

LEGISLATION

APPROPRIATIONS

Email Alert on Federal FY 2023 Omnibus Appropriations Deal

From: Ray Hart
Sent: Tuesday, December 20, 2022
To: Superintendents
Subject: Text of FY 2023 omnibus funding bill released

Great City School Superintendents/CEOs/Chancellors—

Early this morning, House and Senate Appropriations leaders released the text of the 4,000 page omnibus appropriations bill for federal FY 2023 (school year 2023-24). The bill provides an overall increase of \$3.9 billion for the U.S. Department of Education, which is larger than Congress provided to education last year but smaller than the President's budget request and the House and Senate Appropriations Committees' Democrats-only spending proposals. The Senate is expected to begin procedural votes on the omnibus bill today with final passage possible on Wednesday. House consideration and passage of the bill is expected shortly after the Senate action, so the omnibus funding legislation can be sent to President Biden for his signature before current government funding expires on Friday night.

Specific increases for education programs in the FY 2023 omnibus bill over last year include:

- **Title I:** additional \$850 million (4.8% increase)
- **Title III:** additional \$59 million (7% increase)
- **Title IV:** additional \$100 million (7.8% increase)
- **IDEA Part B:** additional \$850 million (6.4% increase)
- **Head Start (in HHS):** additional \$930 million (8.4% increase)

The Council will continue to read through the bill and provide future updates on the included provisions. You can read the [legislative text of the omnibus funding bill](#), with funding for the U.S. Department of Education beginning on page 1069. This [Statement of Managers](#) link includes a funding table with the U.S. Department of Education programs beginning on page 447. Community-directed Spending, aka earmarks, for K-12 education is also in the [Statement of Managers](#) link beginning on page 329.

Happy Holidays!

Ray Hart

Highlights of Federal FY 2023 Omnibus Appropriations Bill

U.S. DEPARTMENT OF EDUCATION

The bill provides a total of \$79.3 billion in discretionary appropriations for ED, an increase of \$3.8 billion above the fiscal year 2022 enacted level.

Title I-A: The bill includes \$18.387 billion, an increase of \$850 million or 5 percent more than the fiscal year 2022 level, for the Title I-A grants to the local educational agencies program. Title I-A grants assist more than half of our Nation's public schools in their efforts to raise student achievement, particularly for students attending high-poverty schools to meet college and career-ready state academic standards, including through preschool programs 3 for eligible children.

IDEA: The bill also includes \$15.154 billion, an increase of \$904 million or 6 percent, for Special Education State Grant programs that support services to an estimated 9 million students and children with a disability, including those participating in early intervention and preschool programs.

Title III for English Learners: The bill also provides \$890 million, an increase of \$59 million or 7 percent, for English Language Acquisition State Grants, a critical investment needed to improve educational opportunities and outcomes for more than 5 million English learners.

The bill also includes increases for a range of other important programs, providing \$150 million, an increase of \$75 million or 100 percent, to support additional **Full Service Community Schools**, a proven approach that includes integrated student supports and family engagement that lead to improved student attendance and high school graduation rates.

The bill provides \$115 million, an increase of \$20 million, or 21 percent, for **Special Education Personnel Preparation**, which will help address the chronic shortage of special educators.

The bill invests \$1.33 billion, an increase of \$40 million for the Nita M. Lowey **21st Century Community Learning Centers** program, which supports more than 10,000 centers around the nation serving 1.6 million students; and allocates \$129 million, an increase of \$15 million or 13 percent, for **Education for Homeless Children and Youth**, to assist the 1.1 million identified students experiencing homeless enroll and succeed in school.

The bill includes \$20 million, an increase of \$5 million more than last year and a 60 percent increase since 2021, for additional **Statewide Family Engagement Centers**, to enhance parent and family engagement in schools.

Finally, the omnibus includes \$807.6 million for the **Institute of Education Sciences (IES)**, a \$70 million or 9.6 percent increase over FY 2022 amounts. Within this amount, the bill includes a \$40 million increase for Research, Development, and Dissemination (RD&D), with the direction, "to further support research needed to accelerate learning recovery from COVID-19 disruptions in instruction and eliminate longstanding achievement gaps, IES is directed to use a portion of its fiscal year 2023 appropriation to support a new funding opportunity for quick-turnaround, high-reward scalable solutions intended to significantly improve outcomes for students..."

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Child Care: The bill provides \$8 billion for the Child Care and Development Block Grant, \$1.85 billion more than fiscal year 2022, representing a 30 percent increase in funding for the program. The child care industry has 100,000 fewer workers today than it did before the pandemic, shedding nearly 10 percent of its workforce since 2020. This additional funding will help the program serve over 130,000 additional children.

Head Start: The bill provides \$11.996 billion, \$960 million more than fiscal year 2022, for Head Start. Within this total, the bill provides a \$596 million cost-of-living adjustment for Head Start staff, and \$262 million in quality improvement funding, which programs can use to recruit and retain staff among other activities. The bill also increases funding by \$2 million for the Tribal Colleges and Universities Head Start Partnership Program, totaling \$8 million.

U.S. DEPARTMENT OF AGRICULTURE

The bill provides \$40 million for the creation of a permanent, nationwide Summer Electronic Benefits Transfer (Summer EBT) grocery card program that will give families with children who qualify for free or reduced-price lunch with an extra \$40 per month per child for food in the summer to offset the price of food that would be provided during the school year.

**Final FY 2023 Funding Levels for Federal Education Programs
(School Year 2023-24, in thousands)**

Federal Education Program	FY 2022 Omnibus Final	FY 2023 Biden Proposal	FY 2023 Omnibus Final	Difference from FY 2022
<i>PROPOSED: Title I Mandatory Grants</i>	0	16,000,000	0	NA
<i>PROPOSED: School-Based Health Professionals</i>	0 *	1,000,000	0	NA
<i>PROPOSED: Fostering Diverse Schools</i>	NA	100,000	0	NA
Title I - Grants to LEAs	17,536,802	20,536,802	18,386,802	850,000
Migrant Education	375,626	375,626	375,626	0
Neglected and delinquent	48,239	82,000	49,239	1,000
Homeless children and youth	114,000	110,000	129,000	15,000
Impact Aid	1,557,112	1,541,112	1,618,112	61,000
Comprehensive Literacy Dev. Grant	192,000	192,000	194,000	2,000
Title IV - Support & Academic Grant	1,280,000	1,220,000	1,380,000	100,000
State assessments	390,000	378,000	390,000	0
Rural education	195,000	202,840	215,000	20,000
Education for Native Hawaiians	38,397	37,397	45,897	7,500
Alaska Native Education Equity	37,953	36,453	44,953	7,000
Promise Neighborhoods	85,000	96,000	91,000	6,000
21st century learning centers	1,289,673	1,309,673	1,329,673	40,000
Full-Service Community Schools	75,000	468,000	150,000	75,000
Indian Education	189,246	186,239	194,746	5,500
Education Innovation and Research	234,000	514,000	284,000	50,000
Title II - Effective Instruction	2,170,080	2,148,580	2,190,080	20,000
Teacher quality partnership (HEA)	59,092	132,092	70,000	10,908
Teacher and Leader Incentive Fund	173,000	150,000	173,000	0
Charter schools grants	440,000	440,000	440,000	0
Magnet schools assistance	124,000	149,000	139,000	15,000
Title III - English Language Acquisition	831,400	1,075,000	890,000	58,600

Federal Education Program	FY 2022 Omnibus Final	FY 2023 Biden Proposal	FY 2023 Omnibus Final	Difference from FY 2022
IDEA - Part B	13,343,704	16,259,193	14,193,704	850,000
IDEA Preschool	409,549	502,620	420,000	10,451
IDEA Infants and Families	496,306	932,000	540,000	43,694
Perkins CTE	1,379,848	1,354,848	1,462,269	82,421
Adult Education	704,167	738,712	729,167	25,000
GEAR UP	378,000	408,000	388,000	10,000
Research, dev., and dissemination	204,877	197,877	245,000	40,123
Statistics	111,500	111,500	121,500	10,000
Regional educational laboratories	58,733	57,022	58,733	0
National assessment (NAEP)	180,000	185,000	185,000	5,000
National Assessment Governing Board	7,745	7,799	7,799	54
Statewide data systems	33,500	33,500	38,500	5,000
U.S. Department of Education Discretionary Appropriations total	75,374,000	88,327,000	79,223,000	3,849,000

Proposed Funding Increases in GREEN

* School-Based Health Professionals received \$85 million in School Safety National Activities

ARP ESSER



September 29, 2022

84.425C Grantees
84.425D Grantees

Dear Grantee,

Thank you for the work you are doing every day to address the impacts of the COVID-19 pandemic and help your schools and students recover. The Elementary and Secondary School Emergency Relief (ESSER) and Governor's Emergency Education Relief (GEER) funds are vital tools in this effort. As of today, over 96 percent of Coronavirus Aid, Relief, and Economic Security (CARES) Act funding has been spent to help safely reopen schools and address the needs of our students. It is critically important that States and local educational agencies continue to prioritize using emergency relief funds for effective, evidence-based strategies to operate schools safely, accelerate academic achievement, support students' mental health needs, and strengthen our educator workforce.

The Department acknowledges that some grantees may require flexibility liquidating remaining ESSER and GEER funds under the CARES Act that are properly obligated by the September 30, 2022, deadline. Accordingly, the Department is offering a liquidation extension request process for immediate use by grantees. This process ensures strong accountability for the use of funds and important safeguards for States and subgrantees. Under [2 CFR § 200.344\(b\)](#), properly obligated funds must be liquidated within 120 calendar days (or by January 28, 2023, for CARES Act funds). The Department has the authority to approve liquidation extension requests for properly obligated funds upon review of a written request made by a grantee on its own behalf or on behalf of its subgrantees. Final approval of a grantee's written request will be based upon the specific facts and circumstances, in accordance with 2 CFR § 200.344(b). If approved under this process, grantees and subgrantees may have an extension to the liquidation period of up to 14 months beyond the 120 days already available to liquidate funds.

When requesting late liquidation of CARES Act funds, grantees must submit an extension request to the Department's Office of State and Grantee Relations (SGR) on their own behalf or on behalf of their subgrantees. A grantee requesting a liquidation extension for its subgrantees must assure that it will continue to conduct oversight of the subgrantees, attest to the allowability of the expenses to be liquidated, maintain documentation to support the expenditures' timely obligation, and attest that included subgrantees are low-risk entities. Grantees, at their discretion, may use their oversight authority to collect any additional information and documentation they deem necessary to support the liquidation extension request and ensure proper oversight of subgrantees.

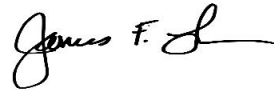
To streamline the process for States, and provide an efficient mechanism for internal review, grantees must submit the information required for the liquidation extension request to their State mailbox (State.OESE@ed.gov). Review and approval will be based on a complete request, including associated

subgrantee data. Grantees should submit a liquidation extension request prior to December 31, 2022, to minimize disruption when accessing CARES Act funds through the Department's Grants Management System (G5). However, requests submitted after this date will also be reviewed.

The Department's liquidation extension process for ESSER and GEER funds under the CARES Act is designed to provide flexibility for States and subgrantees to address critical, ongoing challenges in a manner that maximizes impact and supports schools in operating safely and addressing the impacts of the pandemic on students' mental health, well-being, and academic needs.

We look forward to continuing to work in close partnership with State and local leaders in the response to and recovery from the COVID-19 pandemic.

Sincerely,

A handwritten signature in black ink, appearing to read "James F. Lane". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

James F. Lane, Ed.D.
Senior Advisor, Office of the Secretary
Delegated the Authority to Perform the
Functions and Duties of the Assistant Secretary for
Elementary and Secondary Education

ESSER Spending: New and Updated Guidance Questions

*Frequently Asked Questions: Elementary and Secondary School Emergency Relief (ESSER)
U.S. Department of Education*

Updated December 7, 2022

Available at:

<https://oese.ed.gov/files/2022/12/ESSER-and-GEER-Use-of-Funds-FAQs-December-7-2022-Update.pdf>

A-4.a. Are LEAs required to periodically review their ARP ESSER safe return to in-person instruction and continuity of services plans? (New December 7, 2022)

Yes. Under ARP ESSER requirements, an LEA receiving an allocation of funds through the ARP ESSER formula was required to develop a safe return to in-person instruction and continuity of services plan and to regularly, but no less frequently than every six months throughout the program period, review and, as appropriate, revise that plan. An LEA must seek and take public input into account in determining whether and what revisions are necessary. If, after conducting the review and taking into account public input, the LEA may determine that no revisions are necessary. As with all decisions related to ESSER funds, an LEA should be transparent and communicate to the public its determination that revisions are not necessary.

A-4.b. In meeting the ARP ESSER requirement to use at least 20 percent of its ARP ESSER allocation to address the academic impact of lost instructional time and address the disproportionate impact of COVID-19 on underserved populations, may an LEA include the costs associated with implementing an evidence-based strategy that advances this purpose? (New December 7, 2022)

Yes, the cost of providing services to students to address the academic impact of lost instructional time and address the disproportionate impact of COVID-19 on underserved populations may include reasonable and necessary activities to help implement an evidence-based strategy for advancing this purpose. For example, such costs might include expenses associated with professional development, cleaning the space where a program is held, providing snacks or meals to

A-23. Which disposition rules must States and LEAs follow for equipment and supplies purchased with ESSER and GEER funds? (New December 7, 2022)

What follows is key information for States and LEAs regarding the disposition of supplies and equipment purchased with ESSER or GEER funds.

Definition of Equipment: Under 2 C.F.R. § 200.1, *equipment* is defined as tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or \$5,000.

Definition of Supplies: Under 2 C.F.R. § 200.1, *supplies* is defined as all tangible personal property that is not equipment. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or \$5,000, regardless of the length of its useful life.

Continued Use of Equipment or Supplies beyond the Period of Performance: Equipment and supplies purchased with ESSER or GEER funds may be used by States or LEAs for the authorized purposes of the ESSER or GEER program, respectively, during the period of performance (i.e., through September 30, 2022 for ESSER I and GEER I; through September 30, 2023, for ESSER II and GEER II; or September 30, 2024, for ARP ESSER) or until the equipment and supplies are no longer needed for the purposes of the ESSER or GEER program. (See 2 C.F.R. §§ 200.313(a)(1), (c)(1) and 200.314(a)). If the equipment or supplies are no longer needed for purposes of the ESSER or GEER program, a State or LEA may, in preferential order, continue to use the equipment and supplies to the extent they are needed for allowable purposes under another Federal education program in which the State or LEA participates, such as a program under the Elementary and Secondary Education Act of 1965 or the Individuals with Disabilities Education Act. The State or LEA may then use the equipment or supplies for a Federal program of another Federal awarding agency. (See 2 C.F.R. §§ 200.313(c) and 200.314(a)).

Disposition of Equipment that Is No Longer Needed by a State: For States that used ESSER or GEER funds to purchase equipment and find that the item is not needed for authorized purposes under ESSER or GEER or for any of the State’s other Federal programs, a State must dispose of the equipment in accordance with State laws and procedures. (2 C.F.R. § 200.313(b)).

Disposition of Equipment that Is No Longer Needed by an LEA: LEAs that used ESSER or GEER funds to purchase equipment and find that the item is not needed for authorized purposes under ESSER or GEER or for any of the LEA’s other Federal programs, and where the equipment has a current per unit fair market value of \$5,000 or less, may be retained, sold, or otherwise disposed of without additional responsibility to the Department. If an item of equipment has a current per unit fair market value in excess of \$5,000, the LEA may retain or sell the equipment. In this case, the Department is entitled to an amount calculated by multiplying the current fair market value or proceeds from the sale by the Department’s share or proportion of the cost of the original purchase. (2 C.F.R. § 200.313(e)).

Disposition of Supplies that Are No Longer Needed by a State or by an LEA: Supplies that cost less than \$5,000 per unit vest in the State or LEA upon acquisition. If there is a residual inventory of supplies that are not needed and the unneeded supplies exceed \$5,000 in total aggregate value, the State or LEA may retain or sell the supplies but, in either case, must compensate the Department for its share. The amount of compensation must be computed in the manner required for equipment under 2 C.F.R. § 200.313(e)(2). The aggregate value of unneeded supplies is their fair market value at the time of disposition. Given that disposition may occur at different times (for example, some supplies may be needed longer than others, a State or LEA may calculate the total aggregate value when disposition occurs—e.g., at the end of each year for which supplies are disposed.

A State or LEA must make a good faith effort to sell unneeded supplies purchased with ESSER or GEER funds in accordance with 2 C.F.R. § 200.314(a) and document its efforts. If a State or LEA cannot find a buyer and cannot use the supplies itself, the State or LEA has no further obligation to the Department.

Using ESSER and GEER Administrative Funds to Support Disposition Costs: ESSER or GEER funds reserved by a State or LEA for administrative activities may support costs associated with the disposition of supplies and equipment (e.g., storage units to house ESSER or GEER equipment and supplies that are unneeded) during the program period. However, ESSER and GEER administrative funds are not available beyond the period of performance as noted above. As a result, there are no ESSER or GEER funds available to pay for disposition costs after the period of performance ends.

A-24. May an LEA or another subrecipient award subgrants with ESSER and GEER funds? (New December 7, 2022)

No. There is no authority in the CARES, CRRSA, or ARP Acts for a subrecipient to award subgrants with their ESSER or GEER funds. Only the SEA (for ESSER) or the Governor (for GEER) is authorized to

award subgrants. Given the unique structure of the GEER Fund and varying internal State fiscal processes, those administering the GEER program should contact the State's dedicated Department mailbox [State.oese@ed.gov] with any questions regarding subrecipient awards with GEER funds within the State. LEAs or other subrecipients may enter into contracts for services (see FAQ A-3).

B-6. May ESSER and GEER funds be used for construction? (Updated December 7, 2022)

Construction is authorized under Title VII of the ESEA (Impact Aid) and therefore is an allowable use of GEER and ESSER funds under sections 18002(c)(3) and 18003(d)(1) of the CARES Act, sections 312(c)(3) and 313(d)(1) of the CRRSA Act, and section 2001(e)(2) of the ARP Act. The broad Impact Aid definition of "construction" includes new construction as well as remodeling, alterations, renovations, and repairs under which many activities related to COVID-19 would likely fall.

However, the Department strongly discourages LEAs from using ESSER or GEER funds for new construction because this use of funds may limit an LEA's ability to support other essential needs or initiatives. Extensive remodeling, renovation, and new construction are often time-consuming, which may not be workable under the shorter timelines associated with ESSER and GEER funds. These types of activities are also subject to a number of additional Federal requirements, as detailed below.

