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IDRA Analysis Shows Texas Public Schools Could Lose Additional \$38.7 Million to Private Schools Under New U.S. Department of Education Rule

"The Department's interpretation of the CARES Act is completely inconsistent with the letter and spirit of the law and harms students of color, students with disabilities, English learners, students from families with limited incomes and others who most need the funds."

- Morgan Craven, J.D.,

IDRA National Director of Policy, Advocacy and Community Engagement

(San Antonio * July 17, 2020) - **New analysis** by IDRA shows that 185 Texas public school districts may have to give up a total of over \$44.2 million of their federal CARES Act relief funds to private schools within their district boundaries under a new rule from the U.S. Department of Education. The rule increases the funding districts would usually reserve for private schools by more than \$38.7 million.

Federal law requires school districts to reserve federal funds for private schools for "equitable services," like tutoring and counseling programs, based on the population of private school students living within their districts who come from low-income families. The same

applies for CARES Act funds as long as districts only use those funds for their Title I schools.

But the Department's new rule stipulates that if a school district spends even one dollar of its CARES Act relief funds for a non-Title I school, it must give away a much higher amount to its nearby private schools. The amount must be calculated based on the total population of private school students in the district, regardless of family income.

This means that to have access to the full allotment of relief funds, schools cannot spend those COVID-19 relief funds on protective equipment, cleaning supplies, instructional materials, or any district-wide measures to benefit students in non-Title I schools, including students from families with limited incomes who do not attend Title I schools.

"The Trump Administration's decision to divert critical COVID-19 relief funds from public schools and the students they serve toward private schools is both tragic and unsurprising," said Morgan Craven, J.D., IDRA's National Director of Policy, Advocacy and Community Engagement. "The Department's interpretation of the CARES Act is completely inconsistent with the letter and spirit of the law and harms students of color, students with disabilities, English learners, students from families with limited incomes and others who most need the funds."

"The Department of Education's new rule is truly a double standard. It penalizes districts that spend relief funds to serve students in non-Title I schools by forcing them to give money to private schools serving students of all family incomes," she added.

Key findings of the analysis show the following:

- Under previous requirements, the Texas school districts studied would have to reserve less than 1% of CARES Act funds, or about \$5.4 million, for private schools in their districts.
- The Department of Education's new rule for CARES Act funds requires some public school districts to reserve critical public relief funds for private schools based on the total population of private school students, regardless of financial need. **Under this rule, the school districts studied would have to set aside more than a combined total of \$44.2 million for private schools in their districts.**
- For CARES Act relief funds, the difference between what the school districts would be required to give to private schools under the normal equitable services calculation and what they may be required to give with the Department of Education's new calculation is \$38.7 million.
- An additional **\$38.7 million could pay for 571 school counselors, 678 nurses, more than 51 million protective masks for students, or more than 167,000 Chromebooks.**



Cutting Public School Relief Funds to Subsidize Private Schools -

An Analysis of How the Department of Education's Equitable Services Rule Will Harm Texas Students and School Districts

By Morgan Craven, J.D.

This analysis uses data from 185 Texas school districts to determine the impact of a new rule from the U.S. Department of Education. The rule requires many public school districts across the country to spend more of their critical COVID-19 relief funds on "equitable services" for private schools, regardless of the financial need of the private school students.

The Department of Education's interpretation of the CARES Act will cost school districts in Texas more than \$38 million. This money could have been used to fund hundreds of counselors, social workers and nurses and to purchase equipment like computers, face masks or hand sanitizer. It could have been used to support remote learning needs and other critical services for students and teachers.

The rule will harm all students in public schools, particularly students of color, students from families with limited incomes, English learners, students with disabilities, and others who most need CARES Act funds. These students and their families have been denied access to excellent and equitable educational opportunities for generations. They have been impacted by discriminatory policies and practices that keep their schools underfunded, make them more likely to be pushed into the school-to-prison pipeline, and erect barriers to college. The Department of Education's rule funnels money away from the public schools that serve these students - even as they face additional challenges of educating and providing supports like meals and health services remotely - further entrenching the inequities exacerbated by the pandemic.

Based on its analysis, IDRA recommends the following:

- Families, students, educators and all other advocates who care about the needs of students in public schools should submit a comment to the Department of Education urging it to rescind the interim final rule that funnels more money away from public schools and toward private schools. Comments can be submitted online [here](https://www.doe.gov) and must be submitted by July 31, 2020.

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- Charter schools do not have to give away any of their CARES Act funding to private schools.

IDRA's issue brief, [Cutting Public School Relief Funds to Subsidize Private Schools](#), provides a list of the 185 districts and how much each will lose to private schools in its boundaries if the district has to reserve funds based on total private school population (see Appendix B). The districts at the top of the list are:







Houston ISD = \$8,609,051
 Dallas ISD = \$6,856,217
 Fort Worth ISD = \$2,336,431
 San Antonio ISD = \$1,951,001
 Austin ISD = \$1,913,480
 Spring Branch ISD = \$1,590,259
 El Paso ISD = \$1,463,783
 North East ISD = \$1,116,580
 Corpus Christi ISD = \$684,164
 Brownsville ISD = \$674,623
 Richardson ISD = \$578,250

Even though the new Department of Education rule claims to give school districts a choice for how to calculate reserved funds for private schools, it may be a false choice for many Texas school districts. For example, the Texas Education Agency announced that certain CARES Act funds allocated to school districts must be used to replace the average daily attendance (ADA) state funding that was not provided to districts during COVID-19 school closures. Under the Department of Education's new rule, if a school district uses CARES Act funds to replace lost state funding in any non-Title I schools they would be required to give more money for private schools in their district.

The Department of Education is accepting public comments on its rule, although the rule is currently in effect. [Comments can be submitted online](#) on or before July 31, 2020.

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What could school districts do with lost CARES Act dollars?

					
Hire	Hire	Hire	Hire	Purchase	Purchase
571	576	678	645	51,688,455	167,096
Counselors	LSSP/Psychologists	School Nurses	Social Workers	Protective Masks for Students	Google Chromebooks

See IDRA's new study! <https://idra.news/ESRuleIssueBrief>

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We are committed to the IDRA valuing philosophy, respecting the knowledge and skills of the individuals we work with and build on the strengths of the students and parents in their schools.