

# ELEMENTARY AND SECONDARY SCHOOL EMERGENCY RELIEF FUND (ESSER FUND) FREQUENTLY ASKED QUESTIONS

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## Oregon Department of Education Guidance

The following questions and guidance are specific to Oregon and are current as of June 22, 2020. If you have a question that is not covered, feel free to [email us](#).

### **1. Were charter school students included in the district's population?**

The basis for the preliminary district allocations follows the same prorate of funds for the district 2019-20 Title IA allocation. This is mandated by the Act. The Title IA formula allocates funding to school districts based on the number of poor students they serve. A school district qualifies for the funding if it has at least 10 poor children and 2 percent of its students live in poverty. This means that nearly all school districts, even very wealthy school districts, will get a share of the funding.

### **2. Why are state sponsored charter schools not included? Are there any plans to support these schools?**

This funding represents 90% of the resources and is required to go to only school districts. The Department has plans to try and address the needs of the state sponsored charter schools, Oregon School for the Deaf, and the 16 districts that didn't receive any of this funding, through a 10% state set aside.

### **3. Has there been anything communicated to school districts that would prohibit them from passing through some of the funds to the charter school?**

No. See question #11 in the General Guidance section below.

### **4. How is the amount to be allocated to a charter school to be determined?**

The percentage of charter school ADM of the total LEA ADM should be applied to the 90% ESSER Fund grant received by the LEA. This calculation could be used as an equitable distribution for the charter school as a component school of the LEA.

To determine the charter school ADM percentage, please refer to the [Charter School ADM Percentage of Total District ADM 2019-20](#) document.

### **5. Are charter schools required to submit an application to access the funds?**

No. Only LEAs are eligible to submit an application and directly receive an ESSER Fund grant. Once awarded, the LEAs will work with their charter schools to provide access to the funds.

## 6. Are LEAs required to pass-through ESSER Funds to its charter schools?

Although the CARES Act does not require pass-through of ESSER Funds from the LEA to its charter schools, we strongly recommend that sponsoring districts consider the needs of all of their students and provide supports for their charter schools.

## 7. What is the process for receiving funds?

Districts must complete and submit the [ESSER Fund LEA Application and Assurances](#) by July 10<sup>th</sup>, 2020.

## 8. How can the funds be used?

- a. ESSER Funds must be spent on activities allowable under section 18003(d) of Division B of the CARES Act.
- b. A local educational agency that receives funds under this title may use the funds for any of the following:
  - i. Any activity authorized by the ESEA of 1965, including the Native Hawaiian Education Act and the Alaska Native Educational Equity, Support, and Assistance Act (20 U.S.C. 6301 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) (“IDEA”), the Adult Education and Family Literacy Act (20 U.S.C. 1400 et seq.), the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) (“the Perkins Act”), or subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.).
  - ii. Coordination of preparedness and response efforts of local educational agencies with State, local, Tribal, and territorial public health departments, and other relevant agencies, to improve coordinated responses among such entities to prevent, prepare for, and respond to coronavirus.
  - iii. Providing principals and others school leaders with the resources necessary to address the needs of their individual schools.
  - iv. Activities to address the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including how outreach and service delivery will meet the needs of each population.
  - v. Developing and implementing procedures and systems to improve the preparedness and response efforts of local educational agencies.
  - vi. Training and professional development for staff of the local educational agency on sanitation and minimizing the spread of infectious diseases.
  - vii. Purchasing supplies to sanitize and clean the facilities of a local educational agency, including buildings operated by such agency.

- viii. Planning for and coordinating during long-term closures, including for how to provide meals to eligible students, how to provide technology for online learning to all students, how to provide guidance for carrying out requirements under the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.) and how to ensure other educational services can continue to be provided consistent with all Federal, State, and local requirements.
- ix. Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the local educational agency that aids in regular and substantive educational interaction between students and their classroom instructors, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment.
- x. Providing mental health services and supports.
- xi. Planning and implementing activities related to summer learning and supplemental afterschool programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care.
- xii. Other activities that are necessary to maintain the operation of and continuity of services in local educational agencies and continuing to employ existing staff of the local educational agency.

**9. Can ESSER Funds be used to cover "hazard pay" for employees during this time (e.g., those who are at meal pickup sites, custodial staff, etc.)?**

Guidance to ODE states "CARES Act funds generally cannot be used for bonuses, merit pay, or similar expenditures, unless related to disruptions or closures resulting from COVID-19." Will need to check with the federal government for further guidance.

