



## The Coronavirus Aid, Relief, and Economic Security (CARES) Act Updated April 5, 2020

### ***New Updates as of April 4, 2020***

*The U.S. Senate passed the CARES Act late Wednesday night, March 25, 2020 by a vote of 96-0; the House passed it by voice vote on Friday, March 27, 2020. The president signed it into law the same day. The federal government immediately began preparing regulations to implement the Act's provisions. Following are key provisions of the CARES Act that apply to Christian schools.*

**Elementary and Secondary Education:** \$13.5 billion in formula funding directly to states, to help schools respond to coronavirus and related school closures, meet the immediate needs of students and teachers, improve the use of education technology, and support distance education. The local education agency (LEA) “shall provide equitable services in the same manner as provided under section 1117 of the ESEA of 1965 to students and teachers in non-public schools, as determined in consultation with representatives of non-public schools.”

There are twelve uses for money provided under the fund, which include any activity under ESEA and IDEA, supplies to sanitize and clean facilities, planning for closures, purchasing educational technology, mental health support, and more.

**Governor's Emergency Education Relief Fund:** \$3 billion for governors to provide emergency support to schools most impacted by coronavirus. Sixty percent of the allocation is based on student population and forty percent of the allocation is based on section [1124\(c\)](#) of ESSA. Private schools are eligible under the language cited above.

The funds for both programs above are available through September 30, 2021.

### **Section-by-Section Provisions**

#### **1. Section 1102 – Paycheck Protection Program (SBA 7(a) loans)**

The CARES Act allows nonprofits (including religious nonprofits) to apply for Small Business Administration (SBA) loans (referred to as “7(a)” loans). The loans are 100% forgivable if used to keep workers on payroll during the “covered period” of Feb. 15 – June 30, 2020. The program is designed to incentivize employers, including religious nonprofits, to keep workers on payroll rather than laying off employees. Small businesses began applying for loans on Friday, April 3, 2020.

- These loans are limited to businesses with 500 employees or fewer.

- *ACSI has created guidance regarding the religious liberty and federal financial aid issues. See [Legal Legislative Coronavirus Resource Website](#).*
- For-profit early education programs, like all for-profits, can participate in the program. The program includes “sole proprietors, independent contractors, and eligible self-employed individuals”.
- The loans are available for payroll costs, healthcare, rent, utilities, and other debts incurred.
- According to [Fisher Phillips](#): *Notably, the definition of “payroll” costs excludes leave payments made pursuant to the new [Families First Coronavirus Response Act \(FFCRA\)](#). Reimbursement for those leave payments is made through the tax credit process enacted as part of that legislation. These “paycheck protection” loans are available for other payroll expenses and other costs.* Please ACSI’s separate information for more details on the requirements and tax credits under this earlier law.

## **2. Section 2102 – Pandemic Emergency Unemployment Compensation.**

Provides unemployment assistance to those who do not qualify for regular unemployment compensation under federal or state law. It is to be administered by states under agreements with the Secretary of Labor. Individuals may potentially apply directly to the Secretary in states that decline to participate. Regulations will be issued to clarify.

## **3. Section 2103. Emergency Unemployment Relief for Governmental Entities and Nonprofits.**

This provision reduces the amount by which nonprofits, Indian Tribes, and governmental entities are required to reimburse states for benefits paid to their workers who claim unemployment insurance by 50 percent through December 31, 2020. This provision would also allow the Secretary of Labor to issue guidance to states to provide flexibility for employers in making reimbursement payments.

- Appears to provide a flat amount of \$600 per week in addition to what an individual may qualify for under state unemployment systems. Details TBD
- Provides unemployment benefits to unemployed workers from churches, religious organizations, and small nonprofits where employment would not normally be covered under state unemployment law. Details TBD
- Provides federal funding to assist nonprofits that have elected the reimbursement method for participation in state unemployment coverage a. Details TBD

## **4. Section 2018ff – State “short time compensation programs” – in which employers reduce hours rather than layoff employees.**

Provides funding for states that that begin or continue “short-time” compensation, allowing individuals to get pro-rated unemployment compensation if their hours are cut back. Employers must continue to pay whatever health and retirement benefits they were paying even as employee hours are cut back. At least some current state short-time compensation programs require that employees must otherwise be eligible for unemployment compensation to enter a short-time compensation agreement, so entities that have opted out of unemployment insurance may not be eligible.

## **5. Section 2204 – partial above the line charitable deduction of \$300.**

Charitable gifts up to \$300 qualify for an “above the line” charitable deduction in 2020. Donors (to Christian schools and other charities) qualify for the deduction even if they do not itemize.

## **6. Section 2301 – Employee retention credit for employers subject to closure due to COVID-19**

A refundable payroll tax credit for 50% of wages paid by employers to employees when the workplace is fully or partially closed due to COVID-19 or gross receipts declined by more than 50% compared to same quarter as last year. For employers of over 100 employees, the credit can apply to employees who are not providing

services due to COVID-19; employers under 100 employees can apply it to all employees. The credit is capped at \$10,000 per employee; it applies to compensation and health benefits through the end of 2020.

**7. Section 2302 – defer payment of payroll taxes.**

This provision would allow employers to defer paying the employer portion of certain payroll taxes through the end of 2020, with all 2020 deferred amounts due in two equal installments, one at the end of 2021, the other at the end of 2022. Deferral is not provided to employers that avail themselves of SBA 7(a) loans designated for payroll.

**8. Sections 3601 and 3602 – Daily and Aggregate Caps on New Paid Sick and Paid FMLA Leave.**

Clarifies that daily and aggregate caps on paid sick leave and FMLA apply per employee.

**9. Section 3605 – Paid Leave for Rehired Employees.**

Allows an employee who was laid off by an employer March 1, 2020, or later to have access to paid family and medical leave in certain instances if rehired and worked at least 30 days prior to the layoff.

**10. Section 3606 – Advance Refunding of Credits.**

Allows employers to receive an advance refundable tax credit on paid leave provisions from Treasury instead of waiting to be reimbursed. Treasury shall implement through future regulation.

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