While construction is generally allowable, it is the responsibility of a Governor, SEA, LEA, or other subgrantee to assure that individual costs:

- 1) Comply with the Cost Principles in subpart E (e.g., the cost must be "necessary and reasonable" (2 CFR §§ 200.403-200.404));
- 2) Meet the overall purpose of the CARES, CRRSA, or ARP Act programs, which is "to prevent, prepare for, and respond to" COVID-19; and
- 3) Are consistent with the proper and efficient administration of those programs.

Under these general principles, construction activities, including renovations or remodeling, that are necessary for an LEA to prevent, prepare for, and respond to COVID-19 could be permissible, though the burden remains on grantees and subgrantees to maintain the appropriate documentation that supports the expenditure.

As noted above, an LEA using ESSER or GEER funds for remodeling, renovation, and new construction must comply with additional Federal requirements. For example, these projects require prior written approval by an LEA's SEA or Governor (or the Department for State projects). (See Title VII of the ESEA and 2 CFR § 200.439(b).) Approved construction projects (i.e., remodeling, renovation, and new construction) also must comply with applicable Uniform Guidance requirements, Davis-Bacon prevailing wage requirements,¹⁵ and all of the Department's applicable regulations regarding construction at 34 CFR §§ 76.600 and 75.600-75.618. Some of the relevant part 75 requirements that must be considered before a new construction project is initiated include¹⁶:

- 1) Has the grantee considered the probable effects of proposed construction on any district, site, building, or structure that is included or eligible for inclusion in the National Register of Historic Places (34 CFR § 75.602)? See question B-6.d. for more information on the National Historic Preservation Act.
- 2) Does the grantee have title or other interest in the site, including right of access, that is sufficient to ensure that the grantee will have use and possession of the facility for 50 years or the useful life of the facility, whichever is longer (34 CFR § 75.603)?
- 3) Can the grantee begin the approved construction in a reasonable time period and have the final plans been approved before the construction is advertised or placed on the market for bidding (34 CFR § 75.605)?

- 4) Can a grantee complete the project in a reasonable time period and consistent with the approved plans and specifications (34 CFR § 75.606)?
- 5) Is the construction functional, economical, and not elaborate in design or extravagant in the use of materials as compared to other facilities in the State or other applicable geographic area (34 CFR § 75.607)?
- 6) Do the grantee's plans and designs for the facilities comply with applicable Federal, State, and local health and safety standards, as well as Federal requirements regarding access by persons with disabilities (34 CFR §§75.609 and 75.610)?
- 7) Does the grantee have sufficient operational funds to operate and maintain the facility once the construction is complete and will the grantee operate and maintain the facility in accordance with all applicable Federal, State, and local requirements (34 CFR §§ 75.614 and 75.615)?
- 8) Has the grantee filed a notice of Federal interest that must be executed on property when ESSER or GEER funds are used to purchase land, construct a building, or make improvements to a building on leased property (OMB Standard Form 424D)?

An SEA or Governor may use other State agencies (such as Public Works or similar offices) to assist with approvals and management of ongoing projects. However, ultimately as the grantee, an SEA or Governor is responsible for ensuring that its LEA grantees are meeting all applicable requirements that are detailed in 34 CFR §§ 75.600-75.618, as well as in OMB Standard Forms 424B and D (Assurances for Non-Construction and Construction Programs, <https://apply07.grants.gov/apply/forms/sample/SF424D-V1.1.pdf>), including the assurances relating to labor standards; flood hazards; historic preservation; health and safety; energy conservation; and coastal barrier resources. (See FAQ A-17 for additional Uniform Guidance information.)

Finally, if ESSER or GEER funds are used for construction, grantees and subgrantees should also be aware that real property and equipment acquired or improved under a Federal award must be appropriately insured, and grantees must consult with the Department on disposition instructions in the event that the property or equipment is no longer needed. See, e.g., 2 CFR §§ 200.310-200.313.

B-6.a. May a State determine the process for granting prior approval to an LEA to use ESSER or GEER funds for capital expenditures? (New December 7, 2022)

Yes. As noted in FAQ B-6, capital expenditures projects require prior written approval by an LEA's SEA or Governor (or the Department for State projects). (2 CFR § 200.439(b).) Neither the Department nor the Uniform Guidance specifies an SEA process for granting prior approval to an LEA to use ESSER funds for capital expenditures such as minor remodeling or construction (including HVAC projects). Therefore, an SEA has the flexibility to establish its own reasonable and expeditious process that ensures expenditures meet applicable statutory and regulatory requirements, including those in subpart E of the Uniform Guidance (2 CFR part 200). For example, an SEA could:

- Use or modify existing prior approval procedures from other Federal programs;
- Consider using a building expert (e.g., engineer, inspector, architect) who knows applicable Federal, State, and local requirements to assist with its review of prior approval requests. The expert could be acquired on a limited basis through procurement or an agreement with another State agency with authority over facilities;
- Develop a checklist of items that an LEA seeking prior approval should provide, which could include:
 - o How the need for the repair, construction, or modernization prevents, prepares for, or responds to the COVID-19 pandemic;
 - o The name of the school facility the LEA is proposing to repair, construct, or modernize;

- o Identification of the LEA’s interest in, or authority over, the school facility involved, such as an ownership interest or a lease arrangement;
- o Sources and amounts of funds available for the proposed project;
- o A statement signed by an appropriate, independent local official affirming that:
 - The renovation or construction project meets applicable Federal, State, and local requirements with respect to health and safety, environmental standards, Historic Preservation, and other requirements (see FAQ B-6 and 34 CFR part 75); and
 - The renovation or construction is necessary (e.g., any deficiency associated with the renovation or construction threatens the health and safety of facility occupants or prevents the use of the facility).
 - An appropriate local official may include a local building inspector, a licensed architect, or a licensed structural engineer.
- o A cost estimate and other details needed to support the reasonableness and allowability of the expenditure under the applicable statute (e.g., ARP Act) and cost principles in the Uniform Guidance (e.g., the original construction date and the dates and descriptions of any other major renovations of the facility); and
- o Applicable assurances and certifications (see FAQ B-6 for applicable requirements that must be met for any renovation or construction project).

Under applicable Department requirements, State prior approval is recommended, but not required, before LEA bidding is advertised. State approval may come at any point in the project timeline until the point that reimbursement using ESSER or GEER funds occurs. Ideally, the State review process is complete as soon as possible on a project’s timeline, but a State may utilize this flexibility at any point in the project process.

B-6.b. What information does the Department need in order to consider a State’s prior approval request for a State’s capital expenditures? (New December 7, 2022)

As noted above, a State (SEA or Governor) as the pass-through agency is responsible for granting prior approval to subgrantees for capital expenditures. However, if a State is using ESSER or GEER funds it reserves at the State level for a capital expenditure, the State, under the Uniform Guidance, must seek prior approval from the Department for its expenditures. In general, for State projects, a State’s prior approval request should include detailed information on the project or capital equipment purchase; how the project or purchase will prevent, prepare for, or respond to COVID-19; a timeline for the project; and a budget. A State must obtain prior approval of the final working drawings and specifications from the Department before a construction project is advertised or placed on the market for bidding (34 CFR § 75.605). State prior approval requests should be submitted to the Department via the State’s dedicated Department mailbox [State.oese@ed.gov].

B-6.c. Is a grantee/subgrantee required to complete an environmental impact assessment under 34 CFR § 75.601 and the National Environmental Policy Act (NEPA) for a construction, renovation, or real property project supported by ESSER or GEER funds? (New December 7, 2022)

No. The Department does not exercise control over the use of the funds for any individual project as long as the project continues to meet all statutory and other applicable requirements (such as the Uniform Guidance and the Department’s administrative regulations). As a result, construction, renovation, or real property projects supported by ESSER or GEER grants are not considered a “major Federal action” under NEPA and are not subject to 34 CFR § 75.601.

While NEPA environmental impact assessments are not applicable, the Department strongly encourages grantees to require some type of environmental assessment for projects that involve breaking new ground, such as projects to expand the size of an existing building or replace an outdated building. This may already be required by State law and would help to assess any potential environmental ramifications of expanding or replacing school facilities and ensuring compliance with local or other environmental requirements.

B-6.d. What are grantee and subgrantee responsibilities under the requirements in section 106 of the National Historic Preservation Act? (New December 7, 2022)

Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires Federal agencies to consider the effects on historic properties of projects they carry out, assist, fund, permit, license, or approve. If a Federal or federally-assisted project has the potential to affect historic properties, a section 106 review will take place. Section 106 gives the Advisory Council for Historic Preservation, interested parties, and the public the chance to weigh in on these matters before a final decision is made. Consistent with those requirements, ESSER and GEER grantees and subgrantees are expected to assess the probable effects of any proposed construction on any district, site, building, or structure that is included or eligible for inclusion in the National Register of Historic Places.

Grantees will consult with the Department for State projects. Consistent with 34 CFR § 76.600(b) and (c), a State is authorized to perform the Department’s functions for its subgrantees when complying with certain section 106 requirements. This authorization applies to section 106 historic property reviews with respect to projects that are funded in whole or in part with ESSER or GEER funds.

The State may consult with the State Historic Preservation Officer (SHPO) and Tribal Historic Preservation Officer (THPO) to initiate the section 106 review process, identify and evaluate historic properties, and assess effects. The Department remains responsible for participating in the consultation process when:

- The State determines that “Criteria of Adverse Effect” apply to an undertaking;
- There is a disagreement between the State and the SHPO/THPO regarding identification and evaluation, and/or assessment of effects;
- There is an objection from consulting parties or the public regarding findings, determinations, the implementation of agreed upon provisions, or either the consulting parties or the public’s involvement in a section 106 review; or
- There is the potential for a foreclosure situation or anticipatory demolition as specified in section 110(k) of the NHPA.

B-6.e. What are the Federal reporting requirements associated with using ESSER and GEER funds to purchase land, construct a building, or make improvements to a building? (New December 7, 2022)

There are three sets of reporting requirements for States and LEAs that use ESSER or GEER funds to purchase land, construct a building, or make improvements to a building. The first is to record the Federal interest in the title of real property and include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project. In addition, as part of the grant award assurances for ESSER I, ESSER II, and ARP ESSER, and GEER I and GEER II, the chief state school officer for ESSER and the Governor for GEER assured that the SEA would comply with OMB Standard Forms 424B and D (Assurances for Non-Construction and Construction Programs). OMB Standard Form 424D states, among other things, that the grantee:

- Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency.
- Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.

The second reporting requirements are those in the Uniform Guidance that are triggered when Federal funds are used to acquire or improve real property. For example, see, 2 CFR §§ 200.310-200.313, which provide more detail on consulting with the Department when the property is modified or disposed of, including the conditions under which the Federal government must be compensated when property is sold. Finally, annually States must report to the Department and LEAs must report to the State/SEA (pass-through agency) on the status of the real property for at least the first 15 years see, e.g., 2 CFR §200.330.

B-7. May ESSER and GEER funds be used for renovation, including for such projects as making improvements to a school facility to improve indoor air quality (such as heating, ventilation, and air conditioning (HVAC) systems), and projects that would promote social distancing and safe in-person instruction? (Updated December 7, 2022)

Yes. ESSER and GEER funds may be used to make necessary improvements, for example to improve air quality and support social distancing, so that teachers and students may safely continue in-person instruction. As is the case with all activities charged to ESSER or GEER, costs must be reasonable and necessary to meet the overall purpose of the program, which is “to prevent, prepare for, and respond to” COVID-19. (See 2 CFR §§ 200.403-200.404.) Therefore, renovation or remodeling activities that are necessary for an LEA to prevent, prepare for, or respond to COVID-19 would be permissible. This might include renovations that would permit an LEA to clean effectively (e.g., replacing old carpet with tile that could be cleaned more easily) or create a learning environment that could better sustain social distancing (e.g., bringing an unused wing of a school into compliance with fire and safety codes in order to reopen it to create more space for students to maintain appropriate social distancing). This might also include, for example, as noted in section 2001(e)(2)(O)-(P) of the ARP Act:

School facility repairs and improvements to enable schools to reduce the 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 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. Please see the Department’s July 2021 guide to Improving Ventilation in Schools, Colleges, and Universities to Prevent COVID-19 for additional guidance.

As noted in FAQ B-6, these projects are also subject to prior written approval by a Governor or SEA (or the Department for State projects) and applicable Uniform Guidance requirements, Davis-Bacon prevailing wage requirements, and any of the Department’s applicable regulations regarding construction at 34 CFR §§ 76.600 and 75.600-75.618. In implementing any allowable ESSER or GEER activity, a grantee or subgrantee must follow all applicable Federal, State, and local standards and policies (e.g., building codes or specifications for HVAC systems), which may be consistent with standards identified by the Environmental Protection Agency (EPA), Centers for Disease Control (CDC), or World Health Organization. If an LEA uses funds for HVAC systems, under 34 CFR § 75.616(c), the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) standards apply. Please note that, for the purpose of HVAC projects supported by Department COVID relief funds, the Department has indicated that projects should meet the current ASHRAE standards, as noted above in the improving ventilation factsheet (issued July 2021). A State, SEA, or LEA might also consider using ESSER or

GEER funds to establish a program for assessing and improving HVAC systems. Such a program could also require verification that proper ventilation is occurring, such as through the use of carbon dioxide (CO₂) monitors.

Some HVAC upgrades may constitute “minor remodeling” and the Department’s applicable regulations regarding construction at 34 CFR §§ 76.600 and 75.600-75.618 would not apply. “Minor remodeling” means minor alterations in a previously completed building. The term also includes the extension of utility lines, such as water and electricity, from points beyond the confines of the space in which the minor remodeling is undertaken but within the confines of the previously completed building. The term does not include permanent building construction, structural alterations to buildings, building maintenance, or repairs. Minor remodeling projects that constitute capital assets under the Uniform Guidance still require prior approval consistent with 2 CFR § 200.439. See FAQs B-6.a, B-6.b for more information on prior approval.

The EPA has a variety of publications that can assist education leaders in improving the indoor air quality in schools. EPA resources on indoor air quality in schools can be accessed at: <https://www.epa.gov/iaq-schools>. The EPA has information available at: <https://www.epa.gov/coronavirus/air-cleaners-hvac-filters-and-coronavirus-covid-19> on some indoor air filtration devices that use bipolar ionization technology, which has the potential to create ozone. EPA states that ozone generators should not be used in occupied spaces. If choosing to use a device that incorporates bipolar ionization technology, EPA recommends using a device that meets UL 2998 standard certification (Environmental Claim Validation Procedure (ECVP) for Zero Ozone Emissions from Air Cleaners) and notes that there are many air cleaning devices that do not use bipolar ionization. EPA’s Clean Air in Buildings Challenge includes a set of guiding principles and best practices to assist building owners and operators with reducing risks from airborne viruses and other contaminants indoors. In addition, the CDC provides information on improving ventilation in schools at: <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/ventilation.html> and in buildings at: <https://www.cdc.gov/coronavirus/2019-ncov/community/ventilation.html>.

B-9. May an LEA use ESSER and GEER funds to renovate, remodel, or construct athletic facilities, such as swimming pools, playing fields, or sports stadiums? (New December 7, 2022)

This would not be an allowable use of funds unless there is a connection between the expenditure and preventing, preparing for, or responding to COVID-19, considering the specific facts and circumstances of a project. Expenditures of ESSER or GEER funds must meet the overall purpose of the CARES, CRRSA, or ARP Act programs. In addition, the Department discourages LEAs from using these funds for new construction, as this use of funds limits an LEA’s ability to meet other, more pressing needs related to the pandemic’s impact on learning and the emotional and mental health and well-being of our children and youth. It is the responsibility of the grantee and subgrantee to ensure that, among other Federal requirements, any project is targeted to the overall purpose of the ESSER or GEER program, which is “to prevent, prepare for, and respond to” COVID-19. It is unclear, for example, how constructing a swimming pool is related to the pandemic or otherwise allowable under the CARES, CRRSA, or ARP Act.

B-10. May ESSER and GEER funds be used to mitigate flood, tornado, and other natural disaster-related damage, including damage to buildings/infrastructure, technology, and equipment, to ensure that schools can open and safely remain open? (New December 7, 2022)

Yes, in limited circumstances, if such use is consistent with the primary purpose of ESSER and GEER funds to assist States and LEAs in preventing, preparing for, and responding to COVID-19. However, the SEAs and LEAs may want to take advantage of any available funding, including through FEMA’s Public Assistance program or the Department’s Project SERV. Many, if not all, costs incurred following a natural disaster may be covered by insurance or with funding received through FEMA’s Public Assistance

program. To the extent there are activities that are necessary to meet students' needs in response to the pandemic, including needs exacerbated by a recent natural disaster, ESSER or GEER funds may be used to cover the costs consistent with the ESSER or GEER allowability considerations (i.e., allowable under the statute and consistent with the Uniform Guidance). For example, ARP ESSER specifically provides that an LEA may use ESSER funds for "school facility repairs and improvements to reduce risk of virus transmission and exposure to environmental health hazards, and to support student health needs" (section 2001(e)(2)(O) of the ARP Act). To the extent that a natural disaster has caused damage to school infrastructure and buildings that would increase the risk of virus transmission or impact in-person learning, such as flood or fire damage, then ESSER or GEER funds may be used to cover the costs of activities to reduce that risk. It is important for an LEA to maintain documentation and written justification as to how uses of ESSER or GEER funds are related to the COVID-19 response, particularly where costs are closely associated with damage from a natural disaster.

B-11. May ESSER and GEER funds be used to support costs for utilities or gasoline? (New December 7, 2022)

Generally, ESSER or GEER funds may be used to support activities that are necessary to maintain the operation and continuity of services in the LEA as schools and students recover from the pandemic. For example, there may be instances where the use of funds to support this type of cost would be acceptable, such as in a case where an LEA has incurred additional expenses for utilities due to efforts related to improving indoor air quality. The costs must be reasonable and otherwise consistent with the Uniform Guidance (2 CFR §§ 200.403-200.405).

B-12. May ESSER and GEER funds be used to pay student fees for activities such as art, music, and theater classes? (New December 7, 2022)

Yes, under certain circumstances. Because ESSER or GEER funds may be used to support activities addressing the unique needs of students from low-income backgrounds, students with disabilities, English learners, students of color, students experiencing homelessness, and children and youth in foster care, and help students recover from the pandemic an LEA may use ESSER or GEER funds to pay fees, including outstanding balances, to help ensure equitable access to programs that meet students' social, emotional, mental health, and academic needs. Alternatively, an LEA could use ESSER or GEER funds to support such activities for all students, such that no fee is charged.

