

Coronavirus Aid, Relief and Economic Security (CARES) Act: Discussion and Considerations for LEAs

Rev. Dec. 15, 2020

Purpose

This document is intended to provide an overview of the federal emergency funds related to the Coronavirus Aid, Relief and Economic Security (CARES) Act and the relationship of these funds to other sources of local, state and federal funding. In addition, this document will discuss the implications of using particular strands of funds in light of what the Agency of Education (AOE) currently knows about the fiscal landscape in the coming months and year. Readers should understand that this document will be subject to updates as soon as new information or new sources of funding become available. Information and resources on each of the federal emergency funds can be found on the [COVID-19 Federal Emergency Funds webpage](#).

As indicated in previous guidance, the AOE highly recommends that superintendents and business managers coordinate their district's strategic planning of these grant funds. Superintendents and business managers have a global view of the total work of their districts and are well positioned to work with programmatic staff (i.e., curriculum coordinators, special education administrators, etc.) to maximize funding and respond to a rapidly shifting education landscape. In addition, superintendents and business managers are able to provide strategic district-wide planning and maintain strong oversight of all available funding sources to avoid the loss of any federal funding due to expiration of one or more available funding streams.

The AOE continues to take the position that LEAs should maximize their use of normal federal funding sources (i.e., Perkins, Title funds, IDEA, etc.). CARES Act funds will cover many unexpected and unbudgeted costs LEAs will incur due to the pandemic. CARES Act funds will also cover many budgeted costs eligible for reimbursement per federal guidelines. It is the General Assembly's intent that as many of these budgeted costs as possible be covered by CARES Act funds.

UPDATED Discussion and Considerations around the use of CARES funds

The CARES Act, signed into law on March 27, 2020, created the \$30.75 billion Education Stabilization Fund (ESF). This fund provides \$13.5 billion in pandemic relief aid for K-12 schools through the Elementary and Secondary School Emergency Relief (ESSER) Fund. The state of Vermont received approximately \$31 million in ESSER funds, of which 10% or \$3,114,836 was set aside for the AOE to develop state-wide approaches to help LEAs respond to the COVID-19 pandemic.

In addition to the ESSER funds, the Governor's office received approximately \$4.5 million through the Governor's Emergency Education Relief (GEER) fund, another component of the ESF. Governor Scott's office determined that it would use the funds to support CTE institutions

across the state and that the AOE would administer grants to support remote technology and infrastructure to meet the needs of these institutions.

A third and much larger component of the CARES is the Coronavirus Relief Fund (CRF), which has many potential uses. The Vermont legislature made available a portion of these funds (\$103 million) to provide pandemic relief to schools. \$82 million of CRF dollars were made available to preK-12 schools (Sec. B.1112 2020 Acts and Resolves No. 120, Sec. A.50) through the LEA grant program including regional career technical center school districts, as defined in 16 V.S.A. §1571; \$2.1 million for the Summer Food Service Program, \$4 million for the Child Nutrition Equipment grant; and \$13.5 million to the Indoor Air Quality grant. Under CARES, ESSER funds are distributed by formula to LEAs. CRF and GEER funds are not; they are discretionary.

Elementary and Secondary School Emergency Relief Fund (ESSER)

Status

The ESSER LEA grant application was released on July 17, 2020, and LEAs were invited to apply for these funds. On August 12, 2020, the Joint Fiscal Committee approved the release of ESSER funds to AOE.

ESSER and the General Education Fund

The interest of leadership in the General Assembly appears to be the use of ESSER funds to replace eligible items in FY2021 school district budgets to the greatest extent possible. Doing so would allow ESSER funds to reduce payments to the school districts from the FY2021 Education Fund, helping to offset the FY2021 deficit in the Education Fund. School districts would not see a financial impact so long as the ESSER funds replace education funds. The General Assembly understands that not all ESSER funds will be used to reimburse budgeted costs.

UPDATED

Equitable Services

The ESSER fund includes an Equitable Services requirement. Eligible entities are approved or recognized, non-profit independent schools that enroll one or more students from low-income families who reside in attendance areas served by an LEA's Title I schools. In practice, this may mean that an independent school may be consulted concerning equitable services participation by more than one LEA. Note that this is a substantial change from what was stated in the previous version of this guidance document due to the results of a number of recent court cases that challenged the US Department of Education's Interim Federal Rule concerning interpretation of the ESSER equitable services requirement. Please see the AOE's [updated guidance on ESSER equitable services](#) for information on which independent schools may participate in equitable services. This guidance supersedes all previous AOE guidance on calculating ESSER equitable share.

Per federal statute, an Independent School can receive services/goods only. LEAs must retain control of all CARES ESSER funds. The LEA and independent school should engage in a collaborative consultation, while the LEA is responsible for ensuring the delivery of equitable services to independent schools.

During the consultation process, each eligible independent school:

1. will inform LEAs if they wish to share in services and materials purchased with ESSER funds,
2. will provide LEAs with enrollment and low-income data needed to determine an equitable share of the LEA's allocation,
3. will discuss the independent school's needs, and
4. will develop in partnership with the LEA, a plan for the services to be provided, as allowable under ESSER.

Agreed upon strategies for equitable services are written into the LEA's online application.

On Sept. 15, 2020, AOE updated its guidance to the field in an effort to help independent schools recoup eligible costs that they have already incurred.

