



Elementary and Secondary School Emergency Relief Fund April 2020

Background

The Coronavirus Aid, Relief, and Economic Security (CARES) Act included \$30.75 billion for an Education Stabilization Fund to enable states, local education agencies, and institutions of higher education to prevent, prepare for, or respond to the novel coronavirus. The Education Stabilization Fund includes several distinct funding streams:

- Governor's Emergency Education Relief Fund: \$3 billion
- Elementary and Secondary School Emergency Relief Fund: \$13.2 billion
- Higher Education Emergency Relief Fund: \$14.2 billion
- Discretionary funds for states with highest coronavirus burden: \$307 million
- Allocations for outlying territories and Bureau of Indian Education

This document is the second in a series intended to help state and district policymakers make informed decisions about how to use these funds, and to help advocates and leaders of schools, districts, charter management organizations, and other education nonprofits understand the potential implications of these funding streams for their work serving students, families, and communities.

Elementary and Secondary School Emergency Relief Fund

Purpose: The Elementary and Secondary School Emergency Relief (ESSER) Fund, authorized under section 18003 of the CARES Act, provides formula grants to state education agencies (SEAs) for the purpose of providing local education agencies (LEAs, including charter schools that are LEAs) emergency relief funds to address the effects of COVID-19 on elementary and secondary schools.

Eligibility and Funding Amounts: Funds are distributed to all 50 states, the Commonwealth of Puerto Rico, and the District of Columbia, via formula based on the proportion of funds the state received under Title I, Part A, in the most recent fiscal year.¹ State funding allocations are available [here](#). SEAs are required to distribute at least 90% of each state's ESSER allocation to local education agencies (including charter schools that are LEAs) within the state, in proportion to the amount of Title I, Part A, funds that each LEA (including charter schools that are LEAs) received in fiscal year 2019. Of the funds that remain after distributing at least 90% of ESSER funds to LEAs, SEAs may retain ½ of 1% of the LEA's total allocation for administrative costs. SEAs may use the rest of the retained funds to address emergency needs related to COVID-19, as determined by the SEA, through the use of grants or contracts.

¹ Section 1122(c)(3) of the Elementary and Secondary Education Act (ESEA) prohibits the department from considering the Title I, Part A hold harmless provisions in ESEA section 1122 in calculating state or local allocations for any other program administered by the Secretary of Education. Therefore, to determine the ESSER Fund allocations, the department used the fiscal year 2019 state shares of Title I, Part A allocations without the application of the hold harmless provisions in ESEA section 1122.

Timeline and Process:

- On April 23, the Department of Education issued a [Notice Announcing Availability of Funds](#) for ESSER funds and provided the [certification and agreement](#) (i.e., application) that chief state school officers must submit to receive funding.
- Chief state school officers must submit the signed certification and agreement by July 1, 2020 in order to receive funds.
- Once a state's application is submitted, the Department of Education expects to obligate funds within three business days.
- Within 60 days of receiving ESSER funds, SEAs must submit a report that includes a budget for the SEA's reserve that details information about the SEA's use of funds for emergency needs to address issues related to COVID-19 and for administrative costs, as well as an Internal Control and Subrecipient Monitoring Plan to ensure that funds are used for allowable purposes in accordance with cash management principles.
- SEAs have one year to award funds to LEAs and distribute funds retained by the SEA to address emergency needs through contracts or grants. Any funds that the SEA fails to distribute by the deadline must be returned to the U.S. Department of Education to be redistributed to other states.
- SEAs and LEAs are expected to use every effort to expend the funds quickly to address exigent student needs.
- SEAs that receive ESSER funds must comply with reporting requirements in the CARES Act and provide quarterly reports to the Secretary of Education (in compliance with Section 15011(b)(2) of Division B of the CARES Act).

It is anticipated that the Department of Education will release FAQ and other additional information about ESSER funds on [its website](#) in the near future.

Uses of Funds: Under the CARES Act, LEAs that receive ESSER funds may use them for a wide variety of activities, including:

- Any activity for which the LEA can use funds received under ESEA, IDEA, the Adult Education and Family Literacy Act, the Perkins Act, or the McKinney-Vento Homeless Assistance Act.
- Coordinating preparedness and response efforts with other state, local, and tribal agencies.
- Developing and implementing procedures to improve emergency preparedness and response.
- Planning for and coordinating during long-term closures, including for how to provide meals to students, provide technology for online learning to all students, and carry out requirements under IDEA.
- Purchasing educational technology to support distance learning, including assistive technology or adaptive equipment.
- Planning and implementing supplemental summer and afterschool programs.
- Providing mental health services and supports.
- Providing school leaders with resources to address needs of their individual schools.
- Activities to address the unique needs of low-income children and children with disabilities, English language learners, rural and ethnic minority students, students experiencing homelessness, and foster care youth.
- Training LEA staff in sanitation and minimizing spread of infectious diseases.
- Purchasing supplies to sanitize and clean facilities.

- Other activities necessary to maintain the operation of and continuity of services in LEAs and continue to employ existing staff.