B-13. May ESSER and GEER funds be used to provide students with safe, healthy, and supportive learning environments? (New December 7, 2022)

The primary purpose of ESSER and GEER funds is to assist States and LEAs in preventing, preparing for, and responding to the COVID-19 pandemic. To the extent there are safety and supportive measures and activities that are necessary to meet students' health and well-being and other needs in response to the pandemic, ESSER or GEER funds may be used to cover the costs consistent with allowable uses of ESSER and GEER funds under the statutes and consistent with the Uniform Guidance, as noted earlier in these FAQs. As with all uses of funds, the grantee is responsible for ensuring that the use of funds supports the overall purpose of the CARES, CRRSA, or ARP Act programs, which is "to prevent, prepare for, and respond to" COVID-19.

In all cases, the Department strongly recommends that States and LEAs focus on evidence-based practices that promote safe, healthy, and supportive learning environments. A comprehensive approach should include efforts specific to:

- Implementing Multi-Tiered Systems of Support (e.g., Positive Behavioral Interventions and Supports), and other early intervention strategies.
- Providing integrated behavioral and mental health supports to educators and staff (e.g., hiring certified mental health professionals and behavior specialists).

- Working collaboratively with a diverse multidisciplinary team trained in youth development to create emergency plans and training exercises.
- Increasing professional development opportunities for faculty, staff, and community partners, particularly around trauma-informed care and culturally and linguistically inclusive responses.
- Ensuring that prevention, protection, mitigation, response, and recovery activities consider the evidence base and are implemented in ways that respond to underserved students, protect students' rights, and demonstrate respect for students' dignity and potential.

In supporting efforts to address the mental health needs of students, we suggest States and LEAs review the effective strategies that the Department has identified in our guidance on Supporting Child and Student Social, Emotional, Behavioral, and Mental Health Needs, in Strategies for Using American Rescue Plan Funding to Address the Impact of Lost Instructional Time, in Volume 2 of the ED COVID-19 Handbook, or on the fact sheet regarding Supporting the Mental Health Needs of All Students with American Rescue Plan Funds.

B-14. May ESSER and GEER funds be used for the cost of purchasing and installing video systems for security purposes? (New December 7, 2022)

There may be limited circumstances where purchasing and installing such a system, consistent with applicable law, is permissible, since ESSER or GEER funds may be used by an LEA for the purpose of promoting safe and secure schools. As with all uses of funds, the grantee is responsible for ensuring that the use of funds supports the overall purpose of the CARES, CRRSA, or ARP Act programs, which is to prevent, prepare for, and respond to COVID-19.

To the extent that video systems capture student and staff behavior, whether intentionally or incidentally, there may be additional requirements and considerations as discussed below.

Privacy Considerations. LEA officials are regularly asked to balance the interests of safety and privacy for students, consistent with applicable law. For example, while the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR part 99) generally prohibits educational agencies and institutions from disclosing personally identifiable information from a student's education records absent written consent from parents or eligible students (age 18 or older or attending a postsecondary institution at any age), there are exceptions to the general consent requirement that can help schools and LEAs to take steps to maintain school safety. Images of students captured on video systems that are maintained by a school official may or may not be considered "education records" subject to FERPA. For more information, see "FAQs on Photos and Videos under FERPA" at <https://studentprivacy.ed.gov/faq/faqs-photos-and-videos-under-ferpa>. Images of students captured on video systems that are maintained by the school's law enforcement unit are generally not considered "education records" under FERPA, and, therefore, may not be subject to FERPA's requirements. For more information, see "School Resource Officers, School Law Enforcement Units, and the Family Educational Rights and Privacy Act (FERPA)" at https://studentprivacy.ed.gov/sites/default/files/resource_document/file/SRO_FAQs.pdf.

The use of video systems may raise other privacy concerns. Accordingly, the LEA should consider several questions before deciding to use video systems, including where the cameras are located, who has access to the images, how the images will be used, and how long the images will be retained. As a best practice, LEAs should only collect, use, and retain the minimum amount of personally identifiable information that is relevant and necessary to accomplish an authorized purpose. LEA officials should consult with their legal counsel to determine whether any Federal or State laws may be applicable. Further, consideration needs to be given to the places in which individuals would enjoy a reasonable expectation of privacy to avoid violating such expectations. Applicable State law should be considered because the use of video systems may give rise to legal obligations regarding access to and disclosure of

any recordings, as well as their retention and disposition. These issues should be considered in advance of developing a policy on the use of video systems. For example, it would be helpful to consider whether images of individuals can be blurred or redacted before providing access to or disclosing any recordings to protect the privacy of those individuals.

Civil Rights Considerations. Federal civil rights laws enforced by the Department’s Office for Civil Rights require an LEA that receives Federal financial assistance not to discriminate based on race, color, national origin, sex (including sexual orientation and gender identity), disability, and age in their programs and activities. An LEA’s nondiscrimination obligations apply to the conduct of school staff and other persons with whom the school has a contractual or other arrangement, including security staff, private security, and school law enforcement officers. The LEA has a responsibility not to discriminate when conducting surveillance and other security or safety activities using video systems.

Specifically, an LEA must ensure nondiscrimination in decisions to obtain and use such equipment, including where to place such devices to ensure such surveillance does not treat students unnecessarily differently on the basis of race, color, national origin, sex, disability or age or have an unjustified discriminatory impact on these bases; and must ensure the videos and related information are not used in a discriminatory manner.

Additional Policy Considerations. If an LEA chooses to use a video system, it should have a clearly established policy on the use of video systems on school property. As a best practice, the LEA should develop the policy surrounding the use of video systems in consultation with students, their families, and school-based staff, so that uses of the video systems are widely understood and privacy concerns are more fully considered in the development of the policy.

The policy should effectively address privacy and civil liberties issues and provide fair notice to students and their families, staff, and visitors that on-campus video systems are in place. At a minimum, the policy should: (a) describe the purposes for which video systems are used on school property (b) address the placement of the cameras to ensure that cameras are not placed in any areas where there is a reasonable expectation of privacy; (c) notify staff and students through staff and student/parent handbooks and signage (in accessible formats) that on-campus video systems may be present on school property and on vehicles used for school-provided transportation, along with the purposes of the surveillance equipment, as set forth above; and (d) state whether the video recordings may become a part of a student’s education record or a staff member’s personnel record and under what conditions, the process for disputing the inclusion of such recordings as part of any record, and, if applicable, how it is maintained consistent with local, State, and Federal laws such as FERPA.

The LEA must comply with all applicable laws related to record maintenance and retention. The LEA policy should also include reasonable procedures intended to preserve data related to a known incident that involves injury to students, staff, or members of the public or damage to property, or that involves any potential violation of the law or LEA policies, procedures, or rules of conduct. Depending on relevant facts, the use of video systems in classrooms may raise concerns regarding the potential application of other Federal or State laws. LEA officials should consult with their counsel to determine whether any such laws are applicable.

C-4.a. In addition to the approaches described in FAQ C-4, how may ESSER and GEER funds support multilingual learners? (New December 7, 2022)

SEAs and LEAs may use ESSER or GEER funds to support social, emotional, and academic needs of multilingual learners or immigrant children or youth in response to and recovery from the COVID-19 pandemic. In addition, funds may be used to address long-standing inequities that have been exacerbated by the pandemic, Funds may be expended for a wide range of activities including:

- Supporting the development or expansion of multilingual instructional programs, including programs that provide instruction in Native American languages.
- Supporting an increase in available learning and enrichment time, such as through extended day, week, or year programs, or additional out-of-school time (e.g., during school breaks).
- Supporting services to meet increased needs of immigrant children or youth including by providing a whole child approach.
- Assessing individual student needs and tailoring supports to unique circumstances.
- Providing professional development to educators and others who provide additional supports, such as tutors, to ensure instruction and enrichment are evidence-based and culturally and linguistically responsive, including by ensuring students learn listening, speaking, reading, and writing skills in an integrated manner in all languages they are studying.
- Supporting collaboration between teachers and others providing additional instruction to integrate multilingual learners' experiences or to ensure continuity of instruction between the regular school day and any additional out-of-school learning time.
- Recruiting, preparing, and developing multilingual educators and staff, including through pathway programs such as high-quality residencies, grow your own programs, and registered apprenticeships.
- Providing teacher candidates with additional financial support such as stipends, loan forgiveness, and service scholarship programs.
- Supporting existing educators and staff in adding bilingual or other specialized certifications that support multilingual learners, including by covering the costs associated with earning those additional certifications.
- Supporting or expanding programs that offer a seal of biliteracy to recognize students who demonstrate proficiency in multiple languages.
- Supporting the development or expansion of digital literacy programs for multilingual students, families, and caregivers.

C-4.b. In addition to the approaches described in FAQ C-4 and C-4.a., how may ESSER and GEER funds support family engagement for multilingual learners? (*New December 7, 2022*)

In addition to the approaches described in FAQ C-4 and C-4.a, ESSER or GEER funds may support family engagement for multilingual learners or immigrant children or youth as part of the effort to address the impact of lost instructional time and to address the unique needs of multilingual learners arising from the pandemic. Such investments may help families of multilingual learners become more fully aware of the range of programs, courses of study, and supports that can help their students overcome obstacles created and exacerbated by the pandemic and succeed in academic coursework. For example, ESSER or GEER funds may be used to expand outreach and community engagement with local organizations that serve multilingual learners and to expand an LEA's multilingual social media and online presence to ensure families have accurate, up-to-date information about learning opportunities. As described in FAQ C-4, ESSER or GEER funds may also be used to provide translation and interpretation services.

In establishing or expanding such programs, SEAs, LEAs, and schools should engage communities to support needs assessment, program design and development, and implementation, all of which may be allowable uses of ESSER and GEER funds. ESSER or GEER funds may also be used to assist families in understanding their students' linguistic development in each language and how they can support multilingual learning at home.

C-4.c. How may ESSER and GEER funds support assessments for multilingual learners? (New December 7, 2022)

ESSER or GEER funds may be used to develop, improve, and administer assessments for English learners, including formative, diagnostic, interim, and summative assessments as part of a school's and LEA's efforts to quantify and address the impact of lost instructional time that resulted from the pandemic. This may include developing assessments in a language and form most likely to yield accurate and reliable information on what students know and can do, consistent with ESEA section 1111 and 34 CFR § 200.6, and may also include developing and administering assessments in a Native American language. ESSER or GEER funds may support development of assessments for multilingual learners or immigrant children or youth that include projects, portfolios, and extended performance tasks that measure a full range of higher-order thinking skills and that are culturally and linguistically responsive in their design and implementation.

ESSER or GEER funds may also be used to ensure families understand the results of any assessments, such as by ensuring score reports and other information are available in an accessible language and format consistent with 34 CFR § 200.8.

C-11. How may an LEA use ESSER and GEER funds to address chronic absenteeism? (Updated December 7, 2022)

ESSER or GEER funds may be used to implement data-driven strategies to address chronic absenteeism that has increased as a result of the COVID-19 pandemic. Allowable uses include outreach to students and families; accelerating learning for students with significant amounts of lost instructional time during the COVID-19 pandemic; and other intensive social, emotional, mental health, and academic supports. ESSER or GEER funds may be used to support efforts to locate and reengage students who are chronically absent and to work with students and families to address underlying needs or barriers that are causing chronic absenteeism as schools recover from the pandemic. This may include personal outreach by educators and support staff and providing linguistically inclusive information at community sites and online. ESSER or GEER funds may support stipends or other additional compensation for teachers who spend time outside their regular working hours to locate and reengage students who are chronically absent. ESSER or GEER funds may further support students experiencing homelessness, such as by increasing support for liaisons who support the population. Similarly, ESSER or GEER funds may augment support for students from migratory families; for example, program staff who work with these students may need flexible work hours during the week, weekends, nights, and in the summer to canvas the community in search of agricultural workers and to visit families in their homes. ESSER or GEER funds may also be used to match students with mentors and rapidly contact families to identify and overcome barriers to regular attendance.

An LEA may not provide direct monetary rewards to students or families for school attendance; however, ESSER or GEER funds may be used to develop and pay for recognition programs that encourage student attendance (e.g., rewarding strong or improved attendance through eligibility to participate in special events for a class) (see FAQ C-23.a). ESSER or GEER funds may be used to build community partnerships with homeless shelters, local social service agencies, and local media and transit authorities, which can help students attend school regularly and disseminate reminders about the importance of regular attendance. These and other approaches may be especially important in supporting students experiencing homelessness. For additional resources on addressing chronic absenteeism among students experiencing homelessness, please see the National Center for Homeless Education's resources on the topic. Effective strategies to address chronic absenteeism and reengage students are further described in Volume 2 of the Department's COVID-19 Handbook available at:

<https://www2.ed.gov/documents/coronavirus/reopening-2.pdf>.

ESSER or GEER funds may also be used to address the impacts of chronic absenteeism and to help leaders take action to reduce it. For example, ESSER or GEER funds may be used to provide additional social, emotional, mental health, and academic support during school breaks or before and after school. Actions to address chronic absenteeism may include tiered practices such as:

- Foundational strategies that support the entire school community and make schools welcoming learning environments;
- Practices to prevent absenteeism, such as predictable routines and clear communication;
- Actions that support students at greater risk of chronic absenteeism or who meet the lower boundaries of the definition of chronically absent, such as individualized outreach and support or home visits; and
- Case management and related supports for students who have missed the most instruction.

In addition, to guide LEA decision-making around which strategies to implement, ESSER and GEER funds may be used to develop data quality systems that will assist in:

- Establishing a common definition of what constitutes a day of attendance across all modes of instruction, including in-person, remote, virtual synchronous, and asynchronous;
- Tracking daily attendance and determining whether absences occur during in-person, or, if used, remote learning (whether synchronous or asynchronous) settings;
- Monitoring and publishing disaggregated data on the number of students who are absent 10 percent or more of the time;
- Conducting research and analyzing data to determine which attendance metrics are associated with lower academic performance in distance or hybrid learning; and creating early warning systems based on key student indicators, including chronic absenteeism, credit accumulation, course grades, and discipline rates, to identify students at risk of dropping out of school. (For additional information, see FAQ C-11a.)

C-11.a. How may ESSER and GEER funds be used to support early warning indicator systems? (New December 7, 2022)

ESSER or GEER funds may be used to develop and implement early warning indicator (EWI) systems, which can track attendance, assignment or course completion and credit accumulation, grades, and discipline rates. These data can be examined frequently (e.g., monthly) and used to inform targeted engagement strategies in response to these data. When viewed at the classroom and student level, these data can strengthen a school's ability to provide specific, timely interventions (including support for educators where needed), which is crucial to addressing the impact of lost instructional time due to the pandemic.

States and LEAs may also collect data on the successful transitions of students from pre-school to elementary school, elementary school to middle school, middle school to high school, and high school to postsecondary education. For example, schools may use on-track indicators to assess how well students transition into high school so that the schools may provide additional supports as needed. Using information from the EWI, schools may want to consider implementing or enhancing multi-tiered systems of support that typically include: (1) school-wide supports; (2) progress monitoring; (3) tiered systems of academic and social, emotional, and behavioral interventions; and (4) evidence-based instructional and behavioral interventions.

LEAs may also use ESSER or GEER funds to create well-designed student surveys, which can be particularly helpful when used in advance of and during these transitions. Survey results can be incorporated into the EWI to provide important information to educators on how students are feeling about these transitions and where additional support might be needed. Note that surveys must be utilized

in compliance with the Protection of Pupil Rights Amendment (PPRA). Funds can also be used to provide professional development to educators on how to analyze and use the data to identify the appropriate intervention and monitor its effectiveness.

C-14. How may ESSER and GEER funds be used to support mental health services for students and educators facing COVID-19 pandemic-related trauma? (Updated December 7, 2022)

Addressing the mental health needs of students is an important goal of the ARP ESSER program. ESSER or GEER funds may be used to provide mental health services and supports for students and their families, educators, and staff who have mental health needs related to or exacerbated by the COVID-19 pandemic. The Department recognizes the widespread impact of the COVID-19 pandemic on mental health, and the particularly extensive effects of COVID-19 on youth mental health (see, for example, the Surgeon General’s Advisory on Protecting Youth Mental Health at <https://www.hhs.gov/sites/default/files/surgeon-general-youth-mental-health-advisory.pdf> and the CDC’s study on youth mental health threats at <https://www.cdc.gov/media/releases/2022/p0331-youth-mental-health-covid-19.html>).

ESSER or GEER funds may therefore support mental health services in three key areas: (1) improving access to high-quality mental health care; (2) improving communication and transparency about mental health supports with the wider school community; and (3) implementing and integrating evidence-based approaches to social, emotional, and mental well-being.

Specific strategies within each of these three categories are discussed below:

Improve Access to High-Quality Mental Health Care

- **Create a positive, accessible process** for students, educators, and staff to seek help and support. This process may include increasing mental health resources and support on school campuses and awareness of those resources and services. Taking a whole-school approach to wellness can also create a more positive process for seeking support and services. Mental health literacy training for educators and staff can also be effective in helping them facilitate students obtaining mental health supports inside school buildings and in the community.
- **Use early intervention strategies.** Early interventions conducted by mental health staff are associated with positive academic and developmental outcomes, including fewer disciplinary encounters, increased engagement, and elevated graduation rates.
- Ensure there is **sufficient access to high-quality mental health staff** (e.g., psychologists, counselors, social workers, and well-trained behavior specialists) within school buildings. ESSER or GEER funds may be used to **hire additional staff**, develop plans for leveraging multiple Federal and State funding streams to increase access to mental health staff, prioritize activities that build local capacity to sustain services, and develop comprehensive evaluation plans for adjusting supports based on data. ESSER or GEER funds may also be used to establish processes and systems to bill Medicaid for health services, as eligible, including hiring or contracting with staff to do this work.
- **Reduce negative attitudes and beliefs** associated with seeking mental health support by providing more information on mental health challenges and supports available, investing in professional development of school staff, offering tele-mental health options, actively engaging students in health decisions, and actively engaging the wider school community (e.g., holding regular meetings about resources and making practice changes based on community feedback).
- Provide students **equitable access to mental health services that are welcoming and inclusive** with regard to race, ethnicity, culture, language, disability, and for students who identify as LGBTQI+. This can include increasing the number of professionals who can provide services in

languages in addition to English and the diversity of school counselors, mental health professionals, social workers, psychologists, nurses, and other integrated support staff in a manner consistent with applicable law, including the civil rights laws enforced by the Department. ESSER or GEER funds may support efforts to increase diversity in school-based mental health services providers by offering loan forgiveness or service scholarships, creating career pathways (including beginning in high schools), and creating or strengthening LEA partnerships with Historically Black Colleges and Universities (HBCUs), Tribal Colleges and Universities (TCUs), and Minority Serving Institutions (MSIs).

