

## Higher Education Emergency Relief Fund (HEERF) II Public and Private Nonprofit Institution (a)(1) Programs (CFDAs 84.425E and 84.425F) Frequently Asked Questions<sup>1</sup>

### Coronavirus Response and Relief Supplemental Appropriations Act, 2021

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On December 27, 2020, the President signed the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA) (P.L. 116-260). This new law gives the U.S. Department of Education (Department) approximately \$22.7 billion to distribute to institutions of higher education in order to prevent, prepare for, and respond to coronavirus through the HEERF.

This law has some similarities—as well as important differences—from the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (P.L. 116–136) that was enacted on March 27, 2020. These FAQs provide an overview of those similarities and differences; describe the flexibilities for institutions that received grants under section 18004(a)(1) of the CARES Act (“Student Aid Portion” and “Institutional Portion,” CFDAs 84.425E and 84.425F, respectively); and describe the differences between the funds allocated under that section and those under section 314(a)(1) of the CRRSAA. The grant programs authorized under section 18004(a)(1) of the CARES Act and under section 314(a)(1) of the CRRSAA are referred to below as the “(a)(1) programs” and their funds as “(a)(1) funds.”

### Overview Questions

- 1. Question:** What changes did Congress make to the (a)(1) programs from the CARES Act to the CRRSAA?

**Answer:** In brief, Congress made six major changes to the (a)(1) programs:

*Provided supplemental funding:* For existing private nonprofit and public CARES Act grantees, the CRRSAA authorized supplemental awards to existing Student Aid Portion and Institutional Portion grantees. **These institutions will not be required to submit new or revised applications to the Department to receive these new funds.** However, an eligible private nonprofit or public institution that did not originally receive a CARES Act Student Aid Portion and/or Institutional Portion grants will also have an opportunity to apply for these new funds.

*Expanded the allowable uses of grant funds:* **Congress expanded the allowable uses for supplemental awards and new awards made under section 314(a)(1) of the CRRSAA and for unspent CARES Act funds, subject to certain limitations.**

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<sup>1</sup> Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

Modified the share of (a)(1) funds that must be used for financial aid grants to students:

The CARES Act required that 50 percent of an institution's allocation under section 18004(a)(1) be used for financial aid grants to students, which was represented by the institution's CARES Act Student Aid Portion award. The CRRSAA requires that an institution receiving funding under section 314(a)(1) provide the "same amount" in financial aid grants to students from the new CRRSAA funds that it was required or which it would have been required to provide under its original CARES Act Student Aid Portion award. Because this law appropriates more funding (approximately \$22 billion instead of \$14 billion) for supplemental and new awards under CRRSAA section 314(a)(1), the Department anticipates that, on average, a larger share of (a)(1) allocations will be available for institutional support than under the CARES Act.

Added allocations for students enrolled in exclusively distance education courses:

Students enrolled in exclusively distance education courses are included in the CRRSAA section 314(a)(1) allocation formula. Institutions will now receive allocations that factor in such students under the formula, and the formula also allows exclusively online institutions that were ineligible for funding under section 18004(a)(1) of the CARES Act to apply for grant funds. Amounts apportioned for students enrolled in exclusively distance education courses may be used only for financial aid grants to students.

Created a separate program for proprietary institutions: Proprietary institutions are no longer eligible to receive awards under the (a)(1) program but may apply for new funding under section 314(a)(4) of the CRRSAA. This program supports only financial aid grants to students. More information about the (a)(4) program, and how to apply, is available in a separate announcement.

Special requirements for institutions paying the endowment excise tax: For institutions that paid or will be required to pay the endowment excise tax in tax year 2019, the institution's (a)(1) allocation is reduced by 50% under section 314(d)(6) of the CRRSAA. The remaining funds must be expended on financial aid grants to students or for sanitation, personal protective equipment (PPE), or other expenses associated with the general health and safety of the campus environment related to the coronavirus emergency. The Department will require those institutions that paid or will be required to pay the tax to complete and submit a form disclosing this tax status. Institutions paying this tax may also seek a waiver of these limitations.

