



# CRRSA ACT - ESSER II

## ESSER II GRANT GUIDANCE



**Wyoming Department of Education**

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# Table of Contents

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<b>The CRRSA Act and the Esser II Fund: A Brief Overview .....</b>	<b>2</b>
<b>ESSER II Resources .....</b>	<b>3</b>
<b>General ESSER II Spending Considerations .....</b>	<b>3</b>
<b>Additional Spending Rules and Considerations for ESSER II.....</b>	<b>3</b>
<b>ESSER II Funds, Questions and Answers</b>	
Who is eligible to apply?.....	4
How are allocations determined?.....	4
How will eligible LEAS apply for grant funds? .....	4
Is there a deadline for submitting ESSER II? .....	4
What assurances will apply to LEAs that apply? .....	4
Are private schools eligible to apply for the ESSER II grant? .....	5
Are school districts required to provide equitable services through ESSER II? .....	5
How long will LEA's have to use these funds?.....	5
<b>Allowable Uses: General Questions</b>	
What are allowable uses of the ESSER II grant fund? .....	5
What can ESSER II grant funds not be used for? .....	6
How much flexibility does a district have in determining the activities to support with ESSER funds?.....	7
<b>More Specific Questions About Allowable Uses</b>	
<b>Employment</b>	
Can ESSER II funds be used to hire remote learning teachers and/or building substitutes to help with absentee loss due to positive cases or close contacts? .....	7
Can we pay salaries with ESSER II funds? .....	7
Can we use ESSER II funds to pay for a school mental health professional or nurse that was funded by ESSER I? .....	7
Is time and effort documentation required for FTEs paid for out of ESSER II?.....	7
<b>Contracting with Community Organizations</b>	
Can we use the funds to collaborate with community organizations? .....	8
<b>Transportation:</b>	
Could transportation be covered by ESSER II funds?.....	8
Is purchasing a vehicle an ESSER II allowable cost?	

<b>Technology/Connectivity:</b>	
With social distancing required for schools who are hybrid /in-person can the ESSER II monies cover expanded network connectivity with buildings that are not typically covered by E-Rate? .....	8
Does "Educational technology" categorized under "network connectivity" create any conflict with E-Rate funding and any possible PIA, etc? .....	8
<b>Capital Expenditures/Construction:</b>	
Are capital expenditures allowable costs under the ESSER and ESSER II grants? .....	9
Would a window replacement project that replaced fixed (inoperable) or faulty windows with operable windows qualify as improving ventilation? .....	9
Would funds be available for purchase and installation of a new HVAC unit? .....	10
If funds are used for a ventilation system, can it be fully expensed to use funds by the deadline and not have to be depreciated as a capital expenditure? .....	10
Can ESSER II funds be used for door and window replacement? .....	10
<b>Miscellaneous</b>	
Can ESSER II funds be used to purchase a new financial/ HR system? .....	11
How will WDE determine which proposed district expenditures to approve? .....	11
Does a district need to apply for its full ESSER II allocation at once? Can a district submit multiple applications? .....	11
Should districts establish account codes and names prior to submitting their ESSER II application? .....	11
How long will it take following application submission for districts to be able to draw down ESSER II funds? .....	11
Does ESSER II have a supplement not supplant requirement? .....	11
Does ESSER II have a local Maintenance of Effort (MOE) requirement? .....	11
<b>Definitions</b>	
A Note on "Learning Loss" .....	12
Additional Definitions .....	12
<b>Monitoring Considerations</b>	
Pay .....	13
Capital Expenditures .....	14
Construction and Renovation .....	14
Budgetary Shortfalls .....	15
<b>ESSER II Grant Application Steps</b> .....	15
<b>Federal Monitoring</b> .....	16
<b>ESSER II Contacts</b> .....	16

This document is intended to provide guidance on allowable uses of your ESSER II funds and the application. It is meant to be a “living document” and will be updated with additional information on allowable uses, FAQ’s, and other pieces of information as they become available.

## The CRRSA Act and the Esser II Fund: A Brief Overview

The **Coronavirus Response and Relief Supplemental Appropriations** (CRRSA) Act was enacted on December 27, 2020, following the original Coronavirus Aid, Relief, and Economic Security (CARES) Act enacted on March 27, 2020. The Education Stabilization Fund (ESF) received \$82 billion in dedicated funds to support education relief and recovery efforts.

The **Elementary and Secondary School Emergency Relief** (ESSER II) Fund is designated to support K-12 schools to respond to the COVID-19 pandemic. The Wyoming Department of Education (WDE) will administer this fund.

