FAQs for Using Federal K-12 COVID-Relief Funds (ESSER Funds) for COVID-19 Testing and Vaccination

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Below are answers to Frequently Asked Questions about how federal Elementary and Secondary School Emergency Relief (ESSER) funds can be used to support COVID-19 testing and vaccination for public schools.¹

This document cites to U.S. Department of Education (ED) guidance on these issues but has not been reviewed or endorsed by the U.S. Department of Education. This is not legal advice. If you have additional questions, please consult your legal counsel.

Spending on public health protocols, including COVID-19 testing and vaccination, is an allowable use of ESSER funds among many others. This FAQ focuses on the use of ESSER funding to support testing and vaccination.

Note that this document does not include information about the Center for Disease Control and Prevention’s $10 billion in ELC funding from the American Rescue Plan Act of 2021 that supports screening testing and other mitigation activities in K-12 schools.

This is a companion document to a recorded presentation about this topic, please see: https://www.openandsafeschools.org/learning-network/#session-1

¹ Private schools are not eligible for ESSER funds but might be eligible to receive COVID-19 relief-funded services through their local school district or their state.
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Acronyms

Federal funding streams
ARP: American Rescue Plan
CARES: Coronavirus Aid, Relief, and Economic Security Act
CRRSA: Coronavirus Response and Relief Supplemental Appropriations Act
ESSER: Elementary and Secondary School Emergency Relief

Other acronyms
ED: U.S. Department of Education
EDGAR: Education Department General Administrative Regulations
GEPA: General Education Provisions Act
LEA: Local Educational Agency (for example, a school district; in some cases, a charter school)
SEA: State Educational Agency (for example, the state department of education)
UGG: Uniform Grant Guidance (also known as “Uniform Administrative Requirements” or “Uniform Guidance”)
1. What are ESSER funds?

The Elementary and Secondary School Emergency Relief (ESSER) fund is COVID-19 relief funding for state education agencies (SEAs) (that is, state departments of education) and local educational agencies (LEAs) (that is, school districts and other entities that operate like school districts, which might include charter schools in some states). ESSER provides about $190 billion to prevent, prepare for, or respond to COVID-19 and is funded through three separate laws:

- $13.23 billion through the Coronavirus Aid, Relief, and Economic Security Act (CARES) enacted in March 2020, often referred to as “ESSER 1,”
- $54.30 billion through the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA) enacted in December 2020, often referred to as “ESSER 2,” and
- $121.975 billion through the American Rescue Plan (ARP) enacted in March 2021, often referred to as “ARP ESSER” or sometimes as “ESSER 3.”

The U.S. Department of Education (ED) awards ESSER funds to SEAs.² SEAs may keep up to 10% of the funds and must allocate at least 90% to school districts and other LEAs, which in some states, include charter schools.

The 10% retained by SEAs is sometimes called “state level ESSER funds” or “ESSER state reserve” funds. The 90% allocated to LEAs is sometimes called local ESSER funds. This document primarily discusses the use of local ESSER funds by LEAs.

2. How long do LEAs have to spend local ESSER funds?

Each round of ESSER funding has its own spending deadlines, the most important of which is the deadline to obligate funds.

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**What Does it Mean to Obligate Funds?**

An obligation is a legal commitment to pay funds. For example, an LEA could obligate funds by signing a contract with a vendor to buy goods even if the LEA does not actually pay the vendor until the goods are delivered.

ED regulations specify when a given obligation occurs for certain ED programs including ESSER.³ For instance, ED specifies that an obligation occurs when an employee performs work, travel is taken, or an LEA enters into a binding, written commitment for services, among other examples.

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² ESSER allocations for each state are available at the following links: CARES ESSER allocations, CRRSA ESSER allocations, and ARP ESSER allocations.
³ 34 CFR § 76.707.
After the obligation deadline passes, LEAs have 90 days to file their final financial reports and SEAs have 120 days to pay out funds (a process known as liquidation). In practice, this means LEAs and SEAs have three to four additional months to pay off spending commitments made by the obligation deadline but cannot enter into new spending commitments after the obligation deadline.