LEAs may choose to accept invoices from eligible Independent Schools for allowable costs incurred on or after March 13, 2020, including those costs incurred in advance of consultation or submission of an approved application. This does not relieve LEAs and eligible Independent Schools of their obligation to ultimately consult around these costs; only those costs determined by the LEA during consultation to be allowable, reasonable, necessary and allocable can be fulfilled using ESSER equitable share funds. All costs, including those incurred in advance, must appear in an LEA's approved application. LEAs are reminded that equitable share funds, as well as title to any goods purchased with these funds, must always remain in the control of the LEA.

Please see the AOE's [updated guidance on ESSER equitable services](#) for information on how Equitable Share must be calculated by the LEA. Any additional questions regarding equitable services should be directed to Jesse Roy at jesse.roy@vermont.gov.

UPDATED Governor's Education Emergency Relief Fund (GEER)

The application for the GEER fund became available in the Grant Management System (GMS) for CTE centers across Vermont on Oct. 20, 2020. Following the US Department of Education requirement to prioritize these funds to those CTE centers which have been "most significantly impacted by coronavirus", AOE has determined allocations based on poverty and broadband access. Resources and information, including the allocations, for the GEER fund can be found on the [AOE's GEER webpage](#).

Coronavirus Relief Fund

[All eligible costs](#) for CRF grants must be incurred prior to Dec. 30, 2020. This is a much shorter timeline than the timeline governing the ESSER and GEER funds. Another significant difference for subrecipients to be aware of is that unlike other grants, reimbursements can only be made for costs that have been *incurred* (not obligated) prior to Dec. 30, 2020. This means that any work must have been performed, and supplies received, by Dec. 30, 2020 to be eligible for CRF reimbursement. Guidance and links for CRF funds, including the application links, and instructions on how to request reimbursement for CRF-eligible costs can be found on the [AOE Coronavirus Relief Fund webpage](#).

CRF- Summer Food Service Program Grant

On July 31, 2020, the AOE released the application for the Summer Food Service Program grant totaling \$12 million. Of this allocation, just over \$2 million was requested and the remaining funds were reallocated into the Indoor Air Quality and Child Nutrition Equipment grants passed in H.969. As of Oct. 1, 2020, subrecipients are allowed to submit [requests for reimbursement](#).

UPDATED

CRF- Child Nutrition Equipment Grant

On Oct. 16, 2020, the AOE released the application for the CRF-Child Nutrition Equipment grant totaling \$4 million. Eligible applicants for this grant include Child Nutrition Program Sponsors to purchase CARES Act eligible supplies and equipment, including vehicles, freezers, and other capital assets necessary to provide meals to children using the federal child nutrition programs during the COVID-19 state of emergency. The application closed on Nov. 2, 2020.

CRF- LEA Grant

For the CRF LEA grant, the AOE intends to reimburse all eligible costs incurred between March 1 and June 30, 2020 at 100%. Costs incurred between July 1 and Dec. 30, 2020, will be reimbursed on a prorated basis if necessary.

LEAs, approved independent schools and Summer Food Service Program Sponsors should be aware that reimbursement requests under CRF funds must meet three requirements for eligibility. In addition, they will be asked to justify their reimbursement requests through additional reporting requirements that will be outlined with the Grant Award. Costs are eligible if they:

1. Are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
2. Were not accounted for in the budget most recently approved as of March 27, 2020, (the date of enactment of the CARES Act) for the State or government; and
3. Were incurred during the period that begins on March 1, 2020, and ends on Dec. 30, 2020.

CRF and FEMA

On Sept. 28, 2020, AOE released updated [guidance](#) that FEMA had issued new guidance that effectively precluded schools from eligibility for FEMA assistance and that an application to FEMA was no longer a requirement for CRF funds.

UPDATED Final Considerations

As LEAs complete their ESSER, GEER and CRF grant applications, they should bear in mind that:

- All eligible costs for CRF reimbursements must be incurred (not obligated) by Dec. 30, 2020. The AOE recommends that LEAs use CRF funds for COVID-19-related costs from March 1 – Dec. 30, 2020, to the greatest extent possible, given the availability of funds, prior to using their ESSER funds to backfill any unreimbursed costs during this period. ESSER funds would then be used exclusively for COVID-19-related costs from the Jan. 1, 2021- Sept. 30, 2022, period since CRF funds would no longer be available.

Please note that ESSER funds allocated to an LEA must be budgeted in an approved award prior to April 29, 2021. **All ESSER applications and grant amendments must be received by AOE by March 20, 2021, in order for the AOE to review the requests in time to meet the April 29, 2021, deadline.** LEAs will permanently lose access to allocated funds that have not been budgeted in an approved Grant Award and those funds will be returned to the Federal Government.

- In addition to use of federal CARES funding, and any other COVID-19 relief funding that may come in the future, LEAs should strive to maximize their use of other sources of federal funding to avoid sending any unallocated funds back to the federal government. Please refer to the [Federal Education Funding Planning Guidance](#) for information on which sources of normal federal funding may be used to meet various COVID-19-related needs.

In June, the AOE advised in its [Federal Education Funding Planning Guidance](#):

“As you complete your applications and requests for CFP, IDEA, Perkins, AEL, ESSER and CRF funds, the Agency encourages you to consider the following overarching principles that will enable you to promote a Strong and Healthy Start to the school year in this time of uncertainty:

- *Assure there is equity in access to education for all learners,*
- *Use evidence, data, research and best practice to inform your decision making, and*
- *Invest strategically for effectiveness and efficiency.”*

The AOE encourages education leaders to continue to keep these principles in front of mind as they complete their applications for ESSER, GEER (if applicable) and CRF grant programs.