Wyoming's award is based on the **proportionate share of Title I-A funds received in FY21 (SY20-21)**:

- 90% of Wyoming's award (\$121 million) must be sub-granted to Local Educational Agencies (LEAs). Funds are allocated based on each LEA's proportionate share of Title I-A funds received in FY21 (SY20-21).
- 9.5% of the total award may be reserved for WDE state-level activities to support K-12 recovery efforts.
- No more than 0.5% of the total may be reserved by the WDE for administrative costs

The following table is a breakdown of Wyoming's ESSER II Fund Award<sup>1</sup>:

<b>Total Award</b>	<b>\$ 135,230,900</b>
<b>Total SEA Admin (0.5%)</b>	<b>\$ 676,155</b>
<b>Total SEA Activities (9.5%)</b>	<b>\$ 13,523,090</b>
<b>Total LEA Assistance (90%)</b>	<b>\$ 121,707,810</b>

### Project Terms:

**Grant Period:** March 13, 2020- September 30, 2023 <sup>2</sup>

**Encumbrance** (date by which all approved activities must be completed): September 30, 2023

**Liquidation/Reimbursement Deadline:** December 15, 2023

**Final Expenditure Report Due:** December 31, 2023

<sup>1</sup> See the OESE's "Final ESSER II Methodology and Allocation Table," [here](#).

<sup>2</sup> The grant period takes into account the Tyding's Amendment, which extends the grant period 12 months.

## ESSER II Resources

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U.S. Department of Education: [ESSER Website](#)

U.S. Department of Education: [ESSER II Fact Sheet](#)

WDE: [COVID Relief Funding Factsheet](#)

WDE: [GMS Support Site](#)

## General ESSER II Spending Considerations

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- All activities supported with ESSER funds must relate to **preventing, preparing for, and responding** to COVID-19.
- ESSER I and ESSER II do not contain a supplement not supplant requirement.
- ESSER I and ESSER II funds can be spent on the same activities.
- ESSER funds are governed by the Uniform Grant Guidance (UGG) and the Education Department General Administrative Regulations (EDGAR). Among other requirements, all expenses paid with ESSER funds must be **“necessary and reasonable”** under the circumstances. What might be necessary and reasonable in one circumstance might not be in another. LEAs should be aware of cash management ([2 CFR § 200.305](#)) and other post federal award requirements in [2 CFR part 200, subpart D](#). **Note.** Due to the amount of funding provided, additional LEAs may fall within the single audit threshold (i.e., expending \$750,000 or more of federal funds during the fiscal year).

## Additional Spending Rules and Considerations for ESSER II

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**In light of the “necessary and reasonable” requirement, LEAs should consider the following:**

- ESSER provides LEAs with short-term relief funds to address the effects of COVID-19 on elementary and secondary schools. *ESSER is not an ongoing program to support long-term expenses.*
- As noted above, we encourage LEAs to spend down ESSER I funds before spending ESSER II funds.
- ED encourages LEAs to spend ESSER funds to safely reopen elementary and secondary schools as soon as possible, to restore and maintain high-quality learning environments, and to take comprehensive action to mitigate learning loss. *LEAs should especially consider the needs of its most vulnerable students* including low-income students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children and youth in foster care.
- LEAs can spend ESSER funds on many activities that are not allowable under other federal programs, because the allowable uses are broader than specifics of other programs like Title I and IDEA. ESSER-funded activities can benefit all students and schools or be targeted to select students and schools,

depending on local needs. For example, an LEA could use ESSER funds for new curricula for the entire district, school infrastructure, attendance-tracking tools, mental health warning systems, and similar activities. We encourage LEAs to think strategically about their needs, resource allocation, equity, and consider high-impact activities like:

- o Health and safety initiatives that permit students to safely return to in-person school,
- o Interim and formative assessment tools,
- o High-quality instructional materials to address learning loss or accelerate learning,
- o Academic recovery and accelerated learning initiatives (including extended-time or extended year initiatives, changing school master schedules to promote accelerated learning and access to effective teachers, and high-quality high-dose tutoring),
- o Broadband and technology,
- o High-quality, evidence-based literacy and math initiatives, which could include new curriculum, and
- o Professional development to increase teacher's capacity in online and blended environments.

## ESSER II Funds: Questions and Answers

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### Who is eligible to apply?

All non-profit LEAs are eligible to apply.

### How are allocations determined?

Funds are allocated from the 90% set aside for LEA Assistance for FY21 Title I-A LEAs based on each LEA's proportionate share of Title I-A funds received in FY21 (SY20-21).