The Notice Announcing Availability of funds further notes that the purpose of the ESSER Fund includes “developing and implementing plans for educational services and continued learning whether school campuses are open or closed.” This suggests that LEAs could use funds to develop reopening plans that support delivery of education in schools with modifications to protect students, staff, and public health, as well as plans for long-term or rolling, geographically targeted school closures in response to future outbreaks.

SEAs may use ESSER funds they reserve to address emergency needs related to COVID-19, as determined by the SEA. Such needs may be addressed through the use of grants or contracts. The Notice Announcing Availability of Funding indicates that “The Department encourages SEAs that use funds for remote learning to make strategic investments that promote student achievement through long-term improvements in infrastructure and operations so that students may receive educational services whether or not school campuses are open or closed.”

As with Governor’s Education Emergency Relief Funds announced earlier in April, the Department continues to urge state and district leaders to focus on using funds to support remote learning, as well as planning to ensure students can continue to learn whether school campuses are open or closed. The application requires SEAs to assure that they will provide LEAs technical assistance on the use of ESSER funds for remote learning (but does not require that the SEA use ESSER funds to provide this technical assistance).

While LEAs and SEAs may use ESSER funds for a variety of activities, the application indicates that the Department does not consider executive salaries and benefits of individuals who are not SEA or LEA employees, or expenditures related to state or local teacher or faculty unions or associations, to be allowable uses of ESSER funds. In addition, funds generally are not to be used for bonuses, merit pay, or similar expenditures, unless related to disruptions or closures resulting from COVID-19.

Additional Key Points

The ESSER funding [application](#) released by the Department of Education is designed to minimize the paperwork burden on states to enable funds to be released expeditiously. The Department does, however, request the following information related to uses of ESSER funds:

1. Information that the SEA may request LEAs to include in their subgrant applications to the SEA. The certification and agreement offers examples of things an SEA might propose to include in LEA subgrant applications, including:
 - How the LEA will determine its most important educational needs as a result of COVID-19.
 - The LEA’s proposed timeline for providing services and assistance to students and staff in both public and nonpublic schools.
 - The extent to which the LEA intends to use ESSER funds to promote remote learning.
 - How the LEA intends to assess and address student learning gaps resulting from the disruption in educational services.
2. The extent to which the SEA intends to use any portion of its SEA reserve to support:
 - Technological capacity and access to support remote learning, including hardware and software, connectivity, and instructional expertise. If so, the SEA is

requested to describe the strategies it intends to use to address the needs of disadvantaged populations, including low-income students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth.

- Remote learning by developing new informational and academic resources and expanding awareness of, and access to, best practices and innovations in remote learning and support for students, families, and educators.

SEAs submitting applications are required to provide a variety of assurances, including, but not limited to, assurances that:

- The SEA will comply with Maintenance of Effort (MOE) provisions in the CARES Act (Sec. 18008(a), absent a waiver under 18008(b) of Division B).
- The SEA and each LEA and any other entity that receives ESSER funding through grants or contracts will continue to pay its employees and contractors, to the greatest extent practicable based on the unique financial circumstances of the entity (in compliance with Section 18006 of Division B of the CARES Act).
- The SEA will ensure that LEAs receiving ESSER funds will provide equitable services to students and teachers in nonpublic schools (in the same manner as provided under section 1117 of ESEA).
- The SEA will provide technical assistance to LEAs on the use of ESSER funds for remote learning.

In addition to information that an SEA may choose to require LEAs to submit as part of an application for ESSER funds, LEAs receiving ESSER funds must also include in their local application a description of how they will ensure equitable access to, and participation in, ESSER-funded programs and activities for students, teachers, and other program beneficiaries with special needs, as required by section 427 of General Education Provisions Act (GEPA). The description must include information on the steps the LEA proposes to take to permit students, teachers, and other program beneficiaries to overcome barriers (including barriers based on gender, race, color, national origin, disability, and age) that impede equal access or participation. LEAs must also have a set of assurances that meets the requirements of [section 442 of GEPA](#) on file with the SEA.

The Certification and Agreement and Notice Announcing Availability of Funds also indicate that the Secretary of Education may require additional reporting in the future — beyond the reporting requirements imposed by the CARES Act — which may include:

- How the LEA determined its most important educational needs as a result of COVID-19
- How LEAs will provide services or assistance to students and staff in both public and nonpublic schools
- The LEA's proposed timeline for providing services and assistance to students and staff in both public and nonpublic schools
- How LEAs' uses of funds demonstrate compliance with the CARES Act, such as any use of funds addressing the digital divide, including securing access to home-based connectivity and remote-use devices, and to support remote learning for all students, including disadvantaged populations
- The extent to which the LEA used ESSER funds to promote remote learning
- How the LEA assessed and addressed student learning gaps resulting from the disruption in educational services

- The extent to which the SEA used any portion of its SEA reserve to support technological capacity and access to support remote learning, including hardware and software, connectivity, and instructional expertise
- The extent to which the SEA used any portion of its SEA reserve to support remote learning by developing new informational and academic resources and expanding awareness of, and access to, best practices and innovations in remote learning and support for students, families, and educators

Factors for Consideration:

ESSER provides a flexible source of additional funding that LEAs, including charter schools that are LEAs, can use to address needs created by COVID-19, both for urgent needs to support student learning now, and for strategies and capacity to serve students through further COVID-related disruptions that may continue through and beyond the 2020-21 school year. As noted above, the list of activities for which LEAs may use ESSER funds is extensive, and includes planning and coordination for emergency preparedness and school closures, purchasing educational technology, summer and afterschool learning programs, mental health services, and cleaning and sanitizing school buildings.

