

American Rescue Plan Act, 2021

American Rescue Plan Act, HEERF III

- HEERF funds are identified in Title II, Section 2003 “Higher Education Emergency Relief Funds”
- <https://www.congress.gov/bill/117th-congress/house-bill/1319/text>
- Section 2003 – Higher Education Emergency Relief Fund (HEERF)
 - Primarily references the CRRSAA but made a few changes
 - 91% (89% for CRRSAA) allocated to Institutions of Higher Education for a(1) portion (Institutional and Financial Aid)
 - Financial Aid must be at least 50%, calculated based on three factors: share of students with Pell not in distance education programs, share of students without Pell not in distance education programs, and share of students with Pell in distance education programs.
 - No changes made to the a.2 section: 7.5% for additional awards under HEA Title III parts A and B; Title V Parts A& B; and Title VII Part A Subpart 4, allocated on the basis of Pell recipients, students enrolled, and endowment size.
 - Minority Serving Institutions portion; no information on allocations yet but we believe they are coming
 - No changes to the a.4 section: 0.5% for HEA Title VII Part B (graduate programs) for institutions defined as having the greatest unmet needs
 - 1% (3% for CRRSAA) as defined in HEA 102(B) (proprietary IHE) distributed in the same manner as the 91%
- Department of Education is referring to these funds as HEERF III (Higher Education Emergency Relief Fund)

UH System Allocations

| Campus | OPEDID | Minimum for Student Aid CFDA 84.425E | Maximum for Institutional CFDA 84.425F | Total |
|--------|----------|---|---|-------------|
| UH | 00365200 | 54,713,989 | 54,236,321 | 108,950,310 |
| UHCL | 0117110 | 9,010,174 | 8,775,834 | 17,786,008 |
| UHD | 00361200 | 16,561,672 | 15,404,686 | 31,966,358 |
| UHV | 01323100 | 3,668,435 | 2,878,918 | 6,547,353 |

- MSI information is not published as of 5/28/21

Use of Funds/Allowable Costs (ARPA and Department of Education FAQ and Supplemental Agreements)

- Institutional allowed: defray expenses associated with coronavirus including:
 - lost revenue
 - Includes discharging student debt/unpaid balances
 - Classify as lost revenue and reimburse via HEERF grants

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- Could also do financial aid awards, but would be bound by the financial aid rules (i.e., the student must consent, and you can't make paying existing debt a condition of the award).
- Includes but is not limited to: tuition, fees, institutional charges (including unpaid AR), room, board, enrollment declines, supported research, summer terms, camps, canceled events, food service disruption, dorm services, child care services, use of facilities or venues for external events, bookstores, parking, leases, royalties, other operating revenues.
- Not allowed: fees or other revenues for capital athletic facility construction; real property, contributions/donations, marketing/recruitment, related to religions or sectarian instruction or worship, alcohol sales, investment income.
- Must be associated with COVID (ex: closed for remodeling is not COVID).
- Can estimate from 3/13/20 to end of grant period of performance.
- Charge at the end of the period using to estimate (term, quarter, year)
- Can use method necessary to calculate, such as year over year or semester over semester comparisons, multi year with averages for baseline, budgets and projections. Cannot count same revenue twice and must measure revenue consistently.
- Documentation must be adequate to support the estimate and include rationale, calculations, methodology, underlying data, and budgets/projections used.
- Once lost revenue is charged, there are no restrictions on the use of funds.
- 3 year retention period from submission of final expenditure report.
- reimbursement for expenses already incurred
- technology costs associated with a transition to distance education
 - Has expanded the distance education costs to include costs of student re-engagement if the student would be at risk of not completing their college degree as a result of COVID. Marketing and recruitment remain impermissible, so no marketing or direct funding of staff and contractor salaries where they are engaged with recruiting and marketing.
 - Reengagement includes supporting academic or mental health support systems to help students overcome additional barriers.
 - Discharging their debt (see "lost revenue").
- faculty and staff trainings
- payroll
 - Payroll costs must be newly associated with coronavirus and the costs incurred on or after March 13, 2020.
 - New payroll – new staff, repurposed staff, so long as staff work is associated with coronavirus (contract tracers, IT staff, medical personnel, teaching

assistants to offer smaller class sizes, staff unable to work during a period of full or partial campus closure).