**For Wyoming's ESSER II LEA allocations, see [ESSER II LEA Grant Allocations](#)**

### How will eligible LEAs apply for grant funds?

Eligible LEAs will apply for ESSER II grant funds by completing an online application through the WDE's grant management system linked [here](#).

### Is there a deadline for submitting ESSER II?

There is not a deadline to submit. However, the period of availability of the grant runs from March 13, 2020 to September 30, 2023. Districts will want to spend their ESSER II dollars by the end of the period of availability.

### What assurances will apply to LEAs that apply?

LEAs must make the following assurance in order to receive ESSER II funds:

Continued Payment to Employees: LEAs shall, to the greatest extent practicable, continue to pay its employees and contractors during the period of any disruptions or closures related to coronavirus.

**NOTE:** The USED will provide additional guidance to address if ESSER Funds may be used by LEAs to help meet this assurance. An allowable LEA use of ESSER Funds are **"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."**

### **Are private schools eligible to apply for the ESSER II grant?**

No. Non-profit private schools are, however, eligible to apply for services through the Emergency Assistance for Non-Public Schools (EANS) program. This program was established by the CRRSA Act under the Governor's Emergency Education Relief (GEER II) Fund.

### **Are school districts required to provide equitable services through ESSER II?**

No. School districts receiving either ESSER II or GEER II Fund LEA assistance grants are not required to provide equitable services to non-profit private schools.

### **How long will LEA's have to use these funds?**

LEAs will complete an application in the Grants Management system with an initial project/budget term of **March 13, 2020 – September 30, 2022**. ESSER II funds are available for obligation through **September 30, 2023** and may be used for pre-award costs dating back to **March 13, 2020**.

LEAs should be mindful in their local planning that ESSER I funds expire first, on September 30, 2022, as opposed to September 30, 2023 for ESSER II.

## **Allowable Uses: General**

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### **What are allowable uses of the ESSER II grant fund?**

Local Educational Agencies (LEAs) can use ESSER funds for any activities authorized by the Elementary and Secondary Education Act of 1965 (ESEA) as amended by the Every Student Succeeds Act of 2000 (ESSA), IDEA, the Adult Education and Family Literacy Act, the Perkins CTE Act, or the McKinney-Vento Homeless Assistance Act.

Keep in mind that **ESSER II Funds are flexible**, and may be used by LEAs for any of the following categories depending on local needs.

### **ESSER II Funds may also be used by LEAs for the following COVID-19 related relief, prevention, and recovery efforts:**

- **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;
- Providing principals and others school leaders with the resources necessary to **address the needs of individual schools**;
- 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;
- Developing and implementing procedures and systems to **improve the preparedness and response** efforts of LEAs;
- **Training and professional development** for staff of the LEA on sanitation and minimizing the spread of infectious diseases;
- **Purchasing supplies to sanitize and clean** the facilities of an LEA, including buildings operated by such an agency;



- **Planning for and coordinating during long term closures**, including meals to eligible students, technology for online learning, guidance for carrying out requirements under the IDEA, and how to ensure other educational services can continue to be provided consistent with all federal, state, and local requirements;
- **Purchasing educational technology** (including hardware, software, and connectivity) for students 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;
- **Providing mental health services and supports**;
- **Planning and implementing activities related to summer learning and supplemental after school 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;

**CRSSA highlights several “new” LEA uses of funds (however, these “new” activities are also allowable under ESSER I).**

These activities include:

- **Addressing learning loss recovery** among students, including by:
  - o Administering and using high-quality, valid and reliable assessments Implementing evidence-based activities to meet comprehensive needs of students
  - o Providing assistance to parents and families on how to effectively support students, including in distance learning environments
  - o Tracking student attendance and improving student engagement in distance learning
- **School facilities repair and improvement** to enable safe operation of schools
- Inspection, testing, maintenance, repair, replacement, and upgrade **projects to improve the indoor air quality** in school facilities

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

### **What can ESSER II grant funds not be used for?**

CARES Act funds generally cannot be used for **bonuses, merit pay, or similar expenditures**, unless related to disruptions or closures resulting from COVID-19;

Subsidizing or offsetting **executive salaries and benefits** of individuals who are not employees of the SEA or LEAs;

Expenditures related to state or local **teacher or faculty unions** or associations.

**Reserving ESSER funds in a set aside account for future use** is not allowable by federal statute. The ESSER I and II grant funds are to reimburse LEA expenses for allowable uses of funds and cannot be requested or drawn prior to encountering an expense.

