



ESSER Hot Topics

Updates and Allowability
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Agenda

- ESSER Background and Basics
- Allocation and spending timeline
- Allowability
- Time for questions



ESSER Background and Basics



Stimulus Funding – Round One

- March 2020: **Coronavirus Aid, Relief, and Economic Security (CARES) Act**
 - \$30.9 billion in education funding
 - Creates an Education Stabilization Fund including:
 - **Governor's Emergency Education Relief Fund (GEER)**
 - **Elementary and Secondary School Emergency Relief Fund (ESSER)**
 - Higher Education Emergency Relief Fund (HEERF)

CARES Act – Governor's Emergency Education Relief Fund

- “GEER”
- \$3 billion
- Allocated to States by:
 - Population ages 5-24 (60%)
 - Children in poverty as defined by ESEA (40%)
- To LEAs/IHEs most significantly impacted by COVID-19 and/or those deemed essential to provide educational services and childcare
- Funds to LEAs subject to equitable services

CARES Act – Elementary and Secondary School Emergency Relief Fund

- “ESSER”
- \$13.5 billion
- Allocated to States by proportion to Title I
 - 10% State level reservation (inclusive of 0.5% for administrative costs)
 - 90% allocated to LEAs by share of Title I
 - subject to equitable services

Stimulus Funding – Round Two

- December 2020: **Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA)**
 - \$81.9 billion
 - Mostly allocated through CARES-established programs
 - **GEER II (\$40.5 billion)**
 - **ESSER II (\$54.3 billion)**
 - HEERF II
 - Adds some new allowable uses of funds
 - For all programs, no new application needed if already had approved CARES application

GEER II ... to Private Schools

- No equitable services as under GEER I
- ED must reserve \$2.75 billion for Emergency Assistance to Non-Public Schools (EANS)
 - Allocated to States based on their share of low-income children enrolled in non-public schools
 - As determined by ED based on “best available data”
 - States designated to administer
 - State may reserve \$200,000, or 0.5% of its grant, whichever is greater, for administration
 - Funds must remain under public control

Stimulus Funding – Round Three

- March 2021: **American Rescue Plan Act (ARP)**
- Introduced in the House, passed House on 2/27, amended and passed in Senate on 3/6
- Special legislative process: reconciliation
- \$180 billion total for education
 - \$126 billion for ARP-ESSER (ESSER III)
 - \$2.75 billion for ARP-EANS (EANS II)
 - No new standalone GEER money
 - Some new conditions and requirements!
- New: ED requiring formal State plan process

New! State-level set-asides

- At least 90% as subgrants to LEAs (including charter schools)
- At least 5% reserved for state-level learning loss mitigation activities
- At least 1% for summer programs for academic and social needs (targeted to ESEA subgroups), homeless, foster children/youth
- At least 1% for afterschool programs as above
- Not more than 0.5% for administrative costs
- Remainder (about 2%) for “emergency needs” as determined by the SEA “to address issues responding to coronavirus”

NEW! LEA-level set-asides

- Applies to ARP-ESSER LEA use of funds only
 - Must reserve at least **20%** for evidence-based learning loss mitigation, including through:
 - Afterschool, summer school, extended day/year programs
 - Targeted to ESEA subgroups, students experiencing homelessness, and children and youth in foster care
 - “evidence-based” follows section 8101(21) of the ESEA

NEW “MOEquity” Requirement - SEA

- States cannot reduce funding to “**high need**” **LEA** in a way that is disproportionate to Statewide average
 - LEAs that, in rank order by percentage of economically disadvantaged students, collectively serve at least 50% of the State’s total enrollment of students
- States cannot reduce funding to any “**highest-poverty**” **LEA** below the level of funding provided in FY 2019
 - LEAs that, in rank order by percentage of economically disadvantaged students, collectively serve at least 20% of the State’s total enrollment of students
- Applies to 2022 and 2023 State funds
- Calculated on a per-pupil basis

