



# IMMEDIATE AID TO RESTART SCHOOL OPERATIONS (RESTART) PROGRAM FAQ FOR PNPs: ALLOWABLE USES OF FUNDS

This FAQ is excerpted from guidance the US Department of Education (USDE) prepared for the Restart program. This guidance includes the questions and responses applicable to Texas private nonprofit schools.

Restart guidance for Texas LEAs is provided separately. For full Restart guidance, see the [Restart page of the USDE website](#).

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## Introduction

This guidance was originally published by the US Department of Education (USDE) in April 2006. It supersedes USDE's March 16, 2006, guidance on Allowable Uses of Funds for Private Schools.

This Restart FAQ for PNPs: Allowable Uses of Funds can be found on the [TEA Grant Opportunities](#) website under the *2018-2020 Immediate Aid to Restart School Operations (Restart)* grant page or on TEA's Department of Contracts, Grants and Financial Administration [Hurricane Harvey](#) webpage.

After careful reconsideration of the statutory provisions governing Immediate Aid to Restart School Operations (Restart) services and assistance to private schools, and the review of additional information, USDE has determined that, under the limited circumstances described below, states may use Restart funds not only to support prospective services or assistance to private schools, but also to reimburse private schools for certain secular expenses that they previously incurred in order to reopen. (See Question 9.)

## Questions

### **1. Are states required to reserve a portion of their Restart allocations to provide services or assistance to private schools?**

Yes. Consistent with section 102(h)(1) of the Hurricane Education Recovery Act (HERA), USDE has informed Texas that the state must initially reserve at least **\$10,980,480** of Restart funds to provide services or assistance to private schools.

The legislation requires that the services or assistance for private school students be provided in a timely manner. States must work closely and promptly with representatives of private nonprofit schools to ensure that this occurs.

Under section 102(h)(2) of the HERA, if all of the funds reserved for private schools are not obligated, a state may use the unobligated portion of the reservation to provide services or assistance to local educational agencies (LEAs) or to private schools. Regardless of whether a state fully obligates the private school reservation by this date, however, it must still comply with the requirement to provide equitable services to eligible private school students. Thus, a state must continue to reserve sufficient funds to meet the equitable services requirement.

### **2. Are private schools that receive services or assistance under the Restart program considered "recipients of federal financial assistance"?**

No. Under the Restart program, control of funds must be maintained by a public agency and funds generally may not be awarded to private schools. Thus, private schools are not considered recipients of federal financial assistance by virtue of receiving services or assistance under the Restart program.

As a result, certain federal requirements that apply to recipients of federal financial assistance are not applicable to private schools receiving services or assistance under the Restart program, unless the school otherwise receives federal financial assistance for other purposes. (Under the limited circumstances in which Restart funds may be used to reimburse a private school for certain previously incurred expenses, the private school is not considered to be a recipient of federal financial assistance.)

### **3. How does TEA determine whether the services and assistance provided to eligible private school students with Restart funds are equitable in comparison to the services and assistance provided to eligible public school students?**

In determining the appropriate level of services and assistance to be provided to eligible private school students, TEA considers the numbers and needs of private school students to be served in comparison to the numbers and needs of the eligible public school students to be served. This comparison should include an assessment of the severity of the impact of Hurricane Harvey on the LEAs and private schools seeking services and assistance.

**4. What entity maintains control over Restart funds that are used to provide services and assistance to eligible private schools?**

TEA will issue grants to the regional education service centers (ESCs) to provide equitable services under Restart. The ESC must maintain control over the Restart funds that are used to provide services and assistance to private schools. (See HERA Section 102(h)(3).)

TEA may not provide Restart funds to a private school. However, under the limited circumstances detailed in this guidance, Restart funds may be used to reimburse a private school for certain previously incurred secular expenses. (See Question 9.)

**5. For what purposes may TEA use Restart funds reserved for private schools?**

In general, TEA may use the funds reserved for private schools to support the following equitable services activities listed in section 102(e)(1) of the HERA:

- (a) Recovery of student and personnel data, and other electronic information;
- (b) Replacement of school district information systems, including hardware and software;
- (c) Financial operations;
- (d) Reasonable transportation costs;
- (e) Rental of mobile educational units and leasing of neutral sites or spaces;
- (f) Initial replacement of instructional materials and equipment, including textbooks;
- (g) Redeveloping instructional plans, including curriculum development;
- (h) Initiating and maintaining education and support services; and
- (i) Other activities related to the purpose of the Restart program that are approved by the U.S. Department of Education.