### **How much flexibility does a district have in determining the activities to support with ESSER funds?**

Districts have full discretion over the use of their ESSER funds so long as those uses are necessary, reasonable, and allowable under the federal guidelines of the ESSER program. The WDE will not prescribe exactly how districts use their funds; they will merely provide oversight to ensure funds are used in a manner consistent with the spirit and letter of the federal guidelines.

## **More Specific Questions about Allowable Uses**

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### ***Employment***

#### **Can ESSER II funds be used to hire remote learning teachers and/or building substitutes to help with absentee loss due to positive cases or close contacts?**

ESSER II funds may be used to support teaching and learning in response to the impact of COVID-19. This would include paying for teachers to engage in remote instruction and for substitutes to cover classes for teachers who are absent due to COVID-19 exposure.

#### **Can we pay salaries with ESSER II funds?**

ESSER II funds may be used to maintain staffing levels, as long as those salaries fall under one of the broad categories of allowable expenses under ESSER II and the expenses are related to the impact of COVID-19.

#### **Can we use ESSER II funds to pay for a nurse or mental health professional that was funded by ESSER I?**

Yes, you may use ESSER II funds for the reasonable costs of continuing to retain a school nurse or mental health professional who was paid through ESSER I funds. Categories of allowable uses of funds under ESSER II that would include, but are not limited to, 1) Providing principals and others school leaders with the resources to address individual school needs, and 2) Other activities necessary to maintain district operations and services and to continue to employ existing district staff.

#### **Is time and effort documentation required for FTEs paid for out of ESSER II?**

ESSER subrecipients will generally not need to maintain time distribution records. The requirements in the Uniform Guidance apply to expenditures of ESSER funds, including the requirements related to documenting personnel expenses in [2 CFR section 200.430\(i\)](#). This would mean, for example, that an LEA maintains the records it generally maintains for salaries and wages, including for employees in leave status, except that an LEA must maintain time distribution records (sometimes called “time and effort” reporting) if an individual employee is splitting their time between activities that may be funded under ESSER and activities that are not allowable under ESSER. However, there are very few situations when an employee of an LEA would perform multiple activities that are not allowable under ESSER, and thus would be required to maintain time distribution records, given that an LEA is authorized to use funds on “activities that are necessary to maintain the operation of and continuity of services in [an LEA] and continuing to employ existing staff of the [LEA]” in order to “prevent, prepare for, and respond to” the COVID-19 pandemic. (Section 18003(d)(12))

## ***Contracting with Community Organizations***

### **Can we use the funds to collaborate with community organizations?**

These expenses may be used to partner with community organizations. For example, a district may plan to work together with community partners to, on a long-term basis, support students and adults as they recover from all the societal and health-related impacts of COVID-19. Or to support learning recovery for students throughout the summer. There should be a clear breakdown of intended equity impact the program would have as well as measurable outcomes.

## ***Transportation:***

### **Could transportation be covered by ESSER II funds?**

Yes. This expenditure for transportation, if related to the impacts of COVID-19, may fit under several categories of allowable expenditures, for example,

- Plan and implement activities related to summer learning and supplemental after school programs, including providing classroom instructor or online learning during the summer months,
- Addressing the unique needs of students living in poverty, students with disabilities, English learners, migrant students, students experiencing homelessness, and/or foster care youth,
- And, regular transportation costs that are related to the pandemic (i.e., additional busses for additional routes to allow for social distancing) are allowable.

### **Is purchasing a vehicle an ESSER II allowable cost?**

It is possible to purchase a vehicle using ESSER II funds, as long as it fits in the general allowable ESSER II categories. ESSER II funds are subject to the Education Department General Administrative Regulations (EDGAR) and the Federal Government's Uniform Grant Guidance (UGG), which includes the requirement that spending be necessary and reasonable. Considering the necessary and reasonable requirement, ESSER II provides districts with short-term relief funds to address the effect of COVID-19 on elementary and secondary schools, and ESSER II is not an ongoing program to support long-term expenses.

Federal procurement guidance is clear that you must avoid acquisition of unnecessary or duplicative items and consideration should be given to obtain a more economical purchase. Where appropriate, an analysis must be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

## ***Technology/Connectivity***

### **With social distancing required for schools who are hybrid /in-person, can the ESSER II monies cover expanded network connectivity with buildings that are not typically covered by E-Rate?**

ESSER II funds may be used to expand network connectivity to meet COVID-19 impacts and school, teacher, and student instructional and learning needs.