**10. During meal pick-ups, some parents are requesting meals as well. Can the cost of these additional meals be covered?**

In looking at all of the material and eligible uses, it appears to call out supports only for students and school personnel/staff/contractors. Using ESSER Funds for the benefit of non-students is likely not allowable.

## 11. How should COVID-19 related expenditures be tracked?

- a. Continue tracking your COVID-19 related expenditures with a special indicator, like a sub-area or project ID. You would then be able to produce a report of expenditures, if needed. You can always set up a sub fund to your General Fund, just like you do for your Special Revenue Funds.
- b. [ESSER Fund CFDA Number](#): 84.425D

## General Guidance

The following questions and guidance were provided by the US Department of Education on April 23, 2020.

### 1. Who applies to the Department for ESSER formula funds?

Only SEAs in the 50 States, Puerto Rico, and the District of Columbia apply directly to the Department for ESSER Funds. An SEA is the agency primarily responsible for the State supervision of public elementary schools and secondary schools. For example, an SEA may be called the [State name] Department of Education or the [State name] Office of Public Instruction.

The Bureau of Indian Education and the Outlying Areas are not eligible to receive ESSER formula funds. Congress provided a separate set aside in the Education Stabilization Fund to provide funds to those entities.

### 2. How do school districts or other entities access ESSER formula funds?

School districts (LEAs) must apply to the relevant SEA. Every SEA must use at least 90 percent of its ESSER Fund grant to make subgrants to LEAs by formula based on FY 2019 Title I, Part A allocations.

### 3. What happens to the other 10 percent of ESSER funds?

An SEA may retain 10 percent or less of its ESSER Fund grant (the “SEA Reserve”), to address emergency needs resulting from COVID-19 through subgrants and contracts. As described below, from the SEA Reserve, the SEA can also use one-half of one percent of its total grant for administrative costs.

### 4. Who is eligible to receive ESSER funds from the SEA Reserve?

A wide range of entities, including LEAs and organizations serving students and families, may be a “subrecipient” of funds from the SEA Reserve. A “subrecipient” includes any entity that receives a subgrant or contract consistent with applicable State and Federal subgrant and procurement standards. Entities interested in learning more about an SEA’s intended use of its reserve should contact the SEA.

### 5. May an SEA reserve ESSER funds for administrative costs?

Yes. An SEA may reserve ½ of 1 percent or less of its total ESSER allocation for administrative costs, including both direct and indirect administrative costs. This reservation must come from the SEA Reserve and is not subject to the requirement that funds be “awarded” within one year. Funds for administrative costs remain available to the SEA for obligation through September 30, 2022.

## 6. Are ESSER Funds a supplement to an LEA's ESEA Title I, Part A grant award?

No. The ESSER Fund is a separate Federal program. ESSER funds must be awarded and tracked separately from Title I, Part A funds.

## 7. What is the overall timeline for using ESSER funds?

- **Spring 2020:** The Department makes the initial awards
  - SEAs make awards as soon as practicable
- **Spring 2021:** States return funds not awarded
- **Spring/Summer 2021:** The Department makes reallocation awards
- **September 30, 2021:** Last date the Department can make awards
- **September 30, 2022:** Last date SEA, LEA, or other subgrantee can obligate funds

## 8. Is there a deadline by which an SEA must award ESSER funds to subrecipients?

Yes. SEAs must award ESSER formula subgrants to LEAs within one year of receiving the State allocation. An SEA must also make awards with its SEA Reserve within one year of receiving the State allocation. Any funds that the SEA fails to award by the one-year deadline must be returned to the Department for reallocation consistent with the CARES Act.

## 9. How long are ESSER funds available for obligation by subrecipients?

ESSER funds are available for obligation by LEAs and other subrecipients through September 30, 2022, which includes the Tydings period (General Education Provisions Act §421(b)(1)).

## 10. What is the difference between "awarding" and "obligating" funds?

An SEA awards funds when it makes a subgrant to an LEA or, in the case of the SEA Reserve, when it enters into a subgrant or contract with a subrecipient. ESSER funds are obligated when the subrecipient commits those funds to specific purposes consistent with 34 C.F.R. § 76.707. If an SEA awards a contract from the SEA reserve, that is an obligation. In contrast, subgranting funds to an LEA or other subrecipient is not an obligation; rather, these funds are not obligated until the LEA or other subrecipient commits the funds to specific purposes.