NEW “MOEquity” Requirement - LEA

- LEA cannot reduce per-pupil funding for “high-poverty school” more than total reduction divided by number of students currently enrolled in LEA
- Cannot reduce the number of **FTE staff per-pupil** by an amount that exceeds the total reduction, if any, in FTE staff per-pupil in all schools served by the LEA in such fiscal year.
- “High-poverty school” is a school that is in the highest quartile of schools based on the percentage of economically disadvantaged students
 - Can be identified by grade span

New! Hassan Amendment

- “Safe return to in-person instruction”
- LEAs must develop and make publicly available on its website “a plan for the safe return to in-person instruction and continuity of services”
 - Within 30 days of receiving funds
 - Must make plan available for public comment and take comments into account before posting
 - Previous plans ok if meet requirements

NEW! ARP-ESSER “Interim Final Requirements”

- Requirements for safe return to in-person instruction plans
 - LEAs that meet statutory requirements have six months to file updated plans
 - Those updated plans, and new plans, must include information on how an LEA will maintain health and safety, including policies on:
 - Masking
 - Social distancing
 - Handwashing
 - Diagnostic and screening testing
 - Continuity of services, among others
 - All updated plans must also include the ways in which an LEA is adapting to revised CDC guidance, if it is doing so
 - Not applicable to virtual/online-only schools

Allocation and Spending Timeline



OBLIGATION & LIQUIDATION DATES

What are the dates for the obligation and liquidation of the ESSER (I, II & ARP), GEER I & II and EANS I and ARP EANS programs?

Program	Obligation deadline	(Automatic) 120-day liquidation deadline	(Up to) 14-month liquidation extension
ESSER I	Sep. 30, 2022	Jan. 30, 2023	Apr. 1, 2024
ESSER II	Sep. 30, 2023	Jan. 29, 2024	Mar. 31, 2025
ARP ESSER	Sep. 30, 2024	Jan. 28, 2025	Mar. 31, 2026
GEER I	Sep. 30, 2022	Jan. 30, 2023	Apr. 1, 2024
GEER II	Sep. 30, 2023	Jan. 29, 2024	Mar. 31, 2025
CRRSA EANS	Sep. 30, 2023	Jan. 29, 2024	Mar. 31, 2025
ARP EANS	Sep. 30, 2024	Jan. 28, 2025	Mar. 31, 2026

Obligation versus Liquidation

- Obligation: a binding written commitment to spend funds in a certain way
- Liquidation: drawing funds down and paying them out in alignment with that obligation

Extensions to the obligation/liquidation period?

- **Obligation extension?**
 - Not likely
- **Liquidation extension?**
 - Possible
 - ED will provide guidance “this summer” on applying for a liquidation extension up to the first 14 months (for CARES only) but it cannot be sought until after the end of the obligation period.
 - CRRSA and ARP extensions will not be addressed until the summer prior to expiration.
 - Traditionally these requests include documentation of timely obligations, allowability of costs, past performance, single audit compliance, etc.

Late Liquidation Letters

- May letter from ED: we'll be doing late liquidation; look for guidance this summer
- From AASA, CCSSO July 22nd
 - Confirm guidance?
 - Apply to ARP/CRRSA too?
 - Streamline process?
- From AASA, CCSSO August 29th
 - Noting urgency
 - Hard to plan for construction projects, etc.
 - Give us guidance asap!

