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Institutional Portion of the Higher Education Emergency Relief Fund Now Available to Colleges and Universities

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Earlier today, U.S. Secretary of Education Betsy DeVos announced that the institutional portion of the Higher Education Emergency Relief Fund authorized by the Coronavirus Aid, Relief, and Economic Security ("CARES") Act is now available for colleges and universities. According to Secretary DeVos, the Department of Education will provide $6.2 billion to higher education institutions to ensure that learning continues. This funding is separate from the funding that was made available earlier this month for Emergency Financial Aid Grants to Students. According to the Department of Education, so far about 50% of eligible higher education institutions have applied to receive the Emergency Financial Aid Grants to Students, which is a condition for receiving the institutional portion.

Colleges and universities are required to use the institutional portion of the funding to cover any costs associated with significant changes to the delivery of instruction due to the coronavirus ("Recipient Institutional Costs"). Secretary DeVos stated that "the additional funds made available today can be used to expand remote learning programs, build IT capacity, and train faculty and staff to operate in a remote learning environment so that at any moment institutions can pivot quickly. I hope that institutions that already have robust remote learning capacity will consider using this funding to support additional emergency cash grants for students." The funding for Recipient Institutional Costs cannot be used to pay 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.

Importantly, Section 4(b) of the Recipient's Funding Certification and Agreement for the Institutional Portion of the Higher Education Emergency Relief Fund ("Funding Certification and Agreement") expressly states that "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."

To access the funding for the Recipient Institutional Costs, colleges and universities must submit the Funding Certification and Agreement signed by an authorized representative of the institution. The Department has already created a list of the total allocations to be awarded to each college and university determined using a

formula developed by the Department.

The Department also released two sets of FAQs providing updated guidance about both the Emergency Financial Aid Grants to Students as well as the institutional portion of the Higher Education Emergency Relief Fund. The guidance clarifies numerous questions raised by higher education stakeholders regarding the use of both funds.

If you have questions regarding any aspects of higher education law and any implications the CARES Act will have on your college or university, feel free to contact Kevin P. McDonough at (516) 357-3787 or via email at kmcdonough@cullenllp.com, James G. Ryan at (516) 357-3750 or via email at jryan@cullenllp.com, Dina L. Vespia at (516) 357-3726 or via email at dvespia@cullenllp.com, or Hayley B. Dryer at (516) 357-3745 or via email at hdryer@cullenllp.com.

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Practices

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