### **Does "Educational technology" categorized under "network connectivity" create any conflict with E-Rate funding and any possible PIA, etc?**

ESSER II funds may be used to expand network connectivity to meet COVID-19 impacts and school, teacher, and student instructional and learning needs, especially remote online learning. Very generally, we understand 1) that E-Rate funds cannot be used for off-campus learning, see, e.g., <https://docs.fcc.gov/public/attachments/DA-21-98A1.pdf> ("The E-Rate program does not provide support for most off-campus services and E-Rate applicants are, therefore, usually required to cost-allocate out of their funding requests any portion of eligible services used off campus") (so likely no conflict with ESSER II for

these expenditures), and 2) that FCC rules may prohibit using federal funds to pay for costs that have already been subsidized by E-Rate dollars (so possibly a conflict if ESSER II is used for these expenditures). Districts are advised to contact [Universal Services Administrative Company](#) (USAC), the E-Rate administrator, to discuss any specific grant expenditures for products or services subsidized by E-Rate or which they believe may conflict with E-Rate rules.

### ***Capital Expenditures/Construction:***

#### **Are capital expenditures allowable costs under the ESSER and ESSER II grants?**

Capital expenditures that 1) “prevent, prepare for, and respond to the coronavirus” and 2) are allowable per the list of allowable uses under the respective ESSER programs are appropriate uses of grant funds, provided all of the guidance and cost principles governing the expenditures are met.

Capital expenditures are defined as “expenditures to acquire capital assets or expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life.” [2 CFR § 200.13](#). Districts are required to receive the WDE’s prior approval for capital expenditures. [2 CFR § 200.439](#). An application that is approved by the WDE through the GMS system will meet this requirement.

Schools are required to work with Wyoming’s [School Facilities Division](#) (SFD) when they are considering major maintenance or a construction project. The SFD works under the [School Facilities Commission](#), by providing districts’ guidance in implementing Wyoming policies, guidelines and standards; helping districts develop facility plans and forecast building and facility needs to comply with statewide building adequacy standards; and establishing a statewide school facilities database (for a full account of the duties of the SFD, see [WY Stat § 21-15-123 \(2013\)](#)).

In addition, districts are required to follow all applicable federal and state (if expenditure includes state funds) procurement and asset management requirements. See [2 CFR §§ 200.317 – 200.327](#) (procurement); [2 CFR § 200.311](#) (real property management); and [2 CFR § 200.313](#) (equipment management). Note that if a capital expenditure includes construction, additional rules apply (see below).

Construction to prevent, prepare for, and respond to the coronavirus has been determined to be an allowable expenditure under ESSER I and ESSER II because Title I, Impact Aid, allows construction (and Title-I-allowed expenditures are also allowable expenditures under ESSER I and ESSER II). See, U.S. Department of Education (USED), [ESSER II Q&A Follow Up CCSSO Call](#), 2021, pp. 5-6. In discussing applicability to ESSER, in above same call, USED adopts the Impact Aid definition of construction: “(A) the preparation of drawings and specifications for school facilities; (B) erecting, building, acquiring, altering, remodeling, repairing, or extending school facilities; (C) inspecting and supervising the construction of school facilities; and (D) debt servicing for such activities.” (ESEA (ESSA), § 7013(3)).

USED has stated that “approved construction projects must comply with applicable Uniform Grant Guidance requirements, as well as the Department’s regulations regarding construction at [34 CFR § 76.600](#). As is the case with all construction contracts using laborers and mechanics financed by federal education funds, an LEA that uses ESSER [II] funds for construction contracts over \$2,000 must meet all Davis-Bacon prevailing wage requirements and include language in the construction contracts that all contractors or subcontractors must pay wages that are not less than those established for the locality of the project (prevailing wage rates). (See 20 U.S.C. 1232b Labor Standards).” USED, [ESSER II Q&A Follow Up CCSSO Call](#), 2021, pp. 2-3.

Note that an expenditure does not have to be large for construction regulations to apply. The Davis-Bacon wage rules apply to both construction and minor remodeling as long as the contract exceeds \$2,000. To the extent construction is also a capital expenditure, preapprovals, management, and procurement rules apply (see above re: capital expenditures).

**Would a window replacement project that replaced fixed (inoperable) or faulty windows with operable windows qualify as improving ventilation?**

Yes, the reasonable costs of window replacement to improve air quality would be allowable. ESSER II expressly allows 1) repairing and improving school facilities to reduce risk of virus transmission and exposure to environmental health hazards, and to support student health needs and 2) inspection, testing, maintenance, repair, replacement, and upgrade projects to improve the indoor air quality in school facilities.