Improve Communication and Transparency about Mental Health Supports with the Wider School Community

- **Use accessible language** and ensure that all school materials and mental health personnel communicate in a language understood by multilingual families and students and accessible to persons with disabilities. Public schools are obligated to ensure meaningful communication with parents with limited English proficiency (LEP) in a language they can understand.²⁸ Public schools must also ensure that communications with families and students with disabilities are as effective as communications with others.²⁹ Accessibility for a person with a disability also extends to a public school's web content, as discussed in the Department of Justice's recent guidance on web accessibility. Schools may use ESSER or GEER funds to meet or go beyond these legal obligations to ensure all students and families are able to access mental health resources at school.
- **Establish a home visit program and provide support** and time for educators and/or mental health professionals to perform home visits and meetings with families and guardians.
- **Increase awareness of available school and LEA human resources support** for all staff, including where to find mental health support and who to contact and when.
- **Leverage local wellness resources** from local health departments, community partners, or others to provide services to students, teachers, and staff remotely or in person.

Implement and Integrate Evidence-Based Approaches to Social, Emotional, and Mental Well-Being

- Administer and analyze **school climate and other surveys** to determine areas of improvement for educators, students, families, and communities and monitor progress in areas of need.
- **Analyze and use existing data** on attendance, academic success, and discipline to identify students in need of additional supports and guide improvements. **Create student-teacher advisory groups** and provide professional development to educators leading these groups. School leaders can build time into the schedule for these groups to regularly meet to build strong teacher-student relationships and improve school engagement.
- **Implement and integrate evidence-based practices within a Multi-Tiered System of Support (MTSS)**. An MTSS approach, including professional development, can help create a positive, safe, affirming, and welcoming school environment; build strong relationships between students and staff; establish consistent routines; promote and reinforce positive expectations; inform rigorous, engaging, and culturally and linguistically inclusive instruction; and provide clear and supportive feedback to students.
- **Develop and implement fair discipline policies that emphasize preventive practices and strategies** that help address social, emotional, and mental health needs, such as restorative justice programs that are culturally and linguistically responsive and support the social and emotional well-being of all students.
- **Provide professional development to all staff** on how they can support the well-being of students within their specific roles, recognize and value student diversity, and specifically affirm

populations who have experienced inequities to ensure mental health supports build on students' strengths and are welcoming and inclusive.

- Expand **full-service community schools**, which provide and better integrate academic, social, and health care services for students and students' family members.

ESSER and GEER funds may also be used to evaluate students who may have a disability under IDEA and Section 504, including those who have mental health-related needs as a result of their disability, or to provide equipment, services, and supports that are individually determined as necessary to provide FAPE to an eligible student (commonly referred to as related services)³⁰ under IDEA or Section 504, as applicable. Please also refer to section I in volume 2 of the Department's COVID-19 Handbook. Additional information about supporting student mental health is available at <https://www2.ed.gov/documents/students/supporting-child-student-social-emotional-behavioral-mental-health.pdf>. More information on providing safe and supportive learning environments, including addressing student and educator mental health, is available from the National Center on Safe and Supportive Learning Environments at <https://safesupportivelearning.ed.gov>. More information on improving school climate and school safety through the implementation of positive behavioral interventions and supports is available from the Center on Positive Behavioral Interventions and Supports at <https://www.pbis.org/>.

C-16. May an LEA use ESSER and GEER funds to provide meals for students? (Updated December 7, 2022)

Yes, under certain circumstances. Typically, an LEA has other means of providing for food services, such as through the U.S. Department of Agriculture (USDA) or other Federal programs. As a result, the Department encourages LEAs to use those Federal funds with the specific purpose of providing food services to students prior to using ESSER or GEER funds for this purpose. However, if such funding is not available, or additional funds are necessary, an LEA may use ESSER or GEER funds to provide meals if the need arises from or relates to recovery from the pandemic. For example, ESSER or GEER funds could be used to increase food service staff capacity; cover additional labor costs associated with serving meals to students during the pandemic; or support COVID-19 pandemic-related expenses, such as school meal service equipment/supplies, meal packaging, and transportation services.

Please note that, since 2020, the USDA has provided nationwide flexibilities and waivers consistent with its existing authority and new legislation, including the recent Keep Kids Fed Act of 2022, which extends certain flexibilities to summer 2022 and through school year 2022-2023. Using this flexibility, USDA will be able to provide temporary, higher reimbursement rates for school lunches and breakfasts served, as well as meals and snacks served in the Child and Adult Care Food Program.

C-16.a. May ESSER and GEER funds be used to cover the costs of waiving the outstanding school meals balance of a student from low-income backgrounds? (New December 7, 2022)

To the extent a low-income family's ability to pay for school meals has been impacted by the COVID-19 pandemic, an LEA may use ESSER or GEER funds to cover the student's school lunch balance. As noted in FAQ C-16, the Department encourages the LEA to first utilize funding and flexibilities provided by USDA in addressing the costs associated with providing school meals.

C-23.a. May ESSER and GEER funds be used to provide incentive payments directly to parents and students to encourage students to attend school? (New December 7, 2022)

No. Using ESSER or GEER funds to pay students or families for undertaking a mandatory activity, such as attending school, or to pay family members to ensure the students attend school, is not an allowable use of ESSER or GEER funds. However, there are many possible uses of ESSER and GEER funds to

support programs intended to help students stay in school and/or transition to postsecondary education, including many outlined in these FAQs (e.g., FAQs C-11 and C-23).

D-1. May ESSER and GEER funds be used to stabilize and support the educator workforce?
(Updated December 7, 2022)

Yes. ESSER or GEER funds may be used to stabilize and support the educator workforce, including implementation of both short- and long-term strategies to address educator shortages to help ensure continuity of operations. Funds may also be used to hire and expand student access to a well-prepared, diverse educator workforce. Examples of specific strategies that could be employed to stabilize and support the educator workforce include:

- **Increasing educator and staff compensation** by offering hiring and retention bonuses, working toward permanent salary increases, providing premium pay, and leveraging flexibilities to bring retired educators back to the classroom or retain current staff eligible for retirement.³³
- **Building and maintaining a cadre of high-quality substitute teachers** by strengthening recruitment and training programs and increasing compensation. To create stability and certainty and promote learning recovery, substitute teachers can be assigned to a single school for a full school year. ESSER or GEER funds may also be used to remove barriers so that retirees or those licensed in another state can serve as substitutes or paraprofessionals.
- **Expanding and improving support for educator and staff well-being** by providing supported time for debrief sessions and peer-to-peer support, increasing access to mental health supports and communicating the availability of those mental health supports, reducing educator workloads by ensuring staff planning time is scheduled into work hours, and using flexible and creative scheduling to promote educator collaboration. Supporting educators also means acknowledging the extraordinary workload presented by the pandemic and pandemic recovery efforts; LEAs can respond by using ESSER or GEER resources to increase the availability of qualified adults and personnel to support educators, students, and staff. For example, LEAs can partner with institutions of higher education, community-based organizations, nonprofit organizations, and businesses to provide additional support for educators and students through teaching candidates and well-trained volunteers and other additional staff. The Department launched the National Partnership for Student Success, a public-private partnership, to help increase the number of tutors, mentors, student success coaches, postsecondary transition coaches and integrated student support coordinators to help students get back on track, which can help stabilize and support the educator workforce while building the pipeline of future teachers. ESSER and GEER funds may be used to meet AmeriCorps matching requirements; AmeriCorps members may in turn serve as tutors, mentors and student success coaches, assist with additional administrative responsibilities resulting from the pandemic, and provide creative enrichment opportunities. For more information on using Department funds to meet AmeriCorps matching requirements, please see <https://www2.ed.gov/policy/fund/guid/americorps-matching-letter.pdf?src=grants-page>. In addition, the Department launched the Engage Every Student initiative to help expand high-quality out-of-school time learning opportunities, which ESSER and GEER can support.
- **Investing in the educator pipeline** through loan forgiveness, grants, a variety of educator preparation programs (e.g., grow-your-own initiatives, teacher residency programs, teacher apprenticeships), or service scholarship programs to support pathways into the profession and encouraging newly certified teachers to commit to teaching in high-need areas and subjects. In so doing, State, LEA, and higher education leaders can answer the Call to Action to use pandemic relief funds to grow the education profession and help students recover. ESSER or GEER funds, alone or in combination with Higher Education Emergency Relief funds, can support partnerships with educator preparation programs to expand opportunities for extensive clinical experience to teaching candidates, including leveraging candidates to provide additional support to students and address the impact of lost instructional time.

ESSER or GEER funds may also be used to recruit, hire, and retain a diverse school staff, including through high-quality induction, and mentoring programs. ESSER or GEER funds may also be used to provide teachers professional learning opportunities on strategies for learning recovery. In using these funds, an LEA should consider how to build short- and long-term capacity and sustain its efforts after the funding is no longer available.

Additional information on evidence-based approaches to stabilizing the educator workforce are described in Volume 2 of the Department’s COVID-19 Handbook available at: <https://www2.ed.gov/documents/coronavirus/reopening-2.pdf>, at <https://www2.ed.gov/documents/coronavirus/arp-teacher-shortages.pdf>, and in Secretary Cardona’s December 2021 letter on the topic at https://oese.ed.gov/files/2021/12/21-0414.DCL_Labor-Shortages.pdf.

D-1.a. How may ESSER and GEER funds be leveraged with funding and initiatives of other Federal agencies to promote education workforce stability? (New December 7, 2022)

In general, ESSER or GEER funds may be used in combination with other Federal funds, so long as separate documentation and cost allocation is maintained for separate funding streams or programs. For additional information on using ESSER and GEER funds along with other Federal funds, see FAQ A-17. Steps taken by other Federal agencies to promote education workforce stability include:

- As described above in FAQ D-1, the Internal Revenue Service issued FAQs clarifying that, in some instances, retirees can return to work and still receive their pensions or remain on the job and begin receiving pension payments, where pension plans permit such approaches (pension plans can also be amended to create these incentives). For additional information, please see <https://www.irs.gov/newsroom/coronavirus-related-relief-for-retirement-plans-and-iras-questions-and-answers>.
- The Department of Labor recently approved the first registered apprenticeship programs for teaching, which expand options for “grow your own” and residency programs that allow candidates to be paid while they gain clinical experience and complete coursework leading to full certification. ESSER and GEER funds may support the development and implementation of such programs.
- To stabilize the school bus driver workforce, ESSER or GEER funds could be used to recruit, train, and pay for commercial licensing of new school bus drivers.

E-1. What is the timeline for a Governor, SEA, or LEA to obligate funds under ESSER I and GEER I? (Updated December 7, 2022)

A Governor, SEA, or LEA, as applicable, has until September 30, 2022, to obligate ESSER I and GEER I funds; this includes the 12-month Tydings Amendment period. (Note that the timeline for obligating funds is distinct from the timeline for a State to award funds within one year of receipt or return them to the Department for reallocation (sections 18002(d) and 18003(f) of the CARES Act).) For additional information on awarding and obligating funds, please see Question 10 in the ESSER FAQs available at: <https://oese.ed.gov/files/2020/05/ESSER-Fund-Frequently-Asked-Questions.pdf> and Question A-19 in the GEER FAQs available at: <https://oese.ed.gov/files/2020/10/FAQs-GEER-Fund.pdf>. Although funds must be obligated by September 30, 2022, grant activities carried out through a valid obligation of funds may continue beyond that date. Under 2 CFR § 200.344(a), ESSER and GEER funds must be liquidated within 120 calendar days of the end of the performance period. See FAQ E-3.d. for more information.

E-2. What is the timeline for a Governor, SEA, or LEA to obligate funds under ESSER II and GEER II? (Updated December 7, 2022)

A Governor, SEA, or LEA, as applicable, has until September 30, 2023, to obligate ESSER II and GEER II funds; this includes the 12-month Tydings Amendment period. (Note that the timeline for obligating funds is distinct from the timeline for a State to award funds within one year of receipt or return them to the Department for reallocation (sections 312(f) and 313(g) of the CRRSA Act.) For additional information on awarding and obligating funds, please see Question 10 in the ESSER FAQs available at: <https://oese.ed.gov/files/2020/05/ESSER-Fund-Frequently-Asked-Questions.pdf> and Question A-19 in the GEER FAQs available at: <https://oese.ed.gov/files/2020/10/FAQs-GEER-Fund.pdf>. Although funds must be obligated by September 30, 2023, grant activities carried out through a valid obligation of funds may continue beyond that date. Under 2 CFR § 200.344(a), ESSER and GEER funds must be liquidated within 120 calendar days of the end of the performance period. See FAQ E-3.d. for more information.

E-3.a. May an SEA establish a shorter period of availability for awards made from the ESSER State Reserve than the full period of availability under the applicable ESSER program? (New December 7, 2022)

Yes, an SEA may establish a period of availability for ESSER State Reserve funds, including funds that are awarded to LEAs from the SEA's State Reserve, that is shorter than the full period of availability. For ESSER funds awarded through the formula, by contrast, LEAs must be given the full period of availability to obligate the funds.

E-3.b. When must ESSER I, ESSER II, ARP ESSER, GEER I, and GEER II funds be liquidated? (New December 7, 2022)

Grantees and subgrantees, by regulation, must liquidate funds within 120 calendar days after the program's obligation date (see FAQs E-1, E-2, and E-3) per 2 CFR § 200.344(b). If ESSER I and GEER I funds are properly obligated by September 30, 2022, but liquidation becomes an issue after the obligation deadline, the Department may approve liquidation extension requests on a case-by-case basis upon written request of an SEA or Governor grantee, in accordance with 2 CFR § 200.344(b). If approved, an ESSER I or GEER I grantee may have up to 18 months beyond the end of the obligation period to liquidate funds, although longer requests may be considered for construction or extraordinary circumstances. Under a liquidation extension, the delivery of goods and some services may continue through the end of the liquidation period, so long as a timely and valid obligation had been made pursuant to 34 CFR § 76.707. Because the ESSER II and GEER II obligation period does not end until September 30, 2023, and the ARP ESSER obligation period does not end until September 30, 2024, the Department strongly encourages States and LEAs to obligate and liquidate ESSER II, GEER II, and ARP ESSER funds with urgency on activities that will support students' academic recovery and mental health needs. The Department will determine any process for submitting a Liquidation Extension Request for ESSER II, GEER II, and ARP ESSER funds at a later date.

E-3.c. What happens to ESSER and GEER funds that are unobligated at the end of the Tydings Amendment deadline? (New December 7, 2022)

The Department is not able to extend the statutory obligation deadline. Therefore, if the grantee (SEA or Governor) or any subgrantee is unable to obligate ESSER or GEER funds by the obligation deadline for each program (see FAQs E-1, E-2, and E-3 for the obligation deadlines), then the grantee will not be able to liquidate these funds. These unobligated funds will no longer be available to the grantee or subgrantee and will lapse and return to the U.S. Treasury.

E-3.d. How long may ESSER or GEER-funded activities continue after the liquidation period? (New December 7, 2022)

As a preliminary matter, grantees and subgrantees should keep in mind that ESSER and GEER funds are emergency funds that are intended to be utilized in a timely manner to carry out activities to prevent, prepare for, or respond to COVID-19, including its impact on students. Further, a grantee or subgrantee must obligate ESSER or GEER funds within the period of availability and must liquidate those obligations within 120 days of the end of the period of availability (2 C.F.R. § 200.344(b) (or within the approved period for a liquidation extension).

Generally, it is not good stewardship of Federal funds or prudent business practice to prepay for services that will extend many years into the future. However, under limited circumstances where a grantee or subgrantee timely obligates ESSER or GEER funds, ESSER- or GEER-funded activities may continue for a reasonable time beyond the liquidation period (including an approved late liquidation period). Factors impacting how long ESSER- or GEER-funded activities may extend past the liquidation period include:

- Whether the funds were properly obligated and liquidated in a timely manner;
- Whether the activities would be allowed to extend beyond the liquidation period under applicable State and local procurement rules (i.e., a State or LEA must follow the same policies and procedures it uses for procurements from its non-Federal funds) (see 2 CFR §§ 200.317 through 200.327, 200.403(c));
- Whether the extended activities constitute a reasonable and necessary use of Federal funds; and
- Whether prudent business practices (2 CFR § 200.404(b) & (d)) and internal controls (which generally limit prepayment) would support the continued activities for the length of time proposed.

Grantees and subgrantees must obligate funds by each program's deadline, which means that if a grantee or subgrantee enters into a contract for activities that continue past the date of obligation and the contractor does not provide the services, the grantee or subgrantee may not enter into a new contract or obligate those funds for a different allowable use. Instead, those funds that were obligated for services that were not delivered will remain unused and will be returned to the U.S. Treasury.

Because ESSER and GEER are State-administered programs, the SEA or Governor determines whether activities extending past the liquidation period are allowable under the circumstances. For example, an SEA may determine that it is reasonable and necessary under 2 CFR §§ 200.403-200.404 for an LEA to enter into a multi-year software licensing contract with a vendor during the period of availability of ARP ESSER funds and to pay for the entirety of the software license within the liquidation period. However, under the contract, the vendor would continue to provide the services (i.e., software and technical support) for some time after the funds had been liquidated.

Please note that the SEA, LEA, or subgrantee would be responsible for returning to the Federal government the cost of any services that were paid with Federal funds but not received. **Under no circumstances may services extend beyond the date on which funds revert to the U.S. Department of Treasury (31 USC § 1552), which occurs four years after the obligation deadlines referenced in FAQs E-1, E-2, and E-3.** However, nothing prevents an SEA or LEA from continuing successful activities or services with non-ESSER/GEER funding.

