



## ARP ESSER Grant Guidance



### **Wyoming Department of Education**

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122 W. 25th St., Ste. E200 | Cheyenne, WY 82002  
P: 307-777-7675 | F: 307-777-6234 | [edu.wyoming.gov](http://edu.wyoming.gov)



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## Message from WDE

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Thank you for your continued efforts to implement Wyoming's share of the Emergency Funds, including ESSER I, ESSER II, and the American Rescue Plan Elementary and Secondary School Emergency Relief (ARP ESSER) Fund. These funds represent a significant lift, and all of Wyoming's education leaders feel ethical and professional imperatives to use these nonrecurring resources in ways both restorative and transformative. The Wyoming Department of Education (WDE) remains committed to continuing to support you in this work.

As you work to develop local plans for ARP ESSER funding, and ESSER funding in general, please consider these guiding principles:

### 1. Consider sustainability.

With the Tydings Amendment provision, ARP ESSER funds will be available for obligation until September 2024, ESSER II until September 2023. Because these sources may represent the last round of Federal emergency aid, consider how your district can sustain these resources over the allowable period and how these funds can interact with other Federal support and Federal funding flexibilities.

Because ESSER funding has a time limit it will be important to strategically invest ARP ESSER funds without creating a funding cliff. One example, might be to create a one-year budget in the context of a five-year strategic financial plan and layer the ARP or ESSER II funds over the plan to clearly indicate what will happen to funding after September 2023 or 2024. Think about making short-term investments that have long-term implications, aligning spending with your strategic needs assessment. For example, you might focus on areas such as learning recovery, social and emotional learning, maintaining safe and healthy schools, or bolstering general education.

Suggestions of ways that ESSER funds be used for sustainability and long-term improvement:

- Give priority to building internal instructional capacity within the LEA, rather than purchasing services that will no longer be available at the end of the grant life.
- Focus on durable, systemic change such as restructuring schedules and staffing
- Invest in professional development to build staff capacity and uplift current staff. Investing in building staff knowledge and skills, will have both immediate and long-term impacts on student outcomes.
- Devote energy to building community partnerships that last beyond the funding window
- Use one-time funds to develop curriculum and implement programs that may be sustained at a reduced cost through other, longer-term funding sources
- Fund interventions that address student academic or social or emotional needs
- Invest in one-time infrastructure upgrades that support healthy, safe buildings

### 2. Community Consultation

Communication with your staff, parents and families, students, and broader community has been central to your local recovery efforts over the past year. Keep using those lines of communication to assess needs and build consensus around your district's use of Federal Emergency Funding. Elevate equity considerations in plan development and implementation, and generate evidence that supports the use of ESSER funding. The above efforts will help to ensure your compliance with the ARP's two required plans, detailed in this guidance.

### **3. Consider community partnerships.**

Consider developing robust partnerships with community and education stakeholders and explore how school districts and community organizations can serve students in more holistic ways. Leveraging new and existing school and family-community partnerships opens a path for novel and transformative approaches regarding how we invest in our students, both academically and socially.

This past year has been full of challenges, and it is our hope that ESSER funds will afford districts an opportunity for renewal and transformation.

## The ARP Act and the ARP ESSER III Fund: A Brief Overview

**The American Rescue Plan** was enacted on March 11, 2021, following the original Coronavirus Aid, Relief, and Economic Security (CARES) Act enacted on March 27, 2020 and The Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act enacted on December 27, 2020. ARP ESSER provides a total of nearly \$122 billion to States and school districts to help safely reopen and sustain the safe operation of schools and address the impact of the coronavirus pandemic on the nation's students. In addition to ARP ESSER, the ARP Act includes \$3 billion for special education, \$850 million for the Outlying Areas, \$2.75 billion to support non-public schools, and additional funding for homeless children and youth, Tribal educational agencies, Native Hawaiians, and Alaska Natives.

The **Elementary and Secondary School Emergency Relief** (ARP ESSER III) 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 (\$303 million) must be sub-granted to Local Educational Agencies (LEAs). **Funds are allocated based on each LEA's proportionate share of Title 1-A funds received in FY21 (SY20-21).**
- **10%** of the total award may be reserved for WDE **state-level activities** to support K-12 recovery efforts.
- No more than **0.5% of 1%** 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>303,779,377</b>
<b>Total SEA Admin</b>	<b>1,518,879</b>
<b>Total SEA Activities (10%)</b>	<b>30,377,938</b>
<b>Total LEA Assistance (90%)</b>	<b>273,401,439</b>

### Project Terms:

**Grant Period: March 13, 2020- September 30, 2024**

**Encumbrance** (date by which all approved activities must be completed): September 30, 2024

**Liquidation/Reimbursement Deadline:** December 15, 2024

**Final Expenditure Report Due:** December 31, 2024

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



### **At a glance comparison between ARP ESSER and the other ESSER grants:**

In general, ARP ESSER III is going to be a heavier load than previous ESSER funds (both for WDE and for districts).

#### **▪ What stayed the same?**

1. Almost identical allowable uses across all ESSER funds
2. Not subject to supplement, not supplant
3. Equitable services for private schools do not apply for ARP ESSER and ESSER II.

#### **▪ What is new?**

1. Must have two plans (1. Return to In-person Learning and Continuity of Services Plan and 2. the ARP Implementation Plan, please see the below checklist for more information)
2. 20% of funds must be used to address “learning loss” (part of the Implementation Plan)
3. Maintenance of Equity provision

#### **Planning: Potential Road Map**

Phase 1: Diagnostic & Planning

- Summer/Fall 2021 (Grant Application)

Phase 2: Launch

- Oct. 2021 – Nov. 2022

Phase 3: Progress Monitoring

- Dec. 2021 – April 2022

Phase 4: Reflection & Planning

- May – June 2022

#### **Potential Diagnostic Resources:**

Because diagnostic assessments are an important part of the planning and implementation process. The following are resources for Assessments: The Council of Chief State School Officers (CCSSO) has published two documents that may be helpful to LEAs on high-quality assessments: [Criteria for Procuring and Evaluating High Quality Assessments](#) and [Fundamental Insights about Formative Assessment](#).

# The American Rescue Plan and ARP ESSER: LEA Checklist

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## Required Plans for LEA's

ARP ESSER shares many similarities with its predecessors, ESSER and ESSER II; however, there are three key differences that LEAs are required to consider while planning their application as indicated in the below checklist.

### Checklist:

- Safe Return to In-Person Instruction and Continuity of Services Plan** (due 30 days after the ARP application opens):

LEAs are required to publish a plan for the safe return to in-person instruction and continuity of services that includes the extent to which the LEA has adopted policies and a description of any such policies on each of the following (section 2001(i)(1) of ARP). You will be asked to post a link to your plan under the "Program Details" tab in the GMS. Districts may use their Smart Start Reopening Plans (or another plan that the district has in place), if it has: 1. Been published on your district website 2. Incorporated public comment. 3. Included the below information. You may also use your Smart Start Plans to fill out WDE's Safe Return Plan Template.

Note: districts must revisit their existing plan *every 6 months* and revise as needed, including considering changes to [CDC guidance](#).

Plans should include the following:

- Health and safety strategies:
  - universal and correct wearing of masks;
  - physical distancing (e.g., use of cohorts/podding, handwashing and respiratory etiquette);
  - cleaning and maintaining healthy facilities, including improving ventilation;
  - contact tracing in combination with isolation and quarantine, in collaboration with the State, local, territorial, and/or Tribal health departments;
  - diagnostic and screening testing;
  - efforts to provide vaccinations to educators, other staff, and students, if eligible; and
  - appropriate accommodations for children with disabilities with respect to health and safety policies, as well as coordination with state and local health officials.
- Continuity of services (including but not limited to):
  - Addressing student academic needs, as well as student and staff social, emotional, mental, and other health needs, which may include student health and food services.

