



# NEBRASKA

## DEPARTMENT OF EDUCATION

September 28, 2020

**TO:** Public and Non Public Superintendents

**FROM:** Matthew L. Blomstedt, Commissioner of Education

**SUBJECT: CARES Act Equitable Services Update**

On September 4, 2020, in NAACP v. DeVos, the U.S. District Court for the District of Columbia issued an [opinion](#) and an [order](#) vacating the Interim Final Rule (IFR) under the CARES Act in its entirety nationwide. This order “vacates” the rule, leaving no IFR in place for the U.S. Department of Education (USED) to enforce in any jurisdiction.

The USED respects the rule, will enforce the law as the courts have opined, and will not appeal these rulings. The USED will not take any action against States or local districts that followed the guidance and/or the IFR prior to notice of the court’s decision. See attached letter from the Secretary of Education.

With this guidance, going forward the Nebraska Department of Education (NDE) is honoring and reimbursing school districts for expenditures already made through September 11, 2020 under contracts and agreements for the provisions of services or goods provided to private schools, the NDE notified Nebraska schools of the court order.

For ESSER funds not under contract or agreement for the provision of equitable services to private schools after September 11, 2020, school districts must provide consultation and calculate the minimal proportional share according to the formula required under Section 1117 of the ESEA of 1965, which the USED will enforce to ensure school districts comply with this and other relevant equitable services requirements.

If you have questions, please contact:  
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To that end, I strongly encourage you to use the CARES Act dollars provided to continue to assist public schools and to provide equitable services to private schools as soon as possible.

Thank you for your continued efforts.