E-11.a. May ESSER and GEER funds be used to support local matching requirements under other Federal programs? (New December 7, 2022)

Generally, no. Federal funds may not be used to meet a matching requirement unless the Federal statute authorizing those funds specifically provides that they may be applied to matching or cost-sharing

requirements of another Federal program. The CARES, CRRSA, and ARP Acts do not provide specific authority to use ESSER or GEER funds as a match for any other Federal programs. See the Uniform Guidance provision on matching at 2 C.F.R. § 200.306(b)(5). However, ESSER or GEER funds may be used for cost-sharing or matching for the AmeriCorps program because the AmeriCorps statute authorizes the use of Federal funds for the match; for more information, see:

<https://www2.ed.gov/policy/fund/guid/americorps-matching-letter.pdf?src=grants-page> .

ESSER SURVEY

Select District Name:

HOLD (Introductory Statement)

ESSER I (CARES)

ESSER I (CARES) allocation amount:

Date ESSER I (CARES) funds were received by LEA:

ESSER I (CARES) funds expended, as of January 31, 2023:

SECTION I: Human Resources

This section will consider expenditure of ESSER I (CARES) funds for **human resources**, or the use of funds to invest in staffing in your district.

Key Definitions

Human Resources - Human resources refers to both the people working for an organization and the department responsible for managing the life cycle of each employee.

Recruitment/Hiring – The aspects of hiring new individuals to work for your district: including attracting, identifying, and engaging candidates; ensuring qualifications and assessing background information; interviewing and selecting a quality candidate for hire; and making a job offer.

Retention – Efforts to prevent employee turnover, or the number of people who leave their job in a certain period, either voluntarily or involuntarily.

Instructional Staff– Staff whose primary responsibility is providing instruction during instructional hours (i.e., Teachers).

Non-Teaching Support Staff – Staff whose primary responsibility is working with students in capacities *other than* providing instruction during instructional hours (e.g., Paraprofessionals, School Psychologists/Counselors, Social Workers, Non-Teaching Assistants, Special Education Support, Extended Learning Program staff).

Administrative Staff – Staff whose primary responsibility is management of school operations (e.g., Administrative Assistants, Principals, Vice Principals, Central Office Administrators).

Operations/Facilities Staff – Staff whose primary responsibility is the maintenance of capital assets and infrastructure (e.g., engineers, cleaning/maintenance staff).

Compensation/Incentives – The complete pay package awarded to employees on an annual basis, including all direct and non-direct compensation such as salary, health care and retirement benefits, incentive pay, and paid time off.

Professional Development – Generally refers to ongoing learning opportunities available to teachers and other education personnel through their schools and districts.

For each category, indicate if your district utilized funds from **ESSER I (CARES)** to make investments in the following areas, along with the corresponding dollar amounts (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area	Dollars Invested
<input type="checkbox"/> Recruitment/Hiring	
<input type="checkbox"/> <i>Instructional Staff</i>	
<input type="checkbox"/> <i>Non-Teaching Support Staff</i>	
<input type="checkbox"/> <i>Administrative Staff</i>	
<input type="checkbox"/> <i>Operations/Facilities Staff</i>	
<input type="checkbox"/> <i>Other</i>	

Investment Area	Dollars Invested
<input type="checkbox"/> Retention	
<input type="checkbox"/> <i>Instructional Staff</i>	
<input type="checkbox"/> <i>Non-Teaching Support Staff</i>	
<input type="checkbox"/> <i>Administrative Staff</i>	
<input type="checkbox"/> <i>Operations/Facilities Staff</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* staffing category that was the focus of **recruitment, hiring, and retention** investments, and provide the dollar amount invested (rounded to the nearest whole dollar, no dollar signs or commas):

Commented [AOS1]: Remove "other" sections

Investment Area Description	Dollars Invested

Investment Area	Dollars Invested
<input type="checkbox"/> Compensation/Incentives	
<input type="checkbox"/> <i>Instructional Staff</i>	
<input type="checkbox"/> <i>Non-Teaching Support Staff</i>	
<input type="checkbox"/> <i>Administrative Staff</i>	
<input type="checkbox"/> <i>Operations/Facilities Staff</i>	
<input type="checkbox"/> <i>Other</i>	

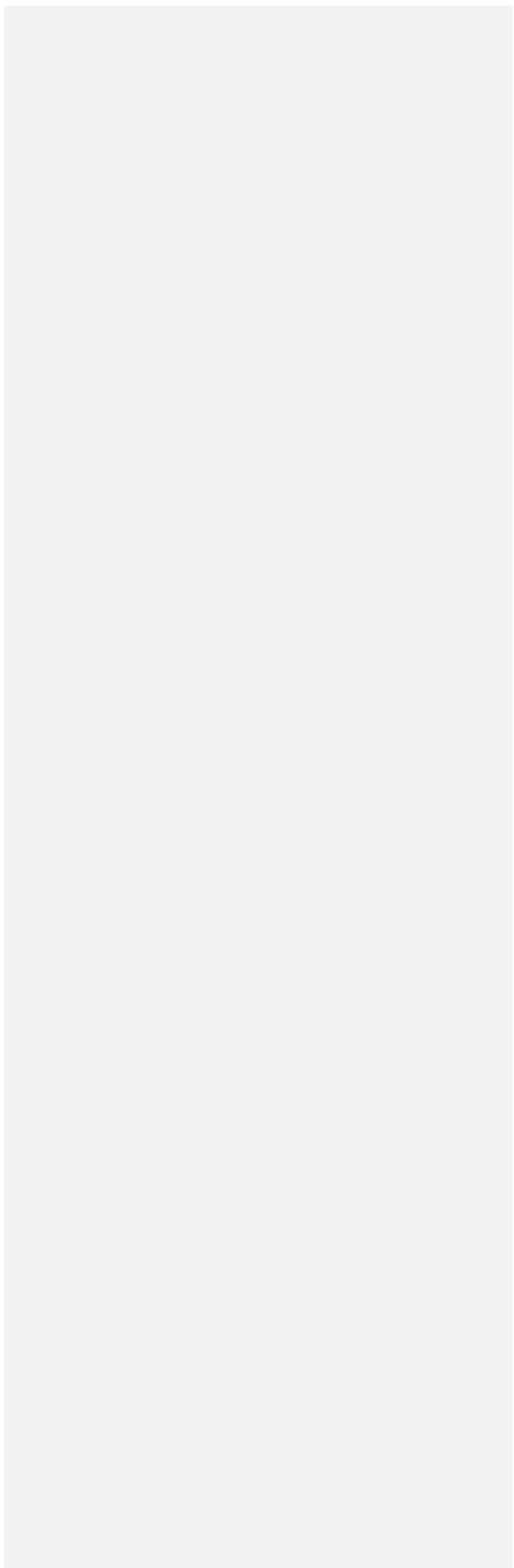
Please describe the *other* staffing category that was the focus of **compensation/incentives** investments, and provide the dollar amount invested (rounded to the nearest whole dollar):

Investment Area Description	Dollars Invested

Investment Area	Dollars Invested
<input type="checkbox"/> Professional Development	
<input type="checkbox"/> <i>Instructional Staff</i>	

- Non-Teaching Support Staff*
- Administrative Staff*
- Operations/Facilities Staff*
- Other*

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Please describe the *other* staffing category that was the focus of **professional development** investments, and provide the dollar amount invested (rounded to the nearest whole dollar):

Investment Area Description	Dollars Invested

SECTION II: Facilities/Operations

This section will consider expenditure of ESSER I (CARES) funds for **facilities/operations**, or the use of funds to invest in the management of capital assets utilized by the agency.

Key Definitions

Facilities/Operations – The division of district operations focusing on the management of [capital assets/spaces] utilized by the agency.

Capital Projects – A project that repairs, updates, expands, or builds new spaces utilized by the agency.

Facilities Repair/Improvement – Capital projects to repair or update spaces utilized by the agency.

New Construction – Capital projects to build new facilities to be used by the agency.

Infrastructure – Systems or elements that are essential to district operation *other than* human resources, academic program implementation materials, or capital assets (e.g., transportation, information technology, food services, student health services, COVID prevention).

Information Technology – Systems or elements that are essential to the creation, processing, storage, retrieval, and exchange of data and information. Exclude investments in instructional or assessment related technology supports (e.g., data management systems, servers, business intelligence platforms).

Transportation – Systems or elements needed for the movement of people and/or resources.

Food Services – Systems or elements needed to provide meals for those served by your district.

Student Health Services – Systems or elements required for the district to provide for the basic maintenance of physical health for students (e.g., materials for school nurses office).

COVID Prevention – Excluding repairs or updates to HVAC/Ventilation systems (which would be classified as a capital project), systems or elements needed to minimize the spread of COVID in your district (e.g., PPE, COVID tests).

For each category, indicate if your district utilized funds from **ESSER I (CARES)** to make investments in the following areas, along with the corresponding dollar amounts (rounded to the nearest whole dollar):

Investment Area	Dollars Invested
<input type="checkbox"/> Capital Projects	
<input type="checkbox"/> <i>Facilities Repair/Improvement</i>	
<input type="checkbox"/> <i>New Construction</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* category that was the focus of **capital projects** investments, and provide the dollar amount invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested

Investment Area	Dollars Invested
<input type="checkbox"/> Infrastructure	
<input type="checkbox"/> Information Technology	
<input type="checkbox"/> Transportation	
<input type="checkbox"/> Food Services	
<input type="checkbox"/> Student Health Services	
<input type="checkbox"/> COVID Prevention	
<input type="checkbox"/> Other	

Please describe the *other* category that was the focus of **infrastructure** investments, and provide the dollar amount invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested

SECTION III: Academic Programming/Supports

This section will consider expenditure of ESSER I (CARES) funds for **academic programming/supports** in your district.

Key Definitions

Academic Programming/Supports – Organized activity intended to promote or support the development of the skills/competencies needed for meaningful participation in society and economy.

Supplemental Programs/Supports – Programs or services, other than traditional instruction, designed to promote student mastery of scholastic subject matter, or recovery of unfinished learning.

Tutoring – Programs/services that provide supplemental instruction for small groups or individual students.

After-School/OST/Extended Learning Opportunities – Programs/services that operate outside of traditional instructional hours during the academic year and provide students with opportunities to further develop skills that improve learning.

Summer Programs – Programs/services that operate during the summer months and provide students with opportunities to further develop skills that improve learning.

Instructional Materials – Materials used to aid in instruction of students.

Instructional Technology – Electronic devices utilized as part of instruction or support (e.g., smartboards, laptops, tablets).

Assessment Tools – Materials used to measure student proficiencies and academic progress (e.g., *iReady*, *Smarter Balanced Assessments*, ACCESS).

For each category, indicate if your district utilized funds from **ESSER I (CARES)** to make investments in the following areas, along with the corresponding dollar amounts (rounded to the nearest whole dollar):

Investment Area	Dollars Invested
<input type="checkbox"/> Supplemental Academic Programs/Supports	
<input type="checkbox"/> <i>Tutoring</i>	
<input type="checkbox"/> <i>After-School/OST/Extended Learning Opportunities</i>	
<input type="checkbox"/> <i>Summer Programs</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* category that was the focus of investments in **supplemental academic programs/supports**, and provide the dollar amount invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested

Investment Area	Dollars Invested
<input type="checkbox"/> Instructional Materials	
<input type="checkbox"/> <i>Books/Learning Tools</i>	
<input type="checkbox"/> <i>Instructional Technology</i>	
<input type="checkbox"/> <i>Assessment Tools</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* category that was the focus of investments in **instructional materials**, and provide the dollar amount invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested

ESSER II (CRRSA)

ESSER II (CRRSA) allocation amount:

Date ESSER II (CRRSA) funds were received by LEA:

ESSER II (CRRSA) funds expended, as of January 31, 2023:

ESSER II (CRRSA) funds remaining, as of January 31, 2023:

PART I: ESSER II (CRRSA) FUNDS INVESTED

SECTION I: Human Resources

This section will consider expenditure of ESSER II (CRRSA) funds for **human resources**, or the use of funds to invest in staffing at your district.

Key Definitions

Human Resources - Human resources refers to both the people working for an organization and the department responsible for managing the life cycle of each employee.

Recruitment/Hiring – The aspects of hiring new individuals to work for your district: including attracting, identifying, and engaging candidates; ensuring qualifications and assessing background information; interviewing and selecting a quality candidate for hire; and making a job offer.

Retention – Efforts to prevent employee turnover, or the number of people who leave their job in a certain period, either voluntarily or involuntarily.

Instructional Staff– Staff whose primary responsibility is providing instruction during instructional hours (i.e., Teachers)

Non-Teaching Support Staff – Staff whose primary responsibility is working with students in capacities *other than* providing instruction during instructional hours (e.g., Paraprofessionals, School Psychologists/Counselors, Social Workers, Non-Teaching Assistants, Special Education Support, Extended Learning Program staff).

Administrative Staff – Staff whose primary responsibility is management of school operations (e.g., Administrative Assistants, Principals, Vice Principals, Central Office Administrators).

Operations/Facilities Staff – Staff whose primary responsibility is the maintenance of capital assets and infrastructure (e.g., engineers, cleaning/maintenance staff).

Compensation/Incentives – The complete pay package awarded to employees on an annual basis, including all direct and non-direct compensation such as salary, health care and retirement benefits, incentive pay, and paid time off.

Professional Development – Generally refers to ongoing learning opportunities available to teachers and other education personnel through their schools and districts.

For each category, indicate if your district utilized funds from **ESSER II (CRRSA)** to make investments in the following areas, along with the corresponding dollar amounts (rounded to the nearest whole dollar):

Investment Area	Dollars Invested
<input type="checkbox"/> Recruitment/Hiring, Retention	
<input type="checkbox"/> <i>Instructional Staff</i>	
<input type="checkbox"/> <i>Non-Teaching Support Staff</i>	
<input type="checkbox"/> <i>Administrative Staff</i>	
<input type="checkbox"/> <i>Operations/Facilities Staff</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* staffing category that was the focus of **recruitment, hiring, and retention** investments, and provide the dollar amount invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested

Investment Area	Dollars Invested
<input type="checkbox"/> Compensation/Incentives	
<input type="checkbox"/> <i>Instructional Staff</i>	
<input type="checkbox"/> <i>Non-Teaching Support Staff</i>	
<input type="checkbox"/> <i>Administrative Staff</i>	
<input type="checkbox"/> <i>Operations/Facilities Staff</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* staffing category that was the focus of **compensation/incentives** investments, and provide the dollar amount invested (rounded to the nearest whole dollar):

Investment Area Description	Dollars Invested

Investment Area	Dollars Invested
<input type="checkbox"/> Professional Development	
<input type="checkbox"/> <i>Instructional Staff</i>	
<input type="checkbox"/> <i>Non-Teaching Support Staff</i>	
<input type="checkbox"/> <i>Administrative Staff</i>	
<input type="checkbox"/> <i>Operations/Facilities Staff</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* staffing category that was the focus of **professional development** investments, and provide the dollar amount invested (rounded to the nearest whole dollar):

Investment Area Description	Dollars Invested

SECTION II: Facilities/Operations

This section will consider expenditure of ESSER II (CRRSA) funds for **facilities/operations**, or the use of funds to invest in the management of capital assets utilized by the agency.

Key Definitions

Facilities/Operations – The division of district operations focusing on the management of [capital assets/spaces] utilized by the agency.

Capital Projects – A project that repair, update, expand, or build new spaces utilized by the agency.

Facilities Repair/Improvement – Capital projects to repair or update spaces utilized by the agency.

New Construction – Capital projects to build new facilities to be used by the agency.

Infrastructure – Systems or elements that are essential to district operation *other than* human resources, academic program implementation materials, or capital assets (e.g., transportation, information technology, food services, student health services, COVID prevention)

Information Technology – Systems or elements that are essential to the creation, processing, storage, retrieval, and exchange of data and information. Exclude investments in instructional or assessment related technology supports (e.g., data management systems, servers, business intelligence platforms).

Transportation – Systems or elements needed for the movement of people and/or resources.

Food Services – Systems or elements needed to provide meals for those served by your district.

Student Health Services – Systems or elements required for the district to provide for the basic maintenance of physical health for students (e.g., materials for school nurses office).

COVID Prevention – Excluding repairs or updates to HVAC/Ventilation systems (which would be classified as a capital project), systems or elements needed to minimize the spread of COVID in your district (e.g., PPE, COVID tests)

For each category, indicate if your district utilized funds from **ESSER II (CRRSA)** to make investments in the following areas, along with the corresponding dollar amounts (rounded to the nearest whole dollar):

Investment Area	Dollars Invested
<input type="checkbox"/> Capital Projects	
<input type="checkbox"/> <i>Facilities Repair/Improvement</i>	
<input type="checkbox"/> <i>New Construction</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* category that was the focus of **capital projects** investments, and provide the dollar amount invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested

Investment Area	Dollars Invested
<input type="checkbox"/> Infrastructure	
<input type="checkbox"/> <i>Information Technology</i>	
<input type="checkbox"/> <i>Transportation</i>	
<input type="checkbox"/> <i>Food Services</i>	
<input type="checkbox"/> <i>Student Health Services</i>	
<input type="checkbox"/> <i>COVID Prevention</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* category that was the focus of **infrastructure** investments, and provide the dollar amount invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested

SECTION III: Academic Programming/Supports

This section will consider expenditure of ESSER II (CRRSA) funds for **academic programming/supports** in your district.

Key Definitions

Academic Programming/Supports – Organized activity intended to promote or support the development of the skills/competencies needed for meaningful participation in society and economy.
Supplemental Programs/Supports – Programs or services, other than traditional instruction, designed to promote student mastery of scholastic subject matter, or recovery of unfinished learning.
Tutoring – Programs/services that provide supplemental instruction for small groups or individual students.
After-School/OST/Extended Learning Opportunities – Programs/services that operate outside of traditional instructional hours during the academic year and provide students with opportunities to further develop skills that improve learning.
Summer Programs – Programs/services that operate during the summer months and provide students with opportunities to further develop skills that improve learning.
Instructional Materials – Materials used to aid in instruction of students.
Instructional Technology – Electronic devices utilized as part of instruction or support (e.g., smartboards, laptops, tablets).
Assessment Tools – Materials used to measure student proficiencies and academic progress (e.g., *iReady*, *Smarter Balanced Assessments*, *ACCESS*).