- LEA ARP ESSER Implementation Plan** (due 90 days after the ARP ESSER application opens):

- How the LEA will use the mandatory 20% set-aside to address the academic impact of learning loss (note federal statute uses the term, "lost instruction time") through the implementation of evidence based interventions such as summer learning or enrichment, extended day, comprehensive after school, or extended school year programs.
- How the remaining ARP ESSER funds consistent with statutory requirements will be used
- How the LEA will ensure that the ARP ESSER funded interventions, including but not limited to the 20% set-aside, will respond to the academic, social, emotional, and mental health needs of all

students, particularly those students disproportionately impacted by the COVID-19 pandemic, including students from low-income families, students of color, English learners, children with disabilities, students experiencing homelessness, children and youth in foster care, and migratory students

- How and to what extent ARP ESSER funds will be used to implement prevention and mitigation strategies that are, to the greatest extent practicable, in line with the most recent CDC guidance on reopening schools

You will be able to provide these answers via the “Program Detail” tab in the GMS. You may use the above questions as an outline and preparatory tool to help guide your answers for your application. In addition, these questions will be available in the WDE’s ARP Implementation Plan template. You may use the above questions as an outline and preparatory tool to help guide your answers for filling out both your ARP Implementation Plan and your application in the GMS.

**LEAs must engage in *meaningful consultation*** with stakeholders when creating their LEA ARP ESSER Plan. The description must include how the LEA provided the public the opportunity to provide input in the development of the plan, a summary of the input (including any letters of support), and how the LEA took such input into account.

- Stakeholders with whom the LEA should consult include, but are not limited to:
  - students;
  - families/legal guardians;
  - school and district administrators (including special education administrators);
  - teachers, principals, school leaders, other educators, school staff, and their unions;
  - Tribes (if applicable);\*
  - civil rights organizations (including disability rights organizations);\*
  - stakeholders representing the interests of children with disabilities, English learners, children experiencing homelessness, children and youth in foster care, migratory students, children who are incarcerated, and other underserved students.\*

\*To the extent present in or served by the LEA

### Further Considerations

- Federal regulations require all of these plans to be made publicly available online.
- It is also required that these plans be in an understandable and uniform format; to the extent practicable, are written in a language that parents can understand or, if not practicable, orally translated; and upon request by a parent who is an individual with a disability, provided in an alternative format accessible to that parent. Before making its plan publicly available, an LEA must seek public comment on the plan and develop the plan after taking into account public comment. If an LEA developed a plan before ARP was enacted that does not address the above requirements but otherwise complied with the requirements for public posting and comments, the LEA must revise its plan no later than six months after it last reviewed its plan. *LEAs are required to review and, as appropriate, revise their Safe Return to In-Person Instruction and Continuity of Services Plan at least every six months through September 30, 2023, including seeking public input and taking such input into account in determining whether to revise the plan and, if revisions are determined necessary, on the revisions it makes to its plan.*
- Federal regulations require LEAs to use evidence-based interventions when addressing the academic impact of learning loss. Please see the definition section of this guide for more information and resources.
- To assist LEAs in meeting the federal requirement of meaningful consultation with stakeholders, the WDE encourages LEAs to consult the Council of Chief State School Officers (CCSSO's) [handbook on meaningful consultation](#) for further guidance.

### District Plan Timeline

**Mid-October** – ARP ESSER III Application opens and districts submit assurances through the GMS.

**30 days after the application opens** – Safe Return to In-Person Instruction and Continuity of Services Plan due

District plans will be updated and reviewed at least **every six months** for the life of the grant

**90 days after the application opens** – District ARP ESSER III Funding plans are due

**March 24, 2022** – Last date for districts to submit the budget for ARP ESSER III.

**September 30, 2024** – Last day to obligate ESSER III funds, including the Tydings period.

## LEA ARP Plan Templates

To assist you in drafting and completing your ARP ESSER plans, the WDE has created templates that will help ensure that you meet all the federal requirements of these plans. Moreover, these templates are designed to help you complete your ARP application in the WDE's GMS.

Your district may use these templates to add federally mandated content to your Smart Start Plans, if you so wish.

[Safe Return to In-Person Instruction and Continuity of Services Plan Template](#)

[ARP Implementation Plan Template](#)

## Definitions:

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### **Note on “Learning Loss” 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.

### **Note on “Evidenced Based” and federal requirements:**

#### **What does the U.S. Department of Education mean by “evidence-based interventions and practices?”**

- “Evidence-based interventions and practices” are defined under section 8101(21)(A) of the ESEA. Specifically, “evidence-based,” when used with respect to a State, LEA, or school activity, means an activity, strategy, or intervention that demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on –
  - Strong evidence from at least one well-designed and well-implemented experimental study (“tier 1”); or
  - Moderate evidence from at least one well-designed and well-implemented quasi-experimental study (“tier 2”); or
  - Promising evidence from at least one well-designed and well-implemented correlational study with statistical controls for selection bias (“tier 3”); or
  - Demonstrates a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes and includes ongoing efforts to examine the effects of such activity, strategy, or intervention (“tier 4”).
- Given the novel context created by the COVID-19 pandemic, an activity need not have generated such evidence during the COVID-19 pandemic to be considered evidence based. The U.S. Department of Education’s What Works Clearinghouse (available at <https://ies.ed.gov/ncee/wwc/>) identifies the tier of evidence that reviewed studies meet, as applicable. As part of the

“demonstrates a rationale (tier 4)” level of evidence, grantees may develop and use approaches that are novel if they are consistent with theoretical and empirical findings from research and the grantee will continue to review the effects of the practice to build the evidence base. Developing a logic model can help to demonstrate a rationale. Logic model resources are available at:

<https://ies.ed.gov/ncee/edlabs/regions/pacific/elm.asp>.

Please see the Appendix of this document for recommended resources for evidence-based interventions.

### **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

**Construction:** The Impact Aid program statute defines “construction” as “(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 service for such activities.” ESEA section [7013\(3\)](#), [20 U.S.C. § 7713\(3\)](#).

**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..

**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.

**High-Need LEAs:** LEAs with the highest percentages of economically disadvantaged students and which collectively serve at least 50 percent of the state’s total student enrollment within LEAs.

**High-Poverty Schools:** High-poverty schools are the 25 percent of schools serving the highest percent of economically disadvantaged students in the LEA.

**Highest Poverty LEAs:** LEAs with the highest percentages of economically disadvantaged students and which collectively serve at least 20 percent of the state’s total student enrollment within LEAs.

**Maintenance of Effort Provision:** Under this provision, states must ensure that in fiscal years 2021–2022 and 2022–2023, they will spend the same proportion of their state budgets on K-12 and higher education as they did on average in fiscal years 2016–2017 through 2018–2019.

**Maintenance of Equity Provision for highest poverty LEAs:** This provision was designed to prevent funding cuts from disproportionately affecting students in poverty. Under this provision, states are prohibited from cutting per-pupil funding to the highest poverty LEAs for fiscal years 2021–2022 and 2022–2023 below FY 2019 levels.

**Maintenance of Equity Provision for high-need LEAs:** This provision is also aimed at protecting the most economically disadvantaged students from shouldering the burden of funding cuts. Under this provision, the state is prohibited from cutting per-pupil funds to high-need LEAs by an amount that is more than any overall per-pupil funding cut the state enacts for FYs 2021–2022 and 2022–2023.

**Maintenance of Equity Provision for high-poverty schools:** At the LEA level, the Maintenance of Equity provision requires that per-pupil funding from state and local sources and staffing levels for high-poverty schools may not be decreased by an amount that exceeds district wide reductions in per-pupil funding and staffing levels for all schools served by the LEA.

**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.

**Tydings Amendment:** This amendment allows educational agencies additional time to spend federal monies they receive. The Tydings Amendment was incorporated by Congress into the General Education Provisions Act. Under the amendment, grantees are able to carry-over for one year any funds that were not spent during the grant award period.