- Overtime if associated with COVID.
- HEERF II only required benefits costs to be new; the HEERF III FAQ's have not been retroactively applied to HEERF II as of 5/28/21.
- Additional emergency financial aid grants to students
 - If use for aid to students, must use the student aid rules
- F&A Allowed on Institutional Portion. Must use on-campus rate specified in negotiated agreement.
- Institutional: New Required Uses
 - Will apply to any ARPA funds, including MSI if received
 - Amount to be spent is not defined – Congress did not set a threshold as needs and circumstances vary.
 - Must use the Cost Principles (200CFR Part 200 Subpart E)
 - DOE states that this requires that we spend a reasonable and necessary portion of HEERF grants in order to successfully implement these to activities. **Emailed DOR to see how that actually works b/c I can't see it.**
 - 200.400.b: responsible for administering the funds in a manner consistent with underlying agreements, program objectives
 - 200.403 Factors affecting allowability: costs must be reasonable and necessary for the performance of the award, conform to limitations or exclusions set forth in the principal or the award, be consistent, be adequately documented.
 - 200.404: a cost is reasonable if in its nature and amount, it does not exceed what would be incurred by a prudent person under the circumstances – is it ordinary and necessary for the operation, is it a sound business practice, is it arm's length, is it market price, did the individual act with prudence, did the non-Fed entity deviate significantly from its established practices and policies regarding the incurrence of cost.
 - 200.405 – costs are allocable to federal award if they are incurred specifically for the award, benefits the award and other work and can be distributed, is necessary in the overall operation.
 - Documentation of expenditures required
 - Consistent with 2 CFR 200.334, which is retention requirements.
 - Financial records, supporting documents, statistical records and other records must be retained for 3 years from final expenditure report
 - The only additional requirement that can be imposed are:

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- Retain longer for litigation, claims, and audits started before retention period ends
- If notified in writing to extend the retention period
- Real property and equipment purchases retained for 3 years after disposal
- If transfer records to the awarding agency
- Program income may require a longer period
- IDC cost rate proposals and cost allocation plans – if submitted for negotiation must retain for 3 years from the submission; if not submitted for negotiation must retain for 3 years from the FY covered by the plan/proposal.
- Emailed DOR – how do those regulations apply to their rule?
- Document 5 things:
 - Strategies used to monitor and suppress COVID
 - Evidence to support the strategies
 - How strategies were in accordance with public health guidance
 - Manner and extent of direct outreach to students
 - How the amount of the HEERF grant spent is reasonable and necessary given the needs and circumstances of the institution
 - Sent a request out to the NACUBO CFO Listserv to see if anyone had identified how they would document reasonable and necessary.
 - 10 – 15%, may have to use FEMA eligible funds.
- Will probably add this information into the annual report.
- Requirement 1: Implement evidence based practices to monitor and suppress coronavirus in accordance with public health guidelines, and help fight the spread and transmission on the campus.
 - Construction and acquisition of real property is prohibited
 - No capital projects including capital improvements and deferred maintenance
 - No permanent building construction
 - No structural alterations
 - No building maintenance or repairs
 - Minor alterations and remodeling is allowed
 - Minor
 - Must be on a previously completed building for purposes associated with COVID
 - Examples include:

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- Extensions of utility lines (*such as water or electricity) beyond the confines of the space being remodeled, but within the confines of the previously completed building
- Installation or renovation of an HVAC system to help with air filtration to help prevent the spread of COVID
- Purchase/lease of temporary trailer classrooms to increase social distancing
- Purchase of room dividers within a previously completed building to increase social distancing
- No specific practices defined, and no specific threshold of use.
- Suggested activities from DOE include:
 - Testing
 - Testing/Screening strategies: testing sites, purchasing tests, hiring people to administer the tests
 - Hiring contact tracing personnel
 - Prevention
 - Setting up vaccination sites on or off campus
 - Campaigns to build awareness of and confidence in the vaccine, mask campaigns
 - PPE for students, faculty, and staff (**Emailed TDEM – is FEMA going to refuse to pay for this and other HEERF III items?**)
 - Supporting clean and sanitary environments: sanitizer, handwashing stations, cleaning, disinfection
 - Enhanced ventilation in classrooms or common areas
 - Modify physical layout to increase social distancing
 - Redesign of food service facilities
 - Reducing barriers to vaccinations
 - Paid time off or sick leave to get vaccinated
 - Spreading awareness and building confidence in getting vaccinated
 - Setting up clinics
 - Supporting students
 - Space on and off campus to support costs of meeting basic needs of students in quarantine
 - Academic support services and mental health support services
- Requirement 2: Conduct direct outreach to financial aid applicants about the opportunity to receive a financial aid adjustment due to the recent unemployment of a family member or independent student or other circumstances, described in section 479A of the HEA.