As this project may constitute a capital expenditure and construction, please see additional requirements detailed in the previous question.

**Would funds be available for purchase and installation of a new HVAC unit?**

Yes, the reasonable costs of purchasing and installing a new HVAC unit to improve air quality would be allowable. ESSER II expressly allows 1) Repairing and improving school facilities to reduce risk of virus transmission and exposure to environmental health hazards, and to support student health needs and 2) Inspection, testing, maintenance, repair, replacement, and upgrade projects to improve the indoor air quality in school facilities.

As this project may constitute a capital expenditure and construction, please see additional requirements detailed in the first question under "Capital Expenditures/Construction".

**If funds are used for a ventilation system, can it be fully expensed to use funds by the deadline and not have to be depreciated as a capital expenditure?**

Reasonable cost for improving, installing, or replacing a ventilation system would be allowable using ESSER II funds, which expressly allows funds to be used for 1) Repairing and improving school facilities to reduce risk of virus transmission and exposure to environmental health hazards, and to support student health needs and 2) Inspection, testing, maintenance, repair, replacement, and upgrade projects to improve the indoor air quality in school facilities.

As this project may constitute a capital expenditure and construction, please see additional requirements detailed in the first question under "Capital Expenditures/Construction".

See also, [2 CFR § 200.439](#).

**Can ESSER II funds be used for door and window replacement?**

Yes, reasonable costs for replacing doors and windows are allowable using ESSER II funds. See the first question under "Capital Expenditures/Construction," for additional requirements that may apply.

## ***Miscellaneous***

### **Can ESSER II funds be used to purchase a new financial/ HR system?**

This expenditure may not be an allowable use of ESSER II funds. Remember that the overall purpose of the Education Stabilization funding of which ESSER II is a part is to “prevent, prepare for, and respond to the coronavirus.” To be allocable to ESSER II, the replacement of an outdated financial/HR system must be connected to this purpose. However, if this connection cannot be made, because ESSER II funds have no supplement-not-supplant requirement, you may be able to shift allocable expenses to ESSER II funds, leaving your district with sufficient funds from other sources to purchase the financial/HR system.

### **How will WDE determine which proposed district expenditures to approve?**

Budgeted district expenditures will be evaluated based on whether or not they are deemed necessary, reasonable, and allowable under the ESSER program. The WDE will not prescribe exactly how districts use their funds; they will merely provide oversight to ensure funds are used in a manner consistent with the spirit and letter of the federal guidelines.

### **Does a district need to apply for its full ESSER II allocation at once? Can a district submit multiple applications?**

Districts do not need to apply for their full ESSER II allocations at once. Districts should submit a plan for at least a 12-month period but do not need to account for the full duration of the program or the full allocation amount. Funds will remain accessible to the district until September 30, 2023 and there will be additional opportunities to submit further requests/plans in the future.

Please note – the WDE will award the full ESSER II allocation amount to districts once the assurances in the ESSER II application are signed and approved; however, districts will only be able to draw down funding up to the total submitted and approved in their current plan.

### **Should districts establish account codes and names prior to submitting their ESSER II application?**

Yes. Districts are required to provide the account codes and names they will use to track ESSER II expenditures in order to enable monitoring in future monthly reporting.

### **How long will it take following application submission for districts to be able to draw down ESSER II funds?**

Application review and approval will require a review from the WDE. Turnaround time will be similar to that of ESSER I.

### **Does ESSER II have a supplement not supplant requirement?**

No. Supplement and not supplant requirements do not apply to LEA use of ESSER Fund monies. However, other federal fund restrictions do apply, which make replacing existing state and local funds with ESSER funds essentially impossible. ESSER funds may only be used for reasonable, necessary, and allowable costs that prevent, prepare for, and respond to coronavirus. In general, ESSER may not be used to pay for regular services that are ordinarily funded through other means.

### **Does ESSER II have a local Maintenance of Effort (MOE) requirement?**

No. ESSER II does not include a local maintenance-of-effort requirement. In other words, LEAs are not required to maintain effort to receive ESSER II funds. LEAs must, however, continue to comply with maintenance-of-effort requirements in other federal education laws such as ESEA and IDEA.

Under the CARES Act (ESSER I), a State must maintain support for elementary and secondary education in each of fiscal years (FY) 2020 and 2021 at least at the level of such support that is the average of the

support for elementary and secondary education provided in FYs 2017, 2018, 2019. Additional information regarding the ESSER I Maintenance of Effort requirement can be found [here](#).