2. **Question:** My public or private nonprofit institution received (a)(1) funding under the CARES Act and is on the [CRRSAA \(a\)\(1\) allocation table](#). How will we receive (a)(1) funds under the CRRSAA?

**Answer:** The Department will make supplemental awards to your existing Student Aid Portion and Institutional Portion grants (CFDAs 84.425E and 84.425F). No action is required by your institution to receive these supplemental awards. The Project Director identified on the most current Grant Award Notification (GAN) will automatically receive an email indicating a supplement award is made to your institution. Please note that drawing down any amount of these supplemented funds constitutes your institution's acceptance of the applicable terms and conditions under the CRRSAA and as described

in the Supplemental Agreements that will be attached to the GANs for the supplemental awards. For reference, examples of the new Supplemental Agreements for the Student Aid Portion and Institutional Portion grants are available in our notice announcing the availability of these new funds in our [Federal Register notice here](#) (January 15, 2021).

3. **Question:** My public or private nonprofit institution is on the [CRRSAA \(a\)\(1\) allocation table](#) but did not receive funding under the CARES Act. How can we receive funds under the CRRSAA?

**Answer:** Eligible public or private nonprofit institutions that did not receive Student Aid Portion or Institutional Portion grants (CFDAs 84.425E and 84.425F) under the CARES Act may apply via [Grants.gov](#) for Student Aid Portion or Institutional Portion grants under section 314(a)(1) of the CRRSAA. Institutions must submit complete applications for both the Student Aid Portion and Institutional Portion grants.

Each completed application for a Student Aid Portion or Institutional Portion grant must consist of:

- 1) **A completed SF-424 and SF-424 supplemental form;**
- 2) **A Certification and Agreement** (either the [Student Aid Portion Certification and Agreement](#) (Gold C&A), or the [Institutional Portion Certification and Agreement](#) (Blue C&A), as appropriate); and
- 3) The [Required Notification of Endowment Excise Tax Paid](#) Form (if applicable)

The Grants.gov Funding Opportunity Numbers are ED-GRANTS-041020-003 for the Student Aid Portion and ED-GRANTS-042120-004 for the Institutional Portion. Applications must be submitted by April 15, 2021. To register to use Grants.gov, [please visit their “How to Apply for Grants” webpage here](#), or call their Applicant Support helpdesk at 1-800-518-4726. More information about how to apply is available on our [HEERF II CRRSAA website](#).

If an institution has previously received a Student Aid Portion grant but not an Institutional Portion grant under the CARES Act, that institution will have to submit an application for only an Institutional Portion grant and its Student Aid Portion grant will be supplemented as described above.

The Department has issued a [CRRSAA \(a\)\(1\) allocation table](#) indicating which institutions are eligible for both supplemental and new awards under section 314(a)(1) of the CRRSAA.

4. **Question:** How long does a public or private nonprofit institution that did not receive funding under the CARES Act have to apply for the (a)(1) programs?

**Answer:** CRRSAA section 314(f) requires that public or private nonprofit institutions apply for funding within 90 days of the publication of the Notice Inviting Applications, which is April 15, 2021.

5. **Question:** Will proprietary institutions receive funds under the CRRSAA?

**Answer:** Yes, but proprietary institutions are not eligible for supplemental funding under the CRRSAA (a)(1) programs; rather, such institutions must apply for awards under a new section 314(a)(4) program. This program provides a separate funding stream for proprietary institutions that may be used only for financial aid grants to students.

More information about the (a)(4) program, and how to apply, is available in a separate announcement.

6. **Question:** My institution is an exclusively online public or private nonprofit with students enrolled in distance education courses prior to the COVID-19 pandemic. We were not able to apply for CARES Act funds. Can we receive funds under the CRRSAA?

