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COVID-19 AND FEMA RELIEF FOR EDUCATIONAL INSTITUTIONS

On March 13, 2020, President Donald J. Trump issued an Emergency Declaration for COVID-19, declaring a nationwide emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) and directed the Federal Emergency Management Agency (FEMA) to assist state and local governments, and private non-profit organizations (PNPs) such as private elementary and secondary schools, with health and safety actions taken on behalf of the American public. As local governmental entities and PNPs, school districts and elementary and secondary private schools may be eligible for federal emergency relief under the Stafford Act and the COVID-19 Emergency Declaration.

Applying for Federal Funds

While a school district, private school, or PNP can be an Applicant for purposes of obtaining federal emergency funding, the State is the Recipient, or grant administrator, for all funds provided under a Public Assistance grant. As the Recipient, the State must conduct an Applicant briefing as soon as possible following the President's Emergency Declaration, and provide information regarding Public Assistance grant application procedures and provisions. The [Texas Department of Emergency Management](#) (TDEM) administers federal disaster relief. TDEM will begin virtual applicant briefings on Wednesday, March 25, 2020. Briefings will occur daily from 1:00 p.m. to 2:00 p.m. until further notice. Be on the lookout for meeting invitations sent out by TDEM staff in your area.

Applicants should have key stakeholder officials involved in the Applicant briefing process, including representatives from management, emergency response, accounting, finance, and procurement operations, and in the case of schools engaging in delivering remote instruction, representatives from school leadership, campus leadership, and instructional leadership should also participate. Applicants seeking Public Assistance funding must submit a [Request for Public Assistance](#) to FEMA, though the State, within 30 days of the Emergency Declaration.

FEMA Funding for Costs and Work Related to the Emergency Declaration

FEMA's [Public Assistance Program and Policy Guide](#) provides thorough explanations of the type of costs and work related to the disaster for which an Applicant may



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receive funding. Eligible emergency protective services taken under Category B will be reimbursed.

Emergency Protective Services. Under the FEMA PA Guide, Emergency Work (Category B) covers emergency protective services—work conducted before, during, and after an incident to save lives and protect public health and safety. The deadline to complete Emergency Work is six months from the declaration date unless the Recipient or FEMA authorize an extension. Emergency Work includes, but is not limited to, costs associated with emergency access, supplies and commodities, childcare, safety inspections, and dissemination of information to the public to provide warnings and guidance about health and safety hazards using various strategies.

Labor Costs. Local governments and school districts may be able to recover labor costs for employees required to perform COVID-19-related emergency work. FEMA determines the eligibility of overtime, premium pay, and compensatory time costs based on the Applicant's pre-disaster labor policy for payment for those labor costs, provided the policy does not include a contingency clause, is applied uniformly regardless of a Presidential declaration, and has set non-discretionary criteria.

If your educational institution has questions about emergency relief or FEMA funding, Thompson & Horton is here to assist you navigate this process.

For further information or should you have questions, contact your [Thompson & Horton](#) attorney. If you do not have a Thompson & Horton attorney with whom you currently work, please contact [Chris Gilbert](#) in Houston, [Holly McIntush](#) in Austin, or [Dianna Bowen](#) in Dallas/Fort Worth and they will put you in contact with the most appropriate T&H team member to assist you.

SOURCES

Public Assistance Program and Policy Guide, U.S. Department of Homeland Security (Apr. 2018), https://www.fema.gov/media-library-data/1525468328389-4a038bbef9081cd7dfe7538e7751aa9c/PAPPG_3.1_508_FINAL_5-4-2018.pdf.

President Donald J. Trump Directs FEMA Support Under Emergency Declaration for COVID-19, Release No. HQ-20-018, <https://www.fema.gov/news-release/2020/03/13/president-donald-j-trump-directs-fema-support-under-emergency-declaration>.

COVID-19 Emergency Declaration, Release No. HQ-20-017-FactSheet, <https://www.fema.gov/news-release/2020/03/13/covid-19-emergency-declaration>.

Force Account Labor, FEMA-4286 (Jul. 18, 2019), https://www.fema.gov/appeal/353436?appeal_page=analysis.

44 C.F.R. § 206.201(b)

44 CFR § 206.202(b), (c)

44 C.F.R. § 206.204(c), (d)