



# FAQ for ARP-ESSER LEA Plans

On March 24, 2021, the Montana OPI received from the U.S. Department of Education (USED) the American Rescue Plan Elementary and Secondary School Emergency Relief (ARP ESSER) Funds, authorized under the American Rescue Plan (ARP) Act. The ARP-ESSER provides \$382,019,236 (ESSER III) for Montana schools to safely reopen and sustain safe operations of schools while meeting the academic, social, emotional, and mental health needs of students resulting from the COVID-19 pandemic. This marks the third round of ESSER funding that Montana has received and is available through September 2024.

The requirements in section 2001(i) of the ARP Act relating to the ARP ESSER funds are published in the [Federal Register](#). The federal requirements outline expectations for states and districts, including the development of a State ARP ESSER Plan ([template](#)) that must be approved by the USED before the remaining one-third of the federal funds can be allocated. The Montana ARP ESSER Plan is being developed and will be posted for public feedback in early June before submission to the USED prior to the June 7, 2021 deadline. During the month of May, the OPI has engaged in meaningful consultation with various stakeholders groups on its ARP ESSER plan and gave the public an opportunity to provide input on the development of the plan and taken the input into account.

The State ARP ESSER Plan includes a requirement that Local Education Agencies (LEA) receiving ARP ESSER funds must publish a **Safe Return to In-Person Instruction and Continuity of Services Plan** by June 24, 2021 and develop and submit to the OPI a **District ARP ESSER Plan** by August 24, 2021. Thus, the OPI has developed this FAQ document to provide LEAs information about the two required district plans. A supplemental FAQ is also available for general information about the grant, including eligibility, allowable uses, funding, and reporting.

**Disclaimer:** The information in this FAQ is based upon the OPI's review of the Interim Final Rule and information available to date. This information is subject to change as final guidance and information is released by the USED.

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## A. Safe Return to In-Person Instruction and Continuity of Services Plan

### 1. What is required in the Return to In-Person Instruction and Continuity of Services Plan?



**Answer:** The LEA's plan must include how it will maintain the health and safety of students, educators, and other school and LEA staff, the extent to which it has adopted policies, and a description of any such policies on each of the CDC's safety recommendations. The CDC recommendations include:

- Universal and correct wearing of masks;
- modifying facilities to allow for 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, or Tribal health departments;
- Diagnostic and screening testing;
- Efforts to provide vaccinations to school communities;
- Appropriate accommodations for children with disabilities with respect to health and safety policies; and
- Coordination with State and local health officials.

The plan must also describe how the LEA will ensure continuity of services, including but not limited to services to address students' academic needs and students' and staff social, emotional, mental health and other needs, which may include student health and food services.

**2. Can a district Return to In-Person Instruction and Continuity of Services Plan follow the County Health Department guidelines instead of the CDC guidelines, for example- guidelines for universal mask wearing?**

**Answer:** Yes, the Interim Final Rule (IFR) clarifies that: "the requirement does not mandate that an LEA adopt the CDC guidance, but only requires that the LEA describe in its plan the extent to which it has adopted the key prevention and mitigation strategies identified in the guidance."

**3. If a local board of trustees has already adopted a policy to make the wearing of mask optional, will this affect the district ARP-ESSER funding since the CDC recommendations must be addressed in the Safe Return to In-Person Instruction and Continuity of Services Plan?**

**Answer:** This will not impact the district ARP-ESSER funding. However, an LEA must address the board policy about masks in the LEA's Return to In-Person Instruction and Continuity of Services Plan.

**4. Is a plan required of all LEAs, even those who have already returned to in-person instruction.**

**Answer:** Yes, LEAs are required to develop a plan or update an existing plan for the safe return to in-person instruction and continuity of services, consistent with statutory requirements of the ARP Act and the IFR. If an LEA has already returned students to 100 percent full-time-in-



person instruction, its plan should focus on its current and future activities to keep students and staff safe and ensure continuity of services.

Note, that LEAs may utilize previously developed plans that address the return to in person instruction if the plan was approved by the local school board and allowed for public comment at the board meeting.

### **5. How often does the plan need to be revised?**

**Answer:** The plan must be updated no less than every six months, until September 30, 2023, and must include stakeholder input and public comment when revisions are necessary. If an LEA already has a plan in place that doesn't meet the new requirements, it must revise the plan within six months.

If the LEA revises its plan, the revised plan must address each of the aspects of safety currently recommended by the CDC at the time of the revision or, if the CDC has updated its safety recommendations at the time the LEA is revising its plan, each of the updated safety recommendations.