**Answer:** Yes. The section 314(a)(1) formula under the CRRSAA will provide allocations for institutions, including exclusively online institutions, based on (1) the relative share of full-time equivalent enrollment of students who were Federal Pell grant recipients and who were exclusively enrolled in distance education courses prior to the COVID-19 pandemic and (2) the relative share of the total number of students who were Federal Pell grant recipients and who were exclusively enrolled in distance education courses prior to the qualifying emergency. Please note that section 314(d)(9) of the CRRSAA stipulates that grants to such institutions may be used only for financial aid grants to students. Please see Question 3 for more information about how to apply for a grant.

### CRRSAA (a)(1) Programs Questions

7. **Question:** What amount of section 314(a)(1) funds must my institution devote to financial aid grants to students?

**Answer:** The CRRSAA requires that institutions receiving funding under section 314(a)(1) provide the “same amount” of funding in financial aid grants to students that it was required to provide under its original Student Aid Portion (CFDA 84.425E) allocation amount, as listed on the CARES Act Section 18004(a)(1) allocation table.

Therefore, if an institution was allocated \$600,000 under section 18004(a)(1) of the CARES Act, with \$300,000 as its Student Aid Portion, an institution must expend at least \$300,000 in CRRSAA funds on emergency financial aid grants to students. The amount of funding that an institution is required to provide in financial aid grants to students should equal the amount of supplemental funding that will be added to an institution’s Student Aid Portion (CFDA 84.425E) award. Because the CRRSAA appropriates more total funding to the HEERF program than did the CARES Act (approximately \$22 billion instead of \$14 billion), the Department anticipates that most institutions will receive a larger Institutional Portion supplement under CRRSAA than their Student Aid Portion supplement, unless certain restrictions apply. However, the Secretary continues to strongly encourage institutions to expand support for students with the most significant financial needs arising from the COVID-19 pandemic.

This minimum “floor” will be automatically calculated (based on the amount required to be spent under the CARES Act, which should be inclusive of the amounts apportioned to institutions based on students enrolled exclusively in distance education) for institutions receiving supplemental awards and this minimum “floor” will be the amount awarded to the institution’s Student Aid Portion grant (CFDA 84.425E).

This minimum floor does not apply to institutions that have exclusively distance education students (see Question 6).

**8. Question:** What are the requirements for making financial aid grants to students?

**Answer:** Unlike the CARES Act, the CRRSAA requires that institutions prioritize students with *exceptional need*, such as students who receive Pell Grants, in awarding financial aid grants to students. However, students do not need to be only Pell recipients or students who are eligible for Pell grants. In addition, the CRRSAA explicitly provides that financial aid grants to students may be provided to students exclusively enrolled in distance education.

Institutions may not (1) condition the receipt of financial aid grants to students on continued or future enrollment in the institution, (2) use the financial aid grants to satisfy a student’s outstanding account balance, unless it has obtained the student’s written (or electronic), affirmative consent, or (3) require such consent as a condition of receipt of or eligibility for the financial aid grant.<sup>2</sup>

Institutions should carefully document how they prioritize students with exceptional need in distributing financial aid grants to students, as the Department intends to establish reporting requirements regarding the distribution of financial aid grants to students consistent with section 314(e) of CRRSAA.

**9. Question:** How may students use their financial aid grants?

**Answer:** Financial aid grants for students may be used for any component of the student’s cost of attendance or for emergency costs that arise due to coronavirus, such as tuition, food, housing, health care (including mental health care) or child care.

See Question 19 of the [Higher Education Emergency Relief Fund \(HEERF\) Frequently Asked Questions \(FAQ\) Rollup Document](#) for more details as to how institutions may pay the financial aid grants to students, if not applying it to a student’s account after obtaining the student’s written (or electronic), affirmative consent.

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<sup>2</sup> The Department’s guidance for emergency financial aid grants under section 18004(a)(1) of the CARES Act did not advise institutions to use such grants to satisfy a student’s outstanding account balance. However, upon further consideration, the Department believes that allowing students to consent to the application of a CRRSAA financial aid grant to their student accounts would facilitate such a use of funds, if desired by the student, while retaining the student’s discretion to determine what costs should be covered with his or her financial aid grant funds.

