

Yesterday, ED released a new FAQ supplemental [guidance](#) document on HEERF funding and their [interim final rule](#) on CARES Act emergency grants.

Key changes to HEERF eligibility:

- Although the intent of the CARES Act is to make emergency financial aid grants immediately available to students, if funds remain after making these immediate disbursements, eligible students enrolled during subsequent terms may receive emergency financial aid grants even if they were not enrolled during the spring 2020 term.
- Using the institutional portion, colleges can create additional student emergency grants for Summer & future semesters. Students will need to be eligible to participate in Title IV program and grants must be paid directly to students as stated in Section 18004(a)(1) of the CARES Act.
- Minority Serving Institutions (MSI), Strengthening Institutions Program (SIP) and other funding options under Section 18004(a)(2) & Section 18004(a)(3) can be used towards pre-enrollment recruitment activities, award student scholarships and advertisement/marketing.

Interim Final Rule:

ED's interim final rule closely follows the previous guidance and defines "student" under the regulations as one who would be eligible for receiving Title IV federal student aid. However, it argues that students eligible for the Deferred Action for Childhood Arrivals (DACA) program would not be eligible for HEERF funds even absent the guidance because of an existing immigration law provision that prohibits undocumented immigrants from receiving federal assistance. The exclusion of HEERF also applies to international students, students with defaulted loans and students with minor drug convictions.

Notably, ED says it will not enforce "the Title IV eligibility interpretation announced in this rule against the distribution of HEERF funds that occurred prior to... publication." Essentially, since the guidance was non-binding, it will not be enforced. However, the regulations are binding as of the date of publication, as well as the immigration statute cited.

The regulation does not address the question of fully-online students and their eligibility among other areas still in question.

The regulation will take immediate effect when it is published in the federal register.