Allowability



ESSER/GEER Use of Funds Guidance

- “Although the lists of allowable uses of funds are not identical, any of the ESSER funds (ESSER I, ESSER II, or ARP ESSER) may be used to support all of the allowable uses of funds listed in any of the ESSER programs.”
 - Footnote 3: “This activity is not explicitly listed in the ARP Act but is still an allowable use of ARP ESSER funds.”
 - Footnote 5: “The reference to full-service community schools is only in the ARP Act, but ESSER I and ESSER II funds may also be used for that purpose.”
- https://oese.ed.gov/files/2021/05/ESSER.GEER_FAQs_5.26.21_745AM_FINALb0cd6833f6f46e03ba2d97d30aff953260028045f9ef3b18ea602db4b32b1d99.pdf



ESSER III: LEA Uses of Funds

- A. Any activity authorized by the Elementary and Secondary Education Act of 1965**
- B. Any activity authorized by the Individuals with Disabilities Education Act**
- C. Any activity authorized by the Adult Education and Family Literacy Act
- D. Any activity authorized by the Carl D. Perkins Career and Technical Education Act of 2006

(note: While McKinney-Vento Section VII(B) was an allowable use of funds under CARES/CRRSA, it is NOT here – there is dedicated funding for homeless students)

ESSER III: LEA Uses of Funds

- E. Coordination of preparedness and response efforts of local educational agencies with State, local, Tribal, and territorial public health departments, and other relevant agencies, to improve coordinated responses among such entities to prevent, prepare for, and respond to coronavirus.
- F. Activities to address the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including how outreach and service delivery will meet the needs of each population.**

ESSER III: LEA Uses of Funds

- G. Developing and implementing procedures and systems to improve the preparedness and response efforts of local educational agencies.
- H. Training and professional development for staff of the local educational agency on sanitation and minimizing the spread of infectious diseases.
- I. **Purchasing supplies to sanitize and clean the facilities of a local educational agency, including buildings operated by such agency.**

ESSER III: LEA Uses of Funds

- J. Planning for, and coordinating and implementing activities during long-term closures, including providing meals to eligible students, providing technology for online learning to all students, providing guidance for carrying out requirements under the IDEA and ensuring other educational services can continue to be provided consistent with all Federal, State, and local requirements.
- K. **Purchasing educational technology** (including hardware, software, and connectivity) for students who are served by the local educational agency that aids in regular and substantive educational interaction between students and their classroom instructors, including low-income students and children with disabilities, which may include assistive technology or adaptive equipment.

ESSER III: LEA Uses of Funds

- L. Providing mental health services and supports, including through the implementation of evidence based full-service community schools.

(Note: “the term “full-service community school” has the meaning given that term in section 4622(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7272(2))”)

- M. Planning and implementing activities related to summer learning and supplemental afterschool programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low-income students, children with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care.

ESSER III: LEA Uses of Funds

- N. Addressing learning loss among students, including low-income students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children and youth in foster care, of the local educational agency, including by—
- (i) Administering and using high-quality assessments that are valid and reliable, to accurately assess students' academic progress and assist educators in meeting students' academic needs, including through differentiating instruction;
 - (ii) Implementing evidence-based activities to meet the comprehensive needs of students;
 - (iii) Providing information and assistance to parents and families on how they can effectively support students, including in a distance learning environment; and
 - (iv) Tracking student attendance and improving student engagement in distance education.

ESSER III: LEA Uses of Funds

- O. School facility repairs and improvements to enable operation of schools to reduce risk of virus transmission and exposure to environmental health hazards, and to support student health needs.**
- P. Inspection, testing, maintenance, repair, replacement, and upgrade projects to improve the indoor air quality in school facilities, including mechanical and non-mechanical heating, ventilation, and air conditioning systems, filtering, purification and other air cleaning, fans, control systems, and window and door repair and replacement.**

ESSER III: LEA Uses of Funds

- Q. Developing strategies and implementing public health protocols including, to the greatest extent practicable, policies in line with guidance from the [CDC] for the reopening and operation of school facilities.
- R. Other activities that are necessary to maintain the operation of and continuity of services in local educational agencies and continuing to employ existing staff of the local educational agency.**

Do all ESSER funds have to be related to COVID?

