A. **The process of determining the awarding of the FIPSE Grants has not yet been decided.** The Department's immediate focus is to determine the uses for and distribution formulas for the \$14 billion fund for higher education. Once the institutional allocations are determined, the Department can begin to plan for this fund.
- Q. **How can institutions that are eligible and wish to participate in the FIPSE grant program apply?**
- A. Institutions will not know if they are eligible to apply until the \$14 billion fund has been fully distributed. The Department of Education will make the application process and criteria for this fund publically known, and NAICU will also notify its members who might qualify directly.

## Federal Student Aid Implications

- Q. **Please describe the institutional flexibility under the campus-based student aid programs.**

- A. The CARES Act waives institutional financial matching requirements for the Supplemental Educational Opportunity Grant (SEOG) program. It also allows the transfer of unexpended funds within institutional accounts from Federal Work-Study (FWS) to SEOG in order to facilitate the flow of emergency grants to students.

The CARES Act allows for the broad use of SEOG as a student emergency grant program by waiving the existing student need requirements, and increases the maximum allowable grant from \$4,000 to the maximum Pell Grant of \$6,195. Student emergency grants disbursed via the SEOG structure also will not be treated as financial aid for purposes of student need analysis.

Institutions may continue to disburse FWS funds to students even if the student is unable to work. However, the student must have already been working in the FWS program and institutions cannot award FWS money to students who were not otherwise eligible for FWS. The institutional matching requirement is **not** waived for FWS unless otherwise waived by the Secretary.

- Q. **Who qualifies for the suspension of student loan payments under the CARES Act?**

- A. Borrowers with Federal Direct Loans (i.e. subsidized Stafford Loans, unsubsidized Stafford Loans, PLUS Loans, Graduate PLUS Loans, Parent PLUS Loans) and borrowers with FFEL Loans that are held by the U.S. Department of Education will have those loans paused through September 30, 2020.

No interest will accrue on any loans during the six month pause in payments.

For the purposes of the federal loan forgiveness programs, any missed monthly payment during the pause will be counted as if the borrower made a qualifying payment.

**The Department of Education has not yet notified us of how this year's college graduates or current students will be treated.**

- Q. **Who does not qualify for the suspension of student loan payments under the CARES Act?**

- A. Payments on private educational loans will **not** be paused by the federal government and borrowers holding private loans will be required to be continue their normal loan repayment schedule.

Institutions of higher education who hold Perkins Loans are authorized by the Department of Education to provide the same zero interest and cessation of payments benefits as provided to borrowers under the Direct Loan Program to the loans they hold on a voluntary basis through September 30, 2020. A similar voluntary offer is extended to FFEL Program lenders. Institutions are also authorized to offer forbearance for a period not to exceed three months, to a Federal Perkins Loan borrower who is in repayment and who is unable to make payments due to a COVID-19 related interruption.

- Q. If institutions waive various expenses for students as a result of the pandemic, do the institutions have to recalculate these students' cost of attendance?**
- A. If, as a result of the COVID-19 outbreak, an institution provides a refund or waiver of expenses for all or part of a student's tuition, fees, room and board charges, or other institutional charges, or if an institution becomes aware that a student has moved off campus for the remainder of the term, the Department of Education will not require a re-evaluation of the student's cost of attendance. Therefore, the institution is not required to make changes to a student's Title IV awards on the basis of such changes.

## **Institutions as Employers Provisions**

- Q. Are students employed on campus, who are not in the Federal Work-Study program, eligible to file for unemployment under the enhanced criteria?**
- A. While not explicitly spelled out in the CARES Act, there is no language in the bill that would bar these students from filing for unemployment benefits. However, since some payroll taxes are not required for these students, NAICU is in the process of determining if this will be permitted.
- Q. Can colleges take advantage of the payroll tax delay?**
- A. Employers, including colleges and universities, can delay the employer portion of the 6.2% Social Security tax imposed on employees' wages between 3/27/20-12/31/20. Fifty percent is due by 12/31/21 and the remainder by 12/31/22. This does not apply to the employee portion of the Social Security tax.
- Q. What is the employee retention tax credit?**
- A. The CARES Act creates a refundable payroll tax credit of up to \$5,000 for wages paid by employers to employees during the COVID-19 crisis. The credit is available to employers whose operations were "fully or partially" suspended due to government orders related to COVID-19. The credit is available to private, nonprofit colleges and universities and to their related entities if they are organized as 501(c)(3)s. We believe this would include a range of organizations such as university foundations, research institutions, alumni organizations, university presses, etc. Public institutions - if they or their related entities are deemed arms or subsidiaries of a state government - are ineligible. **Employers that receive a loan under the Paycheck Protection Program are not eligible to receive the credit.**

- Q. Are colleges that have closed campuses to in-person education, but now offer students instruction online considered under a “partial” suspension?**
- A. **The CARES Act does not define “partial” suspension.** While no guidance has been issued, we believe you could estimate for planning purposes that a reasonable interpretation of the provision would be that it applies to employees of offices, services or facilities (e.g. dining, dorms, athletic facilities) that have been “fully or partially” suspended would be covered. However, it would likely not cover a faculty member who continues to teach on an online platform.

