

MEMORANDUM

To: Public School Superintendents, Business Managers and School Board Presidents

From: Cody Stoesser, Director of Finance and Management

Date: March 10, 2021

RE: ESSER II spending for long-term impact

This memorandum is to provide information and guidance regarding the Elementary and Secondary School Emergency Relief Fund II, or ESSER II. As school districts consider how to spend ESSER II funds, the Department of Education encourages you to think strategically about long-term needs and to consider funding high-impact activities.

Costs must be reasonable and necessary to meet the overall purpose of the federal program, which is “to prevent, prepare for, and respond to” COVID-19.

As of today, districts can apply for their ESSER II funds via the department’s Grants Management System at <https://sddoe.mtbgms.org/SDDOEGMSWeb/logon.aspx>.

Background

The Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA) was signed into law on December 27, 2020. It provides additional money for the ESSER fund, which was created by the Coronavirus Aid, Relief, and Economic Security Act (CARES) in March 2020.

It is important to note these additional ESSER funds under CRRSA will come to school districts as new awards that must be tracked separately from the ESSER funds received under CARES. To highlight that point, this summary refers to CRRSA funds as ESSER II.

ESSER II Overview

Allocations

ESSER II funds must be allocated to districts in the same way as ESSER I, based on the proportion of Title I, Part A funds each district received in the most recent fiscal year (CRRSA, Section 313(b))¹. For ESSER II purposes, the most recent fiscal year is SY 2020-21, so ESSER II awards will be based on the district’s 2020-21 Title I, Part A allocation. Although ESSER II award amounts are calculated based on Title I, Part A allocations, they are *not* Title I, Part A funds. **Title I requirements do not apply to ESSER II funds.** LEAs are not required to provide equitable services for ESSER II as they were for ESSER I under the CARES Act.

Period of Availability

The grant period for the obligation of ESSER II funds is July 1, 2020, through Sept. 30, 2023. School districts may submit written requests to the Department of Education for approval of pre-award costs dating back to March 13, 2020.

Allowable Uses of Funds

ESSER II funds can be spent on all the same activities as ESSER I. While the ESSER II law lists three categories of allowable activities that were not specifically listed in ESSER I (addressing learning loss, school facility repairs and improvements, and improving indoor air quality in school facilities), the U.S. Department of Education (US ED) clarified these activities are also allowable under ESSER I.

Because ESSER I funds expire first, on Sept. 30, 2022, as opposed to Sept. 30, 2023, for ESSER II, the department strongly encourages school districts to spend ESSER I funds first.

Per federal law, school districts that receive ESSER funds may spend them on:

- Any activity authorized by ESEA, IDEA, AEFLA, Perkins, or McKinney-Vento,
- Coordination of COVID-19 preparedness and response efforts,
- Providing principals and other school leaders with resources to address individual school needs,
- Activities to address the unique needs of low-income children, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including outreach and service delivery,
- Procedures and systems to improve LEA preparedness and response efforts,
- Training and professional development for LEA staff on sanitation and minimizing the spread of infectious disease,
- Purchasing supplies to sanitize and clean LEA and school facilities,
- Planning for and coordinating during long-term closures, including on how to provide meals, technology for online learning, guidance for carrying out IDEA requirements, and providing educational services consistent with applicable requirements,
- Purchasing educational technology (including hardware, software, and connectivity) for the LEA's students,
- Providing mental health services and supports,
- Planning and implementing summer learning and supplemental after-school programs,
- Addressing learning loss among students, including vulnerable populations, by administering and using valid and reliable high-quality assessments to assess academic progress, implementing evidence-based activities to meet the comprehensive needs of students, providing information and assistance to parents and families on how to effectively support students, and tracking student attendance and improving student engagement in distance education,
- 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,
- Inspection, testing, maintenance, repair, replacement and upgrade projects to improve the indoor air quality in school facilities, including heating, ventilation, and air conditioning systems, filtering, purification and other air cleaning, fans, control systems, and window and door repair and replacement, and
- Other activities necessary to maintain LEA operations and services and employ existing LEA staff.