USDE's February 1, 2006, guidance on "Uses of Funds Under the Restart Program" provides specific examples of types of activities that fall under these categories. For any of these costs to be allowable, they must comply with EDGAR (e.g., the costs must be "necessary and reasonable" for proper and efficient administration of the Restart program) and support the restart of operations in, the reopening of, and the re-enrollment of students in elementary and secondary schools that serve an area in which the federal government declared a major disaster related to Hurricane Harvey.

As a general rule, under this program, services or assistance that are authorized for public schools may also be provided to private schools. As detailed in this guidance, under limited circumstances, Restart funds may be used to reimburse a private school for certain previously incurred expenses. In all cases, the services or assistance, including equipment and materials, must be secular, neutral, and non-ideological.

**6. How does an ESC provide services or assistance to private schools?**

An ESC provides services or assistance to private schools directly as a third party.

The private school itself may not be a party to a contract for Restart services except as detailed in this guidance, under limited circumstances, when Restart funds may be used to reimburse a private school for certain previously incurred secular expenses.

**7. Who has title to and control over materials, equipment, or property purchased with Restart funds?**

An ESC must maintain title to and control over any materials, equipment, or property purchased with Restart funds. A private school may not own any materials, equipment, or property purchased with Restart funds. (See Question 14 regarding transferring title of materials, equipment, or property that a private school previously purchased with other funds.)

**8. How does an ESC maintain title to and control over materials, equipment, or property purchased with Restart funds?**

An ESC must purchase and own the materials, equipment, or property that is used in private schools, or lease the materials, equipment, or property on behalf of the private schools.

The ESC must maintain an inventory of such materials, equipment, or property made available to private schools, and periodically update that inventory. The ESC is responsible for maintaining this inventory and may use Restart funds to defray the costs associated with such responsibility.

**9. May an ESC use Restart funds to reimburse a private school for costs previously incurred in contracting for or providing services that were needed to restart school operations?**

Under the limited emergency circumstances related to the Hurricane Harvey, an ESC may use Restart funds to reimburse a private school for the costs of such services, provided the services are secular, neutral, and non-ideological. For example, Restart funds may be used to reimburse a private school for the costs associated with the cleanup and minor repairs of buildings, or parts of buildings, that are not used primarily for inherently religious purposes. However, the funds may not be used to reimburse a school for costs incurred in cleaning up or repairing a building, or parts of a building, used primarily for inherently religious purposes (e.g., the school's chapel).

The ESC is considered to have maintained sufficient control over the Restart funds if it determines that the private school's expenditures represent allowable Restart expenses, that the private school has sufficient documentation supporting such expenditures, and that the school actually received the services or assistance related to those expenditures.

There are special rules that apply with respect to materials or equipment that a private school may have previously purchased. (See Question 14.)

**10. May Restart funds support clean-up activities (e.g., debris removal, mold treatment, air quality testing) in a private school?**

Yes. Restart funds may support clean-up activities that are provided either directly by a public agency or under the terms of a contract between an ESC and a third party. In addition, Restart funds may be used to reimburse a private school for clean-up expenses that the school previously incurred.

To be allowable, the clean-up activities must be limited to buildings, or parts of buildings, that are not used primarily for inherently religious purposes.

**11. May an ESC reimburse a private school for costs incurred as their teachers or other personnel performed clean-up activities that were not part of their contractual arrangement with the private school?**

An ESC may use Restart funds to pay for such reimbursements if the clean-up activities were for buildings, or parts of buildings, that are not used primarily for inherently religious purposes.

However, Restart funds may not be used to reimburse a private school for costs related to the instructional and other activities that private school teachers and other personnel

performed as part of their day-to-day responsibilities under their contracts with the private school.

**12. May Restart funds be used to support future and past repairs to private school property damaged by the hurricanes, such as replacement of damaged ceilings, light fixtures, and vinyl flooring, and painting of classroom walls?**

Yes. Restart assistance may support future expenses of this type if this assistance is provided directly by an ESC or through a contract between the ESC and a third party and is not used for inherently religious purposes (such as the repair of a chapel or religious icons).

In addition, Restart funds may be used to reimburse a private school for repair expenses that the school previously incurred if the expenses directly relate to services that are secular, neutral, and non-ideological, and are consistent with the other relevant provisions of this guidance.

**13. May Restart funds be used to replace classroom furniture in a private school?**

Yes. Restart funds may be used to replace classroom furniture in a private school if the ESC maintains title to and control over any furniture purchased. (See Question 14 for discussion regarding materials or equipment, including furniture, previously purchased by a private school.)

