**CARES Act/ESSER Fund Equitable Services Update 9.28.2020**

On September 25, 2020, the U.S. Department of Education (ED) issued a letter to states providing an update on recent legal developments around ESSER Fund equitable services.  ED has decided that they will not appeal the decision(s).  Specifically regarding the Sept. 4 order vacating the interim final rule (IFR), ED states “the Department strongly, but respectfully, disagrees with the ruling. However, we respect the rule of law and will enforce the law as the courts have opined. The Department will not appeal these rulings.” Further, ED reassured states and local education agencies (LEAs) that they will not take any action against states or LEAs that followed the IFR prior to notice of the court’s decision.

Although this information is an acknowledgment that ED is not going to appeal the order related to the IFR being vacated, the Tennessee Department of Education (department) is aware that many LEAs have obligated funds and made non-public school purchases that may go above what is required under the Title I, Part A formula. Further guidance regarding these purchases will be shared as soon as it becomes available. At this time, LEAs should continue to provide equitable services to participating non-public schools utilizing the proportionate share calculated through the Title I, Part A formula only.

Several resources are available for LEAs as they engage participating non-public schools in the recalculation process. These resources include slides provided from the webinar held on Sept. 21 by Brustein and Manasevit, as well as the updated ESSER Funds Equitable Services Question & Answers document. All resources can be found in ePlan > TDOE Resources > CARES Act/ESSER Fund.

Please contact Danny Bounds at Danny.Bounds@tn.gov with questions.