

# Where are the “Gotchas”? 10 HEERF Considerations to Be on the Lookout For

By Daniel M. Campbell, Partner

The three Higher Education Emergency Relief Funds, commonly referred to as HEERF I, II, and III, have provided necessary financial relief to higher education institutions struggling with the economic burden caused by the COVID-19 pandemic. However, each round of funding has brought new eligibility, disbursement, and reporting requirements. With these requirements constantly changing, where are the “gotchas”?

Here are 10 HEERF considerations to watch for.

## 1. There are differences between the three HEERF rounds and their funding.

It’s worth noting that HEERF I was put into place under the former presidential administration, while HEERF II was issued during a transitional administration and Congress and HEERF III was implemented under a new administration, Congress, and, most importantly, a newly appointed Secretary of Education, Miguel Cardona. Within a few days of his confirmation, the U.S. Education Department (ED) released significant new HEERF guidance.

Here’s a quick overview of each round of funding:

HEERF Round	Act Provided Under	Date	Amount of Funding
HEERF I	The Coronavirus Aid, Relief and Economic Security Act (CARES Act)	March 2020	\$14 billion
HEERF II	The Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA) – enacted as part of the Consolidated Appropriations Act of 2021	December 2020	\$22.7 billion
HEERF III	The American Rescue Plan Act of 2021 (ARP)	March 2021	Nearly \$40 billion

One key distinction between HEERF I and the other two rounds of funding is that HEERF I initially stated that to receive emergency grants, students must be eligible for Title IV aid and not enrolled exclusively in online courses prior to the pandemic. However, ED subsequently lifted these restrictions and made the funds available to students who were not Title IV-eligible, including online students.

While HEERF I focused on relief for students’ cost of attendance and eligible expenses, HEERF II and III broadened this definition to include **any component** of the student’s cost of attendance and emergency grants to cover costs that arose due to COVID-19. This includes tuition, food, housing, health care (both physical and mental health), and child care. HEERF II and III require institutions to prioritize distribution of these funds to students with the greatest need. While HEERF I encouraged this, it did not require it. See item 2 below for more on the prioritization requirement.

HEERF III added a component that requires institutions to use a portion of the funds to monitor and suppress COVID-19 in accordance with public health guidelines. It also requires institutions to conduct direct outreach to financial aid applicants about the opportunity for additional financial aid.

On the institutional side of the funding, HEERF I allowed institutions to defray expenses resulting from changes in teaching or remote learning due to COVID-19. HEERF II and III allowed for the reimbursement of lost revenue (i.e., reduced tuition, room and board, etc.) in addition to expenses already incurred, technology costs related to remote instruction, and additional payroll for employees hired because of changes required during the pandemic.

This is just a brief overview of components of the HEERF rounds. For more information, we recommend [this summary chart](#) from the National Association of Student Financial Aid Administrators (NASFAA). It has been updated to indicate recent changes in guidance in red.

## **2. Prioritizing students with exceptional need does not mean HEERF is only for students with exceptional need.**

As we noted earlier, HEERF I was initially limited to students who could receive Title IV aid. While HEERF II and III don't have this requirement, they do state that the institution must prioritize students with exceptional need. However, this doesn't mean that funds can only be awarded to those students.

It's important for your institution to have processes in place to document how you determine exceptional need. ED suggested starting with students who qualify for the Pell Grant. There may be other grants awarded that you can also use to identify students with exceptional need.

HEERF III also has specific criteria that can't be used to withhold awards, such as continued or future enrollment, releasing official transcripts, and specific academic performance. If these or other criteria are added that make the award conditional, it won't be allowed under HEERF III. The [HEERF III frequently asked questions](#) (FAQs) published by ED on May 24, 2021, cover this in more detail in FAQs 7 to 11 and FAQ 26.

Subsequent guidance issued by ED expanded student eligibility to any student enrolled as of March 13, 2020. This includes international students, refugees, asylum seekers, Deferred Action for Childhood Arrivals (DACA) recipients, and similar undocumented students. As a result, those students who were not awarded institutional aid under HEERF I now qualify for the grant.

## **3. Lost revenue is a reimbursable expense under the institutional portion of HEERF.**

As explained in the [Lost Revenue FAQ](#) published by ED on March 19, 2021, lost revenue is expected revenue that was reduced or eliminated as a result of the COVID-19 pandemic. Since it can only be estimated, calculating it can be challenging.

While your institution is not required to net expenses, you are allowed to do so when determining lost revenue. This means the calculation could be gross tuition times the number of students. Or it could be calculated as a baseline of year-over-year comparison to the prior year, which would be after institutional discounts or more of a net tuition calculation.

These are not the only permitted methods. Visit the [NACUBO HEERF Resource Center](#) for specific examples of this calculation.