## General ARP ESSER 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, ESSER II, and ARP ESSER do not contain a supplement not supplant requirement.
- ESSER I, ESSER II, and ARP ESSER 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 ARP ESSER**

#### **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 and ESSER II funds before spending ARP ESSER 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 accelerate learning. *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.

## **Overview of Allowable Uses:**

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Generally, in determining whether an activity is an allowable use of funds, an SEA or LEA must determine:

- Is the use of funds intended to **prevent, prepare for, or respond** to the COVID-19 pandemic, including its impact on the social, emotional, mental health, and academic needs of students?
- Does the use of funds fall under one of the authorized uses of ESSER or GEER funds?
- Is the use of funds permissible under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance, 2 CFR Part 200)? In particular, is it necessary and reasonable for the performance of the ESSER or GEER award?
- These Federal emergency resources are available for a wide range of activities to address diverse needs arising from or exacerbated by the COVID-19 pandemic, or to emerge stronger post-pandemic, including responding to students’ social, emotional, mental health, and academic needs and continuing to provide educational services as SEAs, LEAs, and schools respond to and recover from the pandemic.
- Some uses of these funds may be directly focused on health and safety—such as improving ventilation and implementing prevention strategies that are, to the extent practicable, consistent with the Centers for Disease Control and Prevention (CDC) guidance.
- Other allowable uses may be focused on meeting the social, emotional, mental health, and academic needs of students. That could be through preventing teacher layoffs; providing accelerated learning opportunities; implementing rigorous curricula; funding additional school counselors, school nurses, and school psychologists; increasing the number of full-service community schools; conducting any activities allowed under a number of Federal education programs; and implementing many other allowable uses as illustrated in the ED’s [FAQs](#)<sup>2</sup> and also the allowable uses section of WDE’s [CRRSA Guidance document](#).
- Allocating resources in ways that advance equity and ensuring they are adequate for providing the opportunities and supports students need to succeed are particularly important as we recover from the disproportionate impact of the COVID-19 pandemic on communities of color and communities experiencing poverty.



# ARP ESSER Questions and Answers

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## General Questions

Many of the frequently asked questions apply across all ESSER Funds, you may refer to the previous CRRSA guidance document [here](#), for many of the commonly asked questions. This guide will highlight some of the novel questions pertaining to the ARP ESSER FUND.

### What assurances will apply to LEAs that apply for ARP ESSER?

A copy of the assurances that will be required of LEAS can be found in the Appendix of this document.

### What are the unallowable uses of ESSER I, ESSER II, and ARP ESSER funds?

- In general, 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, II, and ARP ESSER grant funds are to reimburse LEA expenses for allowable uses of funds and cannot be requested or drawn prior to encountering an expense.

### Can you please provide more information about the new Federal requirement around purchasing American goods to the greatest extent possible?

The Buy American Act does not apply to the ESSER or GEER grants. However, awards made under the CRRSA Act and ARP Act (i.e., ESSER II, GEER II, and ARP ESSER awards) are subject to [2 CFR § 200.322](#), a new regulation that applies to Federal grants made after November 12, 2020. It establishes domestic preferences for procurements under Federal grants that are subject to the Uniform Guidance.

The text of the regulation follows: 2 CFR § 200.322 Domestic preferences for procurements.

- (a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- (b) For purposes of this section:
- 1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
  - 2) "Manufactured products" means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

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<sup>2</sup> All of the subsequent parenthetical references to the "FAQ" refer to this document.

### **May ESSER or GEER funds be used to cover expenses related to providing food services to students, including costs related to meeting expanded federal food service requirements?**

Typically, an LEA has other means of providing food services, such as through the U.S. Department of Agriculture (USDA) or other Federal programs. As a result, the Education 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 additional funds are necessary or such funding is not available, an LEA may use ESSER or GEER funds to provide meals. For example, ESSER or GEER funds could be used to increase the staff capacity and cover additional labor costs associated with serving meals to students during the pandemic, or for supporting COVID-19 pandemic-related expenses, such as school meal service equipment/supplies, meal packaging, and transportation services. (FAQ C-16).

## **Covid Emergency Funds and other Title funds:**

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### **How do we effectively use Emergency Grants with existing title grant funds?**

#### **Potential strategy for spending federal funds:**

1. **Conduct a “needs assessment”** annually, or more frequently if circumstances warrant it. When needs are identified, they could be categorized as “pandemic created” or “regularly occurring” type of need.
2. Once needs are identified, **build on strategies to address identified needs.**
3. Once strategies are identified, THEN Federal Grants can come into play, as the district would look for the appropriate funding sources to use to implement the strategies. Considerations when deciding which bucket of funds to use are: Title I-A carryover requirements, grant life cycles, transferability of funds, and supplement not supplant requirements.

#### **Questions to consider when you are deciding on the best funding source:**

1. Under which Federal grants would this item be allowable?
2. Which is the most restrictive of these funds?
3. Which of these funds will expire first?
4. Will using Federal funds this year cause an appearance of supplanting?
5. Are there any caps on the administrative funds I am using?
6. Have I claimed my indirect cost rate? If not, am I leaving funds on the table?
7. Can using transferability or adding other funding sources to the schoolwide pool increase flexibility or my ability to use funds before they expire?
8. If the school participates in a Title I Schoolwide Program, what methodology of drawing the funds will be most beneficial for your LEA this year when considering expiration of funds?
9. How will I sustain this investment, should I intend to do so? For example, how will funding decisions I make now enable or preclude later ones?

**Example:**

**In the below example, after needs and costs are identified and defined, the grants are compared on a basis of allowability.**

**Identified Needs: Academic Achievement, Acceleration, and Renewal**

This includes both identifying the extent to which any students have fallen behind due to the pandemic and developing individualized plans for learning acceleration and renewal.

**Potential Costs:**

Summer, Afterschool, or Extended/Supplemental Learning Programming

**Description:**

Costs associated with summer, afterschool, or extended/supplemental learning programming for students, to address learning loss and social-emotional-behavioral-mental health (SEL/MH) barriers to success.

**Federal Funding Sources:****Title Funds (I-V) and McKinney-Vento**

- May be allowed under Title I, Title III (if intended for ELs or in order to enable EL students' participation), Title IVA.
- Allowable under Title IVB for implementation of 21st Century Community Learning Centers programs only.

**Perkins**

- Generally, may be allowed so long as it is zero cost to families.

**IDEA**

- May be allowed if the social emotional need is specified in the eligible student's IEP.

**ESSER I/II/III**

- Allowable cost 4, 7, 10, 12, or 13

**School Educational Plans and Summer School:**

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**May an LEA use ESSER and GEER funds to develop or implement an innovative approach to providing instruction to accelerate learning and mitigate the effects of lost instructional time for those students most impacted by the COVID-19 pandemic?**

Yes. An LEA may use ESSER and GEER funds to develop or implement an innovative approach to providing instruction to accelerate learning and mitigate the effects of lost instructional time for students most impacted by the COVID-19 pandemic. To the extent an innovative approach is evidenced-based, an LEA may use the ARP ESSER funds it reserves to implement the innovative approaches to address the impact of lost instructional time. As described in FAQ A-10, one of the tiers of evidence included in the definition of "evidence-based" refers to an approach that "demonstrates a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes"; and includes "ongoing efforts to examine the effects of such activity, strategy, or intervention." This could include emerging technology-based or technology-enabled approaches, including educational technology platforms, that meet this definition.

**What kinds of summer programs may ESSER and GEER funds support?**

ESSER and GEER funds may provide broad support for summer learning and enrichment programs. Given that this summer affords students a critical opportunity, LEAs should consider a variety of options for procuring summer services with ESSER and GEER funds, including programs run by non-profit or community organizations as well as those run by the LEA.

Effective summer programming can address students' social, emotional, mental health, and academic needs through a combination of activities that include strong partnerships with community-based organizations and other summer providers, including summer camps. These partnerships can help to sustain these programs and can also support programs in rural and remote communities.

