



Education Department Issues Revised Guidance

On October 9, the US Department of Education issued new CARES Act [equitable services guidance](#) to reflect recent court decisions detailed in the [October 2020](#) edition of *CAPE Outlook*.

Of particular interest:

Which LEA is responsible for providing equitable services to non-public school students and teachers under the CARES Act programs?

...the LEA in which a non-public school is located is responsible for providing equitable services to students and teachers in the school...

Must an LEA offer to provide equitable services under the CARES Act programs to students and teachers in all non-public schools located in the LEA, even if a nonpublic school has not previously participated in equitable services under Title I, Part A or Title VIII of the ESEA?

Yes. An LEA must offer to provide equitable services under the CARES Act programs to students and teachers in all non-public schools located in the LEA, even if a non-public school has not previously participated under Title I, Part A or Title VIII of the ESEA.

Are all students and teachers in a non-public school eligible to receive equitable services under the CARES Act programs?

Yes. All students and teachers in a non-public school are eligible to receive equitable services under the CARES Act programs, unless a Governor (under the GEER Fund) or an SEA (through the SEA reserve under the ESSER Fund) targets funds for a specific purpose or population of public and non-public school students. Unlike Title I, Part A, which limits eligibility for services to low-achieving students residing in a participating Title I school attendance area, section 18005(a) of the CARES Act does not impose any such eligibility requirements and instead requires an LEA to provide equitable services "to students and teachers in non-public schools."

Read the [entire document](#) for information about "supplement not supplant" requirements not applying to CARES Act equitable services, what constitutes the provision of equitable services under Section 1117 of ESEA, and how the proportional share is calculated. Many questions remain unanswered, however, so further clarification from the Department may be needed in the coming weeks.



Speaking of the CARES Act, the Hunt Institute has a [helpful breakout](#) of each state's plans for its GEER funds (Governor's Emergency Education Relief Fund). Meanwhile, John Schilling has a [report](#) out for the American Enterprise Institute encouraging governors to use their GEER funds to advance educational choice and giving examples of how this can be done.

[CA Private School Advocate Appointed to Governing Board](#)

Secretary of Education Betsy DeVos has [appointed](#) the head of CAPE's state affiliate in California to the board overseeing the "Nation's Report Card." Ron Reynolds, Executive Director of the California Association of Private School Organizations (CAPSO), has begun a four year term on the National Assessment Governing Board. According to the Department of Education, "The 26-member Governing Board is responsible for deciding which subjects NAEP assesses, determining the assessments' content, setting achievement levels that describe student performance, and pursuing new ways to make NAEP results useful and meaningful to the public." Congratulations to Ron and to the Governing Board, which found itself a good one.



[Private Schools Surviving COVID-19](#)

The CATO Institute has been tracking private school closures during the pandemic and on October 13 [posted](#) an "Update on The State of Private Schools under COVID-19." According to Cato's Neal McCluskey, "Private schools are not folding at the rate we feared, but they are hurting, even as they have responded more quickly to families than have public schools." See [here](#) for more detail.

[Catholic School Principal to Receive Terrel H. Bell Award](#)

Education Secretary Betsy DeVos has named the recipients of the 2020 Terrel H. Bell Award for Outstanding School Leadership. On that list is [Maryann Hayslip](#), principal of Saint Aloysius School in Pewee Valley, KY.

[According](#) to the Department, "Named for the second U.S. Secretary of Education, the Bell Award honors school leaders who are committed to education as a powerful and liberating force in people's lives. The award is part of the National Blue Ribbon Schools Program. Principals are nominated by their school communities during the final stages of the National Blue Ribbon Schools application process."



[White House Report on School Choice](#)

The Council of Economic Advisers has released a new report laying out the "dramatic expansion" of school choice programs over the last thirty years and explaining how choice "empowers families and pressures schools to deliver more value."

According to the report, "Research suggests that low-income and minority students tend to enjoy the greatest benefits, and the evidence on procompetitive effects suggests that substantial gains are possible from scaling up school choice. As a result, continuing to grow school choice programs is a promising way to reduce opportunity gaps and create a level playing field for all children."



[Report: Private Schools in Milwaukee Denied Access to Empty Buildings](#)


A report from the Wisconsin Institute for Law & Liberty (WILL) asserts that a state law designed to make vacant Milwaukee schools available to charter and private schools has been thwarted by local officials.

[Empty Handed: How Milwaukee Thwarted a State Law Meant to Help Schools](#) cites as an example "Right Step, a private school in the MPCP that educates students who have been expelled from other schools. Right Step school is the last resort for many of their students to even receive a high-school diploma. However, city politicians and the public school establishment worked together to prevent Right Step from purchasing the building, ultimately preventing the sale at the Board of Zoning Appeals in 2016. The building was eventually sold to a development company in 2018."

Back to School Success Stories

The Office of Elementary and Secondary Education at the US Department of Education has set up a [webpage](#) to share testimonials written by parents, teachers, and school officials sharing their positive experience bringing students back to school. The page continues to be updated and new submissions are encouraged using this address: reopeningschool@ed.gov.





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Religious Freedom on the Docket

On November 4, the US Supreme Court heard oral arguments in *Fulton v. City of Philadelphia*, a controversial case that, while not directly involving private education, could nonetheless have implications for the relationship between government agencies and religious schools that receive public funds or are subject to regulation.

Meanwhile, in Indiana a federal district court has rejected a Catholic school's attempt to invoke Title VII's religious institution exemption in defense against a claim filed by a fired employee.

It remains to be seen how this all will intersect with *Our Lady of Guadalupe School v. Morrissey-Berru*, in which the Court ruled 7-2 that the "ministerial exception" did not allow the courts to adjudicate the employment discrimination claims brought against two Catholic schools. That decision this past summer received much less attention than *Espinoza v. Montana Department of Revenue* but may prove to be as or more significant.

It seems certain that these contentious issues will be in the spotlight in the months to come.

Private Education: Good for Students, Good for Families, Good for America

CAPE member organizations:

Agudath Israel of America

Association of Christian Schools International

Association of Christian Teachers and Schools

Association of Waldorf Schools of N.A.

Christian Schools International

Council of Islamic Schools in North America

Council on Educational Standards and Accountability

Evangelical Lutheran Church in America

Friends Council on Education

Islamic Schools League of America

Jesuit Schools Network

Lutheran Church–Missouri Synod

National Association of Episcopal Schools

National Association of Independent Schools

National Catholic Educational Association

National Christian School Association

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Affiliated State Organizations a coalition of national associations serving private schools K-12

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