



To: OU Advocacy Partner Schools and Synagogues
From: Nathan J. Diament, Executive Director
Date: December 21, 2020
Re: New Sources of Support in Year-End Covid Relief Package

Later today, Congress is expected to pass a \$900 billion legislative package providing a new round of federal relief measures in response to the Covid pandemic. There are many programs in this legislation that will benefit many segments of American society including our communities. Among those, we want to highlight for you two key elements of the package that can deliver much needed support to our community's schools and synagogues. OU Advocacy worked intensively with key bipartisan allies in Congress to secure these programs. (See our press release acknowledging those legislators on our website [LINK](#).) We are also very thankful to the many lay leaders, rabbis and school leaders who partnered with us in this effort.

A. \$2.75 Billion Set Aside for Relief to Jewish and other Non-public Schools

Today's legislation allocates a new \$4.05 billion to the Governors Emergency Education Relief fund that was created in the Spring by the CARES Act. But unlike the CARES Act, today's legislation explicitly sets aside \$2.75 billion for authorized uses and reimbursements to non-public schools. Those authorized uses of these funds include:

- purchasing supplies to sanitize and clean school facilities
- purchasing PPE
- improving ventilation, air purifying and HVAC systems
- purchasing physical barriers
- other materials and equipment to implement public health protocols and CDC guidelines
- expanding capacity for Covid testing and contact tracing
- educational technology and software
- redeveloping instructional plans and curricula
- maintaining remote learning
- reasonable transportation costs
- reimbursement for expenses for any of the authorized uses (except for redeveloping instructional plans and maintaining distance learning)

The Governors are urged to "prioritize" non-public schools that enroll low-income students and are most impacted by the emergency. GEER funds are not allowed to be used for tuition reductions or scholarships. Additionally, if a school received a PPP loan and used those funds for any of the expenses listed above, they cannot now apply to have those expenses reimbursed from these new funds.

Important caveat: as will be described below, today's legislation also creates a new, second round of PPP loans. A school may not receive a 2d round PPP loan and also receive services or reimbursements from these GEER funds.

Governors are required to apply for these funds within approximately 45 days and, upon receiving the funds, spend the funds within 6 months.

The funds or in-kind services are to be provided by each state's Department of Education or by contract with a third party provider.

Once Congress passes this legislation later today (or tomorrow), OU Advocacy will be fully engaged with senior leaders at the U.S. Department of Education to expedite their issuing the RFPs to Governors. Our OU Teach Coalition partners will be fully engaged with Governors offices to expedite their participation in this historic relief program.

B. SECOND ROUND OF PPP FORGIVABLE LOANS

Many of our community's schools and shuls successfully applied for and received forgivable loans under the CARES Act's Paycheck Protection Program (PPP). Today's legislation provides funds for a second round of PPP loans – and they are available to non-profit employers – but in a more need-targeted manner.

PPP2 loans will be available to employers of fewer than 300 employees and the employer must demonstrate a 25% reduction in gross receipts when comparing a fiscal quarter of 2020 to that same quarter in 2019. The maximum possible amount for a PPP2 loan is \$2 million.

As noted above, a school cannot apply for a second PPP loan and also receive services or funds under GEER.

C. EXPANSION OF THE EMPLOYEE RETENTION TAX CREDIT

Today's legislation also expands the Employee Retention Tax Credit (ERTC) that was created by the CARES Act and was a valuable alternative to the PPP loans if an employer did not qualify for the PPP.

The ERTC allows a nonprofit employer to claim refundable credit of up to \$7,000 per employee per quarter (for up to 3 quarters) against the employer's share of social security taxes. There is no restriction on claiming the ERTC and taking GEER funds; there is a possible reduction if an employer also takes a PPP (as described below).

Today's legislation:

- Increases the credit rate from 50 percent to 70 percent of qualified wages;
- Expands eligibility for the credit by reducing the required year-over-year gross receipts decline from 50 percent to 20 percent and provides a safe harbor allowing employers to use prior quarter gross receipts to determine eligibility;
- Increases the limit on per-employee creditable wages from \$10,000 for the year to \$10,000 for each quarter;
- Increases the 100-employee delineation for determining the relevant qualified wage base to employers with 500 or fewer employees;
- Removes the 30-day wage limitation, allowing employers to, for example, claim the credit for bonus pay to essential workers;

- Allows businesses with 500 or fewer employees to advance the credit at any point during the quarter based on wages paid in the same quarter in a previous year;

- Retroactive to the effective date included in section 2301 of the CARES Act, the proposal:
 - Clarifies the determination of gross receipts for certain tax exempt organizations;
 - Clarifies that group health plan expenses can be considered qualified wages even when no other wages are paid to the employee, consistent with IRS guidance;
 - Provides that employers who receive Paycheck Protection Program (PPP) loans may still qualify for the ERTC with respect to wages that are not paid for with forgiven PPP proceeds.