Given the wide range of student, staff, school, and community needs as well as allowable uses of funds, LEAs will need to be thoughtful and strategic to target resources to highest-impact activities and ensure equity for underserved populations of students.

In deciding how to use ESSER funds, LEAs should consider:

- How they will use ESSER funds to develop and implement (or build capacity to implement) plans to ensure that they will continue to be able to deliver education to students over the 2020-21 school year, including during modified reopening or periods of extended or rolling, geographically targeted closures due to COVID-19 that may continue into or occur during the 2020-21 school year and beyond.
- What investments in staff, instructional, operational, student/family support, and technology (including hardware, software, and connectivity) capacity are needed to enable delivery of educational services and continued learning whether schools are open or closed?
- How they will use ESSER funds to advance educational equity for underserved student populations, including low-income students, English learners, and children with disabilities; children who experienced educational disruptions prior to the coronavirus due to homelessness or engagement with the child welfare and criminal justice systems; and rural, urban, and suburban students.
- How they will ensure equitable distribution of ESSER funds to meet the needs of students and educators in all schools served by the LEA, including charter schools and schools serving high concentrations of low-income students and/or students with specialized educational needs.
- That ESSER funds can be used to support early childhood education, including pre-K and birth-to-5 programs that are authorized users of funding under Title I of ESEA, parent outreach and engagement, activities supporting children’s transition to kindergarten, and special education preschool.
- That ESSER funds can be used to support professional development and other activities that build the capacity of teachers and other LEA staff to assess individual students’ learning needs and progress, differentiate instruction based on individual students’

learning progressions, deliver remote learning, and implement plans to ensure continued learning whether schools are open or closed.

In defining LEA subapplication requirements and deciding how to use their retained share of ESSER funds, SEAs should consider:

- What supports LEAs need to use ESSER funds effectively for remote learning and to develop and implement plans to ensure delivery of educational services whether schools are open or closed.
- Where statewide investments in tools, supports, planning, technical assistance, or infrastructure might build capacity or meet LEA and student needs more efficiently and effectively than leaving individual LEAs to develop plans and capacity on their own.
- How state capacity-building and other investments can enable improvements in educational equity, quality, and delivery in the state and its LEAs with benefits for students and outcomes that extend beyond the current crisis.
- How they will use ESSER funds, and ensure LEAs use ESSER funds, to advance educational equity for underserved student populations, including low-income students, English learners, and children with disabilities; children who experienced educational disruptions prior to the coronavirus due to homelessness or engagement with the child welfare and criminal justice systems; and rural, urban, and suburban students.
- How they will ensure LEAs use ESSER funds equitably to meet the needs of students and educators in all schools served by the LEA, including charter schools and schools serving high concentrations of low-income students and/or students with specialized educational needs.
- That ESSER funds can be used to support early childhood education, through LEAs' use of funds for early childhood programs authorized under IDEA and Title I of ESEA, as well as through inclusion of early childhood programs in supports and programming that the SEA uses its reserve funds to support.

Education and early childhood advocates and providers of instructional and student support services should also consider:

- SEAs and LEAs will be making decisions about use of ESSER funds over the coming months, and will need good ideas and information to use these funds efficiently and effectively.
- SEAs and LEAs will likely need external support to develop and implement plans for educational services and continued learning whether school campuses are open or closed, as well as technical assistance in use of ESSER funds to support remote learning.
- Education advocacy and parent organizations should track and hold SEAs and LEAs accountable for how these funds are used, particularly as relates to equity for low-income and other underserved students and inclusion of charter schools.
- Early childhood leaders should be aware that ESSER funds can be used to support early care and education and make the case to SEA and LEA leaders for why early childhood programs should be included in their plans to ensure continued learning.

About Bellwether Education Partners

Bellwether Education Partners is a national nonprofit focused on dramatically changing education and life outcomes for underserved children. Over the past decade we have helped almost 500 clients, including policymakers, CMOs, districts, nonprofits, and school leaders, tackle the most difficult issues facing underserved kids, and translated lessons from that work to improve the field at large. We know that supporting, stabilizing — and, ideally where possible,

strengthening — our education system through this time is a vital challenge and one matched to our skill sets and background. Across our team of more than 60 full-time professionals, we have former school leaders, nonprofit leaders, media professionals, and experienced strategy consultants. Our team members have worked at the Department of Education, the White House, top-tier management consulting firms, and state education agencies around the country. Our network is unparalleled in the sector and our client feedback, exceptional rate of return, and referral clients speak to the value we can add.

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