For a full description of allowable activities, please see Section 313(d) of the CRRSA at <https://www.congress.gov/116/bills/hr133/BILLS-116hr133enr.pdf> (around page 749).

According to US EDⁱⁱ, school districts may not spend ESSER funds on:

- Bonuses, merit pay, or similar expenditures, unless related to disruptions or closures related to COVID-19
- Subsidizing or offsetting executive salaries and benefits of individuals who are not LEA employees
- Expenditures related to state or local teacher or faculty unions or associations

Supplement not Supplant

ESSER II funds are not subject to a supplement-not-supplant requirement.ⁱⁱⁱ

Maintenance of Effort

ESSER II does not include a local maintenance-of-effort requirement. Districts must, however, continue to comply with maintenance-of-effort requirements in other federal education laws such as ESEA and IDEA. (ESSER II includes a state maintenance-of-effort requirement, which prohibits states from reducing education spending at a greater proportion than other parts of the state budget.)

Additional Spending Rules and Considerations for ESSER II

ESSER II funds are subject to the Education Department General Administrative Regulations (EDGAR) and the federal government's Uniform Grant Guidance (UGG), including the requirement that spending be necessary and reasonable.

In light of the necessary and reasonable requirement, districts should consider the following:

- ESSER provides school districts with short-term relief funds to address the effects of COVID-19 on elementary and secondary schools. While it is possible Congress will appropriate additional relief funds in the future, ESSER is not an ongoing program. Funds should be considered one-time in nature and invested in one-time efforts, not in ongoing district functions.
- As noted above, districts are encouraged to spend down ESSER I funds before spending ESSER II funds.
- US ED encourages districts to spend ESSER funds to safely reopen elementary and secondary schools as soon as possible, **to restore and maintain high-quality learning environments, and to take comprehensive action to mitigate learning loss**. Districts should especially consider the needs of its most vulnerable students including low-income students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children and youth in foster care.
- Districts can spend ESSER funds on many activities that are not allowable under other federal programs like Title I and IDEA. ESSER-funded activities can benefit all students and schools or be targeted to select students and schools, depending on local needs. For example, a district could use ESSER funds for new curricula for the entire district, school infrastructure, attendance-tracking tools, mental health warning systems, and the like. See page 5 for additional ideas on expenditures to advance student learning and well-being.

Equitable Services

Districts are not required to provide equitable services with ESSER II funds. Instead, Congress created a separate program under CRRSA – the Emergency Assistance for Non-Public Schools program – for non-public schools administered by the state.

Districts must continue to comply with the CARES Act equitable services requirements for ESSER I funds.

Reporting

School districts will be required to submit annual reports on the use of ESSER II funds to enable the department to perform its reporting responsibilities.

IDEAS FOR SPENDING ESSER II FUNDS

The following lists are designed to assist school leaders as you consider meaningful ways to spend ESSER II funds. The funds should be prioritized **to restore and maintain high-quality learning environments, to take comprehensive action to mitigate learning loss, and where still applicable, to safely reopen elementary and secondary schools.**

Costs must be reasonable and necessary to meet the overall purpose of the federal program, which is “to prevent, prepare for, and respond to” COVID-19.

ESSER I and II funds are one-time funds and should be invested as such. The COVID-19 response funds should not be used to support ongoing district costs.

As plans are made to invest the grant funds, consider all resources to expand district capacity. For example, the district could work with an education-related entity on a contract basis or enter a joint agreement with another district to work in collaboration on a shared priority. It may be helpful to review local needs assessments completed for ESSA or Perkins programs to root your spending in long-term goals.

Grant funds can be used to pay district staff outside of regular contract time so long as the costs are reasonable and necessary “to prevent, prepare for, and respond to” COVID-19.

