# Planning for Higher Education Emergency Relief Fund II (HEERF II)

By Junice Jones, Partner and Rachel McMichael, Partner

The second round of higher education funding provided by the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) is intended to provide continued financial relief from the strain COVID-19 has placed on institutions of higher education (IHE). CRRSAA is part of the Consolidated Appropriations Act of 2021, which was signed into law on December 27, 2020.

Similar to the first round of the Higher Education Emergency Relief Fund (HEERF I) provided under the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), CRRSAA HEERF II provides portions for student financial aid grants and institutional grants. However, there are key differences between the two rounds of funding.

### Student Funding

IHEs are still expected to prioritize students with exceptional need, whether or not the students are eligible for the Federal Pell Grant. Unlike the first round, funds from HEERF II can be used for students who are exclusively enrolled in distance education.

While the United States Education Department (ED) has not provided further guidance on identifying the neediest students outside of using Federal Pell Grant eligibility, as long as the IHE documents the rationale behind its decision-making process as well as the method used to identify students and disburse awards, it will likely be keeping in the spirit and intent of the student grant portion of HEERF II.

The amount of student grants IHEs must provide to students should at least equal what was contractually required under HEERF I, as stated in the frequently asked questions (FAQs) about HEERF II published by the ED on January 14, 2021. In FAQ 1, the ED noted that the CARES Act required 50% of an institution's HEERF I funding to be allocated to financial grants to students. The ED goes on to state that institutions receiving HEERF II funds under CRRSAA are required to provide the "same amount" to students as under the original CARES Act Student Aid Portion award. The ED explained that CRRSAA appropriates more funding in total and it anticipates that, on average, a larger share of the CRRSAA HEERF II allocations will be available for institutional support. Further clarification is provided in FAQ 7.

IHEs continue to be responsible for determining how the allocated funds will be granted to students, including the method of calculation and the development of delivery methods. The grants awarded to students may be applied to their institutional accounts only if the student gives the IHE explicit permission, either in writing or electronically, to do so. The IHE must also make students aware that application to their accounts is not required and that they can opt to receive the funds directly.

Because funds can be used for qualified tuition and related expenses (QTRE) as a result of the option to apply them directly to a student's account with express permission, there is a possibility that it will be required for

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these funds to be reported on the Form 1098-T for these particular students. Your institution should track these types of funds used for QTRE to ensure you can complete Form 1098-T reporting if it ends up being required.

**Institutional Funding**

One of the key changes in HEERF funding for institutional grants is that HEERF II includes funding for lost revenue. IHEs can also use the funds for expenses such as:

- Technology costs associated with a transition to distance education
- Faculty and staff training
- Payroll
- Purchases of personal protection equipment (PPE)
- Reimbursement for expenses the IHE has already incurred

The ED has also stated that while the institutional portion does not require IHEs to provide additional student financial aid grants, an IHE may use this portion to provide further student relief grants on top of the required student grant funds.

*Lost Revenue*

Now that the ED has released these guidelines, the biggest question, of course, is how an IHE calculates lost revenue. The ED has not yet issued specific guidance on this calculation or on what specific streams of lost revenue qualify under HEERF II.

However, we can make some assumptions about this calculation based on the types of revenue that qualified under HEERF I. For instance, lost tuition revenue will likely qualify under CRRSAA as an allowable cost. We can infer this from previous guidance for funding under section 18004(a)(3), which allows for lost revenue by comparing year-over-year revenue and describing how the shortfall in tuition is impacting the institution's budget (see FAQ 44 in the ED's Higher Education Emergency Relief Fund (HEERF) Frequently Asked Questions (FAQ) Rollup Document).

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While IHEs wait for clear guidance from the ED on this aspect of HEERF II, we recommend beginning the process by listing out all revenue streams for your institution. Consider asking departments if there were revenue-generating activities they couldn't hold because of COVID-19, such as sporting events, summer camps, theater performances, and intramurals.

Once you have a list of revenue streams with losses due to COVID-19, begin your analysis that will serve as support for your lost revenue claim. When analyzing, be sure to compare like reporting periods and provide the dollar impact and student/attendee impact where available. For instance, compare fall 2019 enrollment to fall 2020 enrollment both in the number of students for broad classes (e.g., undergrad, grad, non-traditional) and revenues for tuition and fees, room and board, etc. Compare the spring 2020 semester for the same revenue streams to spring 2021, and so on.

If you draw down these funds before the ED provides further HEERF II guidance, be mindful of the consistency of the methodology and ease of recalculating lost revenue, and document this thoroughly. The more aggressively an IHE claims lost revenue, the higher the likelihood of further ED scrutiny or return of funds. The more conservative an IHE is in its estimation of lost revenue, and the more straightforward the calculation and documentation are, the greater the chance the IHE will be safe.

*Other Expenses*

Many IHEs used the institutional portion of HEERF I to reimburse themselves for refunds they made to students for unused room and board for the spring 2020 semester. These refunds typically used most, if not all, of the institutional allocation and did not leave much to spend on other eligible expenses.

HEERF II funding allows IHEs to reimburse themselves for expenses previously incurred due to difficulties caused by the pandemic. Similar to the lost revenue component, the ED has not yet issued explicit guidance for expenses that qualify under this round of funding, but they are likely to be similar to the first round under HEERF I. The ED has also not provided guidance on how far back reimbursable expenses go and there has been some conflicting information on this particular use of the institutional portion. However, we recommend that you prepare a list of unreimbursed expenses prior to December 27, 2020 (when the CRRSAA was signed into law) in addition to expenses after that date and expected future cash outlay for qualified expenses. This will help you be prepared once the ED issues more direct guidance.

Like the funding under HEERF I, there are certain expenses for which the supplemental funding is prohibited. These expenses include:

- Payments for recruitment contractors
- Marketing, recruiting, and endowment expenses
- Capital outlays associated with athletics-related facilities
- Sectarian instruction or religious worship
- Senior administrator or executive salaries, benefits, bonuses, contracts, incentives, or any other cash or benefit for a senior administrator or executive

**Next Steps**

So what should your institution do while waiting for further ED guidance? Start by identifying:

1. A plan for how you will continue to classify the neediest students and distribute the student financial aid portion of the HEERF II funding. Be sure to include fully remote students, as they are now eligible for HEERF II.
2. Previously unreimbursed expenses related to the impact of COVID-19 on your campus, such as technology costs, PPE materials, and training on pandemic-related topics such as remote learning and social distancing.
3. Revenue streams impacted by COVID-19 and a methodology to quantify lost revenue across these streams.
4. Upcoming planned expenditures for investments in remote learning technology, staff and faculty training, purchases of PPE, and related expenses.

We will provide updates as more ED guidance becomes available. In the meantime, please contact us with questions about how this affects your institution.

## About the Authors

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