States and LEAs should maximize enrollment in summer programs, with a particular focus on underserved students and students most impacted by the COVID-19 pandemic, including providing transportation and meal services. Programs should target students of all ages, including high school students, and can include work-based or service-learning opportunities or summer bridge programs to support successful educational transitions.

Evidence-based summer learning and enrichment programs are further described in Volume 2 of the USED's COVID-19 Handbook available at:

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

### **Aside from the allocation being provided by the State, what other funding sources may be used for an LEA to implement required summer learning, bridge, or camps?**

LEAs are encouraged to braid other funds, such as state/local, 21st CCLC and ESSER funds. The most notable source of funds to be used for learning loss programs will be ESSER funds, which can be utilized to provide additional staff, materials and supplies, enrichment, etc.

### **How do Supplement, Not Supplant provisions in other funding sources impact an LEA's ability to use these funds for learning acceleration and to mitigate learning loss?**

For example, 21st CCLC laws contain a supplement, not supplant provision, which states that federal funds shall only be used to supplement, and not to supplant state and local funds that, in the absence of such funds would otherwise be spent for activities under those grants. Therefore, 21st CCLC may only be utilized to supplement such programming.

### **How can ESSER funding be used to support family engagement during the summer?**

Funding may be used to share resources with families that will help accelerate student learning. For example, grant funds may be used to purchase books, math manipulatives, or STEM kits that can be checked out and sent home. Funds may also be used to provide direct services to family members by offering in-person or virtual classes on topics like financial literacy or wellness.

### **May ESSER and GEER funds be used for summer job or service-learning programs for high school students?**

Yes. As part of State and LEA efforts to mitigate lost instructional time due to the COVID-19 pandemic, ESSER and GEER funds may be used to support summer learning and enrichment programs that provide training, work-based learning, and jobs to high school students.

Funds may be used both to support the training that high school students receive and to supplement the pay provided to students by employers that participate in the summer jobs program.

Funds may also be used to support service learning or other volunteer opportunities for high school students. (FAQ C-26)

### **Do Federal procurement requirements permit noncompetitive procurements, if necessary, to enable an LEA to use ARP ESSER funds to operate a summer enrichment program in 2021?**

Yes. Under the Uniform Guidance, all other non-Federal entities, including LEAs, must follow the procurement provisions in [2 CFR §§ 200.318](#) through 200.327. Under [2 CFR § 200.320\(c\)](#), an LEA may,

to the extent doing so is consistent with its policies and procedures, use noncompetitive procurement if any of the following conditions are met:

1. The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (\$50,000);
2. The item is available only from a single source;
3. The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;
4. The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or
5. After solicitation of a number of sources, competition is determined inadequate.

Consistent with [2 CFR § 200.320\(c\)\(3\)](#), an LEA may determine that its response to the COVID-19 pandemic qualifies as a public exigency or emergency that does not permit the delay that would result from competitive bidding. Under these circumstances, and to the degree doing so is consistent with its own policies and procedures, an LEA could use noncompetitive procurement. The LEA should consult with the WDE before using this authority. Also, under [2 CFR § 200.320\(c\)\(4\)](#), the WDE, to the extent doing so is consistent with our State procurement policies and procedures, may authorize an LEA to use noncompetitive procurement in response to a written request.

### **How may an LEA use ESSER and GEER funds to specifically support high school seniors?**

ESSER and GEER funds may be used to assist high school seniors with post-high school planning, including the additional costs to schools of providing these supports to students in a fully in-person, hybrid, or remote environment. For example, ESSER and GEER funds may be used to pay college application fees for low-income students or to support the salaries of additional guidance counselors to assist students with exploring options for careers and postsecondary study, navigating the college application process, completing the Free Application for Federal Student Aid (FAFSA), and conducting parental and student information sessions.

Funds may also be used for stipends or incentives for educators taking on additional responsibilities to provide post-high school planning for high school seniors, consistent with [2 CFR § 200.430\(f\)](#) (i.e., incentive pay is given pursuant to an established plan, which could be established in response to the COVID-19 pandemic). Funds may also be used to support summer bridge programs to help students make the successful transition to postsecondary education, training, pre-apprenticeship, registered apprenticeship, or other career pathway programs.

Finally, ESSER and GEER funds may be used for transition services for high school seniors with an IEP to facilitate their transition from school to post-school activities.

## **Salaries**

### **May an SEA pay for general salaries with the funds it reserves to address emergency needs?**

An SEA may reserve funds to address emergency needs as determined by the SEA (i.e., funds not allocated to LEAs or set aside for mandatory activities under the ARP Act or for administration). These funds may be used by the SEA for any of the LEA ESSER allowable uses of funds and for other activities related to preventing, preparing for, and responding to COVID-19. An SEA might determine, for example, that SEA salaries and other supports are an emergency need in response to the COVID-19 pandemic that could be covered under these funds. To the extent the salaries are for administering the ESSER program, the SEA should use the funds it reserves for administration rather than the funds reserved for emergency needs. (FAQ A-12)

### **Are educator and school staff salaries allowable expenditures under ARP ESSER?**

Yes. An LEA may use ESSER and GEER funds to stabilize and support the educator and school staff workforce and to support the conditions that will allow schools to return to in-person instruction. This may include using funds to pay teacher and staff salaries to avoid layoffs. Funds may also be used to address educator shortages exacerbated by the pandemic by hiring new teachers, including expanding student access to a well prepared and diverse educator workforce (FAQ D-1). Funds may also be used to hire new counselors, nurses, social workers, and other health support staff to help students and staff with their emotional and physical well-being and help students and staff deal with the impact of the COVID-19 pandemic. (FAQ D-7).

### **May ESSER and GEER funds be used for “premium pay”? Does the guidance from U.S. Department of Treasury related to the Coronavirus Relief Fund (CRF) grants apply to ESSER and GEER?**

Premium pay is an allowable use of ESSER and GEER funds. Premium pay must be reasonable and necessary and consistent with [2 CFR § 200.430\(f\)](#), and given pursuant to an established plan (which could be established in response to the COVID-19 pandemic), consistent with applicable collective bargaining agreements and other relevant policies and requirements. (FAQ D-6) The U.S. Treasury CRF guidance is not applicable to ESSER and GEER funds.

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

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 § 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))

## **Construction and Capital Expenditures**

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### **May ESSER funds be used for construction?**

Yes. 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. (See also “construction” in the Definitions section of this document).

However, the U. S. Education Department discourages LEAs from using ESSER and GEER funds for new construction because this use of funds may limit an LEA’s ability to support other essential needs or initiatives. 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 next.

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 [2 CFR Part 200, 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 Act, CRRSA Act, 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, any 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. Districts are required to receive the WDE’s prior approval for construction and capital expenditures. [2 CFR § 200.439](#). An application that is approved by the WDE through the GMS system will meet this requirement. (See Title VII of the ESEA and [2 CFR § 200.439\(b\)](#).) See also the “important note for schools considering construction or capital improvement” at the bottom of this section).

Approved construction projects (i.e., remodeling, renovation, and new construction) also must comply with applicable Uniform Guidance requirements, Davis-Bacon prevailing wage requirements, 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 include:

- 1) Has the grantee completed an environmental impact assessment before initiating the construction and fully considered any potential environmental ramifications before proceeding with the project ([34 CFR § 75.601](#));
- 2) 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](#))
- 3) 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](#));
- 4) 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](#));
- 5) Can a grantee complete the project in a reasonable time period and consistent with the approved plans and specifications ([34 CFR § 75.606](#));
- 6) 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](#));
- 7) 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](#)); and
- 8) 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](#)).

A Governor or SEA 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, a Governor or SEA 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 24B and D (Assurances for NonConstruction and Construction Programs <https://apply07.grants.gov/apply/forms/sample/SF424DV1.1.pdf>), including the assurances relating to labor standards; flood hazards; historic preservation; health and safety, energy conservations, and coastal barrier resources.)