Briefly, all three rounds of ESSER can be used for obligations incurred on or after March 13, 2020. The last day to obligate CARES ESSER funds is September 30, 2022, the last day to obligate CRRSA ESSER funds is September 30, 2023, and the last day to obligate ARP ESSER funds is September 30, 2024.

<table>
<thead>
<tr>
<th>ESSER Funding Stream</th>
<th>Spending End Date</th>
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<tbody>
<tr>
<td>CARES ESSER (ESSER 1) $13.23 billion</td>
<td>Deadline to obligate: 9/30/2022</td>
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<tr>
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<td>• LEA financial reporting due: 12/29/2022</td>
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<tr>
<td></td>
<td>• SEA liquidation by: 1/28/2023</td>
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<tr>
<td>CRRSA ESSER (ESSER 2) $54.3 billion</td>
<td>Deadline to obligate: 9/30/2023</td>
</tr>
<tr>
<td></td>
<td>• LEA financial reporting due: 12/29/2023</td>
</tr>
<tr>
<td></td>
<td>• SEA liquidation by: 1/28/2024</td>
</tr>
<tr>
<td>ARP ESSER (ESSER 3 /ARP ESSER) $121.975 billion</td>
<td>Deadline to obligate: 9/30/2024</td>
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<td>• LEA financial reporting due: 12/29/2024</td>
</tr>
<tr>
<td></td>
<td>• SEA liquidation by: 1/28/2025</td>
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Spending start date: All three ESSER grants can be used to pay for costs incurred on or after March 13, 2020, which was the date a national emergency due to COVID-19 was declared.

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4 U.S. Department of Education, *Fact Sheet: American Rescue Plan Act of 2021, Elementary and Secondary School Emergency Relief Fund (ARP ESSER)*, March 2021, p. 4. (For the rest of this document, this will be referred to as the *March 2021 ARP ESSER Fact Sheet.*)

5 For more information about the deadlines for ESSER funding, see U.S. Department of Education, *Frequently Asked Questions: Elementary and Secondary School Emergency Relief Programs; Governor’s Emergency Education Relief Programs*, May 2021, E-1 through E-3. (For the rest of this document, this will be referred to as the *May 2021 ESSER & GEER FAQs.*) Please note that the dates listed here are one year later than the deadlines written in the laws themselves. The CARES law says its funds are available through September 30, 2021, the CRRSA law says its funds are available through September 30, 2022, and the ARP law says its funds are available through September 30, 2023. These dates, however, are all extended by one additional year through the Tydings Amendment which is part of a separate law that applies to ED programs called the General Education Provisions Act (GEPA). ESSER spending must be finished (“liquidated”) no later than 120 days after the obligation deadline. 2 CFR § 200.344(b).

6 This chart lists the general spending deadlines for SEAs and LEAs. These deadlines may vary; for example, if a late liquidation is authorized by ED for an SEA, or if an earlier reporting deadline is established for an LEA. 2 CFR § 200.344.

7 *March 2021 ARP ESSER Fact Sheet*, p. 4.
3. How can ESSER funds be used?

SEAs and LEAs must use ESSER funds to prevent, prepare for, or respond to COVID-19, which can include a broad variety of activities to address the effects of the pandemic, address pre-existing issues exacerbated by the pandemic, or emerge stronger post-pandemic. All three ESSER funding streams can be spent on the same activities, except for certain required set-asides in ARP ESSER. ESSER does not have a “supplement not supplant” (SNS) requirement, which makes ESSER spending more flexible than ED grants that have an SNS requirement.

ED suggests three questions when evaluating whether ESSER can support an activity:

1. 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?
2. Does the use of funds fall under one of the authorized uses of funds?
3. 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 award? (Emphasis added.)