- **Yes.** The overall purpose of the CARES Act, CRRSA Act, or ARP Act programs is “to prevent, prepare for, and respond to” COVID-19 (ESSER FAQs B-6).
- Remains standard in OMB Compliance Supplement
- Stated in all prior guidance and recent ARP guidance.
 - **Updated Guidance: For needs arising from or exacerbated by the COVID-19 pandemic, or to emerge stronger post-pandemic (to address pre-existing challenges that, if left unaddressed, will impede recovery from the pandemic)**



Construction!

Must meet all the applicable requirements:

- ✓ **COVID connection**
- ✓ General cost principles (2 CFR 200.403)
- ✓ Procurement requirements (2 CFR 200.319 –.327)
- ✓ Prior written approval from SEA (2 CFR 200.439)
- ✓ **Construction regulations** (34 CFR 76.600/75.600)
- ✓ Timely completion!!
- ✓ Davis-Bacon Act



Renovation

Must meet all the applicable requirements:

- ✓ **COVID connection**
- ✓ General cost principles (2 CFR 200.403)
- ✓ Procurement requirements (2 CFR 200.319 –.327)
- ✓ Prior written approval from SEA (2 CFR 200.439)
- ✓ **Construction regulations may apply** (34 CFR 76.600/75.600)
- ✓ Timely completion!!
- ✓ Davis-Bacon Act

The Buy American Act

The Buy American Act does not apply to the ESSER or GEER grants. (ESSER FAQs A-20)

BUT...

- USDOE has identified both ESSER and ARP-ESSER as infrastructure programs subject to the Buy America preference within the infrastructure program list:
<https://www2.ed.gov/about/offices/list/ofo/oaga/infrastructureprogramslist2022.pdf>
- OMB Memorandum 22-11 indicates that new federal awards and financial modifications to existing federal awards will be covered. <https://www.whitehouse.gov/wp-content/uploads/2022/04/M-22-11.pdf>

In/Out of State/ American Preferences

- Domestic Preference - should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (2 CFR 200.322).
- Geographical Preference Prohibition - Must prohibit the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposal, except where applicable Federal statutes expressly mandate or encourage geographic preference.
 - Exception: architectural and engineering services (2 CFR 200.319(c)).

(ESSER FAQs A-20)

Davis-Bacon Act

- DBA requirements apply to all federally-funded contracts valued greater than \$2,000 for the actual construction, alteration, and/or repair, including painting and decorating, of a public building or public work. 29 C.F.R. Part 5, subpart A § 5.5.
 - Must pay workers no less than the locally prevailing wage & fringe benefits for corresponding work in the area.
 - Requires certification of weekly payroll reports, among other requirements. ESSER FAQ B-6
- <https://www.dol.gov/agencies/whd/government-contracts/construction>

Can we sole source out construction and other ESSER projects?

Maybe.

- SEAs – If flexibility under its State procurement procedures
- LEAs – An LEA may determine that its response to the COVID-19 pandemic qualifies as a public exigency or emergency that does not permit the delay that would result from competitive bidding. (ESSER FAQs C-27).



Renovation/Contributions to 3rd Party Property

- Construction requires useful life of 50 years or more (34 CFR 75.603).
- Prior approval required for capital expenditures and capital assets (2 CFR 200.1; 200.439).
- “LEA needs to demonstrate that they have a continuing interest in the facility even if they do not have title to the building. We will need a lease, tax records, use permit or other documentation demonstrating the LEA’s interest in the building. “



Buses and Other Transportation Costs

Buses, Specialized Buses,
Transportation Reimbursement,
Municipal transit costs, etc.

- ✓ **COVID connection**
- ✓ General cost principles (2 CFR 200.403)
- ✓ Procurement requirements (2 CFR 200.319 –.327)
- ✓ Prior written approval from SEA (2 CFR 200.439)



Staff and teacher stipends/bonuses?

