# Superintendent’s Memo #266-20


**COMMONWEALTH of VIRGINIA
Department of Education**

DATE: October 9, 2020

TO: Division Superintendents

FROM: James F. Lane, Ed.D., Superintendent of Public Instruction

## SUBJECT: U.S. Department of Education Letter on Equitable Services under the CARES Act

On September 25, 2020, in a [letter to chief state school officers](https://blogs.edweek.org/edweek/campaign-k-12/Secretary%20DeVos%20Letter%20to%20Chief%20State%20School%20Officers%2009%2025%202020.pdf), the U.S. Department of Education (USED) announced that it will not appeal the recent U.S. District Court ruling that vacated the interim final rule (IFR) on equitable services provisions for eligible private schools under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The letter further stated that USED will not take any action against school divisions that followed the USED guidance and/or the IFR prior to the court’s September 4, 2020, ruling, and acknowledged that, going forward, school divisions should calculate the value of equitable services under the CARES Act in accordance with Title I, Part A, Section 1117 of the *Every Student Succeeds Act* (ESSA).

Based on this information, school divisions that followed the USED guidance and/or the IFR to calculate the value of equitable services prior to the court’s ruling do not need to revise CARES Act equitable services calculations or to reengage eligible private schools in meaningful consultation. School divisions that have not yet calculated the value of equitable services for eligible private schools under the CARES Act must use the methodology in Section 1117 of ESSA for this calculation and must engage in meaningful consultation with eligible private schools within the school division’s Title I school attendance zones.

It is recommended that school divisions consult with their local legal counsel if they wish to take additional action related to this matter. General questions about equitable services under the CARES Act may be directed to Equitable.Services@doe.virginia.gov.

JFL/ls