

**Recipient’s Funding Certification and Agreement  
for the Institutional Portion of the Higher Education Emergency Relief Fund  
Formula Grants Authorized by Section 18004(a)(1) of the Coronavirus Aid, Relief, and  
Economic Security (CARES) Act**

Sections 18004(a)(1) and 18004(c) of the CARES Act, Pub. L. No. 116-136 (March 27, 2020), authorizes the Secretary of Education (“Secretary”) to allocate a maximum institutional portion of the formula grant funds in the amount of \$ \_\_\_\_\_ (up to 50 percent of the amount authorized under Section 18004(a)(1) of the CARES Act) to \_\_\_\_\_ (“Recipient”).

Section 18004(c) of the CARES Act allows Recipient to use up to 50 percent of the funds received to cover any costs associated with significant changes to the delivery of instruction due to the coronavirus so long as such costs do not include payment to contractors for the provision of pre-enrollment recruitment activities, including marketing and advertising; endowments; or capital outlays associated with facilities related to athletics, sectarian instruction, or religious worship (collectively referred to as “Recipient’s Institutional Costs”). Section 18004(c) also requires Recipient to use no less than fifty percent of the funds received to provide emergency financial aid grants to students for expenses related to the disruption of campus operations due to the coronavirus (including eligible expenses under a student’s cost of attendance such as food, housing, course materials, technology, health care, and child care). This Certification and Agreement solely concerns Recipient’s Institutional Costs, as defined above.

To address Recipient’s Institutional Costs, and pursuant to the Secretary’s authority under the CARES Act and associated with the coronavirus emergency, as stated in Proclamation 9994 of March 13, 2020, “Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak,” *Federal Register* Vol. 85, No. 53 at 15337-38 (hereinafter “Proclamation of National Emergency”), the Secretary and Recipient agree as follows:

1. The Secretary will provide Recipient funds for Recipient’s Institutional Costs as authorized under Sections 18004(a)(1) and 18004(c) of the CARES Act.
2. As a condition for receiving funds for Recipient’s Institutional Costs, Recipient must have entered into the Funding Certification and Agreement for Emergency Financial Aid Grants to Students under the CARES Act. Recipient may, but is not required to, use funds designated for Recipient’s Institutional Costs to provide additional emergency financial aid grants to students for expenses related to the disruption of campus operations due to coronavirus. If Recipient chooses to use funds designated for Recipient’s Institutional Costs to provide such emergency financial aid grants to students, then the funds are subject to the requirements in the Funding Certification and Agreement for the Emergency Financial Aid Grants to Students under the CARES Act, entered into between Recipient and the Secretary.
3. The Secretary urges Recipient to devote the maximum amount of funds possible to emergency financial aid grants to students, including some or all of the funds earmarked for Recipient’s Institutional Costs, especially if Recipient has significant endowment or other resources

at its disposal. The Secretary urges Recipient to take strong measures to ensure that emergency financial aid grants to students are made to the maximum extent possible.

4. In consideration for the funds and as conditions for their receipt, Recipient warrants, acknowledges, and agrees that:

(a) The funds shall be used solely for the purposes authorized in Section 18004(c) of the CARES Act. In accordance with Section 18004(c) of the CARES Act, Recipient shall not use funds for payment to contractors for the provision of pre-enrollment recruitment activities, which include marketing and advertising; endowments; or capital outlays associated with facilities related to athletics, sectarian instruction, or religious worship.

(b) Recipient retains discretion in determining how to allocate and use the funds provided hereunder, provided that funds will be spent only on those costs for which Recipient has a reasoned basis for concluding such costs have a clear nexus to significant changes to the delivery of instruction due to the coronavirus. It is permissible for Recipient to use the funds for Recipient's Institutional Costs to reimburse itself for costs related to refunds made to students for housing, food, or other services that Recipient could no longer provide, or for hardware, software, or internet connectivity that Recipient may have purchased on behalf of students or provided to students.

(c) Consistent with Section 18006 of the CARES Act, Recipient agrees that to the greatest extent practicable, Recipient will pay all of its employees and contractors during the period of any disruptions or closures related to the coronavirus. The Department would not consider the following Recipient's Institutional Costs to be related to significant changes to the delivery of instruction due to the coronavirus, and therefore would not view them as allowable expenditures: senior administrator and/or executive salaries, benefits, bonuses, contracts, incentives; stock buybacks, shareholder dividends, capital distributions, and stock options; and any other cash or other benefit for a senior administrator or executive.

(d) Recipient's Institutional Costs must have been first incurred on or after March 13, 2020, the date of the Proclamation of National Emergency.

(e) Recipient will comply with all reporting requirements including those in Section 15011(b)(2) of Division B of the CARES Act and submit required quarterly reports to the Secretary, at such time and in such manner and containing such information as the Secretary may reasonably require (See also 2 CFR 200.327-200.329). The Secretary may require additional reporting in the future, including but not limited to reporting on the use of the funds for Recipient's Institutional Costs, demonstrating such use was in accordance with Section 18004(c), accounting for the amount of reimbursements to the Recipient for costs related to refunds made to students for housing, food, or other services that Recipient could no longer provide, and describing any internal controls Recipient has in place to ensure that funds were used for allowable purposes and in accordance with cash management principles.

(f) Recipient shall comply with all requirements in Attachment A to this Certification and Agreement.

(g) Recipient shall promptly and to the greatest extent practicable use the funds for Recipient’s Institutional Costs by one year from the date of this Certification and Agreement, and document its efforts to do so as part of the reports specified in subsection (e) above.

(h) Recipient shall cooperate with any examination of records with respect to the funds for Recipient’s Institutional Costs by making records and authorized individuals available when requested, whether by (i) the U.S. Department of Education and/or its Inspector General; or (ii) any other federal agency, commission, or department in the lawful exercise of its jurisdiction and authority.

(i) Recipient’s failure to comply with this Certification and Agreement, its terms and conditions, and/or all relevant provisions and requirements of the CARES Act or any other applicable law may result in Recipient’s liability under the False Claims Act, 31 U.S.C. § 3729, *et seq.*; OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485; 18 USC § 1001, as appropriate; and all of the laws and regulations referenced in Attachment A, which is incorporated by reference hereto.

RECIPIENT or Authorized Representative of Recipient \_\_\_\_\_

OPEID Number \_\_\_\_\_

DATE \_\_\_\_\_

## **Attachment A to Recipient's CARES Funding Certification and Agreement**

*Recipient assures and certifies the following:*

- Recipient will comply with all applicable assurances in OMB Standard Forms 424B and D (Assurances for Non-Construction and Construction Programs), including the assurances relating to the legal authority to apply for assistance; access to records; conflict of interest; nondiscrimination; Hatch Act provisions; labor standards; Single Audit Act; and the general agreement to comply with all applicable Federal laws, executive orders and regulations.
- With respect to the certification regarding lobbying in Department Form 80-0013, no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or renewal of Federal grants under this program; Recipient will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 C.F.R. Part 82, Appendix B); and Recipient will require the full certification, as set forth in 34 C.F.R. Part 82, Appendix A, in the award documents for all subawards at all tiers.
- Recipient will comply with the provisions of all applicable acts, regulations and assurances; the following provisions of Education Department General Administrative Regulations (EDGAR) 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99; the OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485; and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

### **Paperwork Burden Statement**

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1801-XXXX. The time required to complete this information collection is estimated to be XXXX total burden hours. If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: Hilary Malawer, 400 Maryland Avenue, SW. Washington, D.C. 20202.