K-12 Education Programs and Services to Improve Student Learning

- Provide benchmark and formative assessments to determine students’ individual academic needs and progress
- Provide summer school and/or supplemental programs to address learning loss
- Train district staff as instructional coaches
- Contract for content-specific instructional coaches
- Analyze district curricula for alignment to state standards
- Purchase high-quality curricula and instructional materials aligned to state standards
- Purchase equipment/materials to support academic programs (eg., musical instruments, math manipulatives, PE equipment)
- Provide support to special populations to address learning loss
 - For English learners
 - Supplemental online programs
 - Tutors
 - Training/training materials for teachers

- Translate documents for parents into languages other than English
 - For students with special needs
 - Online training for paraprofessionals
 - Purchase assistive technology resources; dyslexia screeners; updated assessment/evaluation materials used for referrals
- Update school library/media services to support student learning
- Establish a Jobs for America’s Graduates (JAG) program to connect with students and prevent dropouts
- Engage qualified individuals to connect struggling students/families to services and resources available in the community
- Enhance career and technical education programs to engage/re-engage students in their learning
 - Create or boost work-based learning opportunities for students
 - Expand and upgrade CTE spaces (See “School Facilities, Equipment and Operations” below)
- Provide professional development for staff to impact student learning – possible topics:
 - Conducting data analysis and using data to drive decision-making
 - Understanding and implementing competency-based instruction to engage students in their learning
 - Using distance learning platforms to supplement instruction

Mental Health Services and Supports

- Provide training – possible topics:
 - Systems of support, focused on student behavior
 - Adverse childhood experiences, or ACES
 - Youth mental health awareness
 - Staff self-care
- Provide counseling through contracted services with regional community mental health centers
- Set up tele-mental health programs
- Incorporate systemwide trauma-informed practices

Educational Technology

- Purchase educational technology (hardware, software and connectivity) that facilitates access for all students
- Purchase messaging systems designed to improve communication between schools and families

School Facilities, Equipment and Operations

- Provide COVID-19 related leave and substitute pay
- Address recruitment/retention challenges in light of the pandemic
- Provide additional compensation to teachers and other staff who have assumed new duties because of COVID
- Provide additional pay to substitute teachers where there is a shortage
- Update ventilation/heating/cooling/purification systems to improve indoor air quality

- Make repairs and improvements to facilities to reduce risk of virus transmission and exposure to environmental health hazards
- Acquire real property or modular classrooms to support physical distancing, if needed to respond to COVID
- Purchase supplies to sanitize and clean facilities; provide training for staff responsible for cleaning
- Upgrade food service equipment that was used to provide meals during pandemic
- Run additional bus routes with fewer students to permit physical distancing

NOTE: Construction projects and capital expenditures, like purchasing modular classrooms or busses, require the prior written approval of the state Department of Education. (See 34 CFR § 76.600 and 2 CFR § 200.439).

As is the case with all construction contracts using laborers and mechanics financed by federal education funds, an LEA that uses ESSER funds for construction contracts over \$2,000 must meet all Davis-Bacon prevailing wage requirements and include language in the construction contracts that all contractors or subcontractors must pay wages that are not less than those established for the locality of the project (prevailing wage rates). (See 20 U.S.C. 1232b Labor Standards.)

MONTHLY CASH BALANCE ALLOWANCES

The School Finance Accountability Board (SFAB) met Feb. 17, 2021, and passed a resolution to waive the required monthly cash balance caps for fiscal years 2022 and 2023, due to the nature of the federal COVID-19 funds. The definition of “monthly cash balance” is in SDCL 13-13-10.1. SDCL 13-13-73.5 requires the department to reduce state aid if the monthly cash balance requirement is not met. SDCL 1-45-38 allows for the SFAB and the Legislature’s Joint Committee on Appropriations (JCA) to waive these requirements in special circumstances.

The JCA plans to consider the SFAB’s resolution to waive the caps on Monday, March 29. With JCA’s approval, school districts would not be held to the monthly cash balance requirements between July 1, 2021, and June 30, 2023.

ⁱ CRRSA <https://www.congress.gov/116/bills/hr133/BILLS-116hr133enr.pdf>

ⁱⁱ <https://oese.ed.gov/files/2020/04/ESSERF-Certification-and-Agreement-2.pdf> (Part B #3 & #7)

ⁱⁱⁱ <https://oese.ed.gov/files/2020/05/ESSER-Fund-Frequently-Asked-Questions.pdf> (#20)