

MEMORANDUM

TO: Public School Superintendents and Business Managers

FROM: Cody Stoeser, Director of Finance and Management, South Dakota Department of Education

DATE: April 29, 2020

RE: Recent fiscal information related to COVID-19

In light of COVID-19, below is the most recent information we have about:

- Use of U.S. Department of Education (ED) grant funds for employee compensation and cancelled activities or travel
- CARES Act funding
- Waivers of certain fiscal requirements

We are still awaiting *official guidance* from the U.S. Department of Education. We will update superintendents and business managers as this information becomes available and post it on our COVID-19 webpage at <https://doe.sd.gov/coronavirus/>

ED Grant Funds for Employee Compensation and Cancelled Activities or Travel

As authorized by the federal Office of Management and Budget, on April 8, 2020, the U.S. Department of Education offered relief in two key areas as described in this fact sheet: <https://www2.ed.gov/documents/coronavirus/factsheet-fiscal-questions.pdf>:

- **Employee compensation.** ED will permit grantees and subgrantees to continue to use federal funds to pay employees even if they cannot work on program activities because of closure due to COVID-19. To take advantage of this, grantees and subgrantees must follow uniform policies that give the same treatment to federal and non-federal funds and must maintain time and effort and other documentation. In addition, ED encourages grantees and subgrantees to “consider ways that employees paid with grant funds can support continuing activities, including distance learning opportunities for students served by the grant.”
- **Cancelled activities or travel.** ED will permit grantees and subgrantees to use federal funds to pay costs related to a cancelled grant-related conference, training, or other activity. To take advantage of this flexibility, grantees and subgrantees must first seek to recover nonrefundable costs and exercise any emergency or “act of God” contract provision that might be available. Any cost supported with federal funds must relate to an activity that would have been allowable had it not been cancelled and must otherwise comply with federal cost principles.

Overview of CARES Act Funding

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed into law on March 27, 2020. It includes two grant programs to help educational entities prevent, prepare for, and respond to coronavirus:

1. Elementary and Secondary School Emergency Relief Fund (ESSER), and
2. Governor's Emergency Education Relief Fund (GEER).

Each program is described briefly below.

1. *Elementary and Secondary School Emergency Relief Fund (ESSER) Overview*

ED released the application for ESSER funds on April 23, 2020. Once a state applies for ESSER funds, ED has 30 days to approve or deny the application. South Dakota expects to apply for funding in May, and we expect to have the application for LEAs open June 1. The LEA application will be available through the Grant Management System (GMS).

Under the CARES Act, ESSER allocations to LEAs are based on the proportion of Title I, Part A funds each LEA received in the most recent fiscal year.

Although ESSER funds are distributed to LEAs based on Title I, Part A allocations, they are not Title I, Part A funds. Therefore, ESSER funds are not required to be allocated to specific schools because school and student eligibility, supplement not supplant, and other Title I requirements do not apply to ESSER. ESSER is its own, separate, flexible program intended to help with the COVID-19 response.

LEAs may spend their ESSER funds on any allowable activity listed below, but please consider:

- The purpose of the ESSER fund is to provide LEAs with emergency relief funds to address the impact COVID-19 has had, and continues to have, on elementary and secondary schools. This includes both continuing to provide educational services while schools are closed and developing plans for the return to normal operations.
- ED expects LEAs will use every effort to spend funds quickly to address exigent student needs.
- ED encourages LEAs to focus on their most important educational needs as a result of COVID-19, including remote learning and assessing and addressing learning gaps resulting from disruptions in educational services.

In light of these considerations, LEAs that receive ESSER funds may spend them on:

- Any activity authorized by ESEA, IDEA, AEFLA, Perkins, or McKinney Vento,
- Coordination of preparedness and response efforts to COVID-19,
- 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 facilities,
- Planning for and coordinating during long-term closures, including 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 afterschool programs, 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 18003(d) of the CARES Act <https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf>.

ED has said LEAs 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, or
- Expenditures related to state or local teacher or faculty unions or associations.

