



## Elementary and Secondary School Emergency Relief Funding (ESSER II)

In March 2020, Congress passed the CARES Act, which included \$13.2 billion for the Elementary and Secondary School Emergency Relief Fund (ESSER Fund). The state of Montana received an allocation of \$41,295,230 of these funds. The Office of Public Instruction awarded all but \$350,000 of these funds to public school districts. However, because the Governor earmarked \$75M of Coronavirus Relief Funds for Montana schools and those funds were to be spent by December 30, most school districts delayed drawing down ESSER funds. As a result, through January 10, the OPI has only transferred \$5.1M to school districts.

On December 27, 2020, The Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA) was passed into law. This bill provides an additional \$54.3 billion for the Elementary and Secondary School Emergency Relief Fund (ESSER II Fund). The OPI has received a Grant Award Notice from the Department of Education awarding Montana \$170,099,465 in ESSER II funds. Ninety percent of this award, or \$153,089,518, will be allocated to school districts proportionally to the Title I award in FY 2019-2020. The remainder \$17,009,947 will be set aside for the OPI to “address issues responding to coronavirus, including measuring and addressing learning loss, which may be addressed through the use of grants or contracts.” The OPI can use up to one half of one percent of the total grant, or \$850,497, for grant administration.

### Allowable LEA Uses of ESSER Funds

Both the CARES Act and ESSER II have general guidance that all grants be used “to prevent, prepare for, and respond to coronavirus.” All LEA expenditures of grant funds must meet this requirement and adhere to the designated allowable expenditures specific to the ESSER funding listed below.

Like the CARES Act, the CRRSA allows LEAs to use the funds for any activity authorized by the following Federal education acts:

- A. The Elementary Secondary Education Act (ESEA) of 1965, currently reauthorized as the [Every Student Succeeds Act](#) (ESSA) of 2015.

ESSA includes the following Federal education programs:

- a. Title I, Part A: Improving Basic Programs Operated by LEAs, including the portions of the State Education Agency's (SEA's) Title I, Part A award used to carry out section 1003 School Improvement for Schools Identified for Comprehensive Support and Improvement (CSI) and Targeted Support and Improvement (TSI)
  - b. Title I, Part C: Education of Migratory Children
  - c. Title I, Part D: Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent or At Risk
  - d. Title II, Part A: Supporting Effective Instruction
  - e. Title III, Part A: English Language Acquisition, Language Enhancement, and Academic Achievement
  - f. Title IV, Part A: Student Support and Academic Enrichment Grants
  - g. Title IV, Part B: 21st Century Community Learning Centers
  - h. Title V, Part B, Subpart 2: Rural and Low-Income School Program
  - i. Title VI: American Indian and Alaska Native Education
  - j. Title VII, Part B: McKinney-Vento Education for Homeless Children and Youth Program
- B. The [Individuals with Disabilities Education Act](#) (IDEA)
- C. The [Adult Education and Family Literacy Act](#) (AEFLA)
- D. The [Carl D. Perkins Career and Technical Education Act](#) (CTE)
- E. Subtitle B of Title VII of the [McKinney-Vento Homeless Assistance Act](#)

### **Additional LEA Uses of ESSER Funds**

The CRRSA also duplicates the CARES Act in specifying the following activities as allowable uses of ESSER II funds:

- A. Coordination of preparedness and response efforts of LEAs with State, local, Tribal, and territorial public health departments, and other relevant agencies, to improve coordinated responses among such entities to prevent, prepare for, and respond to coronavirus.
- B. Providing principals and others school leaders with the resources necessary to address the needs of their individual schools.

- C. 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.
- D. Developing and implementing procedures and systems to improve the preparedness and response efforts of LEAs.
- E. Training and professional development for staff of the LEA on sanitation and minimizing the spread of infectious diseases.
- F. Purchasing supplies to sanitize and clean the facilities of the LEA, including buildings operated by the LEA.
- G. Planning for and coordinating during long-term closures, including how to provide meals to eligible students, how to provide technology for online learning to all students, how to provide guidance for carrying out requirements under the IDEA, and how to ensure other educational services can continue to be provided consistent with all Federal, State, and local requirements.
- H. Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the LEA that aids in regular and substantive educational interaction between students and their classroom instructors, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment.
- I. Providing mental health services and supports.
- J. Planning and implementing activities related to summer learning and supplemental afterschool programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care.
- K. Other activities that are necessary to maintain the operation of and continuity of services in LEAs and continuing to employ existing staff of the LEA.