Among other things, SEAs and LEAs can use ESSER funds for “[s]upporting physical health and safety, such as developing strategies and implementing public health protocols including, to the greatest extent practicable, policies in line with guidance from the Centers for Disease Control and Prevention (CDC).” Because COVID-19 testing and vaccination, along with other layered mitigation strategies, align with public health protocols and CDC guidance, they are allowable uses of ESSER funds as described in more detail below.

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8 May 2021 ESSER & GEER FAQs, p. 9. See also U.S. Department of Education, Frequently Asked Questions Elementary and Secondary School Emergency Relief (ESSER) Fund and Governor’s Emergency Education Relief (GEER) Fund Use of Funds to Prevent, Prepare for, and Respond to the COVID-19 Pandemic, December 2021. (For the rest of this document, this will be referred to as the December 2021 ESSER & GEER COVID Connection Fact Sheet.)

9 May 2021 ESSER & GEER FAQs, A-3. A-3 lists all the permissible uses of ESSER funds.

10 May 2021 ESSER & GEER FAQs, A-18. See also U.S. Department of Education, Elementary and Secondary School Emergency Relief Fund: Frequently Asked Questions about the Elementary and Secondary School Emergency Relief Fund (ESSER Fund), May 2020, Q&A 20. SNS is a rule that requires ED funds be used only for supplemental activities beyond those SEAs and LEAs normally carry out with state and local funds. Since SNS does not apply to ESSER, SEAs and LEAs have more spending options.

11 May 2021 ESSER & GEER FAQs, p. 9.

12 May 2021 ESSER & GEER FAQs, B-2; December 2021 ESSER & GEER COVID Connection Fact Sheet, p. 1. See also the ARP Act, Section 2001(e)(2)(Q).

4. Can ESSER funds be used for COVID-19 testing?

Yes. ED guidance confirms that ESSER may be used for:

- **COVID-19 testing for students and staff.**\(^\text{14}\)

- **Incentives for parents and guardians whose children participate in school-based COVID-19 screening testing.** These incentives must be reasonable in nature. ED guidance provides the example of a school district providing a “nominal gift card or any other allowable incentive that is reasonable in size and scope and likely to lead to an increase in the rate of participation by providing the incentive to each family that opts in or chooses not to opt out of a school-based COVID-19 testing program.”\(^\text{15}\)

- **Test-to-stay and screening testing strategies.**\(^\text{16}\)

While ED has released guidance on using ESSER funds for the COVID-19 testing costs above, this is not an exhaustive list of possible COVID-19 testing costs that could be paid for with ESSER funds. Other COVID-19 testing costs could also be allowable provided they are designed to support public health protocols (see Question 3) and are consistent with other federal grants requirements (see Questions 7-11).

5. Can ESSER funds be used for COVID-19 vaccination?

Yes. ED guidance confirms that ESSER can be used for:

- **COVID-19 vaccination for students and staff.**\(^\text{17}\) This may include vaccination outreach efforts, facilitating clinics, vaccination administrative fees, and incentives such as paid time off for staff to get vaccinated.\(^\text{18}\)


\(^\text{17}\) *May 2021 ESSER & GEER FAQs*, B-3.

\(^\text{18}\) *July 2021 Testing and Vaccination FAQs*, Q1.
• **School-based vaccination clinics, including family vaccine clinics** that can serve all family members and can offer COVID-19 vaccinations and booster shots for age 12 through adults, as well as vaccinations for children ages 5–11.19

• **Incentives for students and household members to receive COVID-19 vaccinations.** Among other requirements, these incentives must be reasonable in nature. ED provides the example of a school district hosting “a drawing in which all vaccinated students are entered to win a prize such as a new tablet, a reasonable cash award, college scholarship money, or new school supplies and books.” Another ED example is a school district giving “each vaccinated student a nominal gift card or any other allowable incentive that is reasonable in size and scope and likely to lead to an increase in the rate of vaccinations.” 20

While ED has released guidance on using ESSER for the COVID-19 vaccination costs above, this is not an exhaustive list of possible COVID-19 vaccination costs that could be paid for with ESSER. Other COVID-19 vaccination costs could also be allowable provided they are designed to support public health protocols (see Question 3) and are consistent with other federal grants requirements (see Questions 7-11).