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- Must provide notice to students that they might be able to get an aid adjustment
- Requires active engagement – not just publishing something on a website. Emails, mass mailings, phone/voice communications, webinar invitations, in person meetings or interviews (in person is not required)
- Marketing is impermissible
- Emergency financial aid grants to students
 - At least ½ of the allocation must be for emergency financial aid grants to students.
 - Changes in student rules from HEERF I and HEERF II:
 - Students no longer have to be eligible for Title IV Aid
 - Student is defined as “any individual who is or was enrolled at an eligible institution on or after the date that the national emergency for COVID19 was declared”
 - This allows undocumented and international students to receive awards
 - Retroactively applied to any remaining CARES/HEERF I and CRRSAA/HEERF II funds
 - Must prioritize students with exceptional need, such as those that receive Pell grants
 - Students do not have to receive Pell or be Pell eligible to have exceptional need
 - Other methods can also be used, such as UG with extraordinary circumstances or other methods such as loss of employment.
 - Encouraged to prioritize domestic students, which includes citizens, permanent residents, refugees, asylum seekers, DACA, other DREAMers, and similar undocumented
 - Funds cannot be distributed in a manner that discriminates against individuals on the basis of race, color, national origin, disability, or sex.
 - Cannot condition the receipt of the grant on continued and future enrollment
 - Students may consent (in writing or via system) to have grants applied directly to their accounts, but:
 - Student must be informed that they have the option for a direct disbursement
 - The institution may not require application against their account
 - Cannot require the student to consent to the application of their grant to their bill as a condition of receipt
 - Students can use their funds for any purpose that the student determines, the institution cannot direct or control their use of funds.
 - Grants are not included in calculating a student's Expected Family Contribution, are not included in the student's financial aid award package.
 - Grants are not taxable income
 - If students do not cash their checks, the institution should engage in reasonable attempts to contact the student but can void and redistribute the funds. However,

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institution cannot charge for stop-payment costs OR for administrative costs on the aid portion.

- Expenses, including Lost Revenues, can go back to March 13, 2020. Published in Federal Register for CRRSAA and CARES 3/22/21, but is also on the HEERF III page.

Prohibited uses of funds (ARPA, Department of Education FAQ)

- funding contractors for the provision of pre-enrollment recruitment activities
- marketing or recruitment
- endowments
- capital outlays associated with facilities related to Athletics
- religious worship, instruction, proselytization, or equipment/supplies to be used for same
- senior administrator or executive salaries, benefits, bonuses, contracts, incentives, stock buy backs, shareholder dividends, capital distributions, stock options or any other cash or benefit
- Construction
- Purchase of real property
- Items disallowed under Cost Principles that could apply to HEERF III (there are others)
 - 200.413.c – salaries of individuals normally treated as F&A costs
 - 200.421 – advertising and public relations generally unallowable unless specifically required by the Federal Award
 - 200.439 – capital expenditures for improvements to land, buildings, or equipment except with written prior approval (some specifically stated in DOE FAQs)
 - 200.450 – Lobbying (no costs for governmental relations, such as contracts for personnel to review available opportunities).
 - 200.467 – Marketing Costs
- IDC on student portion (possibly not on MSI, waiting for guidance)

Misc Requirements (ARPA Department of Education FAQ and Supplemental Agreements)

- must continue to pay employees and contractors to the greatest extent possible during the period of disruptions and closures related to coronavirus
- Prior FAQ apply
 - 3/19/21 Lost Revenue FAQ
 - 1/14/21 & 3/19/21 HEERF II a.1 FAQ
 - 10/14/20 & 1/28/21 HEERF CARES Act Rollup FAQ
- 1 year of performance from receipt of award notification
 - May have to request a NCE
- No application required, but the application will come with a Supplemental Agreement, and by drawing funds you agree to bind the institution for conditions stated

- **Must draw at least some portion of the funds within 90 days of receiving the notice of award** or that is considered non-acceptance of the award terms, conditions, and requirements and Secretary may reallocate funds. **Emailed OSFA to discuss concept.**
- Reporting requirements
 - Calendar quarter reporting is still required,
 - New form develop to combine HEERF I, II, and III for Inst/MSI and Financial Aid
 - Reports are separate for each quarter, not cumulative
 - If got HEERF II funds between January and March 30th, have to do two reports: HEERF I and HEERF II.
 - Have until June 30th to post retroactive reports if needed, because DOE did not provide affirmative response to the requirement.
 - Annual report will be required for HEERF III and any remaining HEERF I and II funds. Instructions will be distributed later. May separate the three.
- Federal cash draw rules apply (minimize the time between draw of funds and payment of obligations; over 15 days for student awards, 3 days for other obligations is the standard).
- Uniform guidance requirements for advance approval for cost items are provided in blanket: equipment, compensation, participant support costs, pre-award costs, and travel costs. Costs must still be reasonable, necessary, and documented.
- Indirect costs and direct administrative costs are eligible on Institutional portion only.

Remaining balances on HEERF I and HEERF II

- Financial Aid may be used under the terms and conditions of HEERF III.
- Don't see a similar change for Institutional but HEERF II previous guidance remains in effect.