Under the CRRSA Act (ESSER II), a state must maintain support for elementary and secondary education in FY 2022 with at least the same proportional share of the State's support for elementary and secondary education relative to the State's overall spending averaged over FYs 2017, 2018, and 2019.

## Definitions:

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### **Note on “Learning Loss” as it is noted in the CRRSA Act and Wyoming’s Mission for Acceleration and Renewal**

The mission of the Wyoming Department of Education (WDE) is to support and prepare all Wyoming students for their futures so that they are college, career, or military ready and able to be productive citizens of Wyoming. To that end, the WDE remains committed to supporting our public schools in both establishing high expectations and helping to deliver high quality instruction. The COVID-19 Pandemic has certainly caused disruptions for both students and educational professionals. However, despite these disruptions, the WDE suggests that student learning has not been “lost.” Moreover, these funds signal a transformative opportunity for teachers, school leaders, and school support staff to renew and re-engage our student learners.

To that end, the WDE hopes to shift the conversation from one of “loss” to one of “renewal”:

- Instead of “learning loss”, shift to “learning recovery” and “renewal”
- Instead of “remediation”, shift to “acceleration”

By shifting the language and the narrative, we are communicating that learning was not irretrievably lost, and instead shifting the focus on ways to renew, accelerate, and enrich education for our students. Additionally, by changing the narrative, we are asking all school professionals to commit to seeing the transformative potential of these funds, as we continue our mission to support those students who have been disproportionately disadvantaged by the pandemic.

### **Additional Definitions:**

**After-School Programs:** Supplemental school programs that offer academic and enrichment activities after the school day hours.

**Allowable Use:** Activities authorized by the Elementary and Secondary Education Act of 1965 (ESEA) as amended by the Every Student Succeeds Act of 2000 (ESSA), IDEA, the Adult Education and Family Literacy Act, the Perkins CTE Act, or the McKinney-Vento Homeless Assistance Act, as well as other specified activities for which LEAs can use ESSER funds.

**Assistive Technology:** Item, equipment, or product system used to increase, maintain, or improve the functional capabilities of a child with disabilities.

**Compensatory Education:** Services provided to students with disabilities to address progress or skills lost due to extended school closures

**Continuity of Services:** Ensuring students receive the same services received during in-person instruction while facilities are closed and students are learning virtually



**Educational Technology:** Any technological tools or media that assist and facilitate in the communication, development, and exchange of knowledge both within and outside the classroom.

**Evidence-based:** ESEA emphasizes the use of evidence-based activities, strategies, and interventions (collectively referred to as “interventions”). Section 8101(21)(A) of the ESEA defines an evidence-based intervention as being supported by strong evidence, moderate evidence, promising evidence, or evidence that demonstrates a rationale. Some ESEA programs encourage the use of “evidence-based” interventions while others, including several competitive grant programs and Title I, section 1003 funds, require the use of “evidence-based” interventions that meet higher levels of evidence.

**Evidence-based Interventions:** Interventions proven effective through strong, quality research (could include peer-reviewed, documented empirical evidence of effectiveness or randomized, controlled trials at scale).

**Extended Day:** Any educational program or strategy that increases the amount of time students are learning.

**Evidence-based social emotional activities:** Activities that have been proven to support students’ social and emotional health and well-being.

**Student Connectivity:** Ensure all students have access to a device, wifi or hotspot, and broadband connectivity to participate fully in virtual learning.

**Summer Learning:** Provides students with additional opportunities for learning and growing during the summer months through academics and enrichment.

## Monitoring Considerations

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### Pay

- Incentive compensation must be given pursuant to an established plan. ([2 CFR §200.430\(f\)](#))
  - o According to ED, this can be a plan established in response to COVID.
- If SEAs, LEAs or other entities use ESSER funds to compensate employees, they must keep records that meet the criteria below. ([2 CFR §200.430\(i\)](#))
  - o These records can be fairly straightforward.
  - o In most circumstances, an employee paid with ESSER funds would not need to keep complicated time distribution records.
- Records to support employee compensation must:
  - o Be supported by a system of internal control that provides reasonable assurance charges are accurate, allowable, and properly allocated,
  - o Be incorporated into the entity’s official records,
  - o Reasonably reflect the total activity for which the employee is compensated,
  - o Encompass all activities an employee works on,
  - o Comply with the entity’s established accounting policies and practices, and



- o Support the distribution of the employee's salary or wages among the specific activities or cost objectives the employee works on.
- o Employees supported with ESSER are not likely to work on more than one cost objective. This was confirmed by ED on p. 6 of this guidance.