**10. Question:** How has the use of funds changed for institutional uses?

**Answer:** Institutions have expanded flexibility in their use of supplemental Institutional Portion funds (CFDA 84.425F). Under section 18004(c) of the CARES Act, institutions were required to use their Institutional Portion awards to cover any costs associated with significant changes to the delivery of instruction due to the coronavirus and/or for additional emergency financial aid grants, subject to certain limitations.

In contrast, allowable uses under the CRRSAA for Institutional Portion awards include:

- Defraying expenses associated with coronavirus (including lost revenue, reimbursement for expenses already incurred, technology costs associated with a transition to distance education, faculty and staff trainings, and payroll);
- Carrying out student support activities authorized by the Higher Education Act of 1965, as amended (HEA), that address needs related to coronavirus; and
- Making additional financial aid grants to students (as described in Question 8).

Similar to what was required for Institutional Portion awards under Section 18004 of the CARES Act and the Department's Certification and Agreement for those funds, under section 314(d)(3) of the CRRSAA, no supplemental Institutional Portion awards or new Institutional Portion awards may be used to fund contractors for the provision of pre-enrollment recruitment activities; marketing or recruitment; endowments; capital outlays associated with facilities related to athletics, sectarian instruction, or religious worship; senior administrator or executive salaries, benefits, bonuses, contracts, incentives; stock buybacks, shareholder dividends, capital distributions, and stock options; or any other cash or other benefit for a senior administrator or executive.

**11. Question:** What "student support activities" may CRRSAA funds be used to support?

**Answer:** Section 314(c)(2) allows an institution to spend its CRRSAA funds on student support activities authorized by the HEA, where those student support activities address needs related to the coronavirus. The Department interprets this provision to, among other authorized activities, authorize grantees to use CRRSAA funds to carry out TRIO and Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) program activities to the extent that those activities address needs related to the coronavirus.

For example, (a)(1) institutional funds may be used to support the transition to virtual activities, purchase PPE, or support other innovative learning methods that would allow an institution to engage in student support activities authorized under the HEA during the COVID-19 pandemic.

**12. Question:** How has the use of funds changed for unexpended CARES Act grant funds?

**Answer:** The expanded use of funds authority under the CRRSAA also applies to unexpended CARES Act funds:

- For their Institutional Portion CARES Act grants (CFDA 84.425F), institutions are able to use their remaining funds in the same way they are allowed to use their supplemental Institutional Portion funds under the CRRSAA (as described in Question 10).<sup>3</sup>
- For their Student Aid Portion CARES Act grant (CFDA 84.425E), institutions may use their remaining funds to provide financial aid grants in the same way they are allowed to use their supplemental Student Aid Portion funds under the CRRSAA, including by providing such grants to students exclusively enrolled in distance education (as described in Question 8).

Institutions have this expanded flexibility to use unliquidated (unspent) funds effective December 27, 2020 (the date of enactment of the CRRSAA).

Please note that under section 314(d)(5), an institution that utilizes the expanded use of funds authority under the CRRSAA for its unspent CARES Act funds must ensure at least 50% of the funds it received under CARES Act section 18004(a)(1) (generally, its Student Aid Portion award) is used for financial aid grants to students.

**13. Question:** My institution paid or will be required to pay the excise tax for large endowments in tax year 2019. What must my institution do?

**Answer:** Pursuant to CRRSAA section 314(d)(6), any institution that was required or will be required to remit payment to the Internal Revenue Service for the excise tax paid on investment income of private colleges and universities<sup>4</sup> under section 4968 of the Internal Revenue Code of 1986 for tax year 2019 must—

- (1) Notify the Department that it is required to pay the tax within 30 days of making a determination that it is required to pay the tax;
- (2) Not use 50% of its total allocation under CRRSAA section 314(a)(1); and
- (3) Use remaining allocated funds to provide financial aid grants to students pursuant to CRRSAA section 314(c)(3) or for sanitation, PPE, or other expenses associated with the general health and safety of the campus environment.