### **New LEA Uses of ESSER II Funds**

ESSER II added the following specific activities as allowable uses, although the Department of Education later acknowledged these activities were allowable for the first round of funding.

- L. Addressing learning loss among students, including low-income students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children and youth in foster care, of the local educational agency, including by:

- a. Administering and using high-quality assessment that are valid and reliable, to accurately assess students' academic progress and assist educators in meeting students' academic needs, including through differentiating instruction.
  - b. Implementing evidence-based activities to meet the comprehensive needs of students.
  - c. Providing information and assistance to parents and families on how they can effectively support students, including in a distance learning environment.
  - d. Tracking student attendance and improving student engagement in distance education.
- M. School facility repairs and improvements to enable operation of schools to reduce risk of virus transmission and exposure to environmental health hazards, and to support student health needs.
- N. Inspection, testing maintenance, repair, replacement, and upgrade projects to improve the indoor air quality in school facilities, including mechanical and non-mechanical heating, ventilation and air conditioning systems, filtering, purification and other air cleaning, fans, control systems, and window and door repair replacement.

### **Timing**

The OPI has received the GAN for the grant and LEAs will be able to access funds as soon as the EGrants application is available. The grant requires the SEA to award funds within one year of receipt of the GAN, or January 5, 2022. LEAs will have until September 30, 2023 to obligate expenditures.

### **Supplement Not Supplant**

Neither the ESSER Fund nor the ESSER II fund contains a supplanting prohibition. At the LEA level, ESSER funds may take the place of State or local funds for allowable activities. However, the ESSER grant does not change the maintenance of effort requirements of other federal grants.

### **Restrictions on LEA Uses of ESSER Funds**

Funds may not be used for 1) subsidizing or offsetting executive salaries and benefits of individuals who are not employees of the SEA or LEAs or 2) expenditures related to state or local teacher or faculty unions or associations.

## Other Assurances LEAs Must Make to Receive ESSER Funds

Since the ESSER II funding is a second round of funding, LEAs will only have to affirm the assurances from the first round of funding remain in place.

## Equitable Services to Non-Public Schools

The CRRSA provides funding to non-public schools through the GEER stream of funding. Therefore, LEAs will not have to calculate an equitable share for private schools for ESSER II funds.

## LEA Application for Funds

The ESSER funds will be distributed to LEAs and administered using a new EGrants module named ESSER II. This module will be much simpler than the original module as there will be no equitable share calculation and only one assurance. Also, since we also recently received the instructions for annual reporting, the budget page will show the same purpose codes as are being required for the annual report.

## Tracking Funds

ESSER II funds must be tracked separately from ESSER funds. OPI's school finance unit will establish new codes for receipt and expenditure of ESSER II funds.

## HB 630 – Montana Legislative Action on ESSER III

During the 2021 Montana Legislative Session, the Legislature took an interest in the use of ESSER II funds. HB 630 contains instructions for the use of ESSER II funds. HB 630 shows the following use of the ESSER II funds:

Basic Allocation to School Districts	153,089,519
Supplemental Allocation to School Districts	3,400,000
Allocation to Other Educational Institutions	120,000
Special Needs Allocation	2,500,000
Targeted Support to School Districts	1,200,000
Education Leadership in Montana	939,449
OPI Database Modernization	8,000,000
Administration	<u>850,497</u>
TOTAL	170,099,465

HB 630 also has a provision aimed at using ESSER II and ESSER III funds in place of BASE Aid. First, school districts will not be allowed to file for anticipated or unanticipated enrollment

increases in FY 2022 or FY 2023. Instead, school districts can calculate what the increase would have been based upon the actual October count of each year. School districts can then use funds from the base allocation and supplemental allocation of ESSER II and ESSER III funds to replace the lost BASE Aid, up to a maximum of 10% of those ESSER allocations. If the amount lost is greater than 10% of the ESSER allocations, the state will provide additional state general fund to cover the difference. HB 630 contains a statement attributing the need for this action as an impact of COVID-19. Therefore, school districts can use these funds for any expenditures normally made with BASE Aid without the need to connect the expenditure to COVID-19.

HB 630 also contains an allocation of \$2,500,000 specifically to take the place of an inflationary increase for special education for the 2022-2023 biennium. These funds will be allocated to districts based upon the normal allocation method for the state special education allowable cost payment, including the five percent allocation to special education cooperatives for travel and administration expenses. Districts and cooperatives may use these funds for any expenditure for which they would normally use the state special education funds.

#### **Key Contacts for the ESSER II Grant**

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