- Recruitment/Relocation Bonuses, Overtime, Premium Pay
 - Must have the link to COVID
 - Be reasonable and necessary
 - Pursuant to an established plan (in response to pandemic)
 - Consistent with applicable collective bargaining agreements (2 CFR 200.430(f))
 - <https://www2.ed.gov/documents/coronavirus/arp-teacher-shortages.pdf>
<https://www2.ed.gov/documents/coronavirus/arp-staff-shortages.pdf>

ED Letter to GA (not dated)

- It is generally an allowable use of ESSER funds to pay teacher salaries during the pandemic
- It is not necessary that an LEA demonstrate that it has incurred additional expenses for teacher salaries during the pandemic given that educators are fundamental to continuity of services in schools.
- This may include funds to pay teacher/staff salaries to retain current employees and avoid layoffs.
- ESSER funds may also be used to address educator shortages exacerbated by the pandemic (FAQ D-1).
 - Includes hiring new counselors, nurses, social workers, and other health support staff to help students and staff with their emotional and physical well-being and help students and staff deal with the impact of the COVID-19 pandemic (FAQ D-7).
- Using ESSER funds for the LEA workforce needs described above are not dependent on a shortfall in state and local funding.

Vaccination Incentives

- **Yes!** (ESSER FAQs, B-3). (2 CFR 200.430(b) and (f))
 - Coordination of preparedness and response efforts of LEAs with state and public health efforts to prevent, prepare for, and respond to COVID
 - Providing principals with resources necessary to address needs
 - CARES/CRRSAA
 - Developing strategies and implementing public health protocols in line with CDC guidance for reopening
 - For teachers, staff, students, and community members
 - Including costs of vaccine administration



Paying students to attend summer school?

- **Maybe!** (ESSER FAQs, C-26)
 - “ESSER and GEER funds may be used to support summer learning and enrichment programs that provide training, work-based learning, and jobs to high school students. Funds may be used both to support the training that high school students receive **and to supplement the pay provided to students** by employers that participate in the summer jobs program.”

2025

2026

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Federal Holidays 2025

Calendarpedia
Your source for calendars

Jan 1	New Year's Day	Sep 1	Labor Day
Jan 20	Martin Luther King Day	Oct 13	Columbus Day
Feb 17	Presidents' Day	Nov 11	Veterans Day
May 26	Memorial Day	Nov 27	Thanksgiving Day
Jun 19	Juneteenth	Dec 25	Christmas Day
Jul 4	Independence Day		

Federal Holidays 2026

Calendarpedia
Your source for calendars

Jan 1	New Year's Day	Jul 4	Independence Day
Jan 19	Martin Luther King Day	Sep 7	Labor Day
Feb 16	Presidents' Day	Oct 12	Columbus Day
May 25	Memorial Day	Nov 11	Veterans Day
Jun 19	Juneteenth	Nov 26	Thanksgiving Day
Jul 3	Independence Day (obs.)	Dec 25	Christmas Day

Data provided 'as is' without warranty

Multi-year Subscriptions

- Grant activities carried out through a valid obligation of funds may continue beyond that date; must be liquidated within 120 calendar days after the end of the performance period (ESSER FAQs E-1).
 - Considerations: how far past the period would the subscription last?
 - Is the cost still allocable to the program (related to the prevention/response to coronavirus)?
 - Recent OIG Findings



Cleaning Robots?

Meet all the applicable requirements:

- ✓ **COVID connection**
- ✓ General cost principles (2 CFR 200.403)
- ✓ Procurement requirements (2 CFR 200.319 –.327)
- ✓ Prior written approval from SEA (2 CFR 200.439)
- ? Floor Cleaners (\$2,000 - \$10,000 each)
- ? UV Light Robots (\$15,000 - \$20,000 each)

Future Needs

✓ COVID connection

? Hard to demonstrate how future needs prepare, respond and prevent COVID-19.

✓ General cost principles (2 CFR 200.403)

✓ Procurement requirements (2 CFR 200.319 –.327)



OUTLOOK
NOT SO
GOOD

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