Finally, if ESSER and 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](#).

### **Are capital expenditures allowable costs under the ESSER 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.

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 above).

### **How does an LEA obtain prior permission from the WDE for capital construction or renovation projects?**

To obtain prior permission, fill out the ESSER Construction Form, found [here](#) and also under the “COVID Resources” page of the WDE website.

### **NOTE: USED’s Letter New Hampshire regarding construction and important clarifications**

On June 15, 2021, USED issued a letter to the Commissioner of the New Hampshire Department of Education, clarifying several areas of the construction guidance.

The prior approval process is not specified in regulation or guidance and is determined by the SEA.

Prior approval is not required on minor remodeling.

Prior approval is not required before LEA bidding is advertised, and can come at any point in the project timeline determined by the SEA **but no later than the point of reimbursement**.

The National Environmental Protection Agency requirements in section 75.601 of the Uniform Grant Guidance **do not apply** to LEA projects.



**IMPORTANT NOTE FOR SCHOOLS CONSIDERING CONSTRUCTION OR CAPITAL IMPROVEMENTS:**

Wyoming 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)).

**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. USED provided guidance

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"

## LEA Plans

**Is there a required timeline for when an LEA must submit its plan for use of ARP ESSER funds to the SEA?**

The deadline is no later than **90 days** after the LEA receives its ARP ESSER allocation

Please note that there is a separate timeline for the LEA's statutorily required plan for the safe return to in-person instruction and continuity of services (i.e., an LEA must make this plan publicly available within **30 days of receiving ARP ESSER funds**).

See also the Timeline provided in this document.

**How long will the Safe Return to In-Person Schooling and Continuity of Services Plan remain in effect?**

Each LEA must create a Safe Return Plan that addresses how it will maintain the health and safety of students, educators, and other staff, and which will serve as the local guidelines for all instructional and non-instructional school activities during the period of the LEA's ARP ESSER grant (September 30, 2024).

**How does the LEA submit their plans to the WDE?**

There will be a place in the grant application itself for LEAs to submit their plans' webpage URL. This is housed in the "Program Details" tab in the GMS.

## How might an LEA use ESSER and GEER funds to engage stakeholders to build confidence in an LEA's plans?

Section 2001(i) of the ARP Act requires an LEA that receives ARP ESSER funds to develop, within 30 days of receiving the funds, a plan for the safe return to in-person instruction and continuity of services. Prior to issuing the plan, the LEA must seek public input and take those comments into consideration in developing the plan. (See FAQ A-4.)

An LEA may use ESSER and GEER funds to engage the public on the development of the safe return to in-person instruction plan and for conducting active and sustained engagement with the school community. This includes using funds to cover the costs of conducting ongoing outreach, paying for translating and interpreting services as needed to ensure effective communication with individuals with limited English proficiency, providing reasonable accommodations such as interpreters and written materials in alternate formats for individuals with disabilities upon request, holding public meetings (including virtually), and conducting surveys of families, students, educators, and other staff to better understand their perceptions, needs, and concerns.

As schools and districts work to develop and implement strategies to safely reopen schools, engagement with educators, facility staff, families, and the school community is key. A successful school reopening strategy requires engaging the entire school community (specifically including underserved students and families and parents of students with disabilities or local special education advisory committees) to promote confidence and demonstrate inclusivity and identify any barriers to participating in in-person or hybrid instruction, in addition to broadly engaging education stakeholders to support actions that will lead to a safe learning environment for all educators, staff, and students.

As the [CDC operational strategy](#) notes, “the absence of in-person educational options may disadvantage children from low-resourced communities, which may include large representation of racial and ethnic minority groups, English learners, and students with disabilities. Plans for safe delivery of in-person instruction in K-12 schools must consider efforts to promote fair access to healthy educational environments for students and staff. Thus, essential elements of school reopening plans should take into account the communities and groups that have been disproportionately affected by COVID-19 infections and severe outcomes.”

For additional considerations, see the Supporting Ongoing Engagement with Educators, Families, and the School Community section in the [ED COVID-19 Handbook Volume 1: Strategies for Safely Reopening Elementary and Secondary Schools](#).

An LEA is also required to develop a plan for use of ARP ESSER funds that is distinct from the plan for the safe return to in-person instruction and continuity of services. Under the interim final requirements, an LEA must, in developing its ARP Implementation Plan funds, engage in meaningful consultation. An LEA may use its ARP ESSER funds for that required stakeholder engagement for the plan for the use of ARP ESSER funds as well as the stakeholder engagement and consultation for the LEA's Plan for the Safe return to In-Person Instruction and Continuity of Services. An LEA should translate relevant materials and obtain the services of interpreters, as needed, to engage its English learners and families with limited English proficiency (which may be done using ESSER funds).

## Maintenance of Equity

### What are the Maintenance of Equity Requirements?

A Maintenance of Equity assurance is included with your application via the GMS as a condition of receiving your ARP ESSER funds. All LEAs receiving ARP ESSER funds are obligated to follow an LEA Maintenance of Equity provision during fiscal years 2021–2022 and 2022–2023. Under Maintenance of

Equity, per-pupil funding from state and local sources and staffing levels for high-poverty schools may not be decreased by an amount that exceeds district wide reductions in per-pupil funding and staffing levels for all schools served by the LEA. This means that LEAs must track ARP ESSER funds by school.

An LEA is exempt from the Maintenance of Equity requirement if the LEA meets any one of the following requirements:

- Has fewer than 1,000 students;
- Consists of a single school;
- Serves all students in each grade span in a single school; or
- Demonstrates an exceptional or uncontrollable circumstance, as determined by the United States Secretary of Education. As WDE receives further guidance from the U.S. Education Department on the Maintenance of Equity provision, it will be shared with LEAs.

### **What does “fiscal year” mean when determining MOEquity?**

For purposes of determining MOEquity, an SEA and its LEAs may use either the applicable State fiscal year or Federal fiscal year. In either case, the applicable school year for FY 2022 would be school year (SY) 2021–2022 and the applicable school year for FY 2023 would be SY 2022–2023.

### **How do you identify LEAs for MOEquity?**

1. A “high-need LEA” is an LEA that is one of the LEAs in the State that
  - In rank order, have the highest percentages of economically disadvantaged students in the State on the basis of the most recent satisfactory data available from the U.S. Department of Commerce (i.e., Small Area Income and Poverty Estimates (SAIPE) data provided by the U.S. Census Bureau); and
  - Collectively serve not less than 50 percent of the State’s total enrollment of students served by all LEAs in the State.
2. A “highest-poverty LEA” is an LEA that is one of the LEAs in the State that
  - In rank order, have the highest percentages of economically disadvantaged students in the State on the basis of the most recent SAIPE data; and
  - Collectively serve not less than 20 percent of the State’s total enrollment of students served by all LEAs in the State.

### **Calculations:**

Per-Pupil Funding = Total LEA funding (state & local), divided by the number of students enrolled.

Full-time equivalent (FTE) staff = Total FTEs, divided by the number of students enrolled.

These calculations should be completed for all schools in the LEA as well as for high-poverty schools in the LEA for both fiscal years 2021–2022 and 2022–2023. Compare the results to the average per-pupil funding and FTE staff in the LEA across fiscal years 2016–2017, 2017–2018, and 2018–2019. Reductions must not be greater for high-poverty schools than for all schools in the LEA.

### **How do you calculate staffing equity?**

For determining whether an LEA maintained staffing equity:

- An LEA must maintain staffing equity in any high-poverty school. Each LEA must include all paid staff, both instructional and non-instructional when determining whether it maintained staffing equity on an FTE basis. This would include all employees and those hired by contract who perform school-level services.