For each category, indicate if your district utilized funds from **ESSER II (CRRSA)** to make investments in the following areas, along with the corresponding dollar amounts (rounded to the nearest whole dollar):

Investment Area	Dollars Invested
<input type="checkbox"/> Supplemental Academic Programs/Supports	
<input type="checkbox"/> <i>Tutoring</i>	
<input type="checkbox"/> <i>After-School/OST/Extended Learning Opportunities</i>	
<input type="checkbox"/> <i>Summer Programs</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* category that was the focus of investments in **supplemental academic programs/supports**, and provide the dollar amount invested (rounded to the nearest whole dollar, no dollar signs or commas):

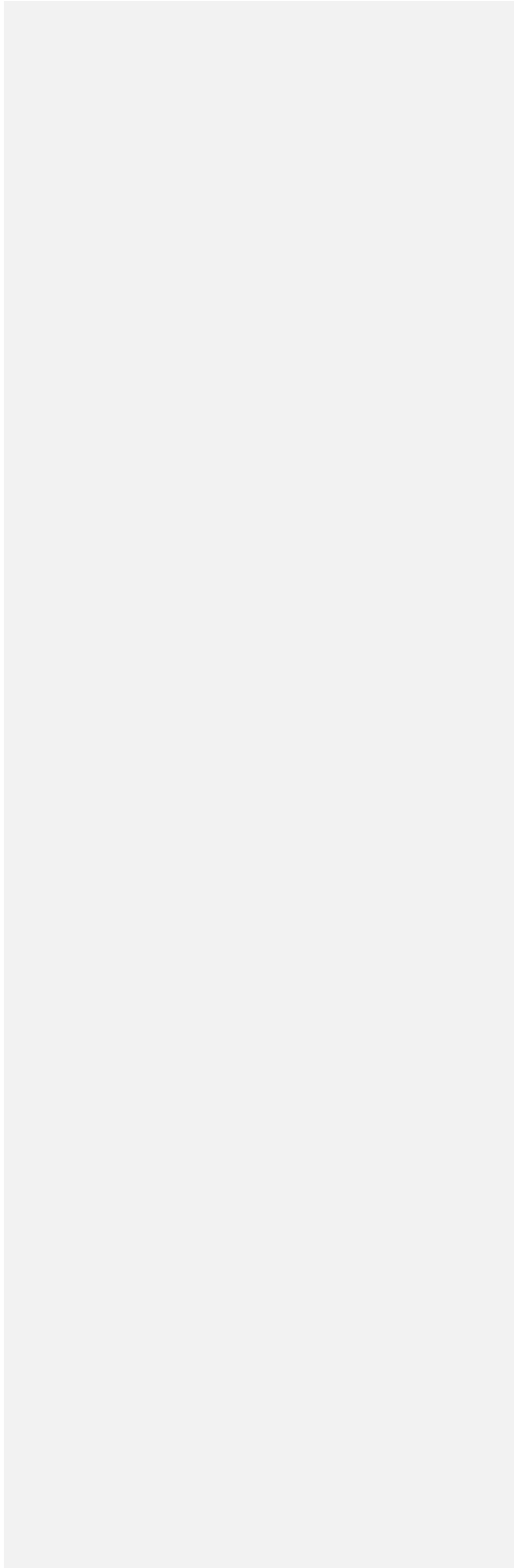
Investment Area Description	Dollars Invested

Investment Area	Dollars Invested
<input type="checkbox"/> Instructional Materials	
<input type="checkbox"/> <i>Books/Learning Tools</i>	
<input type="checkbox"/> <i>Instructional Technology</i>	
<input type="checkbox"/> <i>Assessment Tools</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* category that was the focus of investments in **instructional materials**, and provide the dollar amount invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested

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PART II: PLANNED SPENDING OF ESSER II (CRRSA) FUNDS

SECTION I: Human Resources

This section will consider plans to expend ESSER II (CRRSA) funds for **human resources**, or the use of funds to invest in staffing at your district.

For each category, indicate if your district plans to use funds from **ESSER II (CRRSA)** to make investments in the following areas, along with the corresponding dollar amounts (rounded to the nearest whole dollar):

Investment Area	Dollars Invested
<input type="checkbox"/> Recruitment/Hiring, Retention	
<input type="checkbox"/> <i>Instructional Staff</i>	
<input type="checkbox"/> <i>Non-Teaching Support Staff</i>	
<input type="checkbox"/> <i>Administrative Staff</i>	
<input type="checkbox"/> <i>Operations/Facilities Staff</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* staffing category that is expected to be the focus of coming **recruitment, hiring, and retention** investments, and provide the dollar amount to be invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested

Investment Area	Dollars Invested
<input type="checkbox"/> Compensation/Incentives	
<input type="checkbox"/> <i>Instructional Staff</i>	
<input type="checkbox"/> <i>Non-Teaching Support Staff</i>	
<input type="checkbox"/> <i>Administrative Staff</i>	
<input type="checkbox"/> <i>Operations/Facilities Staff</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* staffing category that is expected to be the focus of coming investments in **compensation/incentives**, and provide the dollar amount to be invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested

Investment Area	Dollars Invested
<input type="checkbox"/> Professional Development	
<input type="checkbox"/> <i>Instructional Staff</i>	
<input type="checkbox"/> <i>Non-Teaching Support Staff</i>	
<input type="checkbox"/> <i>Administrative Staff</i>	
<input type="checkbox"/> <i>Operations/Facilities Staff</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* staffing category that is expected to be the focus of coming investments in **professional development**, and provide the dollar amount to be invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested

SECTION II: Facilities Operations

This section will consider planned expenditure of ESSER II (CRRSA) funds for **facilities/operations**, or the use of funds to invest in the management of capital assets utilized by the agency.

For each category, indicate if your district intends to use funds from **ESSER II (CRRSA)** to make investments in the following areas, along with the corresponding dollar amounts (rounded to the nearest whole dollar):

Investment Area	Dollars Invested
<input type="checkbox"/> Capital Projects	
<input type="checkbox"/> <i>Facilities Repair/Improvement</i>	
<input type="checkbox"/> <i>New Construction</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* category that is expected to be the focus of coming investments in **capital projects**, and provide the dollar amount to be invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested

Investment Area	Dollars Invested
<input type="checkbox"/> Infrastructure	
<input type="checkbox"/> <i>Information Technology</i>	
<input type="checkbox"/> <i>Transportation</i>	
<input type="checkbox"/> <i>Food Services</i>	
<input type="checkbox"/> <i>Student Health Services</i>	
<input type="checkbox"/> <i>COVID Prevention</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* category that is expected to be the focus of coming investments in **infrastructure**, and provide the dollar amount to be invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested

SECTION III: Academic Programming/Supports

This section will consider planned expenditure of ESSER II (CRRSA) funds for **academic programming/supports** in your district.

For each category, indicate if your district plans to use funds from **ESSER II (CRRSA)** to make investments in the following areas, along with the corresponding dollar amounts (rounded to the nearest whole dollar):

Investment Area	Dollars Invested
<input type="checkbox"/> Supplemental Academic Programs/Supports	
<input type="checkbox"/> <i>Tutoring</i>	
<input type="checkbox"/> <i>After-School/OST/Extended Learning Opportunities</i>	
<input type="checkbox"/> <i>Summer Programs</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* category that is expected to be the focus of coming investments in **supplemental academic programs/supports**, and provide the dollar amount to be invested (rounded to the nearest whole dollar, no dollar signs or commas):

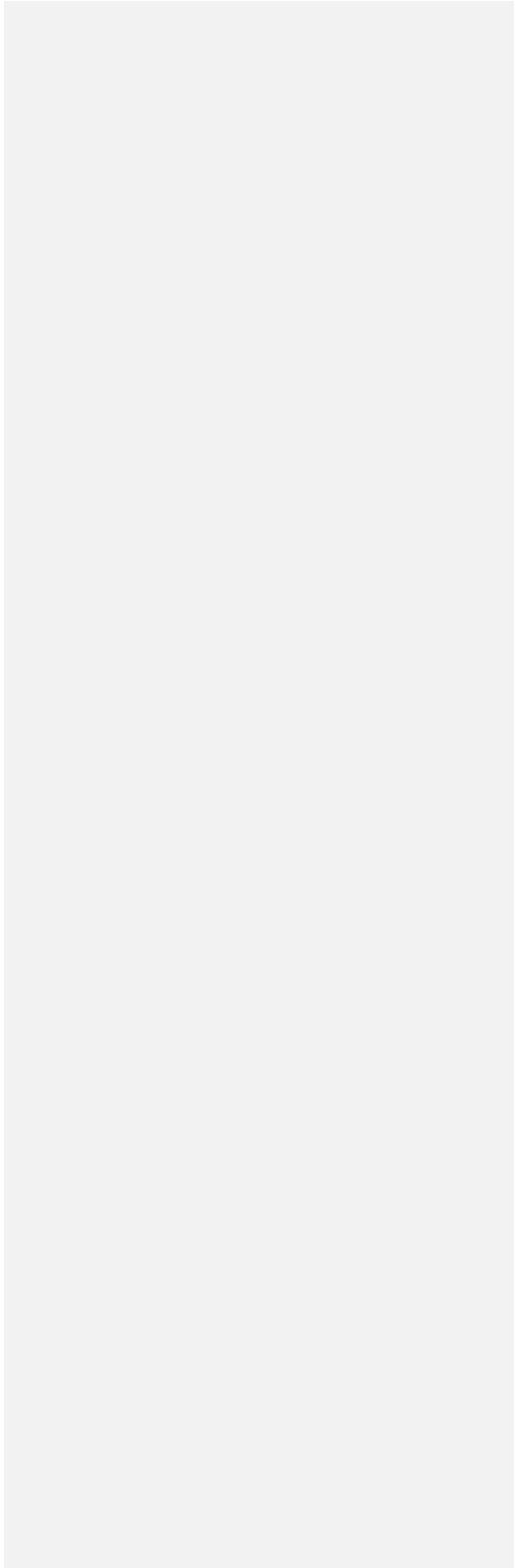
Investment Area Description	Dollars Invested

Investment Area	Dollars Invested
<input type="checkbox"/> Instructional Materials	
<input type="checkbox"/> <i>Books/Learning Tools</i>	
<input type="checkbox"/> <i>Instructional Technology</i>	
<input type="checkbox"/> <i>Assessment Tools</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* category that is expected to be the focus of coming investments in **instructional materials**, and provide the dollar amount to be invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested

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ESSER III (ARP)

ESSER III (ARP) allocation amount:

Date ESSER III (ARP) funds were received by LEA:

ESSER III (ARP) funds expended, as of January 31, 2023:

ESSER III (ARP) funds remaining, as of January 31, 2023:

PART I: ESSER III (ARP) FUNDS INVESTED

SECTION I: Human Resources

This section will consider expenditure of ESSER III (ARP) funds for **human resources**, or the use of funds to invest in staffing at your district.

Key Definitions

Human Resources - Human resources refers to both the people working for an organization and the department responsible for managing the life cycle of each employee.

Recruitment/Hiring – The aspects of hiring new individuals to work for your district: including attracting, identifying, and engaging candidates; ensuring qualifications and assessing background information; interviewing and selecting a quality candidate for hire; and making a job offer.

Retention – Efforts to prevent employee turnover, or the number of people who leave their job in a certain period, either voluntarily or involuntarily.

Instructional Staff– Staff whose primary responsibility is providing instruction during instructional hours (i.e., Teachers)

Non-Teaching Support Staff – Staff whose primary responsibility is working with students in capacities *other than* providing instruction during instructional hours (e.g., Paraprofessionals, School Psychologists/Counselors, Social Workers, Non-Teaching Assistants, Special Education Support, Extended Learning Program staff).

Administrative Staff – Staff whose primary responsibility is management of school operations (e.g., Administrative Assistants, Principals, Vice Principals, Central Office Administrators).

Operations/Facilities Staff – Staff whose primary responsibility is the maintenance of capital assets and infrastructure (e.g., engineers, cleaning/maintenance staff).

Compensation/Incentives – The complete pay package awarded to employees on an annual basis, including all direct and non-direct compensation such as salary, health care and retirement benefits, incentive pay, and paid time off.

Professional Development – Generally refers to ongoing learning opportunities available to teachers and other education personnel through their schools and districts.

For each category, indicate if your district utilized funds from **ESSER III (ARP)** to make investments in the following areas, along with the corresponding dollar amounts (rounded to the nearest whole dollar):

Investment Area	Dollars Invested
<input type="checkbox"/> Recruitment/Hiring, Retention	
<input type="checkbox"/> <i>Instructional Staff</i>	
<input type="checkbox"/> <i>Non-Teaching Support Staff</i>	
<input type="checkbox"/> <i>Administrative Staff</i>	
<input type="checkbox"/> <i>Operations/Facilities Staff</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* staffing category that was the focus of **recruitment, hiring, and retention** investments, and provide the dollar amount invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested

Investment Area	Dollars Invested
<input type="checkbox"/> Compensation/Incentives	
<input type="checkbox"/> <i>Instructional Staff</i>	
<input type="checkbox"/> <i>Non-Teaching Support Staff</i>	
<input type="checkbox"/> <i>Administrative Staff</i>	
<input type="checkbox"/> <i>Operations/Facilities Staff</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* staffing category that was the focus of **compensation/incentives** investments, and provide the dollar amount invested (rounded to the nearest whole dollar):

Investment Area Description	Dollars Invested

Investment Area	Dollars Invested
<input type="checkbox"/> Professional Development	
<input type="checkbox"/> <i>Instructional Staff</i>	
<input type="checkbox"/> <i>Non-Teaching Support Staff</i>	
<input type="checkbox"/> <i>Administrative Staff</i>	
<input type="checkbox"/> <i>Operations/Facilities Staff</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* staffing category that was the focus of **professional development** investments, and provide the dollar amount invested (rounded to the nearest whole dollar):

Investment Area Description	Dollars Invested

SECTION II: Facilities/Operations

This section will consider expenditure of ESSER III (ARP) funds for **facilities/operations**, or the use of funds to invest in the management of capital assets utilized by the agency.

Key Definitions

Facilities/Operations – The division of district operations focusing on the management of [capital assets/spaces] utilized by the agency.

Capital Projects – A project that repair, update, expand, or build new spaces utilized by the agency.

Facilities Repair/Improvement – Capital projects to repair or update spaces utilized by the agency.

New Construction – Capital projects to build new facilities to be used by the agency.

Infrastructure – Systems or elements that are essential to district operation *other than* human resources, academic program implementation materials, or capital assets (e.g., transportation, information technology, food services, student health services, COVID prevention)

Information Technology – Systems or elements that are essential to the creation, processing, storage, retrieval, and exchange of data and information. Exclude investments in instructional or assessment related technology supports (e.g., data management systems, servers, business intelligence platforms).

Transportation – Systems or elements needed for the movement of people and/or resources.

Food Services – Systems or elements needed to provide meals for those served by your district.

Student Health Services – Systems or elements required for the district to provide for the basic maintenance of physical health for students (e.g., materials for school nurses office).

COVID Prevention – Excluding repairs or updates to HVAC/Ventilation systems (which would be classified as a capital project), systems or elements needed to minimize the spread of COVID in your district (e.g., PPE, COVID tests)

For each category, indicate if your district utilized funds from **ESSER III (ARP)** to make investments in the following areas, along with the corresponding dollar amounts (rounded to the nearest whole dollar):

Investment Area	Dollars Invested
<input type="checkbox"/> Capital Projects	
<input type="checkbox"/> <i>Facilities Repair/Improvement</i>	
<input type="checkbox"/> <i>New Construction</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* category that was the focus of **capital projects** investments, and provide the dollar amount invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested

Investment Area	Dollars Invested
<input type="checkbox"/> Infrastructure	
<input type="checkbox"/> <i>Information Technology</i>	
<input type="checkbox"/> <i>Transportation</i>	
<input type="checkbox"/> <i>Food Services</i>	
<input type="checkbox"/> <i>Student Health Services</i>	
<input type="checkbox"/> <i>COVID Prevention</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* category that was the focus of **infrastructure** investments, and provide the dollar amount invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested

SECTION III: Academic Programming/Supports

This section will consider expenditure of ESSER III (ARP) funds for **academic programming/supports** in your district.

Key Definitions

- Academic Programming/Supports** – Organized activity intended to promote or support the development of the skills/competencies needed for meaningful participation in society and economy.
- Supplemental Programs/Supports** – Programs or services, other than traditional instruction, designed to promote student mastery of scholastic subject matter, or recovery of unfinished learning.
- Tutoring** – Programs/services that provide supplemental instruction for small groups or individual students.
- After-School/OST/Extended Learning Opportunities** – Programs/services that operate outside of traditional instructional hours during the academic year and provide students with opportunities to further develop skills that improve learning.
- Summer Programs** – Programs/services that operate during the summer months and provide students with opportunities to further develop skills that improve learning.
- Instructional Materials** – Materials used to aid in instruction of students.
- Instructional Technology** – Electronic devices utilized as part of instruction or support (e.g., smartboards, laptops, tablets).
- Assessment Tools** – Materials used to measure student proficiencies and academic progress (e.g., *iReady*, *Smarter Balanced Assessments*, *ACCESS*).