## 11. Is a charter school eligible to receive ESSER formula funds?

A charter school that is an LEA, as defined in section 8101(30) of the ESEA, may receive an ESSER formula subgrant like any other LEA. A new or significantly expanded charter school LEA in the 2020-2021 school year is eligible to receive an ESSER formula subgrant in accordance with ESEA section 4306 and 34 CFR §76.792. A charter school that is not an LEA may not receive a formula subgrant, but it may receive support under ESSER through the LEA of which it is a part.

**12. If an LEA did not receive an FY 2019 Title I, Part A subgrant for school year 2019-2020, is it eligible to receive ESSER formula funds?**

No, the LEA is not eligible to receive a formula subgrant. The only exception is a new charter school LEA that did not exist in the 2019-2020 school year or a charter school LEA whose significant expansion makes it eligible for Title I, Part A funds in the 2020-2021 school year. However, any LEA may receive ESSER funds from an SEA's Reserve, including those LEAs that are not eligible for a formula subgrant under the ESSER Fund.

**13. Must an LEA submit a local application to the SEA in order to receive ESSER formula funds?**

Yes. An LEA must file a local application with the SEA in order to receive an ESSER formula subgrant. For information about what an SEA must include in its local application for an ESSER formula subgrant, please refer to the [ESSER Fund Certification and Agreement](#).

**14. May an SEA restrict or limit LEA uses of ESSER formula funds?**

No. The ESSER Fund provides a broad, permissive list of allowable LEA activities in Section 18003(d). SEAs do not have the authority to limit the uses of ESSER formula funds.

**15. How much flexibility does an LEA have in determining the activities to support with ESSER funds?**

The ESSER Fund provides LEAs considerable flexibility in determining how best to use ESSER funds (see Section 18003(d)). For example, LEAs may use ESSER funds for personal protective equipment (PPE), cleaning and sanitizing materials, and similar supplies necessary to maintain school operations during and after the COVID-19 pandemic. Since learning can and should continue, the Department encourages LEAs to target ESSER funding on activities that will support remote learning for all students, especially disadvantaged or at-risk students, and their teachers.

**16. Are an LEA's ESSER formula funds subject to the requirements of Title I, Part A of the ESEA (or other Federal education program requirements), if an LEA uses ESSER formula funds for an allowable activity under such program?**

No. Although an LEA receives ESSER formula funds via the Title I, Part A formula, ESSER formula funds are not Title I, Part A funds and are not subject to Title I, Part A requirements. The CARES Act authorizes a broad array of potential uses of ESSER formula funds under a number of Federal education statutes; no associated statutory requirements of any of those programs apply to ESSER funds.

**17. May an LEA use its ESSER formula funds to support any school in the district, regardless of a school's Title I, Part A status?**

Yes. The CARES Act does not define how an LEA distributes funds to schools. An LEA may support any school in the district or it may target funds based on poverty, indication of school needs, or other targeting measures.

**18. Is there any difference in the amount of funds, or allowable uses of funds, for a school that implements a schoolwide program under Title I, Part A as compared to a school that provides targeted support under Title I, Part A?**

No. The requirements of Title I, Part A do not apply to ESSER funds. An LEA may support any of its schools using ESSER funds for any allowable activities under 18003(d) without regard to Title I eligibility, program type, or funding.

**19. Are ESSER Funds subject to a supplanting prohibition?**

No. The ESSER Fund does not contain a supplanting prohibition. As a result, ESSER Funds may take the place of State or local funds for allowable activities. However, the program does contain a Maintenance of Effort (MOE) requirement, which is designed to keep States from substantially reducing their support for K-12 education.

**20. May an SEA or LEA use ESSER Funds for allowable costs incurred prior to receiving grant funds?**

Yes. An SEA and LEA may use ESSER Funds for any allowable expenditure incurred on or after March 13, 2020, the date the President declared the national emergency due to COVID-19.

**21. Should SEAs and LEAs anticipate monitoring or auditing of ESSER funds?**

Yes. The Department will monitor the use of ESSER Funds. In addition, ESSER Funds are subject to audit requirements under the Single Audit Act and to review by the Government Accountability Office. The Department's Office of the Inspector General may audit program implementation, as may any other federal agency, commission, or department in the lawful exercise of its jurisdiction and authority.