1. Determine the per-pupil reduction in FTEs, if any, for FY 2022 in the LEA as a whole.

2. Determine the per-pupil reduction of FTEs for each high-poverty school for FY 2022.
3. Compare the per-pupil FTE reduction, if any, for each high-poverty school with the per pupil FTE reduction across all schools in the LEA. If any high-poverty school has a per-pupil FTE reduction that is greater than the per-pupil FTE reduction across the LEA, then the LEA has not maintained staffing equity under section 2004(c)(1)(B) of the ARP Act for FY 2022.
  - For LEAs that identify high-poverty schools by grade span, these comparisons are conducted based on the relevant grade span data.

**NOTE: On August 6, 2021, USED released [updated MOEquity guidance](#), which includes updated Questions: 17, 18, 26, 32; New Questions 19(a) and 27(a); New Appendix B**

**See also USED's Maintenance of Equity Office Hour slides from August 12, 2021 [here](#), for further information.**

## Budget

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### **May an SEA or LEA use ESSER and GEER funds to supplement or restore its “rainy day” fund rather than use the funds for specific purposes?**

No. An LEA's transfer of ESSER or GEER funds to its “rainy day” fund would not constitute an “obligation” of the funds. The SEA or LEA must obligate ESSER I and GEER I funds for specific allowable activities by September 30, 2022. Similarly, the SEA or LEA must obligate ESSER II and GEER II funds for specific allowable activities by September 30, 2023, and must obligate ARP ESSER funds for specific allowable activities by September 30, 2024.

### **May an LEA use ESSER or GEER funds to defray the costs of administering the program?**

Yes. An LEA may charge as an expense to the ESSER or GEER fund an amount that is reasonable and necessary to effectively administer the program consistent with the cost principles in the Uniform Guidance. Administrative costs include costs (direct and indirect) involved in the proper and efficient performance and administration of ESSER or GEER funds. For example, an LEA may use ESSER funds to hire personnel to assist in the planning, implementation, and oversight of ESSER fund activities.

### **May an LEA consolidate the ARP ESSER funds it reserves for administration with its other consolidated administrative funds (similar to ESSER I and ESSER II)?**

Yes. Sections 8201(a) and 8203(a) of the ESEA permit an SEA and LEA, respectively, to consolidate administrative funds under certain ESEA programs. The Secretary may designate additional programs from which administrative funds may be consolidated.

Under that authority, the U. S. Education Department designated ESSER I, ESSER II, ARP ESSER, GEER I, and GEER II funds and the Emergency Assistance to Non-Public Schools (EANS) program as programs under which an SEA or LEA, as applicable, may consolidate administrative funds.

An LEA may consolidate administrative funds under the ESSER I, ESSER II, ARP ESSER, GEER I, and GEER II funds with the approval of the WDE to administer the programs included in the consolidation and, as is the case with the consolidated State administrative funds, for administrative activities designed to enhance the effective and coordinated use of funds under programs included in the consolidation. (FAQ E-7).

## Reporting Requirements

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### What are the reporting requirements for ARP ESSER?

Reporting parameters for ARP ESSER will generally reflect reporting requirements for both ESSER I and II. Consistent with statutory requirements, each ESSER fund must be tracked and reported separately. ARP ESSER reports will also likely include reporting on the LEA's initiatives to address learning loss including for populations most impacted by the pandemic.

Documentation of all expenditures, including fiscal management system records, procurement records, staff time and effort documentation, and other records, as appropriate, will be reviewed to ensure a system of internal controls to eliminate fraud, waste, and other abuse of federal grant funds. Single audits will be required by all LEAs that expend \$750,000 or more in federal grant funds in one fiscal year (i.e., the single audit threshold).

Reviews of periodic Expense Reports (PERs) will take place via the GMS.

While reporting requirements are not yet finalized, reporting will likely focus on the following:

- How the LEA is developing strategies and implementing public health protocols including, to the greatest extent practicable, policies and plans in line with the CDC guidance related to mitigating COVID-19 in schools;
- Overall plans and policies related to LEA support for return to in-person instruction and maximizing in-person instruction time, including how funds will support a return to and maximize in-person instruction time, and for advancing equity and inclusivity in participation with in-person instruction;
- Data on each LEA's and school's mode of instruction (fully in-person, hybrid, and fully remote) and conditions moving forward;
- LEA uses of funds to meet students' social, emotional, and academic needs, including through summer enrichment programming and other evidence-based interventions, and how they advance equity for underserved students;
- LEA uses of funds to sustain and support access to LEA-supported early childhood education programs;
- Impacts and outcomes (disaggregated by student subgroup) through use of ARP ESSER funding (e.g., quantitative and qualitative results of ARP ESSER funding, including on personnel, student learning, and budgeting at the school and district level);
- Student data (disaggregated by student subgroup) related to how the COVID-19 pandemic has affected instruction and learning;
- The URL(s) where the public can readily find:
  - Data on school operating status;
  - LEA Health and Safety Plan; and
  - LEA Plan for use of ARP ESSER Funds;
- Appropriate use of the funds;
- Requirements under the Federal Financial Accountability Transparency Act (FFATA); and
- Additional reporting requirements as may be necessary to ensure accountability and transparency of ARP ESSER fund use.

**NOTE:** On July 1, 2021, USED released [proposed data collection reporting requirements](#) for all ESSER fund grants (ESSER I, II and ARP ESSER). These updates include significant data elements required from both SEAs and LEAs, and apply to both LEA assistance grant funds and SEA set-aside funds.

The requirements are extensive and represent novel data elements (fiscal, program, and personnel) that are not, for the most part, currently captured through existing WDE data collections or by LEAs and SEA

set-aside funded entities. Data types include TRUE/FALSE (for Y/N), numeric, and open-ended responses.

WDE is working to build a system that will efficiently satisfy the proposed reporting requirements and has been in conversation with USED about the challenges of collecting the updated requirements. WDE will be in contact with LEAs when USED finalizes the reporting requirements for all ESSER grants.

### What is the Data Reporting Timeline?

Data for each fund are intended to be reported annually by the SEA within one bulk report. The due dates are currently the 2nd week of February, beginning in 2022. The reporting periods align to Federal fiscal years (October 1 – September 30). Please see the table provided by ED below for timelines:

#### ESSER I under the Coronavirus Aid, Relief, and Economic Security (CARES) Act

Annual Report	Due Date	Applicable Reporting Period
Second Annual Report	February 10, 2022	October 1, 2020 – September 30, 2021
Third Annual Report	February 9, 2023	October 1, 2021 – September 30, 2022

#### ESSER II under the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act

First Annual Report	February 10, 2022	December 21, 2020 – September 30, 2021
Second Annual Report	February 9, 2023	October 1, 2021 – September 30, 2022
Third Annual Report	February 8, 2024	October 1, 2022 – September 30, 2023

#### ARP ESSER under the American Rescue Plan (ARP)

First Annual Report	February 10, 2022	October 1, 2020 – September 30, 2021
Second Annual Report	February 9, 2023	October 1, 2021 – September 30, 2022
Third Annual Report	February 8, 2024	October 1, 2022 – September 30, 2023

## Monitoring Considerations

### Pay:

- Incentive compensation must be given pursuant to an established plan. ([2 CFR §200.430\(f\)](#))
  - 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\(i\)](#))
  - These records can be fairly straightforward.
  - 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

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- 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 assets.
- Capital expenditures require prior written approval. [\(2 CFR §200.439\)](#)
  - o LEAs receive prior approval from their SEA. You can obtain this prior approval by completing and submitting the [ESSER Construction Form](#).
  - 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:

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- 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

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- 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 CCSSO 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.

## ARP ESSER Grant Application Steps

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### Filling out the ARP ESSER Grant Application

#### ARP ESSER APPLICATION STEPS

The US Department of Education (USED) issued Interim Final Requirements (IFR) on the ARP ESSER and given the significant requirements outlined in IFR, the LEA ARP ESSER application will include significant budget details and planning for the uses of funds.

The steps needed to apply for the funds will be different from the typical grant process given the USED’s interpretation on the definition of allocation, access to funds, and various timelines that need to be met. WDE is requesting the LEAs address the application process in steps.

