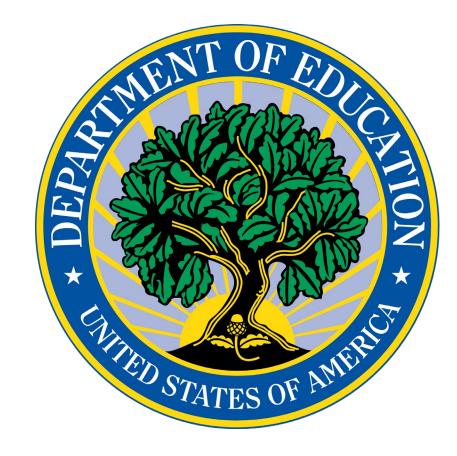
American Rescue Plan Elementary and Secondary School Emergency Relief (ESSER) Fund State Plan Requirements

> Office Hours June 3, 2021



Introductions

- Meredith Miller
- Jane Hodgdon
- Britt Jung
- Jane Simons
- Rachel Peternith



Key Dates

- March 11 American Rescue Plan Act (ARP) enacted
- March 17 State allocations announced

March 24 – States received access to two-thirds of ARP ESSER funds, totaling \$81 billion

April 21 – ARP ESSER State Plan template and interim final requirements (IFR) released

- May 14 The Department requested that the State educational agency (SEA) provide notification if the SEA will not meet June 7 deadline due to State requirements that preclude submission by that date (e.g., because of pre-existing State board approval requirements)
- May 24 Date by which the SEA must allocate ARP ESSER funds to Local Educational Agencies (LEAs), to the extent practicable, under section 2001(d)(2) of the ARP Act
- **June 7** Deadline for submitting ARP ESSER State Plans

Office Hours

- The Department will answer questions that were received during the prior week and in previous webinar sessions. A limited number of live questions will be answered during this session.
 - For any additional questions, send to: <u>ESSERF@ed.gov</u>
- Please use the chat function to ask questions either clarifications about the questions we are discussing or to raise new or additional questions.
- Since the deadline for submitting State Plans is on June 7, Office Hours will continue with other topics related to ARP implementation beginning next week.



Covered Topics

- Submission Process
- Review Process
- Consultation
- State Plan Template
- Use of Funds



Submission Process

- In what format should an SEA submit the State Plan and supporting documents (e.g., links, attachments) to the Department?
 - An SEA should submit its ARP ESSER State Plan as a Word document.
 - Any supporting documents should be included as attachments with submitted State plans rather than links to other websites, except when providing information about URL(s) where the public can access certain information.
 - If an SEA is concerned about file size, it should contact <u>ESSERF@ed.gov</u> and its State mailbox, [STATE].oese@ed.gov, as soon as possible so we can work with you to identify a solution.
 - State Plans should be emailed to the SEA State mailbox, [STATE].oese@ed.gov and <u>ESSERF@ed.gov</u>.



Submission Process

- If an SEA notifies the Department that it requires additional time beyond the June 7 deadline to submit the ARP ESSER State Plan, does the SEA also get additional time beyond the June 21 deadline to make the requisite data on school operational status available on its website?
 - No. All SEAs are required to post school operational status by June 21, regardless of whether an SEA requested an extension of the June 7 deadline for submitting its ARP ESSER State Plan.
 - If any SEA has specific questions about meeting the requirement for posting on school operational status by June 21, the SEA should contact the Department via email to ESSERF@ed.gov and through its State mailbox, [State].oese@ed.gov.



- What will the Department's ARP ESSER State Plan review process consist of?
 - The Department will review each SEA's ARP ESSER State Plan to determine whether the SEA addressed each requirement in the template. For example, the Department will review to determine whether the SEA described the needs of each group of underserved students listed in question A.3 and described how it engaged in meaningful consultation with each stakeholder group listed in question C.1.
 - If the Department determines that the SEA has not addressed one or more of the questions in the template or it is not clear whether the SEA has addressed a requirement, the Department will work with the SEA to revise its plan to address that requirement.



- Will the ARP ESSER State Plans be reviewed against criteria other than the criteria described in the template?
 - No. Each ARP ESSER State Plan will be reviewed against the questions in the template. Those questions reflect statutory and regulatory requirements or request information to the extent available. The Department will review the information that each SEA provides to ensure it addresses the question and, where applicable, compliance with the applicable requirement or requirements.