### **6. When and where does the Return to In-Person Instruction and Continuity of Services Plan need to be developed and made publicly available.**

**Answer:** ESSER III requires LEAs to submit a plan to return to in-person instruction, gather public comment on that plan, and post it on the district or school's public website within 30 days of receiving ESSER III funds [Sec. 2001(i)]. This will require LEAs to post their return to in-person instruction plans within 30 days of receiving their ESSER III award. In Montana, districts were awarded funds on May 24, 2021 thus the return to in-person instruction and continuity of service plan needs to be posted no later than June 24, 2021.

Each LEA will be required to submit the website address that links directly to the plan to the OPI through the ESSER III-E-grant Application.

### **7. Is there a template or sample plan available for the Return to In-Person Instruction and Continuity of Services Plan?**

**Answer:** No, there is not a template or sample plans currently available. There is no required format for the plan provided it meets the federal requirements.

The OPI recommends that LEAs reference the following documents when developing the Return to In-Person Instruction and Continuity of Services Plan:

- [CDC's guidance on K-12 School Operational Strategy](#)
- [K-12 COVID-19 Mitigation Toolkit](#)
- [U.S. Department of Education's COVID Handbook](#)



The OPI also recommends that LEAs build on existing plans. LEAs likely have plans that address many of the elements of the federal requirements. This may include health and safety plans developed in collaboration with local departments of health. LEAs may have existing remote learning plans, reopening plans submitted to the Governor in the Spring of 2020, continuous improvement plans, or other strategic plans that encompass aspects of these requirements. Districts should consider using those previously developed plans to meet relevant requirements of the federal assurances and add additional elements as necessary to meet the federal expectations.

### **8. Are there requirements for how the Return to In-Person Instruction and Continuity of Services Plans are published?**

**Answer:** Yes, all plans must be in an understandable and uniform format; to the extent practicable, written in a language that parents can understand or, if not practicable, orally translated for non-English speakers; and, upon request by a parent who is an individual with a disability, provided in an alternative format accessible to that parent.

### **9. What is the minimum an LEA is required to do to meet the requirements for stakeholder input on the Return to In-Person Instruction and Continuity of Services Plan?**

**Answer:** The LEA must determine if their stakeholder input meets the minimum requirements required in both statute and federal rule. The LEA must engage in meaningful consultation with stakeholders and give the public an opportunity to provide input in the development of its plan for the uses of ARP ESSER III funds. Specifically the LEA must engage in meaningful consultation with students; families; school and district administrators (including special education administrators); and teachers, principals, school leaders, other educators, school staff, and to the extent present in or served by the LEA tribes, civil rights organizations (including disability rights organizations) and stakeholders representing the interests of children with disabilities, English language learners, children experiencing homelessness, children in foster care, migrant students, children who are incarcerated, and other underserved students.

### **10. What are recommended best practices for LEAs to meet the stakeholder input requirement?**

**Answer:** Best practices might include a community-wide public notice and comment process with an optional survey to gather input from the various required stakeholder groups. School board meetings, small group meetings or public forums would also supplement the process. Regardless of the process followed, the LEA must document that all the applicable stakeholder groups were included in the process and that meaningful consultation occurred. Documentation of all plans and public comment need to be saved locally as OPI may request the documents as part of compliance monitoring of ESSER grantees.



Note: Public comment should be sought in a manner that is consistent with your existing local procedures.

**11. Can stakeholders representing the interests of "children with disabilities, English language learners, children experiencing homelessness, children in foster care, migrant students, children who are incarcerated, and other underserved students" be current LEA employees who serve those populations of students?**

**Answer:** Yes, but the LEA should still attempt to include others in the category that do not work for the LEA as well. Also, rural schools may count one person in multiple categories, however this should not limit the LEA's attempt to gain the broadest stakeholder input possible.

**12. Does the local school board need to approve the Return to In-person Instruction and Continuity of Services Plan?**

**Answer:** No, there is not a requirement for the local board to approve the plans; however, the local board is required by the grant application assurances to have a discussion of the uses of the ESSER III funds given that the funds are one-time in nature. The actual plans are approved based on the LEA's local policies regarding approval of such types of plans.

**13. Does the OPI need to approve the Return to In-person Instruction and Continuity of Services Plan?**

**Answer:** When LEAs submit the E-grant application to the OPI for ARP funding, it will include an assurance that the LEA will have a Safe Return to In-Person Instruction and Continuity of Services Plan posted on its website by June 24, 2021. The assurance also requires LEAs to periodically review the plan with its stakeholders.