**14. If a private school previously incurred expenses in purchasing materials or equipment that would otherwise be allowable under the Restart program, may an ESC use Restart funds to reimburse the private school for those expenditures or to purchase from a private school materials or equipment that the school previously acquired following the hurricanes?**

An ESC may not reimburse a private school for materials or equipment that the school previously purchased. The reason for this is that the private school would have held title to such materials or equipment and they would not been under the control of a public agency.

However, if the private school and the ESC both agree, the ESC may use Restart funds to purchase from the private school materials or equipment that the private school had previously acquired. The materials or equipment must be allowable Restart expenses and be secular, neutral, and non-ideological. The ESC may continue to allow the equipment and materials to be used in the private school. This use of Restart funds is allowable only if the private school transfers the title for the materials and equipment to the ESC and the ESC becomes responsible for controlling the materials and equipment.

**15. If a private school previously incurred otherwise allowable Restart expenses in leasing classroom trailers or equipment, may an ESC use Restart funds to reimburse the private school for those expenditures?**

Yes. An ESC may reimburse a private school for expenses that the school previously incurred in leasing classroom trailers or equipment to the extent that the activities are secular, neutral, and non-ideological.

**16. May an ESC use Restart funds to pay the salaries of teachers and staff who work at a private school?**

If the teachers or staff are employed by an ESC (or hired by a third-party contractor under the control of the ESC) and provide secular, neutral, and non-ideological services to students in a private school, Restart funds may be used to support their salaries. Such salaries may be supported with Restart funds from the date the services are provided through the school year in which the private school reopens. (For guidance on reimbursements for previously incurred salary costs, see Question 11.)

These teachers or staff may be former private school employees, or part-time private school employees, so long as they are under public control and not under the control of the private school during the time they are paid with Restart funds. For example, Restart funds may be used to support the salary of a mathematics teacher employed by an ESC who is providing services in a private high school.

Restart funds may not be used to pay the salaries of teachers or staff who are employed by and under the control of the private school. They may be used only to support teachers or staff employed by an ESC, or hired by a third-party contractor under the control of the ESC.

**17. How may an ESC use Restart funds to provide technology services to a private school?**

An ESC could use Restart funds to support the installation of a new data management system or the purchase of office computers in a private school (including a religiously affiliated private school) if such equipment was destroyed or severely damaged by the hurricanes because these services by their nature are generally secular, neutral, and non-ideological. In addition, Restart funds could pay for classroom computers, copiers, printers, and other equipment used in a private school for secular, neutral, and non-ideological purposes.

Further, if an ESC uses Restart funds to replace damaged technology in a private school, the funds may support updated versions of that technology. In all instances, the ESC must maintain title to and control over the equipment.

An ESC may also use Restart funds to hire or contract for the personnel needed to install the computer software, hardware, or other equipment that it purchases for use in the private school.

Restart funds should not be used to support the wiring of religiously affiliated private schools or to support Internet connectivity in these schools because wiring and Internet connectivity in a religious school normally are used to support religious as well as other activities. It would be very difficult for a public agency to monitor adequately whether this technology is being used solely for secular, neutral, and non-ideological purposes.

**18. May Restart funds be used to supply equipment that a private school did not have before the hurricanes?**

An ESC generally may use Restart funds to replace equipment that was destroyed by the hurricanes, but not to provide new forms of equipment that the private school lacked or supply additional equipment above and beyond what the school had prior to the hurricanes. (And as noted earlier, a public agency must have title to any equipment purchased for a private school and the private school may use the equipment only for secular, neutral, and non-ideological purposes.)

For example, if a private school did not have a photography lab before the hurricane, Restart funds could not be used to support a new photography lab. (This restriction regarding the replacement of equipment losses applies to Restart assistance for public schools as well.)

In some instances, it may be appropriate for an ESC to use Restart funds to support new activities to guard against future losses. For example, Restart funds could be used to support off-site electronic data storage of financial data, even if the school did not previously use such protections.

**19. May Restart funds be used to pay the costs of utilities for a private school?**

Restart funds may be used to pay utility bills for a private school through the end of the school year in which the private school reopens. Restart funds may also be used to reimburse a private school for utility bills previously paid.

**20. Who is responsible for exercising oversight regarding the validity of the data that are submitted by private schools that seek Restart services or assistance?**

The ESC that provides services or assistance to private schools is responsible for verifying the validity of the data submitted by those schools. The ESC may request from a private school the documentation necessary to verify data on the numbers of affected students or the severity of damage. The private school should cooperate with such requests in order that the ESC can determine the appropriate level of services or assistance.

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