

**CLARIFYING INFORMATION FROM WASHINGTON OFFICE OF THE ATTORNEY GENERAL:  
COURT ORDER ON MOTION FOR PRELIMINARY INJUNCTION**

**From:** Stolier, David A (ATG)

**Sent:** Monday, June 15, 2020 5:27 PM

**To:** 'Joe Holliday' <[jholliday@sbctc.edu](mailto:jholliday@sbctc.edu)>

**Subject:** RE: Case 2:20-cv-00182-TOR State of Washington v. DeVos et al Order on Motion for Preliminary Injunction

Hi, Joe. In answer to your 3 questions.

- 1. What is the timeline and next steps now that a temporary injunction has been issued? *A preliminary injunction order has been issued. Washington colleges are entitled to rely on it as the state of the law at this point.* There are a couple directions the case could go in from here. If the feds want to appeal the preliminary injunction order, they could seek an order to stay the effect of the preliminary injunction order pending appeal to the Ninth Circuit Court of Appeals. We have not seen any such request for a stay, so the Order remains in effect. If they do not seek appeal, the case proceeds on its merits to a permanent injunction hearing. Again, without a stay in effect, the Preliminary Injunction Order remains the law.**
- 2. Can we now distribute CARES Act student funds to U.S. citizens regardless of whether they are Title IV aid eligible (for example, basic skills students)? YES**
- 3. If we distribute the funds (above), would we be required to pay them back if the interim final rules are upheld at some point? *We do not believe that there would be a good argument for the feds to be able to claw money back that had already been distributed consistent with the Preliminary Injunction Order. If, at some point a stay of the Order is filed and granted, we would advise to stop distributing at that point. If the USDOE does not appeal and there is no stay, but at the end of the day, the Court declines to issue a permanent injunction (which we think is unlikely), we believe we could nonetheless defend the distribution of funds that had been made in reliance on the Preliminary Injunction.***

*Another possibility is that the rules/guidance are challenged in another state (for instance, there is a case in California on behalf of their community colleges) and that case goes up to the Ninth Circuit Court of Appeals and we end up with an adverse ruling for the Circuit, which includes both CA and WA. This would take some time and we still believe that distributions made under the auspices of the current Preliminary Injunction would be defensible.*