In addition to the requirement that LEAs publicly post the continuity of service plans, the OPI will collect the website addresses for those plans through the E-grants application and post them to the OPI website.

**14. What are the expectations if an LEA does not meet the deadline to post or a required component of the Return to In-person Instruction and Continuity of Services Plan?**

**Answer:** The OPI will develop or revise its existing monitoring and oversight plans for ARP ESSER funds to ensure LEAs are using the funds in accordance to program requirements and meeting their obligations under the ARP Act. When an LEA is not meeting requirements, such as missing a deadline, the OPI will work with the LEA and take steps, as appropriate, to ensure compliance.



## B. District ARP ESSER Plan

### 1. What is required in the District ARP ESSER Plan?

**Answer:** The requirements for the district ARP ESSER plans, must include at a minimum:

- The extent to which and how funds will be used by the District to implement prevention and mitigation strategies,
- How the District will use the mandatory 20% set-aside for to address the academic impact of “lost instructional time” through the implementation of evidence-based interventions,
- How the District will use the remaining ARP ESSER funds consistent with statutory requirements,
- How the District 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, and particularly those students disproportionately impacted, and
- Consultation with a wide variety of stakeholders when developing the plan.

### 2. What additional requirements are in the District ARP ESSER Plan, similar to the Return to In-person Instruction and Continuity of Services Plan?

**Answer:** LEAs will have to ensure the following requirements in the District ARP ESSER Plan:

- LEAs sought stakeholder feedback in creation of their ARP ESSER plan;
- LEAs engaged in meaningful consultation with stakeholders, including students; families; school and district administrators and special education administrators; teachers, principals, school leaders, other educators, school staff, and their unions; as well as any tribes or civil or disability rights organizations in the LEA, as well as groups that represent students with disabilities, ELs, children experiencing homelessness, children in foster care, migratory students, and those who are incarcerated;
- The LEA ARP ESSER plan should be clear, in a uniform format, and available to all, which may require written or oral translations for non-English speakers or providing the document in an accessible format for individuals with disabilities, and
- It should also be available on the LEA website.





### 3. Will the District ARP ESSER Plan be a paper PDF application emailed to OPI?

**Answer:** No. LEAs must submit an ARP ESSER Plan to the OPI through the Terms of Employment, Accreditation, and Master Schedule (TEAMS). The **District ARP ESSER Plan** template will open July 1st and close on August 24<sup>th</sup> in TEAMS.

The OPI will continue to release information on the OPI [website](#) under the ESSER Info page, so that LEAs can begin work in anticipation of the opening of the template in TEAMS.

### 4. What happens if an LEA does not submit the District ARP ESSER Plan by August 24, 2021?

**Answer:** If an LEA does not submit the application by August 24, 2021, the OPI can and will accept a late application. However, the OPI requests an LEA provide notification if they will not meet the August 24<sup>th</sup> deadline, because the LEA will be noncompliant with the federal program rules and may have specific conditions placed on their grant award. Specific conditions may include:

- Requiring payments as reimbursements rather than advance payments;
- Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
- Requiring additional, more detailed financial reports;
- Requiring additional project monitoring;
- Requiring the LEA to obtain technical or management assistance; or
- Establishing additional prior approvals.

### 5. What are the allowable ESSER III activities?

**Answer:** ESSER III has a wide array of allowable activities that tie to any activity currently allowed under federal education law, including:

- Activities reducing virus transmission and other health hazards,
- Activities improving air quality, and
- 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... including by :
  - o Administering and using high quality assessments that are valid and reliable o
  - Implementing evidence-based activities to meet comprehensive needs of students
  - o Providing information and assistance to parents and families on how they can effectively support students
  - o Tracking student attendance and improving student engagement in distance education

Plus: Any activity allowed under the original CARES Act:



- Any activity authorized by the ESEA of 1965 (Titles I, II, III, IV, IC Migrant, ID Neglected and Delinquent, 21st Century Community Learning Centers, and Rural and Low-Income Schools Grant);
- Individuals with Disabilities Education Act (IDEA);
- Adult Education and Family Literacy Act (20 U.S.C. 1400 et seq.);
- Carl D. Perkins Career and Technical Education;
- Coordination of preparedness and response efforts of local educational agencies with State, local, Tribal, and territorial public health departments, and other relevant agencies, to improve coordinated responses among such entities to prevent, prepare for, and respond to coronavirus;
- Activities to address the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including how outreach and service delivery will meet the needs of each population;
- Developing and implementing procedures and systems to improve the preparedness and response efforts of local educational agencies;
- Training and professional development for staff of the local educational agency on sanitation and minimizing the spread of infectious diseases;
- Purchasing supplies to sanitize and clean the facilities of a local educational agency, including buildings operated by such agency;
- Planning for and coordinating during long term closures, including for 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 Individuals with Disabilities Education Act (20 U.S.C. 1401 et 10 seq.) and how to ensure other educational services can continue to be provided consistent with all Federal, State, and local requirements;
- Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the local educational agency that aids in regular and substantive educational interaction between students and their classroom instructors, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment;
- Providing mental health services and supports;
- Planning and implementing activities related to summer learning and supplemental 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; and
- 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.