- When does the Department expect to approve APR ESSER State Plans?
 - We recognize that ARP ESSER funds are emergency funds that SEAs and LEAs need to address immediate needs. The Department expects to review and approve ARP ESSER State Plans as quickly as possible and to work with SEAs to resolve any issues as expeditiously as we can.



- May an SEA revise its ARP ESSER State Plan over the next few years?
 - Yes. The Department considers ARP ESSER State Plans to be living documents and understands that plans change and that an SEA may need to amend its State Plan in the future. Additional information about the expectations for any revisions and the amendment process will be shared once all State Plans have been approved.



Consultation

- Must the SEA engage in meaningful consultation with <u>all</u> of the stakeholder groups listed in the State Plan template and IFR prior to submitting the ARP ESSER State Plan and provide the public with an opportunity to provide input or may the stakeholder engagement be ongoing, after June 7?
 - The SEA must describe how it (1) engaged in meaningful consultation with **each** group included in the template and (2) provided the public the opportunity to provide input on the State Plan, prior to submission of its State Plan.
 - We expect this consultation to have occurred in some form before the State Plan is submitted. In the State Plan, an SEA must describe how it incorporated any input in the State Plan and include any letters of support with the State Plan.
 - We also recognize that consultation is ongoing. To the extent that an SEA has plans to continue consultation, we encourage SEAs to include that information in its ARP ESSER State Plan.



Consultation

- Does an SEA need to specifically describe in its State Plan how it engaged in meaningful consultation with EACH group listed in C.1?
 - Yes. An SEA must specifically describe how it engaged in meaningful consultation with **each** stakeholder group listed in the ARP ESSER State Plan template and IFR. For example, each SEA should include a description of how it consulted with stakeholder groups representing the interests of each of the following groups of students: children with disabilities, English learners, children experiencing homelessness, children and youth in foster care, migratory students, children who are incarcerated, and other underserved students.



Consultation

- In States where collective bargaining with teachers' unions is not required, does the requirement to engage in meaningful consultation with teachers' unions still apply?
 - Yes. Regardless of whether collective bargaining is required, the SEA must describe how it engaged in meaningful consultation with stakeholders, including teachers, principals, school leaders, other educators, school staff, and their unions. The SEA must also ensure that its LEAs engage in meaningful consultation with these groups for purposes of developing their plans for use of ARP ESSER funds.



State Plan Template

- How should each SEA address the requirement in section 427 of the General Education Provisions Act (GEPA) in its ARP ESSER State plan?
 - Section 427 of GEPA requires each SEA to include a description of the steps the SEA proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access to, or participation in, the Federally-funded project or activity.
 - Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

Elementary and Secondary School Emergency Relief (ESSER)

8

Governor's Emergency Education Relief (GEER) Programs Use of Funds



Overview of ESSER and GEER Funds

- 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.

Overview of ESSER and GEER Funds

- 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 FAQs.
- 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.



- 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 wellprepared 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 <u>2 CFR § 200.430(f)</u>, 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.



- May ESSER and GEER funds be used to provide COVID-19 vaccinations to LEA teachers, staff, and eligible students?
 - Yes. Because ESSER and GEER funds may be used to implement public health protocols including, to the greatest extent practicable, policies in line with guidance from the CDC for the reopening and operation of school facilities to effectively maintain the health and safety of students, educators, and other staff, providing COVID-19 vaccinations is an allowable use of ESSER and GEER funds.
 - Allowable vaccination outreach efforts in general could include activities to create awareness and build confidence, facilitate clinics, and provide incentives such as paid time off for staff to get vaccinated.
 - In cases where administrative fees are required to obtain a vaccination, ESSER or GEER funds may be used to offset the cost as long as the cost is reasonable.



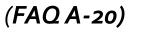
- Can you please provide more information about the new Federal requirement around purchasing American goods to the greatest extent possible?
 - The Buy American Act does not apply to the ESSER or GEER grants. However, awards made under the CRRSA Act and ARP Act (i.e., ESSER II, GEER II, and ARP ESSER awards) are subject to <u>2 CFR § 200.322</u>, 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: <u>2 CFR § 200.322</u> 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.



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

(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 polymerbased products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.