Further, under CRRSAA section 314(d)(5), institutions receiving allocations under CRRSAA section 314(a)(1), including institutions that remitted payment for the excise tax, must provide at least the same amount of funding for financial aid grants to students as it was required to under sections 18004(a)(1) and (c) of the CARES Act.

The form to provide the required notification to the Department is attached to the GANs for supplemental awards and is included in application packages for new awards made under the CRRSAA. It is [also available here](#).

<sup>3</sup> The expanded use of funds authority also applies to the CARES Act section 18004(a)(2) and (a)(3) programs (CFDAs 84.425J, 84.425K, 84.425L, 84.425M, and 84.425N).

<sup>4</sup> This requirement does not apply to any institution of higher education designated by the Secretary as an eligible “work college” under section 448 of the HEA.

Institutions must only submit this form once for all HEERF grant programs, and no action is required by institutions not subject to the endowment excise tax. Institutions that have not yet determined if they are subject to the 2019 endowment excise tax must submit this form within 30 calendar days of making a determination that they are required to pay the tax. If receiving a supplemental award under section 314(a)(1) of the CRRSAA, institutions must return the form as a completed attachment via email to both [HEERF@ed.gov](mailto:HEERF@ed.gov) and the email of your assigned education program officer contact as indicated in Box 3 of your GAN. Institutions applying for new awards under CRRSAA must submit the form with their application for grant funds by uploading the form to the “Other Attachments” section of [Grants.gov](https://grants.gov).

Institutions that complete the form will be provided with the opportunity to apply for a waiver of their allocation reduction and allowable use limitations.

- 14. Question:** My institution received a CARES Act HEERF grant. Will my institution be able to receive a grant under the CRRSAA (a)(1) program if we have not yet complied with the [quarterly or annual reporting requirements](#) for the HEERF grant program?

**Answer:** Institutions that have not yet complied with the reporting requirements of the CARES Act may receive delayed supplemental (a)(1) awards and/or may receive awards with a restriction on the ability to drawdown those awarded funds (stop payment status) until the institution has satisfied its CARES Act HEERF reporting obligations.

## Grant Administration

- 15. Question:** Do the existing CARES Act HEERF FAQs still apply?

**Answer:** The existing CARES Act HEERF FAQs continue to apply to an institution’s previous expenditures under its existing CARES Act HEERF grants prior to December 27, 2020. As explained by Question 12, CRRSAA section 314(d)(2) allows institutions expanded use of funds authority for unexpended CARES Act funds. The Department is in the process of identifying and clarifying which specific FAQs may continue to be relied upon with the new CRRSAA and for an institution’s unexpended CARES Act funds.

- 16. Question:** Does the June 17, 2020 Interim Final Rule (IFR) ([85 FR 36494](#)) limiting student eligibility for emergency financial aid grants under the CARES Act to students who are or could be eligible to participate in the Department’s Title IV Federal student financial aid programs under HEA Section 484 apply to HEERF programs under CRRSAA?

**Answer:** No. The IFR and its implementing regulation, [34 CFR § 668.2](#), apply only to funds made available under the CARES Act and not to funds made available under CRRSAA.

- 17. Question:** When should my institution draw down funds once they have been obligated by the Department?

**Answer:** Although the entire amount of a grantee’s CRRSAA Student Aid Portion or Institutional Portion grant award or supplemental award will be available to the grantee as soon as it has been obligated by the Department, under [2 CFR § 200.305\(b\)](#), HEERF grantees are under an obligation to minimize the time between drawing down funds from G5 and paying obligations incurred by the grantee (liquidation). If a HEERF grantee is using HEERF grant funds to make financial aid grants to students, the Department may evaluate for compliance with the rule grantees who have not drawn down the funds from G5 and not paid the obligations (the financial aid grants to students) to the students within fifteen calendar days. For all other allowable uses, the Department may evaluate grantees who have not taken these steps within three calendar days. This enhanced flexibility for student grant programs is because students may not accept and draw down their financial aid grants from grantees’ accounts within the three day window, or an institution may experience difficulties in contacting eligible students due to factors related to the pandemic.