6. **Can ESSER funds be used for other costs that help support COVID-19 vaccination and testing?**

Yes. ESSER can be used for many costs like:

• **Staff – either employees or contracted staff.**21

• **Developing or improving data systems to provide the public with COVID-related school data.**22

• **Communicating with the public and families.**23

• **Coordinating with public health or other agencies.**24

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21 [May 2021 ESSER & GEER FAQs](#), A-3 & D-2.

22 [May 2021 ESSER & GEER FAQs](#), C-12.

23 [May 2021 ESSER & GEER FAQs](#), B-5 & C-4

24 [ARP Act](#), Section 2001(e)(2)(E), as well as the CARES Act, Section 18003(d)(2) and CRRSA, Section 313(d)(2).
These are only some examples of allowable costs to support COVID-19 testing and vaccination strategies. This is not an exhaustive list. Other costs could also be allowable provided they are consistent with ESSER and other federal requirements.

7. Are there other federal laws that affect ESSER spending?

Yes. There are many other federal rules that apply to ESSER funds. Below is a brief description of the most important.

- The General Education Provisions Act (GEPA), a law that applies to ED programs and includes:
  - The Tydings amendment (see footnote 2).
  - Federal wage rules for construction projects.
  - State oversight, enforcement rules, and other requirements.

- The Education Department General Administrative Regulations (EDGAR), a set of ED-specific regulations that cover:
  - Rules for state-administered programs (which include ESSER).
  - Definitions (such as the definition of when an obligation is made, see Question 2).
  - Enforcement rules and other requirements.

- The Uniform Grant Guidance (UGG)25 – a set of federal regulations that cover:
  - Grants administration requirements, like financial management systems, internal control rules, procurement rules, inventory management, cash management, etc.
  - Cost principles, like “the necessary and reasonable standard” (see Questions 3 and 8), prior approval rules for high-cost items, documentation rules for employee compensation, etc.
  - Audit standards and other requirements.

Because ED’s guidance about ESSER spending specifically mentions the UGG (see Question 3), some of its requirements are discussed in more detail below.

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25 The UGG is also sometimes referred to as the “Uniform Guidance.” It can be accessed at: https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II.
8. What does it mean for a cost to be “necessary and reasonable”?

As discussed in Question 3, when analyzing whether a cost can be supported by ESSER, ED suggests three questions:

1. 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?
2. Does the use of funds fall under one of the authorized uses of funds?
3. 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 award? (Emphasis added.)

The “necessary and reasonable” requirement comes from the UGG. While the UGG does not specifically define “necessary,” in general, a cost is considered reasonable if, “in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.”

Reasonableness factors to consider include:

- Whether the cost is needed to carry out the grant program properly and efficiently,
- Whether the entity followed sound business practices,
- The cost of the good, service, or activity being supported and whether the cost is consistent with market prices,
- Whether the entity acted prudently considering its responsibilities to itself, its students, the public, and the federal government, and
- Whether the entity generally followed its established practices and policies.

In practice, the “necessary and reasonable” standard is context specific. A cost that might be reasonable in one situation might not be in another.

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27 2 CFR § 200.403(a).
29 2 CFR § 200.404 (a) – (e).
9. Are there recordkeeping requirements to consider if an employee is paid with ESSER funds?

Yes. Entities that use ESSER funds to pay employees (including salaries, stipends, bonuses, benefits, etc.) must keep records that meet certain federal standards.30 In general, entities can use existing payroll, accounting, and related systems to meet these requirements, and in most cases will not need to keep special records (sometimes known as “time and effort” or “time distribution” records).