### **Capital Expenditures:**

- ESSER can pay for busses, modular classrooms, real property acquisition, and a variety of other costs that are capital expenditure under federal rules.
  - o Capital expenditures are "expenditures to acquire capital assets or expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life." ([2 CFR § 200.1](#))
  - o Capital assets are "tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with [generally accepted accounting procedures]" ([2 CFR § 200.1](#))
  - o Capital assets include land, buildings (facilities), equipment, intellectual property (including software), and certain kinds of leases, as well as improvements and modifications to those
- Capital expenditures require prior written approval. ([2 CFR §200.439](#))
  - o LEAs receive prior approval from their SEA. An approved application will satisfy that requirement
  - o LEAs must work with Wyoming's School Facilities Division (SDF) when considering capital improvements or major maintenance..
- LEAs must also follow the UGG's real property and/or equipment management rules. ([2 CFR §§200.311 & 200.313](#))

### **Construction and Renovation:**

- ED confirmed ESSER funds can be used for construction and renovation costs when reasonable and necessary to prevent, prepare for, and respond to the COVID19 pandemic.
- Federal rules that apply to construction and renovation include (but are not limited to):
  - o UGG rules including:
    - Prior approval rules ([2 CFR §200.439](#)),
    - Rules on real property ([2 CFR §200.311](#)), and
    - Rules on financing costs ([2 CFR §200.449](#)).
  - o EDGAR construction rules. ([34 CFR §76.660](#), [34 CFR §§ 75.600-75.617](#))
  - o Davis Bacon prevailing wage rules. ([20 U.S. Code § 1232b](#))
  - o Construction projects are also subject to the Americans with Disabilities Act

### Budgetary Shortfalls:

- According to ED, “ESSER funds may be used to bridge budget shortfalls if the deficit is related to the coronavirus and the ESSER funds are needed for education-related expenses.” ([ESSER II Q&A Follow Up from CCSO Call](#))
- A few things to keep in mind:
  - o ED’s response assumes (1) a decline in revenue that (2) is related to COVID.
  - o ESSER has state-level MOE provisions that constrain state funding cuts.
  - o ARP ESSER (III) has new MOE equity rules.
  - o Other federal programs have MOE provisions that constrain state and local funding cuts.

## ESSER II Grant Application Steps

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### Filling out the ESSER II Grant Application

The following questions are going to be asked in the ESSER II grant application through the WDE’s Grant Management System (GMS). All questions must be answered in full, **except for question 5, simply fill in “N/A,”** because LEA’s are not required to provide equitable services for ESSER II:

#### 1. LEA Contact information

**2. DUNS/SAMMI** information, plus upload of screenshot showing evidence of expiration date. \*This is just like the ESSER I grant.

**3. Program Detail tab (General Questions):** all questions must have a response.

- A. How did the LEA determine the most important educational needs resulting from COVID-19?
- B. What is the LEA’s proposed timeline for providing services and assistance to students and staff?
- C. What are the LEA’s plans to use ESSER funds to address remote learning?
- D. What are the LEA’s plans to assess and address student learning gaps resulting from disruption in educational services?
- E. What is the LEA’s methodology used to provide services and assistance to non-public schools/students? Type N/A for this question.
- F. What are the LEA’s plans for use of ESSER funds to address the digital divide, including securing access to home-based connectivity and remote-use devices, or other related issues in supporting remote learning for all students?
- G. How will the district track how many jobs /positions were able to be retained using ESSER funds for quarterly reporting during the grant lifecycle.

*Please note:* The district will need to track how many jobs/positions were able to be retained using ESSER funds for quarterly reporting through the grant life cycle. The WDE assumes the same tracking method used in CARES ESSER I grant will be used with ESSER II grant.

**4. Program Detail Tab (Allowable Uses):** check boxes to indicate by activity description how you will use the funds.

**5. Budget Pages tab:** indicate by activity description the funding budgeted into each series. Indirect costs will align with existing approved indirect cost rates.

**6. Assurances and GEPA tab (GEPA):** check boxes to acknowledge that you have answered GEPA requirements.

**7. Assurances and GEPA tab (Assurances):** read through all assurances, then check the box to agree.

## Federal Monitoring

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### Will ESSER II Grant Funds be monitored?

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.

## ESSER II Contacts

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General CARES/CRRSA questions  
Appropriate uses of funds

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ESSER I and II Grant Application reviews  
Amendment reviews  
PER reviews