For each category, indicate if your district utilized funds from **ESSER III (ARP)** to make investments in the following areas, along with the corresponding dollar amounts (rounded to the nearest whole dollar):

Investment Area	Dollars Invested
<input type="checkbox"/> Supplemental Academic Programs/Supports	
<input type="checkbox"/> <i>Tutoring</i>	
<input type="checkbox"/> <i>After-School/OST/Extended Learning Opportunities</i>	
<input type="checkbox"/> <i>Summer Programs</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* category that was the focus of investments in **supplemental academic programs/supports**, and provide the dollar amount invested (rounded to the nearest whole dollar, no dollar signs or commas):

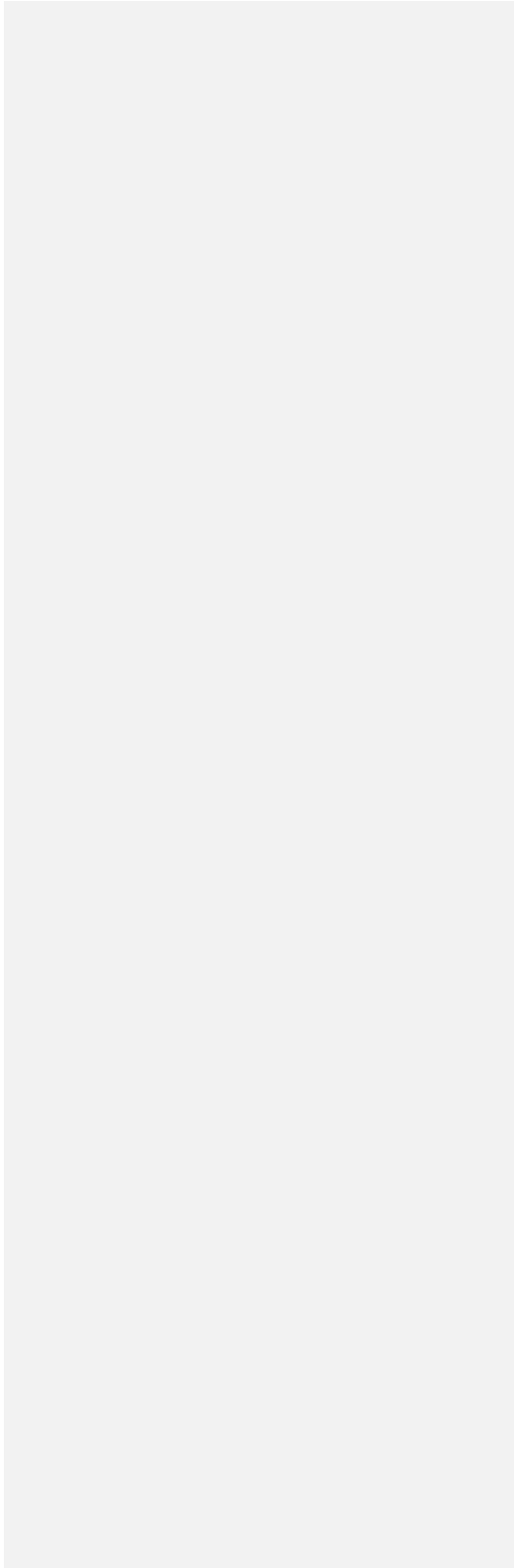
Investment Area Description	Dollars Invested

Investment Area	Dollars Invested
<input type="checkbox"/> Instructional Materials	
<input type="checkbox"/> <i>Books/Learning Tools</i>	
<input type="checkbox"/> <i>Instructional Technology</i>	
<input type="checkbox"/> <i>Assessment Tools</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* category that was the focus of investments in **instructional materials**, and provide the dollar amount invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested
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PART II: PLANNED SPENDING OF ESSER III (ARP) FUNDS

SECTION I: Human Resources

This section will consider plans to expend ESSER III (ARP) funds for **human resources**, or the use of funds to invest in staffing at your district.

For each category, indicate if your district plans to use funds from **ESSER III (ARP)** to make investments in the following areas, along with the corresponding dollar amounts (rounded to the nearest whole dollar):

Investment Area	Dollars Invested
<input type="checkbox"/> Recruitment/Hiring, Retention	
<input type="checkbox"/> <i>Instructional Staff</i>	
<input type="checkbox"/> <i>Non-Teaching Support Staff</i>	
<input type="checkbox"/> <i>Administrative Staff</i>	
<input type="checkbox"/> <i>Operations/Facilities Staff</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* staffing category that is expected to be the focus of coming **recruitment, hiring, and retention** investments, and provide the dollar amount to be invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested

Investment Area	Dollars Invested
<input type="checkbox"/> Compensation/Incentives	
<input type="checkbox"/> <i>Instructional Staff</i>	
<input type="checkbox"/> <i>Non-Teaching Support Staff</i>	
<input type="checkbox"/> <i>Administrative Staff</i>	
<input type="checkbox"/> <i>Operations/Facilities Staff</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* staffing category that is expected to be the focus of coming investments in **compensation/incentives**, and provide the dollar amount to be invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested

Investment Area	Dollars Invested
<input type="checkbox"/> Professional Development	
<input type="checkbox"/> <i>Instructional Staff</i>	
<input type="checkbox"/> <i>Non-Teaching Support Staff</i>	
<input type="checkbox"/> <i>Administrative Staff</i>	
<input type="checkbox"/> <i>Operations/Facilities Staff</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* staffing category that is expected to be the focus of coming investments in **professional development**, and provide the dollar amount to be invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested

SECTION II: Facilities Operations

This section will consider planned expenditure of ESSER III (ARP) funds for **facilities/operations**, or the use of funds to invest in the management of capital assets utilized by the agency.

For each category, indicate if your district intends to use funds from **ESSER III (ARP)** to make investments in the following areas, along with the corresponding dollar amounts (rounded to the nearest whole dollar):

Investment Area	Dollars Invested
<input type="checkbox"/> Capital Projects	
<input type="checkbox"/> <i>Facilities Repair/Improvement</i>	
<input type="checkbox"/> <i>New Construction</i>	
<input type="checkbox"/> <i>Other</i>	

If you indicated that your district intends to make investments in the **capital projects** that your LEA would not include in the categories listed above (Other), briefly describe the type of capital project and indicate the amount of ESSER III (ARP) funds to be invested in that category of capital project.

Investment Area Description	Dollars Invested

Investment Area	Dollars Invested
<input type="checkbox"/> Infrastructure	
<input type="checkbox"/> <i>Information Technology</i>	
<input type="checkbox"/> <i>Transportation</i>	
<input type="checkbox"/> <i>Food Services</i>	
<input type="checkbox"/> <i>Student Health Services</i>	
<input type="checkbox"/> <i>COVID Prevention</i>	
<input type="checkbox"/> <i>Other</i>	

If you indicated that your district intends to make investments in **infrastructure** that your LEA would not include in the categories listed above (Other), briefly describe the infrastructure investment and indicate the amount of ESSER III (ARP) fund to be invested in infrastructure for that category.

Investment Area Description	Dollars Invested

SECTION III: Academic Programming/Supports

This section will consider planned expenditure of ESSER III (ARP) funds for **academic programming/supports** in your district.

For each category, indicate if your district plans to use funds from **ESSER III (ARP)** to make investments in the following areas, along with the corresponding dollar amounts (rounded to the nearest whole dollar):

Investment Area	Dollars Invested
<input type="checkbox"/> Supplemental Academic Programs/Supports	
<input type="checkbox"/> <i>Tutoring</i>	
<input type="checkbox"/> <i>After-School/OST/Extended Learning Opportunities</i>	
<input type="checkbox"/> <i>Summer Programs</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* category that is expected to be the focus of coming investments in **supplemental academic programs/supports**, and provide the dollar amount to be invested (rounded to the nearest whole dollar, no dollar signs or commas):

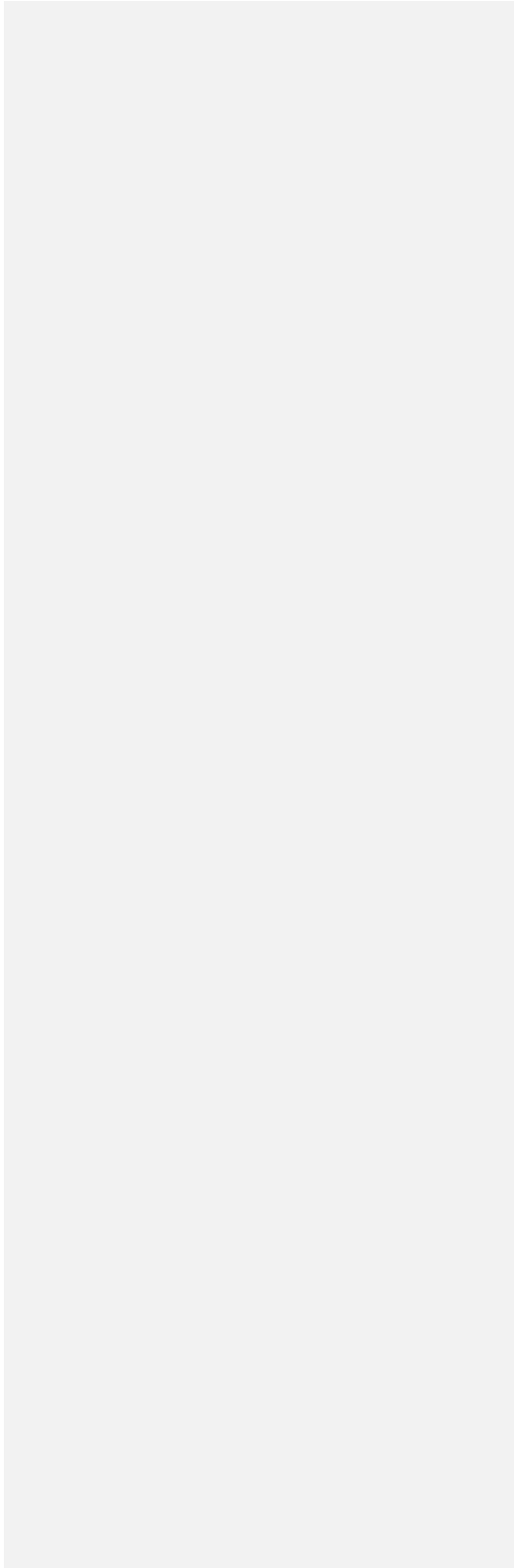
Investment Area Description	Dollars Invested

Investment Area	Dollars Invested
<input type="checkbox"/> Instructional Materials	
<input type="checkbox"/> <i>Books/Learning Tools</i>	
<input type="checkbox"/> <i>Instructional Technology</i>	
<input type="checkbox"/> <i>Assessment Tools</i>	
<input type="checkbox"/> <i>Other</i>	

Please describe the *other* category that is expected to be the focus of coming investments in **instructional materials**, and provide the dollar amount to be invested (rounded to the nearest whole dollar, no dollar signs or commas):

Investment Area Description	Dollars Invested

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ADDITIONAL QUESTIONS

ESSER I

Has your LEA conducted any impact analysis on/evaluation of the use of ESSER I expenditures?

Yes

No

What, if any, spending of ESSER I (CARES) funds was found to have a significantly positive impact on post-COVID student recovery?

Human Resources

Facilities/Operations

Academic Programming/Supports

What, if any, spending of ESSER I (CARES) funds was found to have a negligible or adverse effect on post-COVID student recovery?

Human Resources

Facilities/Operations

Academic Programming/Supports

Did your LEA have any issues with receiving ESSER I (CARES) funds from you State Education Agency (SEA)?

Yes

No

ESSER II

Has your LEA conducted any impact analysis on/evaluation of the use of ESSER II (CRRSA) expenditures?

Yes

No

What, if any, spending of ESSER II (CRRSA) funds was found to have a significantly positive impact on post-COVID student recovery?

What, if any, spending of ESSER II (CRRSA) funds was found to have a negligible or adverse effect on post-COVID student recovery?

Did your LEA have any issues with receiving ESSER II (CRRSA) funds from you State Education Agency (SEA)?

Yes

No

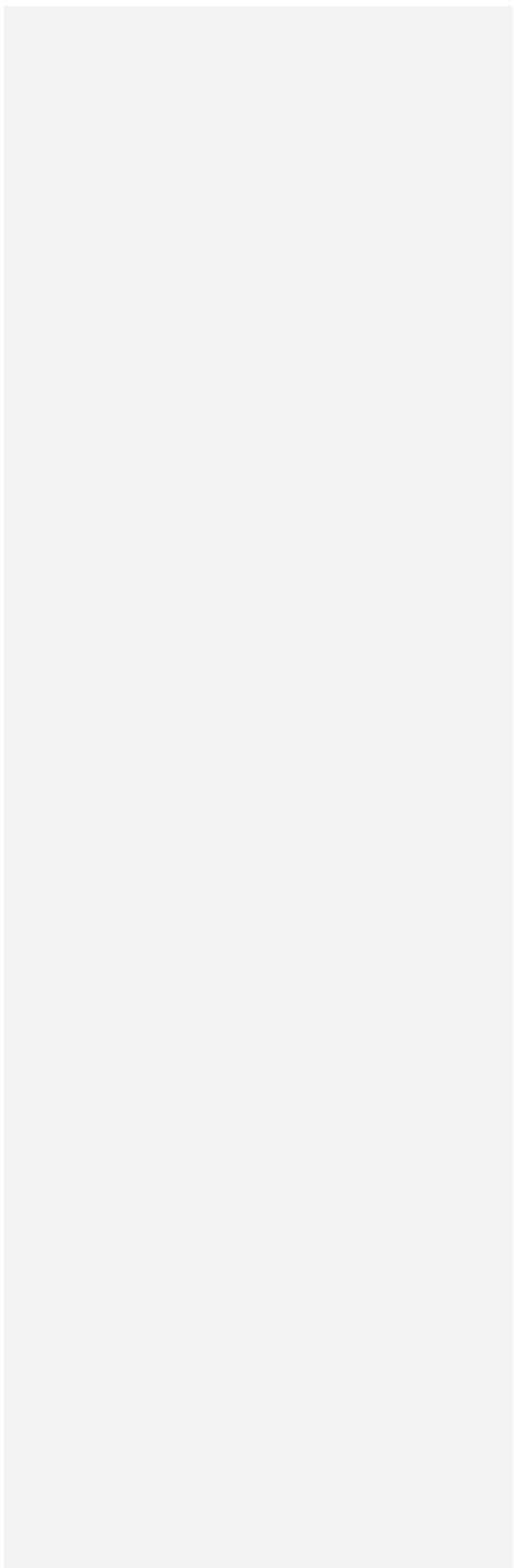
Did/Is your LEA have/having any issues with spending the ESSER II (CRRSA) funds your LEA has received?

Yes

No

If your LEA had/is having issues with spending the ESSER II (CRRSA) funds received by your LEA, please describe the issues below.

DRAFT



FCC E-RATE

Federal Communications Commission:

Public Notice Seeking Comment on the Use Of E-Rate Funds For Network Security Services (December 14, 2022)

Background

The Federal Communications Commission (Commission) has received several petitions and requests from E-Rate stakeholders through the annual E-Rate eligible services list (ESL) proceedings, asking that the Commission permit the use of E-Rate program funds to support advanced or next-generation firewalls and services, as well as other network security services. In this Notice, the FCC's Wireline Competition Bureau (Bureau) seeks comment on these petitions as well as the related funding year 2023 ESL proceeding filings.

The Commission uses several criteria to determine whether to add services to the eligible services list.

1. must serve an educational purpose
2. primarily or significantly used to facilitate connectivity.
3. must balance the benefits of particular services with the costs of adding to the list of supported services

Currently, the E-Rate program funds basic firewall service provided as part of the vendor's Internet service as a Category One service. In addition, the E-Rate program also funds separately priced basic firewalls and services as a Category Two service subject to the applicants' five-year Category Two budget. However, the Commission has declined to extend basic firewall services to include anti-virus and anti-spam software, intrusion protection and intrusion protection devices that monitor, detect, and deter threats to a network from external and internal attacks, and other services to protect networks.

Although the FCC understands that protection from unauthorized access is a legitimate concern, the funds available to support the E-Rate program are constrained and has not made network security costs eligible. In 2019, the Commission declined stakeholders' requests to make advanced firewalls and services eligible as part of the Category Two Budget proceeding for these same reasons.

Petitions and Related Action

December 2020: Cisco submitted a Petition for Waiver asking that Commission raise applicants' Category Two budgets by 10% and allow Category Two funding to be used for advanced network security services during the COVID-19 pandemic (i.e., for funding years 2020 and 2021).

February 2021: CoSN, Alliance for Excellence in Education, State Educational Technology Directors Association (SETDA), Council of the Great City Schools, State E-Rate Coordinators' Alliance (SECA), and Schools, Health & Libraries Broadband (SHLB) Coalition submitted a petition requesting that the definition of "firewall" be modified to include all firewall and related features (e.g., next generation firewall protection, endpoint protection, and advanced security) and to update the definition of broadband to include cybersecurity. The Petitioners also asked the Commission to increase the current

Category Two budgets to include additional funding for advanced firewall and other network security services.

October 2021: President Biden signed the K-12 Cybersecurity Act of 2021,23 which directed the U.S. Department of Homeland Security to conduct a study of K-12 cybersecurity risks that addresses the specific risks that impact K-12 educational institutions; evaluates cybersecurity challenges K-12 educational institutions face; and identifies cybersecurity challenges related to remote learning.

September 2022: As part of the funding year 2023 ESL proceeding, a number of E-Rate stakeholders – including CGCS – submitted comments, reply comments, and ex parte submissions requesting that the Commission reconsider its earlier eligibility decisions and clarify that advanced or next-generation firewalls and services are eligible for E-Rate support. As part of this proceeding, a number of other national educational organizations in the EdLINC coalition requested that the Commission take a measured approach in deciding whether to expand the eligibility of advanced firewalls and services, as well as other cybersecurity services.

October 2022: U.S. Government Accountability Office (GAO) published a report finding that additional federal coordination is needed to enhance K-12 school cybersecurity.

Questions in the Public Notice

Definition of Advanced or Next-Generation Firewalls and Services.

In the E-Rate program, firewall is currently defined as “a hardware and software combination that sits at the boundary between an organization’s network and the outside world, and protects the network against unauthorized access or intrusions.”

- The FCC seeks comment on this definition and, as discussed below, whether any modifications may be appropriate.

Eligible Equipment and Services and their Costs.

The FCC seeks comment on the specific equipment and services that E-Rate should support to fund as advanced or next-generation firewalls and services, as well as the costs associated with funding these services. For example, Fortinet requests E-Rate support for advanced or next-generation firewalls and services that include the following capabilities: intrusion prevention/intrusion detection (IPS/IDS); VPN; distributed denial-of-service (DDoS) protection; and network access control (NAC). Funds for Learning suggests advanced firewall features should include “intrusion detection/prevention, malware detection/filtering, application control/visibility, antispam services, URL/DNS filtering, and endpoint-related protections.”

- What are the advanced or next-generation firewalls and services needed to protect schools’ and libraries’ broadband networks from cyberattacks?
- What advanced firewall services should be considered to be eligible “advanced or next-generation services” for E-Rate support?
- How should funding for these advanced services be prioritized, given that there is not sufficient E-Rate support to fund every advanced or next-generation firewall service?

- Should end-point related protections be excluded from E-Rate eligible “advanced or next-generation firewalls and services? Why or why not?
- Should firewall service as a service (FWaaS) be eligible for E-Rate support? We encourage schools, libraries, and other stakeholders that have recent experience with advanced firewall services and the related-costs to provide specific information about the services they are purchasing, the costs they are paying, and what they have done to ensure these services and equipment are sufficient to protect their broadband networks and that the costs are reasonable.
- Considering the E-Rate program’s limited funds and the evolving connectivity needs of schools and libraries, should the Commission expand E-Rate support to fund advanced or next-generation firewalls and services, or continue to fund only basic firewalls and services as is currently allowed in the E-Rate program? Why or why not?
- Do commenters believe that expanding support to include advanced or next-generation firewalls and services is a prudent use of limited E-Rate funds? Would doing so affect the E-Rate program’s longstanding goal of basic connectivity?
- Instead of expanding the eligibility of firewalls and services at this time, should the Commission continue working with its federal partners, including CISA and the Department of Education to develop a holistic approach to address and prevent cyberattacks against the K-12 schools and libraries? For example, are any non-E-Rate funded services and equipment needed to fully address and prevent these cyberattacks, such as training and implementing a cybersecurity framework and program at each school and library?
- Will providing funding only for advanced or next-generation firewalls and services be sufficient to protect K-12 schools’ and libraries networks from cyberattacks? Is the amount of E-Rate funding allowed under its funding cap sufficient to cover all of the eligible schools’ and libraries’ connectivity needs, as well as their advanced firewall and other network security services?