ED guidance states:

An LEA must maintain time distribution records (sometimes called “time and effort” reporting) only if an individual employee is splitting his or her time between activities that may be funded under ESSER or GEER and activities that are not allowable under the applicable program. However, it is likely there will be very few situations in which an employee of an LEA would perform multiple activities where some are not allowable under ESSER or GEER, 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.31

10. Are there federal procurement and contracting requirements to consider if a good or service is purchased with ESSER funds?

Yes. In general, when buying goods and services with ESSER funds, an SEA must follow the same policies and procedures it uses for buying items with state funds. SEAs must also ensure that contracts supported with ED funds have all the terms and conditions required by the UGG.32 When an LEA buys goods or services with ED funds, the LEA must follow:

- Federal procurement and contracting rules,
- State and local procurement rules, and
- Their own procedures.33

30 These criteria are listed in 2 CFR § 200.430(j).
31 May 2021 ESSER & GEER FAQs, A-16. Note that GEER is the “Governor’s Emergency Education Relief Fund” and is a COVID-19 program separate from ESSER.
33 These procurement and contracting requirements are in the UGG at 2 CFR §§ 200.318 – 200.327.
ED guidance notes that there are situations in which non-competitive procurements might be permissible, particularly where an LEA is experiencing a public exigency or emergency. While ED discusses this issue in the context of summer enrichment programs, the UGG’s non-competitive procurement rules are not activity specific and could reasonably apply to COVID-19 vaccination and testing programs in certain situations.

11. Are there management requirements that apply to equipment or supplies purchased with ESSER funds?

Yes. The UGG includes rules for using, managing, and disposing of items purchased with federal funds. The rules vary depending on whether an item is classified as “equipment” or “supplies.” Because most questions that relate to COVID-19 testing and vaccination are typically about supplies, those rules are discussed in more depth below.

Managing Supplies. The UGG does not establish any specific rules for managing supplies, but ESSER recipients must have adequate internal controls in place to make sure supplies purchased with ED funds were received by the program, used by the program, and safeguarded from unauthorized use. In practice, supplies are not usually tracked individually, but some supplies are more vulnerable to loss or theft, such as laptops, tablets, and other small items, which under certain circumstances could include testing or vaccination supplies. ESSER recipients can safeguard supplies through controls such as:

- Physical controls (such as restricting access to the items),
- Tracking items,
- Labeling items,

34 *May 2021 ESSER & GEER FAQs*, C-27.

The distinction between “equipment” and “supplies” is based mostly on an item’s cost. Items that cost $5,000 or more are usually considered to be equipment (see 2 CFR § 200.1 Definitions - Equipment), and items that cost less than $5,000 are usually considered to be supplies (see 2 CFR § 200.1 Definitions - Supplies). (Please note SEAs and LEAs can establish a different, lower threshold than $5,000.) Auditors will consider an item’s net price, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired (see 2 CFR § 200.1 Definitions - Acquisition Cost). For example, if an item costs $4,000 but needs $1,000 of modifications to work as intended, the net price is $5,000. This does not mean all purchases above $5,000 are automatically classified as equipment. Low-cost items purchased in bulk might still be classified as supplies. The determination will depend on the nature of the items purchased and how they are used. Please note LEAs must obtain an SEA’s prior approval before spending federal funds on equipment. 2 CFR § 200.439(b)(1).

36 2 CFR § 200.303. See also United States Government Accountability Office, *Standards for Internal Control in the Federal Government*, September 2014, p. 47. While this document was originally developed for the federal government, the UGG at 2 CFR § 200.303(a) states that recipients of federal grant funds should maintain internal controls consistent with this document, or the Internal Control Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
• Requiring employees using items to sign them out so the entity can identify who has custody of the items and when they have custody.

The controls necessary to protect supplies purchased with ESSER funds will depend on the context.

**Disposing of Supplies.** Supplies purchased with ESSER funds can be used until the completion of the ESSER program. If there is residual inventory that exceeds $5,000 after the ESSER program is completed, remaining supplies can be used for another federal program or award if needed. For example, unused testing or vaccination supplies could be used to support CDC-funded or other federally-funded programs if needed.  

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