## Loan Provisions - SBA and Mid-Size Business Loan Programs

- Q. What loan funds are available for institutions with more than 500 employees?**
- A. **Additional details are not yet available other than what is in the CARES Act. We are expecting Treasury to issue guidance on this program in the near future.**

There are provisions that instruct the Treasury Secretary, through the Federal Reserve, to create a **Mid-Size Business Loan Program** to ensure that nonprofit organizations and businesses between 500 and 10,000 employees have access to a specific loan facility with loans not higher than two percent per year and no payments due for the first six months. In order to qualify, the eligible borrower must self-certify, among other things, that the loan is necessary to support the borrower’s ongoing operations, and that the borrower will retain 90% of its workforce until September 30, 2020.

- Q. UPDATED 4-9-20 What is the Small Business Administration’s Paycheck Protection Program?**
- A. The CARES Act established the [Paycheck Protection Program](#) (PPP) under the Small Business Administration (SBA). The CARES Act allocated \$350 billion to help small businesses during the COVID-19 pandemic. Specifically, the Act established the Paycheck Protection Program to help small businesses, including nonprofit colleges and universities, retain employees and sustain operations during these challenging months. For those entities that have already laid off workers or cut salaries, rehiring and pay restoration is allowed. Federal regulations, [in an easy to read question and answer format](#), were recently issued.
- Q. Who is eligible for relief under the PPP?**
- A. Any private, nonprofit college or university with fewer than 500 employees, including part-time and student workers. NAICU sent a [joint letter](#) with the American Council on Education to Treasury Secretary Mnuchin and SBA Administrator Carranza stressing the “immediate need for flexibility around how to count student workers.” At this point, the 500-employee limit for eligibility in the PPP still stands.
- Q. UPDATED 4-9-20 Are institutions that meet the traditional \$30 million annual revenue standard for colleges to qualify for an SBA loan, but have more than 500 employees, also eligible to apply to the PPP?**
- A. A plain reading of the statute and regulations would indicate that the *only* standard that now applies is the employee count. But because of references to traditional industry standards

(which for colleges is \$30 million in annual revenue) in the statute and regulations, there is great confusion on this question.

**Q. How much can I borrow under the PPP?**

A. Colleges may borrow the lesser of \$10 million or 2.5 times the average total monthly payroll costs from the prior year (with some exclusions, including any earnings paid to someone that are in excess of \$100,000 per year).

**Q. What can the PPP loans be used for?**

A. Loans can be used for a wide variety of purposes, including: payroll costs; payments for vacation, parental, family, medical, or sick leave; severance payments; payments required for group healthcare benefits, including insurance premiums; and retirement benefits. Loans can also be used to pay local, state, and employment taxes, interest payments on any mortgage obligations or other debts incurred, and rent and utilities.

The loans cannot be used for compensation of individual employees, contractors, or sole proprietors in excess of an annual salary of \$100,000.

**Q. Under what conditions does the PPP loan become a grant?**

A. To receive full forgiveness you must use 75% of the funds for payroll costs and expend those funds within eight weeks of funds being disbursed. Twenty-five percent of the remaining total loan amount is forgivable if spent on specific overhead expenses, including mortgage interest, rent, and utility costs.

Employee and compensation levels must also be maintained at certain levels.

Organizations that rehire employees previously laid off as a result of the COVID-19 crisis will not be penalized for having a reduced payroll for the beginning of the relevant period.

If you do not meet all of the employment targets then your forgiveness will be prorated and the loan interest rate will be set at one percent.

**Q. Are there any other limitations on participating in the PPP?**

A. Eligibility for the Program is on a first-come, first-served basis. When the funds allocated for the Program are exhausted, the Program will be terminated. Small businesses cannot use this Program and the [employee retention tax credit simultaneously](#).

**Q. How do I apply for a PPP loan?**

A. Applications open on April 3, 2020 and can be [found here](#). NAICU members who are interested in securing funds through this program should immediately contact their bank to see if it is one of the 1,800 approved SBA lenders. Also, any federally insured depository institution, federally insured credit union, and Farm Credit System institution may be participating.

- Q. What other Small Business Administration loans are colleges and universities eligible for?**
- A. Colleges and universities are also eligible for [Economic Injury Disaster Loans](#). For further information on loan programs visit [www.SBA.gov](http://www.SBA.gov).

## Financial Responsibility Scores and NC-SARA

**Q. Is the Department of Education considering taking any actions concerning institutional financial responsibility composite scores in light of the COVID-19 pandemic?**

A. The suspension of the financial responsibility standards (FRS) is a top priority for NAICU. NAICU has written a [letter](#) to Secretary DeVos asking for a three-year suspension of the financial responsibility scores given the financial and enrollment turmoil caused by the COVID-19 crisis. We are still waiting on a response from the Department to our letter. We believe that the Secretary of Education has broad authority to waive certain reporting requirements during times of national emergency, including the financial responsibility standards.

While the federal government has granted institutions of higher education an additional [six months](#) to file their financial reports because of federal delays in auditing requirements (including the eZ Audit), the Department has not yet taken a position on formal suspension of the regulations.

**Q. In light of the COVID-19 national pandemic is NC-SARA considering relaxing its reliance on the Federal Financial Responsibility Composite Score?**

A. NAICU has [written](#) to NC-SARA to request a three-year suspension in the compact's reliance on an institution's federal financial responsibility composite scores for purposes of determining institutional eligibility for participation in the agreement. NC-SARA is [still in the process of reviewing this request](#).

# # #