Categorization of Firewall Services and Components.

Currently, pursuant to the Commission’s rules, basic firewall service provided as part of the vendor’s Internet access service is eligible as a Category One service. Separately priced basic firewall services and components are eligible as a Category Two service.

- Should advanced or next-generation firewall services and components be eligible as a Category One and/or Category Two service?
- If FWaaS is determined eligible for E-Rate support, should FWaaS be eligible for Category One and/or Category Two support?
- Should advanced or next-generation firewalls and services only be eligible for Category Two support and subject to the applicant’s five-year Category Two budget? Why or why not?
- If advanced firewall or next generation services should be eligible as both a Category One and Category Two service, how should the Commission delineate these services as a Category One and as a Category Two service?

Cost-Effective Purchases.

- If the Commission makes advanced or next-generation firewall services eligible as only Category Two service, would this be an effective way to ensure applicants are making cost-effective choices when requesting these services and equipment?
- Are there other measures the Commission could adopt to ensure cost-effective purchases of advanced or next-generation firewalls and services are being made?
- Should funding be limited to only cloud-based advanced or next-generation firewalls and services to ensure funding is not spent on firewall equipment that will need to be replaced every three to five years?
- What are other steps the Commission could take to ensure that limited E-Rate funds are cost-effectively used for advanced or next-generation firewalls and services?
- How can these limited funds be allocated to ensure applicants are making cost-effective purchases?
- What steps should the Commission take to ensure the constrained E-Rate funds are available for its primary purposes of bringing connectivity to and within the schools and libraries in light of the significant annual costs associated with advanced or next-generation firewalls and services?

Legal Issues.

Sections 254(c)(1), (c)(3), (h)(1)(B), and (h)(2) of the Communications Act collectively grant the Commission broad and flexible authority to set the list of services that will be supported for eligible schools and libraries, as well as to design the specific mechanisms of support.

- Is the addition of these services within the scope of the Commission's legal authority?
- Are there other legal issues or concerns the Commission should consider before extending E-Rate support to advanced or next-generation firewalls and services?
- Are there statutory limitations that the Commission should consider? What are these limitations?

COMMENTS



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Council of the Great City Schools®

1331 Pennsylvania Avenue, NW, Suite 1100N, Washington, DC 20004

(202) 393-2427 (202) 393-2400 (fax) www.cgcs.org

November 28, 2022

Docket No: ED-2022-SCC-0120

Subject: Common Core of Data (CCD) School-Level Finance Survey (SLFS)

Director of Strategic Collections and Clearance
 Governance and Strategy Division
 U.S. Department of Education
 400 Maryland Ave. SW
 LBJ, Room 6W203
 Washington, DC 20202-8240

The Council of the Great City Schools, the coalition of the nation’s largest central-city school districts, submits comments on the proposed Common Core of Data (CCD) School-Level Finance Survey (SLFS) for 2022-2024, published in the Federal Register on September 27, 2022. The Council objects to this new and mandatory data collection due to the unauthorized, duplicative, and burdensome requirements it imposes on local school districts.

Legislative History

The Council understands that there is “significant demand for finance data at the school level” as explained in the notice. During multiple attempts to reauthorize the Elementary and Secondary Education Act, there was considerable debate about the distribution of state and local education funding in comparison with Federal aid. The use of average salaries to determine compliance with Title I comparability requirements was at the center of these debates and discussions. In *The Every Student Succeeds Act* (ESSA) reauthorization law, bipartisan congressional negotiators preserved the existing comparability provision, but for the first time required states and districts to publicly report their per-pupil spending amount by funding source annually for every school.

Specifically, section 1111(h)(1)(C)(x) of ESSA requires the State report card to include, “The per-pupil expenditures of Federal, State, and local funds, including actual personnel expenditures and actual nonpersonnel expenditures of Federal, State, and local funds, disaggregated by source of funds, for each local educational agency and each school in the State for the preceding fiscal year.” Section 1111(h)(2)(C) of ESSA reiterates that this same information must also be included on each school district’s local report card.

This public reporting of Federal, State, and local spending on annual report cards was required beginning with the 2018-2019 school year. While initially proposed for the 2017-18 school year, a June 28, 2017 Dear Colleague letter from the U.S. Department of Education’s Office of Elementary and Secondary Education offered extra time for

compliance, anticipating that, “the additional year will allow SEAs and LEAs to update systems and processes in a manner that ensures the public has access to accurate and reliable data on school spending. In particular, it provides additional time to those SEAs and LEAs who are building statewide systems to support school-level reporting of expenditures.” In the same letter, the Department stressed that providing this information on State and LEA report cards will improve the availability of school spending information to parents, students, teachers, school leaders, researchers, and the public. In addition, they also shared that, “the Department was committed to supporting SEAs and LEAs as they move forward with implementation of this requirement.”

Unused but Existing Data Sources

The expansive request in the new mandatory SLFS would cover some of the same ground as the required data that is already reported publicly, and the Notice itself describes the new data collection as, “analogous to the current ESSA expenditures per pupil provision.” Similar to the 2017 Dear Colleague letter, the Notice also highlights the importance of comparing how resources are distributed among schools for the same group of policymakers, researchers, and public stakeholders who were previously mentioned in relation to the ESSA spending data.

The Council is a frequent user of NCEs and CCD’s robust datasets, and we do not believe that any of the existing ESSA spending data has been included in the school-level data tools that the Department has available. This data was required for public release by Congress, supported by the Department, and could address questions about “the equitable distribution of school funding within and across school districts” and “the need for reliable and unbiased measures” as outlined in the Notice. The existing ESSA data could be aggregated by NCEs and incorporated into its familiar research products to help provide insight on these issues for the public. This approach should certainly be considered before a mandatory new collection that parallels currently reported data is imposed on school districts, without requiring the additional detailed and lengthy list of items that were not approved by Congress.

Excessive Burden

The proposed SLFS, which currently operates as a voluntary pilot, would require every school district to annually provide data on salaries and benefits at the individual school level, broken down by Federal, State, and local funding. Also, responses must be broken down into ten or so budgetary function areas including instruction, as well as support services for pupils, instructional staff, general administration, school administration, plant operations, and student transportation. Additional school-level information by funding source is required for food service employees, enterprise operations, and more than a half dozen other items including instructional aide salaries, books and periodicals, and technology software.

The assumed cost in the Notice is severely underestimated based on the level of detail required, especially since new programming or new technology systems may be needed in many SEAs and LEAs to produce all of the new data items. The estimated number of hours for completion is also severely understated in the Notice considering the total number of data points required for each school. This time burden will certainly be outsized in the nation’s urban districts, many with hundreds of school buildings.

The Council should not have to underscore to the Department the immense challenges facing the nation's school districts in maintaining day-to-day operations after multiple years of constantly changing Federal, State, and local COVID-19 directives and guidance, and the ongoing and unprecedented staff shortages requiring constant redeployment of central office and instructional staff. The Department continues to propose major data collection demands despite these personnel issues and appears disconnected from the reality of running public school systems. In addition to the concerns outlined in these comments, we also reiterate the appeal we have made to the Department and their numerous significant and new data requests over the last year – under CRDC, ARP-ESSER, and Maintenance of Equity, for example – and ask the agency to align their expectations with the experience of operating public school districts currently.

Specific Congressional Action

The Council also questions the authority of the Department to impose this new mandatory data collection. As discussed earlier, years of debate and bipartisan negotiations preceded the nationwide school-level reporting requirements under ESSA. The only other instance when we recall similar data being mandated through a national collection was also the result of congressional action. *The American Recovery and Reinvestment Act of 2009* provided additional funding for Title I and the statutory language stated, “That each local educational agency receiving funds available under this paragraph shall be required to file with the State educational agency, no later than December 1, 2009, a school-by-school listing of per-pupil educational expenditures from State and local sources during the 2008-2009 academic year.”

The Notice pointedly references the longstanding interest and demand for the school level finance data the Department is seeking, yet the only instances when this information has been required nationally has been the result of specific congressional action and intent, despite the historic existence of the 1979 Department of Education Organization Act and the Civil Rights law that is cited on the survey form as the basis for this new collection.

Conclusion

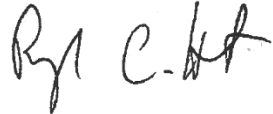
The Council has consistently emphasized the importance of data-driven decision making and the objective measurement of academic and operational performance in the nation's urban schools. The organization collected and reported urban districts' disaggregated academic assessment results in our “Beating the Odds” reports before the requirement under ESEA and was the only national K-12 association that supported the annual accountability requirements and *No Child Left Behind* legislation. The Council recommended the creation of the Trial Urban District Assessment (TUDA) to the National Assessment Governing Board and Congress to measure student academic progress in and among urban school districts nationwide. Our organization also developed the Great City Schools Key Performance Indicators (KPIs) to review our academic and operational practices and benchmark results against other urban districts of similar size and demographics.

The Council also supported passage of *The Every Student Succeeds Act* (ESSA) which included a new requirement for public reporting of Federal, State, and local funding in each school. As the Department has noted previously, school districts and States worked diligently to build the technology and information systems needed to capture the data required in ESSA and report

those results publicly each year. The Council recommends withdrawing the burdensome and unnecessary data collection proposed in the Notice and instead asks the Department to support the existing investments and use the data that has been available for several years to compare how resources are being allocated.

Thank you, and please let me know if there are questions on the Council's comments at rhart@cgcs.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Ray C. Hart". The signature is written in a cursive, somewhat stylized font.

Raymond Hart
Executive Director



Council of the Great City Schools®

1331 Pennsylvania Avenue, NW, Suite 1100N, Washington, DC 20004
(202) 393-2427 (202) 393-2400 (fax) www.cgcs.org

December 8, 2022

Office of Non-Public Education
U.S. Department of Education
400 Maryland Ave. SW
Washington DC 20202

Attention: Comments on Draft Equitable Services Non-Regulatory Guidance

Submitted via email to EquitableServices@ed.gov

The Council of the Great City Schools, the coalition of the nation’s largest central city school districts, submits the following comments on the Draft Non-Regulatory Guidance on Equitable Services for Eligible Private School Children. The Council appreciates the changes made in response to our comments to the draft guidance in 2019, but feels that the new proposed changes favor and benefit non-public schools to the detriment of eligible public school Title I students. The Council suggests preserving the existing guidance and allowing districts to extrapolate eligibility data based on the information that private schools provide.

Questions A-9 and B-11

The proposed changes in Questions A-9 and B-11 restrict the ability of school districts to extrapolate eligibility data for a private school if the LEA is unable to obtain “complete, actual data” for private school children and adds the new “representative sample” term. Existing guidance outlines the limited information that non-public schools and families must provide to school districts in a survey: verification of residence in a participating Title I public school attendance area, grade level and age of each child, and income level of parents. Public school families, by comparison, must provide additional information to demonstrate low-income eligibility, including all of the children and adults living in the household and the total income for all members. It is not uncommon for extended families and multiple generations to reside in a single household, and their numbers and total income is factored into the application for public school eligibility but not the private school survey.

Despite the limited information requested, private school officials and families are routinely unable or unwilling to provide survey data for the students enrolled in their school. The draft guidance’s inclusion of the new “representative sample” term creates an arbitrary and vague threshold that public schools must meet and which, if included, will provide an opportunity for private school officials to question the inadequate data that they themselves provided. The draft language suggesting that districts can analyze neighborhood or Title I attendance areas to determine eligibility does not acknowledge that an LEA’s ability to do so for non-respondents is obviously constrained by the lack of information available for those that did not complete the survey.

The draft guidance also removes the existing sentence recommending that private schools provide total enrollment figures to assist public school officials in their calculation. Since the current guidance already outlines in Questions A-9, B-11 and B-13 that school districts may use existing and multiple data sources, and if consultation with private school officials about eligibility is required, limiting the extrapolation of data only increases the burden on public school officials to the benefit of private schools.

Recommendations:

- A-9: Delete all of the new text added after the word “survey”;
- B-11: On page 20, undo the deletion of, “and allowing such survey results to be extrapolated if complete actual data are unavailable”;
- B-11: On page 21, undo the deletions that begin with “If, based on consultation...” and end with “...from low-income families.”
- B-11: On page 21, delete all of the new draft text.
- B-11: Keep the changes in the final paragraph about consultation and consideration of available sources of data.

Question B-11a

The term “due consideration” is included in the new Question B-11a and emphasized with the use of quotation marks, and also underscored with a statutory reference to ESEA section 1117(b)(6)(A). The origin of this term is in the compliance section of the statute where a private school official’s right to submit a complaint to the SEA is outlined. The only other place where the statutory reference for ESEA section 1117(b)(6)(A) is included in the guidance is in the section about complaints.

The term “due consideration” is also used in Question A-10 where it appears without quotations and without the statutory reference. The information in Question B-11a about consultation with private school officials does not need to include a citation that carries an implicit suggestion about a formal complaint.

Recommendation:

- Delete the last sentence in the first paragraph;
- Add a new sentence to the end of the first paragraph: “As outlined in Question A-10, meaningful consultation between the LEA and private school officials must occur with the goal of reaching agreement on how to provide equitable and effective programs to eligible private school children.”

Question B-13:

As discussed above, we do not support the creation of an arbitrary and vague “representative sample” threshold that will result in additional burden to public school officials for the benefit of the private schools. The changes will not result in more “equitable” services and appear to be inconsistent with the Education Department’s authority under the Elementary and Secondary Education Act (ESEA). These changes are also unnecessary considering the current guidance discusses the allowability of multiple data sources and the required consultation with private school officials regarding the method or sources of data that are used to determine the number of

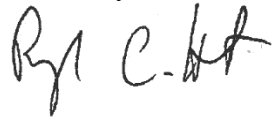
children from low-income families in participating school attendance areas who attend private schools (ESEA section 1117(b)(1)(F)).

Recommendation:

- Delete the entire second paragraph.

The Council appreciates the consideration of these comments as our urban districts work to provide fair and equitable services to eligible children in non-public schools. Feel free to contact me with any questions at rhart@cgcs.org. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Ray C. Hart". The signature is written in a cursive, somewhat stylized font.

Raymond Hart
Executive Director

CONGRESS

Summary of “Parents Bill of Rights Act” (H.R.6056)

Introduced: 117th Congress (2021-2022)

Sponsor: Rep. Julia Letlow (R-LA-5)

Cosponsors: 116 Republicans

Bill text: <https://www.congress.gov/bill/117th-congress/house-bill/6056/text>

From the House Committee on Education and Labor Republicans website:

Parents have a God-given right to make decisions for their children. Unfortunately, many school districts have been ignoring the wishes of parents while special interest groups try to criminalize free speech. This list of rights will make clear to parents what their rights are and clear to schools what their duties to parents are.

1) Parents have the right to know what their children are being taught:

- School districts must post curriculum publicly.
- States must provide the public a copy of any revisions to the state's academic standards or learning benchmarks.
- Parents must be given timely notice of any school's plan to eliminate gifted and talented programs.
- Schools must provide parents with a list of books and reading materials available in the school library.

2) Parents have the right to be heard:

- Teachers must offer two in-person meetings with parents each year.
- Parents must be allowed to address the school board on issues impacting the education of children in the school district.
- Educators and policymakers must respect the First Amendment right of parents as well as their right to assemble and have a say in their child's education.
- School districts should consider community feedback when making decisions.

3) Parents have the right to see the school budget and spending:

- There must be public disclosure of school district budgets and each school's budget, including revenues and expenditures.

4) Parents have the right to protect their child's privacy:

- Schools must not share student data with tech companies without parental permission.
- Schools must not sell student data for commercial purposes.
- Parents must have a say when schools develop or update their student privacy policies and procedures.
- Parents must consent before any medical exam takes place at school, including mental health or substance use disorder screenings.

5) Parents have the right to keep their children safe:

- Schools must notify parents of violent activity occurring on school grounds or at school-sponsored events while still protecting the privacy of the students involved in the incident.

SCHOOL OPERATIONS FUNDING UPDATE

School Operations Funding Update

Bipartisan Infrastructure Law (2021) and Inflation Reduction Act (2022)

Bipartisan Infrastructure Law (2021)

Environmental Protection Agency (EPA): \$5 billion for Clean School Bus program

- Purpose: To replace old school buses with newer Zero Emissions or Clean School Buses.
- Funding: \$ billion awarded over 5 years
 - \$965 million in rebates awarded in FY 2022 – nearly double the amount initially planned due to high-demand for the awards.
 - Each Class 3+ Zero Emissions bus is also awarded up to \$20,000 for infrastructure costs (electric panels, charging stations).
- Prioritizes districts with:
 - High percentages of poverty - minimum 20% students living in poverty;
 - Districts with students who reside on Indian land;
 - Rural districts.
- FY 2022 Funding Awards:
 - 14 CGCS districts received awards out of 46 “Prioritized” CGCS districts.
 - **Total award for CGCS districts: \$115,475,000 including funds for infrastructure.**
 - Will be used to buy 339 buses (299 electric buses, 35 propane buses, 5 CNG buses).
- Upcoming award process for FY 2023 will include:
 - Rebate program similar to FY 2022 process;
 - Competitive grant program (New for FY 2023) with details forthcoming.

Inflation Reduction Act (2022)

- Passed in August 2022 using the budget reconciliation process and included about \$700 billion in funding, a little over half of which is for climate change, but also includes some health care, tax and deficit reduction policies which were in the failed Build Back Better legislation
- None of the earlier education-related provisions from the Build Back Better reconciliation proposal were included – no school construction, universal pre-K, or free community college in here.
- Potential support for school districts through:
 - \$400 million in grant funding for school bus replacement for nonprofit school transportation associations to replace existing vehicles with low-emission equivalents, like electric school buses.
 - Tax credits/direct pay subsidies for renewable energy qualifying projects to improve and modernize more energy efficient schools are available to states and political subdivisions (cities, counties, school districts and other local governmental agencies.)