**Step 1:** The first step is for each LEA to submit assurances **as soon as the application opens**. To complete this step, please go to the **Assurances and GEPA tab via the GMS**: read through and check the required boxes to acknowledge that you have answered GEPA requirements and ARP Assurances. **Once you have checked the required boxes, the first step of the application is complete.**

**Step 2: 30 days after the application opens**, the LEA is required to post on the LEA website their plan for in-person instruction and continuity of services. This plan needs to be revised and updated regularly with stakeholder input. You will be able to submit your plan to WDE via the GMS.

Under the “Program Details” tab in the GMS, Questions 6, 7, and 8 ask you to detail your LEA’s Safe Return to In-Person Instruction and Continuity of Services Plan. You may use the WDE’s Safe Return Template to complete this section (please see the APPENDIX for a link to the template).

The questions you will be asked on the application are below.

6. How will funds be used by the LEA to comply with CDC recommended mitigation strategies as well as USED recommended continuity of services strategies to reopen schools and maintain their safe operating status?
7. Describe how the LEA will ensure continuity of services including but not limited to services to address the students’ academic needs, and students’ and staff social, emotional, mental health, and other needs, which may include student health and food services.
8. Please provide a link to your website where you will post this plan within 30 days of this application opening as required in federal legislation and rule.

By providing the above narrative and link to your publicly accessible and compliant Safe Return to In-Person Instruction and Continuity of Services Plan within 30 days after the application opens, you are fulfilling your federal obligation.



**Step 3: 90 days after the application opens**, the LEA must submit their ARP Implementation plan. Under the “Program Details” tab, you will be asked a series of questions (1-4), the answers to which will constitute your ARP implementation plan. Moreover, the questions align in numbering and content with the WDE’s ARP Implementation Plan Template (see APPENDIX for a link to the ARP Implementation Plan Template). You may use this template to answer the questions in the GMS. Question 5 deals with Construction and directs you to the ESSER Construction Form if you need to seek prior approval. Questions 9-10 address the LEA’s consultation with stakeholders for their plans.

You will be asked the following:

1. Describe how the LEA will use the mandatory 20% set-aside to address the academic impact of learning loss (note federal statute uses the term, “lost instruction time”) through the implementation of evidence-based interventions such as summer learning or enrichment, extended day, comprehensive after school, or extended school year programs. For a reference on evidence-based definitions, districts can use [this large-print definition](#) provided by the IES. See also [this tool](#) provided by Midwest REL.
  - A. Narrative for how your LEA plans use at least 20% of the total ARP ESSER award to address accelerated learning through the implementation of evidence-based outcomes: (2000 characters)
  - B. Please include each of the evidence-based activities that you will be pursuing to address learning loss below. Include the program, timeframe, estimated budget. Ex: Credit-Recovery Program for At-risk Youth; June-July 2022; \$100,000. (Chart 3X7 or 2000 characters).
  - C. Please describe how the LEA will evaluate the effectiveness of these interventions. (2000 characters)
2. Describe how the remaining ARP ESSER funds will be used consistent with statutory requirements (see [USED’s FAQ](#), Section A-3 for allowable uses of funds). (2000 characters)
3. Describe how the LEA will ensure that the ARP ESSER funded interventions, including but not limited to the 20% set-aside, will respond to the academic, social, emotional, and mental health needs of all students, particularly those students disproportionately impacted by the COVID-19 pandemic, including students from low-income families, students of color, English learners, children with disabilities, students experiencing homelessness, children and youth in foster care, and migratory students.
4. Describe how and to what extent ARP ESSER funds will be used to implement prevention and mitigation strategies that are, to the greatest extent practicable, in line with the most recent CDC guidance on reopening schools.
5. Sections A. and B. below are related to ARP use of funds for construction projects.
  - a. If the school district proposes to use any portion of ARP ESSER funds for renovation, air quality, and/or construction projects, describe those projects. Each project should be addressed separately. Please also note that these projects are subject to the department’s prior approval. For further guidance, see U.S. Department of Education’s [FAQs](#) B-6, B-7, B-8 and C. (2000 characters).
  - b. If you are planning to use ARP ESSER funding for construction and capital improvements, please answer the following:
    - i. Did you or do you plan to consult with Wyoming’s School Facilities Division?
    - ii. Did you obtain or are you planning to obtain the federally required signed permission from the WDE consistent with [2 CFR 200.439](#)? You can find the ESSER Construction Form [here](#). Yes/No

Questions 9 and 10 address the federally mandated “meaningful consultation” component for both of the above plans.

9. Describe how the LEA, in planning both the ARP plans above, engaged in meaningful consultation with stakeholders, including, but not limited to:

- a. Students
- b. Families
- c. School and district administrators (including special education administrators)
- d. Teachers, principals, school leaders, other educators, school staff, and their unions
- e. Tribes
- f. Civil rights organizations (including disability rights organizations)
- g. Stakeholders representing the interests of children with disabilities, English learners, children experiencing homelessness, children and youth in foster care, migratory students, children who are incarcerated, and other underserved students.

10. Provide an overview of how the public stakeholder input was considered in the development of the LEA’s Safe Return to In-Person Instruction and Continuity of Services Plan and your ARP Implementation Plan.

**Step 4:** LEAs may now begin filling out the rest of their applications along with the applicable budget breakdowns. Note that **March 24, 2022** is the last date for districts to submit the budget for ARP ESSER.

**Step 5:** On a rolling basis, WDE will begin reviewing and approving LEA ARP ESSER applications (that are complete with all requested information) for the LEA to begin drawing funds. The plan review will include a focus on the quality and completeness of the LEA application for final approval. The information requested from the LEAs is an important part of Wyoming’s ARP plan requirements. Once the LEA application is in Final Approved status, the LEA can begin to draw ARP ESSER funds. The process of reviewing and approving budgets and plans for the uses of funds is a necessary component in this process and helps to minimize issues later during the compliance review process. While the application is more complex than previous ESSER applications, WDE designed the application to be both as streamlined as possible while also being mindful of compliance and reporting issues. Providing an award and access to funds without proper budgeting and planning creates potential risks for improper use of funds and heavier future burdens for both LEAs and WDE.

## Contacts:

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Danielle Netzer  
CARES/CRRSA Grant Manager  
307-369-6404 | [danielle.netzer@wyo.gov](mailto:danielle.netzer@wyo.gov)

Maura Hadaway  
GMS Database Manager, School Support  
307-777-7423 | [maura.hadaway@wyo.gov](mailto:maura.hadaway@wyo.gov)

Shelley Hamel  
Chief Academic Officer  
307-777-2058 | [shelley.hamel@wyo.gov](mailto:shelley.hamel@wyo.gov)

## APPENDIX: Recommended Resources

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### Resources for Evidence-based Interventions:

- What Works Clearinghouse is a central source of scientific evidence for what works in education. <https://ies.ed.gov/ncee/wwc/>
- Institute of Education Sciences (IES) Practice Guides are subjected to rigorous external peer review and consist of recommendations, strategies, and indications of the strength of evidence supporting each recommendation. <https://eric.ed.gov/>
- Florida Center for Reading Research provides information about research-based practices related to literacy instruction and assessment for children preschool through 12th grade, as well as a variety of evidence-based interventions for use by educators. <http://www.fcrr.org/>
- Best Evidence Encyclopedia offers information to improve learning for students in grades K-12 and particularly targets students in mathematics, special needs/diverse learners, and English language learners. <http://www.bestevidence.org/>
- The Center on Instruction offers information to improve learning in reading, mathematics, science, Special Education, and English Learning (EL) instruction. <http://www.centeroninstruction.org/>
- Evidence for ESSA, a free website designed to provide education leaders with information on programs that meet the evidence standards included in the Every Student Succeeds Act (ESSA). <https://www.evidenceforessa.org/>
- The Regional Education Laboratory (REL) has published [A teacher’s toolkit for collecting and analyzing data on instructional strategies](#), a guide and accompanying [Excel file](#) that is set up to help schools collect and analyze data on an intervention.
- DESE has developed a brief evaluation guide, [“How Do We Know” ... if Our Program is Working? An Introduction to Program Design and Program Evaluation.](#) The guide provides an overview of the major steps and considerations in program evaluation design.