**18. Question:** Can my institution charge indirect costs to its HEERF grants?

**Answer:** Indirect costs may be charged only to Institutional Portion awards, both new and supplemental, and may not be charged to any Student Portion grant awards because the student allocation represents an amount of funds that must be distributed to students.

Generally, this indirect cost rate will be the on-campus rate specified in an institution’s negotiated indirect cost rate agreement. If an institution does not have a current negotiated indirect cost rate with its cognizant agency for indirect costs, it may appropriately charge the *de minimis* rate of ten percent of Modified Total Direct Costs (MTDC).<sup>5</sup>

Please note that as described in [2 CFR § 200.403](#), costs must be consistently charged as either indirect or direct costs, but they may not be double-charged or inconsistently charged as both. For more information, please see the Department’s [Indirect Cost website](#).

**19. Question:** Can my institution charge direct administrative costs to its HEERF grants?

**Answer:** Reasonable direct administrative costs may be charged only to Institutional Portion awards, both new and supplemental, and may not be charged to any Student Portion grant awards because the student allocation represents an amount of funds that must be distributed to students.

Any direct administrative costs charged to the grant must be documented and, as with all costs, must be reasonable and necessary for the performance of the grant per the Cost Principles of the Uniform Guidance, [2 CFR part 200 subpart E](#).

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<sup>5</sup> Please see “[Direct and Indirect \(F&A\) Costs](#)” in the Uniform Guidance, 2 CFR part 200, for more information.

**20. Question:** Under the Uniform Guidance requirements, institutions must receive [prior written approval](#) (prior approval) for a many types of costs under [2 CFR § 200.407](#). Is that prior approval required for HEERF grants?

**Answer:** Generally, no. This FAQ constitutes notice that due to the COVID-19 pandemic, the Department is providing its prior approval for the following cost items for all formula grants under the HEERF program from March 13, 2020 through the period of grant performance specified under your institution’s GANs for all HEERF grants, whether awarded under section 18004 of the CARES Act or section 314 of the CRRSAA:

- [§ 200.308 Revision of budget and program plans](#)
- [§ 200.313 Equipment](#)
- [§ 200.430 Compensation—personal services, paragraph \(h\)](#)
- [§ 200.431 Compensation—fringe benefits](#)
- [§ 200.456 Participant support costs \(defined at § 200.75\)](#)
- [§ 200.458 Pre-award costs](#)
- [§ 200.475 Travel costs](#)

All cost items charged under these categories must be documented and, as with all costs, must be reasonable and necessary for the performance of the grant per the Cost Principles of the Uniform Guidance, [2 CFR part 200 subpart E](#).

Please note that, per the Certification and Agreements and Supplemental Agreements for the HEERF program and under section 314(d)(3) of the CRRSAA, senior administrator and executive salaries, benefits, bonuses, contracts, and incentives; stock buybacks, shareholder dividends, capital distributions, and stock options; and any other cash or other benefit for a senior administrator or executive are not allowable costs under the HEERF program.

Other cost items listed in [2 CFR § 200.407](#) that require prior approval continue to require the institution to seek approval from the Department prior to charging those cost items to your HEERF grant. Please email of your assigned education program officer contact as indicated by Box 3 in your GAN with any questions.

**21. Question:** Where can I obtain more information about the HEERF program?

**Answer:** Institutions should regularly check our [HEERF II CRRSAA website](#) for the latest CRRSAA information and program guidance. For earlier CARES Act information and program guidance, please check our [HEERF CARES Act website](#) here.