- Does the Department or the Uniform Guidance specify a process that a passthrough agency (the SEA) must use for granting prior approval to an LEA to use ESSER or GEER funds for capital expenditures such as renovation or construction that require prior approval?
 - No. Neither the Uniform Guidance nor the Department's regulations in 34 CFR Part 75 require that an SEA use a specific process for granting prior approval for capital expenditures such as renovation or construction. An SEA has the flexibility to establish its own reasonable process that ensures that the expenditures meet the applicable statutory and regulatory requirements including those in Subpart E of the Uniform Guidance (2 CFR Part 200).

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(continued) For example, an SEA could:

- Use or modify the current procedures that it already uses for prior approval categories for other Federal programs under the Uniform Guidance.
- Consider getting a building expert (engineer, inspector, architect) who knows applicable State, local, and Federal requirements to assist with its review of prior approval requests. The expert could be acquired on a limited basis through procurement or perhaps an interagency agreement with another State agency, such as a Public Works office or another agency with authority over facilities.
- Consult with other States that have facilities programs for suggestions on how to implement an efficient process for prior approvals for facilities expenditures.
- Develop a checklist of items that an LEA seeking prior approval should provide. This could include:
 - The name of the school facility the LEA is proposing to repair, construct, or modernize.
 - The identification of the LEA's interest in, or authority over, the school facility involved, such as an ownership interest or a lease arrangement.
 - Sources and amounts of funds available for the proposed project.



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(continued) Develop a checklist of items that an LEA seeking prior approval should provide. This could include:

- A statement signed by an appropriate independent local official that: (1) the renovation or construction project meets the applicable Federal, State, or local requirements with respect to health and safety, environmental standards, Historic Preservation, and other requirements (see FAQ B-6 and 34 CFR Part 75) and (2) any deficiency that requires renovation or construction is necessary (e.g., because it threatens the health and safety of occupants of the facility or prevents the use of the facility). An appropriate local official may include a local building inspector, a licensed architect, or a licensed structural engineer.
- A description of the need for funds as related to COVID-19 including a cost estimate and other details needed to support the reasonableness and allowability of the expenditure under the applicable statute ARP Act and cost principles in the Uniform Guidance (e.g., the original construction date and the dates and descriptions of any other major renovations of the school facility).
- Applicable assurances and certifications (see FAQ B-6 for applicable requirements that must be met for any renovation or construction project).



- May an LEA use ESSER or GEER funds to purchase land? The LEA would like to purchase land so it can build a new school to increase capacity, reduce the strain on facilities, and create better learning environments?
 - An LEA may use ESSER or GEER funds, after seeking prior written approval from its SEA, to buy land, but there are a number of requirements and considerations that an LEA should be aware of before deciding to use these funds for that purpose. In particular, 34 CFR 75.603 requires that the LEA has full title or other interest and access to the site that will ensure access for **fifty years** or the useful life of the project, **whichever is longer**. Buying the underlying land with Federal funds will also trigger a long relationship with the Federal government and if ESSER or GEER funds are used, the LEA will be required to consult with the Department on disposition instructions in the event that the property purchased with Federal funds is no longer needed before the useful life ends. (See, e.g., 2 CFR §§ 200.310-200.313.)
 - In determining whether to grant prior written approval to an LEA to use ESSER or GEER funds to purchase land, an SEA should consider the LEA's planned immediate uses for the land to determine the necessity and reasonableness of the purchase. Note that if the LEA is planning to use the land for construction, the SEA should consider whether to grant prior approval of the land purchase along with the construction project.



- 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 for food services, such as through the U.S. Department of Agriculture (USDA) or other Federal programs. As a result, the 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)



- Is it allowable to use ESSER or GEER funds to provide pre-kindergarten programs outside of school hours?
 - Yes. ESSER and GEER funds may be used for planning and implementing activities related to summer learning and enrichment and supplemental after-school programs, including during the summer months (#15 of **FAQ A-3**). This could include providing services to students in pre-K.

