
U.S. Department of Education Releases Interim Final Rule on Student Eligibility for HEERF Emergency Grants

June 11, 2020

This afternoon, the U.S. Department of Education (“Department”) released an unofficial version of an [Interim Final Rule](#) (“IFR”) addressing the eligibility of students to receive emergency financial aid grants under Sections 18004(a)(2), 18004(a)(3), and 18004(c) of Higher Education Emergency Relief Fund (“HEERF”). The IFR will be published in the *Federal Register* in the coming days and will be effective immediately on the date of publication.

The IFR confirms the Department’s earlier [guidance](#) that emergency grants to students made available by the HEERF in the CARES Act can be provided only to those students who are or could be eligible for Title IV funds as outlined in Section 484 of the Higher Education Act as amended (i.e., [20 U.S.C. § 1091](#)). This restriction applies both to the HEERF funds specifically designated as emergency grants to students (which we discussed in this [April 13 Client Alert](#)) and to any portion of the institutional funds provided in HEERF that the institution chooses to distribute as emergency funds to students (discussed in this [April 22 Client Alert](#)).

The Department issued the IFR to address continuing uncertainty regarding the use of HEERF funds, particularly after it announced last month that its guidance on the subject did not carry the force of law. It acknowledged that the ensuing confusion had caused some institutions to be reluctant to make determinations regarding the distribution of the student funds. And, it said in Footnote 6 of the IFR that it would not enforce the Title IV eligibility requirement with respect to any emergency grants distributed to students prior to the publication of the IFR.

The Department determined that this issue was significant enough to justify the issuance of an immediately effective final rule without the usual comment and implementation period. Nevertheless, the Department is accepting comments regarding any proposed changes to the IFR for 30 days following publication.

[Maynard Cooper](#) is a full-service firm with attorneys experienced in all regulatory and operational aspects of higher education, including federal and state oversight, accreditation, employee and benefits issues, and real estate concerns. We invite institutions to review the [resources](#) our attorneys have assembled to help our clients deal with the challenges created by the COVID-19 emergency.

[Roger Swartzwelder](#) advises regionally and nationally accredited institutions of higher education regarding legal, administrative, regulatory and accreditation matters.

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