ESSER funds will remain available for obligation through September 30, 2022, and will be available for pre-award costs back to March 13, 2020.

2. ***Governor's Emergency Education Relief Fund (GEER) Overview***

GEER funds are awarded to governors who have discretion over how to distribute them. ED released the application for GEER funds on April 14, 2020.

Governors may use these funds to:

- Provide emergency support grants to LEAs most significantly impacted by coronavirus (as determined by the SEA) so they can continue to provide educational services and support ongoing functionality,
- Provide emergency support grants to IHEs serving students that have been most significantly impacted by coronavirus (as determined by the Governor) so they can continue to provide educational services and support ongoing functionality, and
- Provide support to any other LEA, IHE, or other educational entity the Governor deems essential for carrying out emergency educational services to students for the following activities:
 - Allowable ESSER activities (see above),
 - Activities under the Higher Education Act,
 - The provision of childcare and early childhood education,
 - Social and emotional support, and
 - The protection of education-related jobs.

GEER funds will be available for obligation through September 30, 2022 and will be available for pre-award costs back to March 13, 2020.

Equitable Services Requirements for ESSER and GEER

LEAs that receive ESSER or GEER funds must provide equitable services to nonpublic schools in the same manner as provided under Title I, Part A. Control of CARES Act funds reserved for equitable services and items purchased with the funds must remain in public control.

Additional information about these equitable services requirements is expected from ED soon.

Reporting

The CARES Act requires entities that receive more than \$150,000 in CARES Act funds to report certain information about their spending quarterly (including how much they received, what projects they supported with CARES Act funds, how much they spent on each project, and information about subgrants and contracts). In addition, ED may impose additional reporting requirements. More information about these requirements is expected from ED soon.

General Administrative Regulations (EDGAR) and Uniform Grant Guidance (UGG)

GEER and ESSER funds are subject to both the Education Department General Administrative Regulations (EDGAR) and the Uniform Grant Guidance (UGG).

Waivers of Certain Fiscal Requirements

Using authority given by the CARES Act, ED has waived the following requirements:

- **The carryover limit for 2019-20 Title I, Part A funds.** Normally, LEAs may only carry 15% of their Title I, Part A funds over from one year to the next, a limit SEAs can waive once every three years. This waiver means LEAs are not limited in how much Title I, Part A money they carry over from SY 2019-20 to SY 2020-21. This is true even for LEAs that already received a carryover waiver from the SEA within the last three years.
- **The requirement for LEAs that receive \$30,000 or more in Title IV, Part A funds to conduct a needs assessment.** Normally, LEAs that receive \$30,000 or more in Title IV, Part A funds must conduct a comprehensive assessment of needs for improved access to a well-rounded education, school conditions for student learning, and access to personalized learning experiences. LEAs must then spend Title IV, Part A funds consistent with this needs assessment. This waiver means LEAs will not have to amend the needs assessment conducted for 2019-20 funds in light of COVID-19 and extended school closures.
- **The requirement for LEAs that receive \$30,000 or more in Title IV, Part A funds to spend funds in three areas.** Normally, LEAs that receive \$30,000 or more in Title IV, Part A funds must spend at least 20% of their allocation on activities to support a well-rounded education, 20% on activities to support safe and healthy students, and some funds to support the effective use of technology. This waiver means LEAs may now spend any remaining 2018-19 funds and 2019-20 funds on any allowable Title IV, Part A activity and do not have to spend across all three areas.
- **The limit on spending Title IV, Part A funds on technology infrastructure.** Normally, LEAs may not spend more than 15% of the funds earmarked for technology on purchasing technology infrastructure including devices, equipment, software applications, platforms,

digital instructional resources and/or other one-time IT purchases. This waiver means LEAs now are not limited in how much they spend on technology infrastructure.

- **The definition of professional development in Section 8101(42) of ESEA for the 2019-20 school year.** Normally, professional development activities supported with ESEA funds must, among other things, be sustained, intensive, and collaborative. This waiver means LEAs may now use ESEA funds to support shorter-term professional development, if the professional development is otherwise allowable under the relevant program.