**It's important for your institution to have processes in place to document how you determine exceptional need.**

#### **4. HEERF grant funds cannot be used for religious worship or instruction, including capital outlays associated with facilities related to sectarian instruction or religious worship.**

FAQ 22 specifies that HEERF grant funds cannot be used for “capital outlays associated with facilities related to athletics, sectarian instruction, or religious worship” or for “religious worship, instruction, or proselytization or equipment or supplies to be used for religious worship, instruction, or proselytization.”

What does this mean if your institution is a seminary and almost everything is related to religious instruction?

Let's use an example of a seminary that used HEERF grant funds to install equipment for streaming their chapel services. Since FAQ 22 specifically forbids a capital outlay related to sectarian instruction or purposes, it's important to determine how much the streaming equipment is used for religious versus non-religious purposes. Is the equipment only used for chapel services? If the seminary can prove multiple uses for the equipment beyond chapel services, the use of the HEERF grant funds would be allowable to the extent of non-religious use.

Keep in mind that the restriction is only on the institutional portion of the grant, not the student portion. A seminary could use the HEERF grant funds to pay down a student's account regardless of the type of education given, as that is a discharge of student debt.

#### **5. HEERF is not federal student financial aid, but it is subject to all the requirements of Uniform Guidance.**

While many decisions originate in the Education Department, they are awarded by the Financial Aid office. However, the Uniform Guidance cost principles and general compliance requirements apply.

The key point is to know what the Uniform Guidance requirements are, including cost, cash management, and procurement principles. All grantees must also comply with the requirements under [Uniform Guidance 2 CFR part 200](#).

#### **6. The rules and requirements continue to be in flux, as a lot of guidance has yet to be released.**

Consider the fact that the regulations and guidance are continuously changing as you work to determine how they will apply to your specific situation. Your institution might need to work with an accounting or tax professional to make sure you are applying the regulations and guidance properly to your specific facts and circumstances.

New clarifying information related to HEERF I, II, and III continues to be issued so it's important to keep up to date. ED has released several FAQs, which were rolled up into [one FAQ document](#). This new guidance is retroactive back to HEERF I.

We also recommend checking these ED resources frequently for the latest information and guidance:

- [CARES Act: Higher Education Emergency Relief Fund](#)
- [CRRSAA: Higher Education Emergency Relief Fund \(HEERF II\)](#)
- [ARP: American Rescue Plan \(HEERF III\)](#)

#### **7. HEERF grant funds cannot be used to reimburse expenses that may have previously been reimbursed by other federal grants.**

Beware of double-dipping! For example, payroll expenses submitted under the Paycheck Protection Program (PPP) or taken as a tax credit under the Employee Retention Credit (ERC) may not also be reimbursed under the HEERF grant. One example of an employee who may meet eligibility requirements under more than one grant would be a new professor hired to increase the number of sections of a class for social distancing reasons. If that professor was also part of pandemic-related initiatives to control the spread of COVID-19 under HEERF III, his or her salary may be

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reimbursable under multiple funding sources. However, your institution can only submit the payroll expense under one grant. Be very careful not to mix PPP, ERC, the three HEERF grants, and any other federal grants your institution might receive.

**8. It's important to keep clear, concise documentation supporting how each decision to spend HEERF grant funds was made.**

It is a best practice to document each aspect of your institution's decision-making process, including:

- Understanding of evidenced-based practices
- How the allowable use of the funds was decided
- Who participated in the discussion and decision
- The guidance available when the decision was made
- The reasons that support the decision

Read the ED FAQs before making any decisions. Also note that under [Uniform Guidance 2 CFR § 200.334, Retention requirements for records](#), institutions must continue to retain financial records, supporting documents, and all other institutional records pertinent to the administration of the HEERF grant programs, generally for a period of three years from the date of submission of the final expenditure report.

**9. There is a new [quarterly institutional reporting form](#) to report the use of these funds.**

It is effective the second quarter of 2021 and is due 10 days from the end of the quarter or July 10, 2021. Even if your institution doesn't spend any HEERF grant funds during the quarter, we recommended that you post the form on your institution's website with a statement that there was nothing to report. Otherwise, ED may think your institution skipped that quarter's report.

There is also a [quarterly student public reporting requirement](#), but no form is provided at this time, only a list of required content.

**10. HEERF grant funds are disaster relief funds and thus not taxable or reportable on Form 1098-T, *Tuition Statement*.**

See [FAQ 15](#) and [this March 30, 2021 bulletin from the IRS](#) for more information.

**Staying the Course**

The global pandemic has brought on sudden and turbulent changes. But like a ship carefully monitoring the guiding beacon of a lighthouse, your institution can successfully navigate the updates and changes surrounding HEERF grants by understanding the regulations and considerations.

Please do not hesitate to [contact us](#) with any questions about how these considerations may apply to your institution. We are here to help.

**Additional Resource:**

[Recorded Webcast: HEERF Update – Where are the “Gotchas”?](#)

## About the Author

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