**6. Can an LEA leave the 20% on the table and just use 80% of our allocation instead?**

**Answer:** No. Twenty percent (20%) of an LEAs total expenditures must be expended for evidence-based activities to address learning loss or the LEA will be noncompliant.





## 7. Do LEAs submit the grant application once for the entire amount we are allocated?

**Answer:** No. The OPI only received 2/3 of the total state award from USDE and can only award funding it has received. The allocations indicate the first 2/3 amount which is included in the available ESSER III application for funding, the remaining 1/3 which will be awarded after USDE released those funds, and the total amount the LEA can expect. USDE will award the remaining 1/3 of the funding after the state submits a State ARP ESSER Plan and it is approved later in the summer. At that point, LEAs will submit an amendment to their existing application for funding to increase their ESSER III grant budget.

## 8. Will more guidance be provided from the OPI on developing the District ARP ESSER Plan?

**Answer:** Yes. The OPI has planned three types of support for LEAs.

1. Superintendent Arntzen is hosting the virtual **Montana Education Summit (MTEdx-21)** to support districts with educational planning opportunities. The work sessions include: Developing ARP ESSER LEA plans, Meaningful Stakeholder Consultation, Data Usage, Redefining the purpose of K-12 education, and Reimagining State Assessment. The MTEdx-21 session is a two-day event on June 24<sup>th</sup> and 25<sup>th</sup>. Registration is required and open at the link below:

<https://hopin.com/events/mtedx-21>

2. The OPI will host weekly **Q & A Sessions** during the month of June to address questions related to ARP ESSER district plans and budgets. The session days will be June 8<sup>th</sup>, 15<sup>th</sup>, 22<sup>nd</sup>, and 29<sup>th</sup> from 9:30-10:30am. To the extent possible, please submit questions to [jeffrey.kirksey@mt.gov](mailto:jeffrey.kirksey@mt.gov) by the close of business each Friday. Submitted questions will be addressed during the session each Tuesday 9:30am. The weekly Q&A sessions will be held through Zoom; the link and dial-in number will be the same every week.

### **ARP Q & A Session Link:**

<https://mt-gov.zoom.us/j/85097037609?pwd=bjM5MjNNESSs3WG9OK3dIUUVhYRjNXdz09>

Meeting ID: 850 9703 7609

Password: 027973

Dial by Telephone

+1 646 558 8656 or +1 406 444 9999

Meeting ID: 850 9703 7609

Password: 027973

Find your local number: <https://mt-gov.zoom.us/u/keqCMgrvm5>

3. The OPI will host three **ARP ESSER Webinars** during the month of July to assist districts in developing and submitting District ARP ESSER Plans. The webinars will be recorded and

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posted for future viewing on the OPI webpage. The webinars will be on July 13<sup>th</sup>, 20<sup>th</sup>, and 27<sup>th</sup> from 9:30 to 10:30am. The ARP ESSER webinars will be held through Zoom; the link and dial-in number will be the same every week.

### **ARP ESSER Webinars**

<https://mt-gov.zoom.us/j/89630813262?pwd=SFB3TEhWc2lma2VIYkFoSFNjTXlFZz09>

Meeting ID: 896 3081 3262

Password: 074837

Dial by Telephone

+1 646 558 8656 or +1 406 444 9999

Meeting ID: 896 3081 3262

Password: 074837

Find your local number: <https://mt-gov.zoom.us/j/89630813262?pwd=SFB3TEhWc2lma2VIYkFoSFNjTXlFZz09>

Note: Additional Q & A sessions, technical assistance and webinars will be conducted as needed.

### **9. Can an LEA submit a base ARP ESSER plan and amend it later as it continues to work through the best approach and gather community input?**

**Answer:** No. In order to meet the required plan timeline, August 24, 2021, the LEA may submit a preliminary plan and update it as needed as it receives more stakeholder input.

For more information, contact Jeff Kirksey at: [jeffrey.kirksey@mt.gov](mailto:jeffrey.kirksey@mt.gov).

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