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- Is it allowable to use ESSER and GEER funds to provide pre-kindergarten programs outside of school hours? (continued)
 - **FAQ C-20** explains that ESSER and GEER funds may be used for a prekindergarten or other early childhood program.
 - Because an early childhood education program is an allowable use of funds under the ESEA and IDEA, it is allowable under ESSER and GEER. An "early childhood education program" is (1) a Head Start program or an Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.), including a migrant or seasonal Head Start program, an Indian Head Start program, or a Head Start program or an Early Head Start program that also receives State funding; (2) a State licensed or regulated child care program; or (3) a program that serves children from birth through age six that addresses the children's cognitive (including language, early literacy, and early mathematics), social, emotional, and physical development; and is either: a State prekindergarten program: a program authorized under section 619 or State prekindergarten program; a program authorized under section 619 or Part C of the IDEA (**see FAQ C-5**); or a program operated by an LEA (See section 8101(16) of the ESEA). In addition, ESSER funds may be used for 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. As a result, ESSER and GEER funds could be used to prevent layoffs or service cuts to existing LEA early childhood education programs.



- 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.

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- What kinds of summer programs may ESSER and GEER funds support? (continued)
 - 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 workbased or service-learning opportunities or summer bridge programs to support successful educational transitions.
 - **FAQ C-25** contains additional material in response to this question.



- 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 SEA or LEA to use ARP ESSER funds to operate a summer enrichment program in 2021?
 - Yes. Under the Uniform Guidance in 2 CFR § 200.317, an SEA, "[w]hen procuring property and services under a Federal award, must follow the same policies and procedures it uses for procurements from its non-Federal funds." Thus, an SEA is authorized under the Uniform Guidance to use any authority provided for in its State procurement policies and procedures that allows for noncompetitive procurements. For example, if an SEA has flexibility under its State procurement procedures to allow a sole source contract, particularly during an emergency such as the COVID-19 pandemic, the SEA may procure contracts with ARP ESSER funds in accordance with that flexibility.
 - Separate requirements apply to LEAs. FAQ C-27 contains information about those requirements and other additional material in response to this question.



- 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.

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- How may an LEA use ESSER and GEER funds to specifically support high school seniors? (continued)
 - 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.



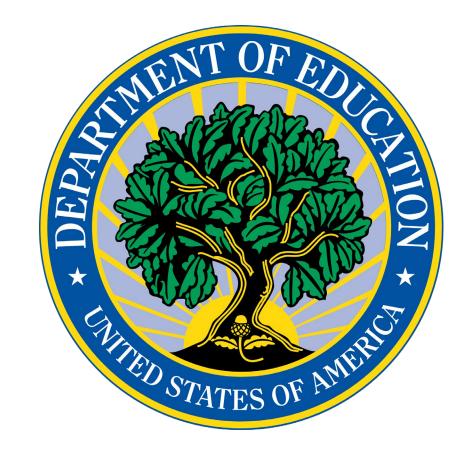
- May an LEA use ESSER and GEER funds to support students who graduated high school in the class of 2020 (and students who will graduate in 2021) who have not yet successfully transitioned to college or careers?
 - Yes. Consistent with Perkins V, an LEA may use ESSER and GEER funds to support former students who graduated high school in the class of 2020 or who will graduate in 2021 (i.e., during the pandemic) but have not yet successfully transitioned to college or careers.
 - For example, an LEA may provide college or career counseling, assistance with college applications or entry into job training programs, job training, post-secondary counseling and related services, including for associate and baccalaureate degree programs, and financial literacy.



- May an SEA or 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 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 SEA 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)



Additional Questions



Resources

Visit the following URLs for more information

- ARP ESSER: <u>https://oese.ed.gov/offices/american-rescue-plan/american-rescue-plan/american-rescue-plan-elementary-and-secondary-school-emergency-relief</u>
- Maintenance of Effort requirements: <u>https://oese.ed.gov/files/2021/04/MOE-</u> <u>Chart_with-waiver-FAOs_FINAL_4.21.21Update.pdf</u>
- ESSER and GEER Use of Funds: <u>https://oese.ed.gov/files/2021/05/ESSER.GEER_.FAQs_5.26.21_745AM_FINALbo</u> <u>cd6833f6f46e03ba2d97d30aff953260028045f9ef3b18ea602db4b32b1d99.pdf</u>



The live portion of this webinar has ended.

This presentation is posted at:

https://oese.ed.gov/offices/ameri can-rescue-plan/american-rescueplan-elementary-and-secondaryschool-emergencyrelief/resources/

If you have additional questions, please email <u>ESSERF@ed.gov</u>.

