

# Federal COVID Funding for Education: ESSER Funds and Accountability

## The Big Picture

- » The education funding from the COVID relief laws—\$188.6 billion—is the most one-time federal education funding ever.
- » There are not a lot of restrictions on how the funds can be used, meaning this is potentially a once-in-a-lifetime opportunity to make serious investments to support students.
- » Communities are supposed to have a say in how the money is used.
- » Accountability is complicated. Some of it varies state to state, and there is no strong mechanism to enforce the community engagement requirement.

### What is the ESSER Fund?

The Elementary and Secondary School Emergency Relief (“ESSER”) Fund is a grant program funded by the COVID-19 relief laws passed by Congress.

The fund includes:

- » \$13.2 billion from the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act—“ESSER I”
- » \$54.3 billion from the Coronavirus Response and Relief Supplemental Appropriations (“CRRSA”) Act—“ESSER II”
- » \$122 billion from the American Rescue Plan (“ARP”) Act—“ESSER III.”

These grants are emergency relief specifically for states and local districts to address the impact of the COVID-19 pandemic on education. State and local governments may receive other COVID-19 relief funding that they may choose to spend on education, but ESSER funding is specifically for K-12 schools. The funds are allocated to states and local districts in the same proportions as their Title I funding.

### What are states and school districts required to do to receive ESSER funds?

ESSER I and ESSER II funds were appropriated according to the Title I funding formula, and each state had to submit certain assurances to receive the funds. ESSER III funds are appropriated through the same formula but come with more requirements. For a state or local school district to receive ESSER III funds it must meaningfully consult community stakeholders to develop a plan for the use of the funds. Local districts must submit plans for the state’s approval, and states must submit their plans for the U.S. Department of Education’s approval.

States and local districts are required to post their ESSER III plans publicly in a form accessible to parents, including disabled parents and speakers of other languages. States’ and local districts’ ESSER III plans (that have been completed) are available at [this link](#). Local districts that receive ESSER III funds must also publicly post their plans for the safe return of in-person instruction, to be revised at least every six months with community consultation.

For all ESSER funds, the state must also continue to fund districts and schools at no lower than the same levels as it did over the past several years. It cannot cut state funds due to getting ESSER funds. This is the “maintenance of effort” requirement. Finally, any state or local district receiving ESSER III funds must ensure that high-poverty schools and districts do not experience disproportionate budget or staffing cuts. This is the “maintenance of equity” requirement.

## What are the rules for what local districts must—or must not—spend the money on?

### ESSER I Funds

Funds must be used for any of the following activities:

- » Any activity authorized by the ESEA, the IDEA, the McKinney-Vento Homeless Assistance Act (and other statutes)
- » Coordination of coronavirus response efforts
- » “Providing principals and others school leaders with the resources necessary to address the needs of their individual schools”
- » “Activities to address the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including how outreach and service delivery will meet the needs of each population”
- » Materials and training related to sanitation and minimizing the spread of infectious disease
- » Coordinating long-term school closures, including providing meals, technology, and disability-related supports to students
- » Providing mental health services and supports
- » Activities related to summer learning and supplemental instruction to address the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care
- » “Other activities that are necessary to maintain the operation of and continuity of services in local educational agencies and continuing to employ existing staff of the local educational agency.”

### ESSER II Funds

- » Same as ESSER I, plus:
- » Addressing learning loss.
- » School facility repairs and improvements to support student health.
- » Improving school air quality.

### ESSER III Funds

- » Same as ESSER I except for providing principals and school leaders with resources to address the needs of their individual schools.
- » ESSER III requires 20% of funds to be reserved to address learning loss.
- » School facility repairs and improvements to support student health.
- » Improving school air quality.
- » Developing public health protocols that align with Centers for Disease Control and Prevention (CDC) guidance for reopening schools.

As long as the spending fits into one of these categories, there are no further restrictions on what the funds can be spent on, and a state may not restrict a local district’s use of funds.

## How can states and local districts be held accountable for using their ESSER funds in the way they said they would?

States are required to review how local districts spend their funds, but they have a lot of flexibility to determine what the review process looks like. States and local districts are also required to report certain spending data and other information to the Department of Education under “comprehensive monitoring” requirements. In general, use of ESSER funds is subject to auditing and review by the Government Accountability Office and the Department of Education. Local districts that spend more than \$750,000 of these funds in a given year will be audited.

The Department of Education has provided a tool called The American Rescue Plan Act Partnership, Assistance, Transformation, and Heightened Support Resource for States (ARP PATHS) for states to give public updates on their progress in meeting ESSER requirements.

These updates include whether a state has established monitoring protocols for districts’ ESSER funds use. However, use of this tool is completely voluntary.

The website <https://covid-relief-data.ed.gov/> reports data on how much was awarded to each state and how much of those funds have been spent. Local districts must “obligate”—assign to a specific purpose—ESSER I funds by September 30, 2022. They must obligate funds from ESSER II and ESSER III by September 30, 2023 and September 30, 2024, respectively. Local districts then have 120 days after the obligation deadline to spend the funds.

## How can states and local districts be held accountable for engaging the community in making spending decisions?

The Department of Education has not provided specific accountability tools for the community engagement requirements, beyond requiring states to describe these efforts when states first submit their plans for the funds. However, the Department has indicated that it wants to hear from communities what challenges they are facing with states and local districts not engaging the community. This may help the Department develop accountability provisions for this requirement. The ARP PATHS tool also has the option for states to publicly report their progress (and their local districts’ progress) with community engagement. Again, though, use of this tool is voluntary.

## How successful will these accountability provisions be?

It may be easiest to hold states and districts accountable for meeting the maintenance of effort and maintenance of equity requirements. This is because whether the states and districts are meeting the requirement can be determined by looking at the data they are/will be required to submit to the Department of Education and make publicly available.

Holding local districts accountable for their use of funds may be more challenging. Local districts' plans are considered "living documents" and they may be revised, but the revision process is to be determined by each individual state. States must also monitor whether local districts are spending their funds appropriately. However, they have flexibility in how they accomplish this. The ARP PATHS tool that states can use to report their progress is also voluntary. All of this may lead to different levels of accountability state by state.

The most challenging form of accountability may be for the community engagement requirements. There is no apparent formal procedure for a community member to make a complaint that a state or local district did not meaningfully consult stakeholders. While it may be the state's responsibility to monitor compliance, there has been no guidance on how states would accomplish this. For now, the only available tool is to make an informal report of a state's/district's noncompliance to Department of Education staff. It is possible that the Department of Education may propose new rules to address this accountability issue.



## Where can I ask a question or get more information?

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