*Note: The presence of a plan in your school to study an outcome can qualify it for a Tier 4 rating.*

### Resources for Strategic Planning:

Chiefs for Change released a [workbook](#) to help districts plan and allocate their funds, the workbook includes information on the various types of funding and provides guidance for how to organize and receive funds, select initiatives, and identify partners. It also contains self-populating graphs, charts, and other tools to communicate how the aid will be used to address students’ social, emotional, and academic needs.

### Resources for Equity:

EdTrust offers [strategies](#) to solve unfinished learning, focusing of equity.

For helpful information, please see their briefs on:

- [Targeted Intensive Tutoring](#)
- [Expanded Learning Time](#)
- [The Importance of Strong Relationships](#)

## **General ESSER Resources:**

[ED's FAQ](#)

[Maintenance of Equity Guidance](#)

[ARP ESSER Fact sheet](#)

[WDE's CRRSA Guidance](#)

LEA Plan Templates:

- [ARP Implementation Plan Template](#)
- [Safe Return and Services Plan Template](#)

[Wyoming's ESSER Construction Form](#)

## ARP ASSURANCES

PROGRAMMATIC, FISCAL, AND REPORTING ASSURANCES
In accepting the funds made available under this GAN, the local educational agency (LEA) assures it will submit a plan to WDE that contains such information as WDE may reasonably require, including all information required by the U.S. Department of Education's (ED) <a href="#">Interim Final Requirements</a> on ARP ESSER. The local educational agency will submit the plan by the date established by WDE.
The LEA will use ARP ESSER funds for activities allowable under section 2001(e) of the ARP and will reserve at least 20% of its ARP ESSER funds to address learning loss through the implementation of evidence-based interventions.
The LEA will comply with the maintenance of equity provision in section 2004(c) of the ARP.
<p>The LEA assures either:</p> <ul style="list-style-type: none"> <li>(a) It will, within 30 days of receiving ARP ESSER funds, develop and make publicly available on the LEA's website a plan for the safe return of in-person instruction and continuity of services as required in section 2001(i)(1) of the ARP and in ED's <a href="#">Interim Final Requirements</a>, or</li> <li>(b) It developed and made publicly available on the LEA's website such a plan that meets statutory requirements before the enactment of the ARP that meets ARP requirements. (ARP was enacted March 11, 2021).</li> </ul> <p>Before making the plan publicly available, the LEA must seek public comment on the plan and take such comments into account in the development of the plan.</p>
<p>The LEA will comply with all reporting requirements at such time and in such manner and containing such information as the WDE or ED may reasonably require including on matters such as:</p> <ul style="list-style-type: none"> <li>▪ How the LEA is developing strategies and implementing public health protocols including, to the greatest extent practicable, policies and plans in line with the CDC guidance related to addressing COVID-19 in schools;</li> <li>▪ Overall plans and policies related to State support for return to in-person instruction and maximizing in-person instruction time, including how funds will support a return to and maximize in-person instruction time, and advance equity and inclusivity in participation in in-person instruction;</li> <li>▪ Data on each school's mode of instruction (remote, hybrid, in-person) and conditions;</li> <li>▪ LEA uses of funds to meet students' social, emotional, and academic needs, including through summer enrichment programming and other evidence-based interventions, and how they advance equity for underserved students;</li> <li>▪ LEA uses of funds to sustain and support access to early childhood education programs;</li> <li>▪ Impacts and outcomes (disaggregated by student subgroup) through use of ARP ESSER funding (e.g., quantitative and qualitative results of ARP ESSER funding, including on personnel, student learning, and budgeting at the school and district level);</li> <li>▪ Student data (disaggregated by student subgroup) related to how the COVID-19 pandemic has affected instruction and learning;</li> <li>▪ Requirements under the Federal Financial Accountability Transparency Act (FFATA); and</li> </ul>

<b>PROGRAMMATIC, FISCAL, AND REPORTING ASSURANCES (continued)</b>
<ul style="list-style-type: none"> <li>▪ Additional reporting requirements as may be necessary to ensure accountability and transparency of ARP ESSER funds.</li> </ul>
<p>Records pertaining to the ARP ESSER award under 2 C.F.R. § 200.334 and 34 C.F.R. § 76.730, including financial records related to use of grant funds, will be retained separately from other grant funds, including funds an LEA receives under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA Act). The LEA will cooperate with any examination of records with respect to such funds by making records available for inspection, production, and examination, and authorized individuals available for interview and examination, upon the request of (i) ED and/or its Inspector General; or (ii) any other federal agency, commission, or department in the lawful exercise of its jurisdiction and authority.</p>
<b>OTHER ASSURANCES AND CERTIFICATIONS</b>
<p>The LEA will comply with all applicable assurances in OMB Standard Forms 424B and D (Assurances for Non-Construction and Construction Programs), including the assurances relating to the legal authority to apply for assistance; access to records; conflict of interest; merit systems; nondiscrimination; Hatch Act provisions; labor standards; flood hazards; historic preservation; protection of human subjects; animal welfare; lead-based paint; Single Audit Act; and the general agreement to comply with all applicable Federal laws, executive orders and regulations.</p>
<p>With respect to the certification regarding lobbying in Department Form 80-0013, no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or renewal of Federal grants under this program; the SEA will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 C.F.R. Part 82, Appendix B); and the SEA will require the full certification, as set forth in 34 C.F.R. Part 82, Appendix A, in the award documents for all subawards at all tiers.</p>
<p>To the extent applicable, the LEA will include in its local application a description of how the LEA will comply with the requirements of section 427 of GEPA (20 U.S.C. 1228a). The description must include information on the steps the LEA proposes to take to permit students, teachers, and other program beneficiaries to overcome barriers (including barriers based on gender, race, color, national origin, disability, and age) that impede equal access to, or participation in, the program.</p>
<p>The LEA will comply with all applicable requirements of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (sometimes referred to as the Uniform Guidance, or the Uniform Grant Guidance (UGG)).</p>
<p>The LEA will comply with the provisions of all applicable acts, regulations and assurances; the following provisions of Education Department General Administrative Regulations (EDGAR) 34 CFR parts 76, 77, 81, 82, 84, 97, 98, and 99; the OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485; and the Uniform Guidance in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.</p>

### GEPA ASSURANCES

The LEA will administer each program covered by the application in accordance with all applicable statutes, regulations, program plans, and applications, including, but not limited to federal education program laws, the General Education Provisions Act, the Education Department General Administrative Regulations, and the Uniform Grant Guidance.

Control of funds provided to the LEA, and title to property acquired with those funds, will be in a public agency and that a public agency will administer those funds and property.

The local educational agency will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds.

The LEA will make reports to WDE and to ED as may reasonably be necessary to enable WDE and ED to perform their duties and that LEA will maintain such records, including the records required under [20 U.S.C. 1232f](#), and provide access to those records, as WDE or ED deem necessary to perform their duties.

The LEA will provide reasonable opportunities for the participation by teachers, parents, and other interested agencies, organizations, and individuals in the planning for and operation of ED programs.

Any application, evaluation, periodic program plan or report relating to an ED program will be made readily available to parents and other members of the general public.

In the case of any project involving construction —

- the project is not inconsistent with overall State plans for the construction of school facilities, and
- In developing plans for construction, due consideration will be given to excellence of architecture and design and to compliance with standards prescribed by the Secretary of Education under section 504 of the Rehabilitation Act of 1973 in order to ensure that facilities constructed with the use of Federal funds are accessible to and usable by individuals with disabilities.

The LEA has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in an ED program significant information from educational research, demonstrations, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects.

None of the funds expended will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization.