



COVID-19 CARES Act Guidance for Federal Titles Programs, Local Education Agencies (LEAs), and Other CARES Act Grant Recipients under the Every Student Succeeds Act (ESSA)

COVID-19 Frequently Asked Questions
Updated July 13, 2020

Sources: The U.S. Department of Education (USED), the Council of Chief State School Officers (CCSSO), & Brustein and Manasevit, PLLC.

New/Updated information are labeled as:





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COVID-19 CARES Act Guidance

General Fund Allocations and Uses

#	Question	Answer
1	What is Nevada’s share of the Elementary and Secondary School Emergency Relief Fund (ESSER)?	Nevada received \$117,185,045 in ESSER funding.
2	What is the minimum share of ESSER funding for distribution to LEAs?	LEAs will receive a minimum distribution of \$105, 466,540.
3	What are the maximum SEA reservations of ESSER funding?	NDE’s maximum reservation is 10% or \$11,718,505.
4	What is the maximum reservation for SEA administration ?	NDE’s maximum reservation for administration is 0.5% or \$585,925.
5	How will the Corona Aid, Relief and Economic Security Act (CARES) set- aside funding for outlying areas (0.5%), Bureau of Indians Education (0.5%) and competitive grants (1%) be distributed?	These funds will be distributed to eligible entities directly from USED, thus, it is not anticipated that these funds will pass through NDE.
6	Will the SEA set aside of 0.5% for administrative costs be taken from the total state award of the ESSER funds or from the 10% that states may set aside for state-level activities (.5% of 10%)?	The 0.5% state set aside for state administration costs will be calculated based on the total state ESSER allocation.

#	Question	Answer
7	Will the use of the 90% or \$11.9 billion allocated to the LEAs be flexible, allowing LEAs to spend the funds on all the same activities permitted under all the major programs in the Elementary and Secondary Education Act (ESEA)?	Yes. The use of these funds is flexible. Under the law, funds may be used for any activity authorized by ESEA, Individuals with Disabilities Education Act (IDEA), the Adult Education and Family Literacy Act, the Perkins CTE Act and the McKinney-Vento Homeless Assistance Act in addition to other activities to help with the response to the COVID-19 outbreak, including preparedness and response efforts, sanitation, professional development, distance learning, and other activities that are determined to be reasonable, allocable and necessary.
8	How does the \$13.23 billion allocated in the CARES Act (Education Stabilization Fund, section 18003) compare to the typical fiscal year total Title I allocation	Title IA was funded by approximately \$15.9 billion in FY 2019-2020 (presently, the last fiscal year for which states and LEAs have already received allocations under Title I). The \$13.23 billion provided under the K12 portion of the stabilization fund is approximately 83% of what SEAs and the LEAs received under Title I in FY 2019-2020.
9	Can an LEA continue to pay employees with federal grant funds for the pay periods the employee is unable to work because his or her school is closed due to COVID-19.	Federal and non-Federal, under unexpected or extraordinary circumstances, including public health emergencies like COVID-19. However, an employee who is being paid with federal grant funds while the program grant activities are closed in whole or in part due to the COVID-19 pandemic, cannot be paid for the time during which the Program is closed by the LEA or any other organization working on other activities that are not still currently active. If an LEA does not currently have in place a policy that addresses extraordinary circumstances, the LEA may amend or create a new policy that includes emergency compensation contingencies for Federal and non-Federal employees.
10	If a conference, training, or other activity funded by a federal grant is cancelled due to COVID-19, may grant funds be used to reimburse nonrefundable travel	Other than the potential carryover funding that has not already been encumbered for the cancellations of events or has not been redistributed through approved amendments for other activities, LEAs should not assume that funding lost for these planned activities will be available at a later date. LEAs should attempt to recoup all fees paid where appropriate so that funding may be repurposed for alternative activities. In the case that certain funds cannot be recouped due to vendors that will not refund the costs but will provide vouchers, LEAs should consider rescheduling for a later date within the same project

#	Question	Answer
	(e.g., conveyance or lodging) or registration costs that were properly chargeable to the grant at the time of booking?	period if possible. If all else fails and certain funds are lost, the LEA must keep documentation of their efforts to recoup the costs and may charge the lost funds to the federal grant award. If the LEA later receives a refund from a vendor after already obtaining reimbursement from NDE, this will be considered by NDE as a rebate or cash on hand, which must be either returned to NDE or be proportionally reduced the next LEA reimbursement request under the same project.
11	If an LEA is planning future travel through a federal grant, can the LEA purchase travel insurance with grant funds?	Due to health concerns related to COVID-19, grant-supported travel generally should not be occurring. However, if travel is permitted by Federal, State, and LEA directives, and is the only means to carry out an essential grant function that must be undertaken on a time-sensitive basis during the COVID-19 pandemic, consistent with the LEAs travel policy, travel insurance is allowable provided the cost is reasonable, necessary and allocable to the grant consistent with the Federal cost principles described in 2 CFR Part 200 Subpart E of the Uniform Guidance.
12	Are LEAs required to document COVID-19 related costs? UPDATED	Yes. LEAs should document all excess costs related to COVID-19 outbreak that are beyond normal operational expenses. The method for tracking and documenting these expenses should be determined by the LEA. LEAs may request reimbursement for these expenses beginning March 13, 2020, the date the President declared the national emergency due to COVID-19 up to the date NDE approves the LEAs ESSER application or the July 17, 2020 deadline NDE required the application to be submitted. LEAs may be required to provide detailed costs justifications related to the COVID-19 outbreak and other relevant documentation in their reimbursement requests to NDE.
13	Does the CARES act specify carryover and funding obligation timeframes? Do SEAs get a specific amount of time extension for obligating funds?	Funding from CARES will be available for obligation at the Federal level through September 30, 2022. The Tydings Amendment under the General Education Provisions Act (GEPA) allows SEAs and LEAs an additional year to expend the funds. Any funds not spent after September 30, 2022 will revert back to the federal government.
14	How long do SEA's have to award all ESSER and GEER funds to LEAs and other subgrantees after receiving them?	SEAs must award funds to LEAs and other eligible subgrantees within one year of receiving them. Any money that remains unawarded by SEAs after a year, must be returned to USED for reallocation to other states.
15	Will the Title I set aside	No. While the ESSER funding is allocated to SEAs and LEAs based on

#	Question	Answer
	requirements apply to the CARES funding?	their FY 2019-2020 Title I formula allocations, these are not considered Title I funds. Therefore, Title I funding requirements do not apply to the funding provided under the CARES Act.
16	Does the CARES Act include a supplement, not supplant requirement?	No. Neither the ESSER nor the Governor’s Emergency Relief Fund (GEER) includes a supplement, not supplant requirement.
17	Must SEAs and LEAs pay existing contracted employees in order to receive CARES Act funds?	Section 18006 of the CARES Act requires entities that receive ESSER or GEER funding to continue to pay their employees and contractors “to the greatest extent practicable.” Thus, paying employees and contractors is the intent and is encouraged, but it is not a prerequisite to receiving funds.

Uses of Funds by LEAs under the Elementary and Secondary School Emergency Relief Fund (ESSER)

#	Question	Answer
18	How do SEAs determine LEA allocations of the ESSER funds?	SEAs must award at least 90% of their ESSER funds to LEAs. LEAs are allocated funds based on the proportion of Title I, Part A funds they received in the most recent fiscal year (FY 2019-2020). For example, if a LEA received 10% of a State’s Title I, Part A funds in the in FY2019-2020, the LEA would receive 10% of the available ESSER funds. Actual allocations of ESSER funds for all LEAs were posted on the NDE website May 12, 2020.
19	Are LEAs that did not receive Title I funds in the most recent fiscal year (FY 2019-2020) Eligible for ESSER funds?	No, LEAs that did not receive Title I funds in FY19-20 are not eligible to receive funds. LEAs receive ESSER allocations based on their proportionate share of Title I funds. If an LEA did not receive Title I funds in FY 2019-2020 because the LEA was not eligible or if the LEA declined Title I funding, then the LEA is not eligible for a share of the ESSER Funds.
20	Could an SEA award some of the SEAs set-aside of ESSER funds to an LEA that did not receive Title I, Part A funds in FY 2019-2020?	Yes. SEAs may use their portion of set-aside funds to address any emergency needs in respond to the COVID-19 outbreak, including the use of grants or contracts. This could include granting funds to LEAs that are were not eligible for ESSER funds because they did not receive Title I, Part A funds in FY 2019-2020.
21	How can LEAs spend their ESSER funds?	USED has provided guidance that LEAs may spend their funds on a wide variety of activities including but not limited to:

#	Question	Answer
		<ol style="list-style-type: none"> 1) Any activity authorized by the Elementary and Secondary Education Act (ESEA), the Individuals with Disabilities Education Act (IDEA), the Adult Education and Family Literacy Act (AEFLA), the Carl D. Perkins Career and Technical Education Act (Perkins), or the McKinney Vento Homeless Education Assistance Act, 2) Coordination of LEA preparedness and response efforts to improve coordinated responses with other agencies to prevent, prepare for, and respond to the CORVID- 19 outbreak, 3) Providing principals and other school leaders with the resources necessary to address school needs, 4) 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, 5) Developing and implementing procedures and systems to improve LEA preparedness and response efforts, 6) Training and professional development for LEA staff including training on sanitation and other activities necessary to minimize the spread of this infectious disease now and once schools are reopened, 7) Purchasing supplies to sanitize and clean all LEA facilities, 8) Planning for and coordinating activities during long-term school closures, including how to provide meals, technology for online learning, guidance on IDEA requirements, and ensuring other educational services can continue to be provided as efficiently as possible and consistent with all applicable requirements, 9) Purchasing educational technology (including hardware, software, and connectivity) for students served by the LEA that aids in regular and substantive educational interactions between students and their classroom teachers, including assistance technology or adaptive equipment, 10) Providing mental health services and supports, 11) Planning and implementing activities related to summer learning and supplemental afterschool programs and addressing the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care, and 12) Other activities that are deemed and justified as necessary to maintain operations and continuity of services and continuing to employ existing staff. <p>Again, all activities must be deemed necessary, reasonable and allocable.</p>
22	Can SEAs set LEA expectations for allowable uses within	Local spending decisions and options for ESSER funds are generally broad and flexible, consistent with the federal government’s goal of

#	Question	Answer
	the federal guidelines?	<p>preventing, preparing for, and responding to the COVID-19 outbreak. All of the federal government’s normal grant cost principles will apply to all ESSER and other CARES Act funds, including the requirement that all spending be necessary, reasonable and allocable. Because these funds are state-administered, SEAs will have a role to play in ensuring that activities supported with ESSER meet federal grant requirements, including all federal cost principles. USED has also required certain reporting requirements of the SEAs.</p> <p>There may be limitations on whether an SEA can direct an LEA to use these funds in specific ways. As an example, when Congress appropriated stabilization funds in the 2009 for the American Recovery and Reinvestment Act, USED advised states they could not mandate how LEAs could spend those funds. While that 2009 guidance does not apply to CARES Act funding, it is possible USED might take a similar position for the CARES Act funding. We will provide an update here as additional information on this subject is received.</p>
23	How can federal funding help with efforts to provide internet/wi-fi access to all students?	<p>Federal program funding such as Title I, A and Title IVA may be utilized to purchase wi-fi hotspots for students who need access while schools are closed. We recommend that LEAs work with your federal grant specialist listed below to determine program eligibility to process amendments if repurposing funding for this activity is needed by the LEA. With so many on-site professional development opportunities already canceled and uncertainty regarding planned summer events, we encourage LEAs to review their Title program FY 2019-2020 professional development and travel budgets to determine what funds will be impacted by cancellations that are not able to be rescheduled in the federal grant period. As an example, Title II funding can be transferred to Title I or Title IV where this funding can be utilized for the purchase of wi-fi hotspots. See number 42 below for details. Your NDE federal grant specialist will work with you and will provide you more information regarding transferring funds through the amendment process. Wi-fi hotspots can be purchased with Title IV funds and can be budgeted in the Well-Rounded Education content area as these funds would be used to access well-rounded academic funding needed for eLearning.</p>
24	Can the ESSER funds benefit any school in the LEA, regardless of	<p>Yes. SEAs must allocate ESSER funds to LEAs based on their proportionate share of Title I, Part A funds, but ESSER funds are not considered Title I funds. Therefore, ranking and serving, school and</p>

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	<p>a school's Title I, Part A status?</p>	<p>student eligibility, and other all other related Title I requirements do not apply to ESSER funds and LEAs have discretion in how they distribute funding to their schools in response to COVID-19.</p> <p>LEAs may spend their ESSER funds on any necessary, reasonable and allocable activities listed in Section 18003(d) and can be districtwide activities. For example, an LEA may choose to spend funds to benefit individual non-Title I schools, to provide principals and other school leaders with resources to address specific needs due to the COVID-19 outbreak, (Sec. 18003(d)(3)); the ESSER funding may be used at any individual school regardless of Title I status.</p> <p>The CARES Act encourages SEAs and LEAs to consider ways they can provide additional support in meeting the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, children in foster care, and other vulnerable populations, which is all allowable and encouraged use of ESSER funds.</p>
<p>25</p>	<p>What is the relationship between the ESSER additional funding and Title I funding? Will a district's total Title I carryover amount be based on the combined amount of ESEA and CARES Act funds?</p>	<p>The ESSER funding is a separate funding source from an LEAs regular proportionate share of Title I funds. Although the funds are distributed to SEAs and LEAs based on Title I formula allocations, they are not bound by Title I requirements. The ESSER funds do not count towards an LEAs Title I carryover limit. They are not governed by Title I's spending rules (for example, there is no supplement, not supplant requirement), and they are not limited to only Title I eligible students and schools.</p> <p>We encourage all LEAs to work with their NDE grant specialist listed below to answer questions regarding carryover for all other federal program grant funding.</p>
<p>26</p>	<p>Should LEAs spend local and other federal funds to address immediate COVID- 19 needs with the expectation that they can recode expenses for reimbursement to these new funds once they are finally allocated?</p>	<p>Yes. See #27 below for additional information and guidance.</p>
<p>27</p>	<p>Can LEAs use funds to reimburse expenses they are incurring</p>	<p>Yes. USED provided guidance that allows funding under the CARES Act to be retroactive to March 13, 2020, the beginning of the COVID-19 outbreak. The process for reimbursements will be provided by</p>



#	Question	Answer
	now?	<p>NDE soon.</p> <p>It is important for LEAs to understand the requirement and expectation of maintaining appropriate and adequate records and documentation that address the degree to which exception and/or flexibility was exercised to support and justify these charges. The documentation must substantiate decisions made to be eligible for reimbursement.</p>

Use of Funds under the Governor’s Emergency Education Relief (GEER) Fund

#	Question	Answer
28	Which entities can receive emergency grants from Governors through the GEER Fund?	<p>Governors may provide subgrants to local educational agencies (LEAs) and institutions of higher education (IHEs) within their jurisdiction that have been “most significantly impacted by coronavirus” to support their ability to continue providing educational services to their students and to support the “on-going functionality” of these entities. In addition, a Governor may use these funds to provide support through a subgrant or a contract to other LEAs, IHEs, and education-related entities that the Governor “deems essential” for carrying out emergency educational services, providing child care and early childhood education, providing social and emotional support, and protecting education-related jobs. In these</p> <p>FAQs, LEAs, IHEs and education-related entities are collectively called “eligible entities.”</p> <p>For purposes of the GEER Fund, the term “local educational agency” is defined in Section 8101(30) of the ESEA. In lay terms, a LEA is a local school district, although public charter schools can also be LEAs. The term “institution of higher education” is defined in Sections 101 and 102 of the Higher Education Act of 1965, as amended (HEA). In lay terms, an IHE is a postsecondary institution that is accredited, legally authorized by the State, and recognized by the Secretary of the U.S. Department of Education.</p>
29	What is an “education-related entity” ?	<p>The GEER Fund statute allows subgrants to, or contracts with, education-related entities. An education-related entity is a governmental, nonprofit or for-profit entity within the State that</p>

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		<p>provides services that support preschool, elementary, secondary, or higher education. Such entities may include, for example:</p> <ul style="list-style-type: none"> • State agencies that oversee or directly provide early childhood education services; • Public agencies or private entities that coordinate or directly provide early intervention services under Part C of the Individuals with Disabilities Education Act (IDEA); • State agencies that oversee or provide vocational rehabilitative services; • State mental health agencies; • State Higher Education Boards; • Education-related non-profit organizations; • Non-public elementary, secondary and postsecondary schools; • For-profit elementary, secondary and postsecondary schools; • Charter management organizations; • Non-profit and for-profit child-care centers; • Public libraries; • Community centers; and • State or local agencies coordinating food services for students and their families
30	<p>Is a Governor required to award the funds to each category of eligible entities (i.e., LEAs, IHEs, and educational related entities)?</p>	<p>No. A Governor has wide discretion in determining the entities in the State that will receive GEER funds. A Governor can choose to fund only LEAs, only IHEs, only education-related entities, or any combination of eligible entities.</p>
31	<p>In order to provide emergency grants to IHEs and LEAs (which receive direct aid through other parts of the CARES Act), does the Governor need to make any other determinations?</p>	<p>If the recipients are LEAs, the State educational agency (SEA) must determine that the LEAs have been the “most significantly impacted by coronavirus” to be eligible for a GEER Fund emergency grant. Similarly, if IHEs are the recipients, the Governor must determine them to be the “most significantly impacted by coronavirus.” USED will require Governors to make publicly available the criteria used in determining the LEAs and IHEs that are “most significantly impacted by coronavirus,” including how they formulated the criteria.</p>
32	<p>May the Governor use GEER funds to award scholarships, microgrants or financial aid directly to students or teachers?</p>	<p>No, not directly. If Governors wish to provide scholarships, financial assistance or microgrants to students or teachers, they must provide a subgrant to an eligible entity, which could, in turn, provide scholarships or microgrants consistent with the CARES Act. A Governor is prohibited from awarding GEER funds to individuals.</p>

#	Question	Answer
33	May a Governor or an eligible entity use GEER funds to pay for costs incurred prior to receiving grant funds ?	Yes. A Governor or an eligible entity may use GEER funds for any allowable expenditure incurred on or after March 13, 2020, the date the President declared the national emergency due to COVID-19.
34	May a Governor or a subgrant eligible entity use GEER funds to defray the costs of administering the program ?	Yes. The Governor and each eligible entity may charge as an expense to the GEER Fund an amount that is reasonable and necessary to effectively administer the program consistent with cost principles in 2 C.F.R. part 200, subpart E of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). Administrative costs include costs (direct and indirect) involved in the proper and efficient performance and administration of this Federal grant. However, to maximize the funds available for services to students and the public, USED encourages each Governor and subgrantee to minimize the amount of administrative costs charged to the program.
35	May a Governor set a specific administrative cost cap on eligible entities to maximize the amount of funding available for services?	Yes. To maximize the funds available for services to students and the public, USED encourages each Governor to limit the amount that subrecipients can charge for direct administrative costs in carrying out their GEER Fund projects.
36	Who should a Governor designate to be the fiscal agent for the GEER Fund grant ?	Each Governor must designate a State Agency as the fiscal agent to administer the GEER Fund, which may be the Office of the Governor or another State entity. In the GEER Fund Certification and Agreement, the Governor provides the legal name of the State Agency serving as the fiscal agent and its DUNS number. The fiscal agent is responsible for overseeing and monitoring all GEER Fund activities in the State. Therefore, it is recommended that the Governor designate an agency with appropriate experience in administering Federal grants and an understanding of the types of activities that may be supported by the GEER Fund. The fiscal agent may partner with additional State Agencies or other entities to administer the State's GEER Fund. However, such arrangements do not obviate the fiscal agent's responsibility for oversight of the GEER Fund.

#	Question	Answer
37	Is there a deadline by which a Governor must award GEER funds to eligible entities (i.e., LEAs, IHEs, and education related entities)?	Yes. Each Governor must award the State’s allocation under the GEER Fund to eligible entities within one year of receiving the State’s allocation. Any funds that the Governor fails to award by the one-year deadline must be returned to the Department for reallocation to the remaining States.
38	How does a Governor award emergency funds to eligible entities?	Emergency support to LEAs and IHEs under sections 18002(c)(1) and (c)(2) of the CARES Act must be awarded through subgrants. Support provided to LEAs, IHEs, or other education-related entities under 18002(c)(3) may be provided through either subgrants or contracts. When the Governor awards funds to LEAs, IHEs, or other education-related entities through subgrants, the designated State Agency fiscal agent carries out the requirements for a pass-through entity described in 2 C.F.R. § 200.331. When the Governor awards a contract to an eligible entity, the Governor must follow the State’s procurement process as required by 2 C.F.R. § 200.317.
39	Must an LEA submit a local application to the Governor in order to receive an award under the GEER Fund?	Yes. An LEA must file a local application with the Governor in order to receive a GEER Fund subgrant. Each Governor will develop their own application process and application criteria; LEAs should contact the relevant State office for additional details. For information about what a Governor must include in its local application for a GEER subgrant, please reference the GEER Certification & Agreement.
40	How much flexibility does an LEA have in determining the activities to support with GEER funds?	Unless otherwise restricted by the Governor at the time he or she awards GEER Fund subgrants or contracts, the LEA (including a public charter school LEA) has considerable flexibility in determining how best to use GEER funds to prevent, prepare for, or respond to COVID-19. The LEA may use these funds for, among other things, any activities that are authorized under the ESEA.
41	How may an LEA or an IHE use GEER funds to support continued education for all students through distance education?	USED encourages States, LEAs and IHEs to invest GEER funds in technology infrastructure and professional development that will improve capacity to provide high-quality, accessible, distance education, or remote learning. This may include: <ul style="list-style-type: none"> • Providing off-campus access to reliable, high-speed internet for students and teachers through the purchase of internet-connected devices/equipment, mobile hotspots, wireless service plans, or installation of Community Wi-Fi Hotspots, especially in underserved communities; • Purchasing hardware and software applications for students and teachers; • Providing access to high-quality digital learning content, apps,

#	Question	Answer
		<p>and tools that can deliver engaging and relevant learning experiences that are accessible to all students;</p> <ul style="list-style-type: none"> • Covering costs associated with making materials accessible for students with disabilities or English learners; and • Providing professional development and training for teachers on effective strategies for the delivery of remote and digital instruction.
42	How may an IHE use GEER funds?	<p>Subject to any restrictions that a Governor places on an IHE’s use of GEER funds, an IHE may use the funds, awarded under section 18002(c)(2) of the CARES act, to support a broad array of activities. For example, an IHE might use GEER funds to provide:</p> <ul style="list-style-type: none"> • Staff, infrastructure and technology to support distance education, or remote learning; • Academic support for libraries, laboratories, and other academic facilities; • Institutional support for activities related to personnel, payroll, security, environmental health and safety, and administrative offices; • Student services that promote a student’s emotional and physical well-being outside the context of the formal instructional program; and • Student financial aid, such as IHE-sponsored grants and scholarships.
43	How long are GEER funds available for obligation by subrecipients?	<p>An LEA, IHE, or education-related entity receiving a subgrant from the Governor must obligate the funds by September 30, 2022 which includes the Tydings period (General Education Provisions Act §421(b)(1)). However, the GEER Fund is an emergency appropriation to address the harm to students and the ongoing functionality of LEAs and IHEs caused by COVID-19. As a result, the Secretary strongly urges LEAs, IHEs and education-related entities to deploy GEER funds quickly.</p>
44	Does subgranting of funds to an eligible entity constitute a final “obligation” of those funds?	<p>No. Subgranting funds to an LEA, IHE, or education-related entity does not constitute a final or ultimate obligation of those funds. Rather, those funds are considered a final obligation when the LEA or IHE commits those funds to specific purposes.</p> <p>For example, if an LEA awards a contract, that is an obligation. In contrast, subgranting funds to an LEA or other subrecipient is not an obligation; rather, these funds are not obligated until the LEA or other subrecipient commits the funds to specific purposes.</p>
45	What maintenance of effort (MOE)	See MOE FAQs 49-64 below.

#	Question	Answer
	requirements apply to the GEER Fund?	
46	What is Nevada’s share of the GEER FUND?	Nevada’s share of the GEER funding is \$26,503,000, which was 0.90% of the total \$2,953,230,000 in nationwide GEER funding.
47	How may LEAs spend their Governor’s Emergency Education Relief Funds (GEER)?	The use of GEER funds is at the discretion of the Governor. If the Governor allocates a funding share of the GEER funds to an LEA, the LEA may spend them on activities to support the LEAs ability to continue to provide educational services to its students and to support the LEAs ongoing functionality. We will provide an update and an application process that is currently being developed by NDE for the GEER sub-grant soon.
48	Can the Governor’s GEER Fund (Section 18002 of the CARES ACT) be used to replace state aid education funds?	No. The GEER funds cannot be used to replace state aid education funding. These funds must be used for emergency grants to LEAs and Institutes of Higher Education (IHEs) that are significantly impacted by the COVID-19 outbreak, or to support other eligible education related entities within the state the Governor deems “essential for carrying out emergency educational services.” LEAs, IHEs, and other education related entities can use this money flexibly once it is received to provide educational services and to “support ongoing functionality.” The SEA cannot use these funds as a replacement for its normal state aid formula funds. The state must decide which entities are most impacted by the COVID-19 outbreak, or are essential for carrying out emergency educational services, and allocate the funds accordingly.



Maintenance of Effort

#	Question	Answer
49	<p>What are the maintenance of effort (MOE) requirements that apply to the CARES Act Programs?</p>	<p>As a recipient of GEER or ESSER funds, both the Governor and the SEAs, respectively, assure that the State will maintain support during fiscal years (FYs) 2020 and 2021 for elementary and secondary education, as well as support for higher education under Section 18008(a) of the CARES Act.</p> <ul style="list-style-type: none"> • Elementary and Secondary Education MOE Requirement: The SEA must maintain support for elementary and secondary education in each of fiscal years (FY) 2020 and 2021 at least at the level of such support that is the average of the support for elementary and secondary education provided in the three fiscal years preceding the date of enactment of the CARES Act (FYs 2017, 2018, 2019). See FAQs 49 and 50. • Higher Education MOE Requirement: The SEA must maintain support for higher education in each of FYs 2020 and 2021 at least at the level of such support that is the average of the State’s support for higher education provided in the three fiscal years preceding the date of enactment of the CARES Act (FYs 2017, 2018, 2019). See FAQs 50 and 51.
50	<p>What is meant by the term “fiscal year” in determining MOE?</p>	<p>For purposes of determining MOE, an SEA may use either the applicable Federal fiscal years (which run from October 1 through September 30) or the applicable State fiscal years. If using the applicable State fiscal year (generally July 1, 2019 to June 30, 2020), FY 2020 is the State fiscal year that aligns with school year (SY) 2019-2020. FY 2021 is the State fiscal year (generally July 1, 2020 to June 30, 2021) that aligns with SY 2020-2021.</p>
51	<p>What three fiscal years must a State average in calculating the “floor” or comparison level for determining MOE?</p>	<p>To establish a baseline for determining MOE, the SEA must calculate separately the average support for elementary and secondary education and for higher education for the three fiscal years prior to enactment of the CARES Act (March 27, 2020). Those fiscal years are FY 2017 (generally SY 2016-2017), FY 2018 (generally SY 2017-2018), and FY 2019 (generally SY 2018-2019).</p>
52	<p>How does a State quantify the amount of its support for elementary and secondary education?</p>	<p>The CARES Act does not define how the State would determine its “support for elementary and secondary education” for the purposes of the MOE requirement, and USED is not defining this term through regulation. Rather, in recognition of the variations in education finance data and the lack of a statutory definition, USED is providing States with principles that provide flexibility in quantifying the amount of that support.</p>

#	Question	Answer
		<p>In quantifying its support for elementary and secondary education, the data used by the State to determine the level of support must:</p> <ul style="list-style-type: none"> • Include funds provided through the principal funding mechanisms through which a State provides support for elementary and secondary education. • Be consistent from year to year. • Be based on adequate documentation that substantiates the levels of support that it has used in making MOE calculations. <p>In quantifying support for elementary and secondary education, the State may choose to establish its level of support:</p> <ul style="list-style-type: none"> • Solely on the basis of the amount of funds provided through its primary elementary and secondary education funding formula(e). • By including categorical and other support that is not provided through the primary funding formula(e). For example, a State may include data such as funding under State auspices for non-appropriated support (e.g., tobacco settlement funds and lotteries) specifically set aside for current expenditures for elementary and secondary education and interest or earnings received from State endowments pledged to elementary and secondary education. • On the basis of data that it provides for other purposes, such as data that it includes as “Revenue from State Sources” in the annual National Public Education Finance Survey conducted by the National Center for Education Statistics (NCES).
53	<p>What resources are publicly available to assist a State in determining the levels of support for elementary and secondary education?</p>	<p>One way a State may choose to quantify the level of support for elementary and secondary education is to report the same information a State includes as “Revenue from State Sources” in the National Public Education Finance Survey (NPEFS). (See https://nces.ed.gov/ccd/stfis.asp and http://nces.ed.gov/ccd/pdf/NPEFSmanual2004.pdf.) This is a survey of States that is conducted annually by the National Center for Education Statistics. NPEFS identifies four types of State support for LEAs:</p> <ul style="list-style-type: none"> • Unrestricted Grants-in-Aid: State grants to LEAs that can be used, without restriction, for any legal purpose desired by the LEA;

#	Question	Answer
		<ul style="list-style-type: none"> • Restricted Grants-in-Aid: State grants to an LEA that must be used for a “categorical” or specific purpose; • Revenue in Lieu of Taxes: Commitments or payments made out of general revenues by a State to an LEA in lieu of taxes that the State would have had to pay had its property or other tax base been subject to taxation on the same basis as privately owned property. This revenue includes payments in lieu of taxes for privately owned property that is not subject to taxation on the same basis as other privately owned property because of action(s) taken by a State; and • Revenue for, or on Behalf of, the LEA: State commitments or payments for the benefit of an LEA and contributions of equipment and supplies. Such revenue includes payments made for, or on behalf of, an LEA by a State to a pension fund for LEA employees.
54	<p>May a State demonstrate support for elementary and secondary education on either an aggregate or a per-student basis?</p>	<p>Yes. In comparing the level of support for elementary and secondary education in each of FYs 2020 and 2021 with the level of such support for the average of FYs 2019, 2018, and 2017, a State may measure support on either an aggregate or per-student basis. If a State demonstrates support on an aggregate basis, i.t is not necessary for a State to maintain its level of support for individual categories of activities.</p>
55	<p>How does a State quantify the amount of its support for higher education?</p>	<p>Although the CARES Act excludes certain data from the MOE determination, it does not define how the State would determine its “support for higher education,” and USED is not defining this term through regulation. Rather, in recognition of the variations in the types of support for higher education and the lack of a statutory definition, USED is providing States with principles that provide flexibility in quantifying the amount of that support.</p> <p>In quantifying support for higher education, the data used by the State to determine the level of support must:</p> <ul style="list-style-type: none"> • Include only State support for higher education. In some States, local governments may provide support for community colleges or other institutions of higher education (IHEs). Local government contributions are not considered State support. • Include funds provided by the principal funding mechanisms through which a State provides support to IHEs. For example, the data would include State appropriations for higher education. A State must consider unrestricted State funding for IHEs to be State support for such institutions even if those

#	Question	Answer
		<p>institutions choose to use a portion of that funding for financial assistance to students. This financial assistance is not considered to be tuition and fees paid by students or direct State support to students.</p> <ul style="list-style-type: none"> • Include State need-based financial aid. • Be consistent from year to year. • Be based on adequate documentation that substantiates the levels of support that it has used in making MOE calculations. <p>In quantifying support for higher education, the data used by the State to determine the level of support may:</p> <ul style="list-style-type: none"> • Include data in addition to that provided in the appropriations enacted by the State legislature for IHEs. For example, a State may include data such as funding under State auspices for non-appropriated support (e.g., tobacco settlement funds and lotteries) specifically set aside for higher education and interest or earnings received from State endowments pledged to IHEs. • Include State appropriations to IHEs for financial assistance programs to defray the costs of tuition and fees paid by students (when the appropriated funds flow directly to the IHEs). The fact that the funds represent student financial aid for other purposes does not preclude such funds from consideration as State support for higher education in the CARES Act programs. <p>In quantifying support for higher education, the data used by the State to determine the level of support may <i>not</i> include:</p> <ul style="list-style-type: none"> • Support for capital projects, research and development, or tuition and fees paid by students. If a State provides unrestricted State funding to IHEs and does not make separate appropriations for capital expenditures or research and development, the State must estimate the amount of capital expenditures and research and development expenditures to be excluded from the unrestricted funding. • Support from private donors, such as charitable contributions that individuals make to IHEs. This includes corporate contributions for IHEs, such as payments that a corporation makes for stadium-naming rights. • Federal funds.
56	May a State demonstrate support	Yes. In comparing the level of support for education in each of FYs 2020 and 2021 with the level of such support for the average of FYs

#	Question	Answer
	for higher education on either an aggregate or a full-time-equivalent (FTE) basis?	2019, 2018, and 2017, a State may measure support on either an aggregate basis or on a FTE enrollment basis. If a State demonstrates support on an aggregate basis, it is not necessary for a State to maintain its level of State support for individual categories of activities
57	What resources are publicly available to assist States in determining their levels of State support for higher education?	<p>One way a State may quantify State support for IHEs is to use the definitions from the SHEF study conducted by SHEEO, an annual data collection of all State and local revenue used to support higher education. (See https://shef.sheeo.org/report/). In that study, SHEEO identifies the following as State revenue sources for public IHEs:</p> <ul style="list-style-type: none"> • State tax appropriations set aside specifically to support public higher education; • Funding under State auspices for appropriated non-tax support (e.g., tobacco settlement funds and lotteries) specifically set aside for public higher education; and • Interest or earnings received from State endowments pledged to public IHEs.
58	When will USED collect a State’s baseline MOE data (i.e., the data demonstrating the State’s level of support for elementary and secondary education and for higher education for FYs 2017, 2018, and 2019).	USED will collect baseline MOE data by September 1, 2020.
59	When will USED collect data on a State’s level of support for elementary and secondary education and for higher education for FYs 2020 and 2021?	USED intends to collect data on a State’s level of support for FY 2020 and FY 2021 approximately 90 days after the close of the respective fiscal years.
60	May the Secretary waive the CARES Act	Yes. Under section 18008(b) of the CARES Act, USED may waive the elementary and secondary MOE requirement and the higher

#	Question	Answer
	programs MOE requirements ?	education MOE requirement for the purposes of relieving fiscal burdens on States that have experienced a precipitous decline in financial resources.
61	When does USED anticipate reviewing requests for waivers of the CARES Act programs MOE requirements?	USED anticipates reviewing requests for waivers of the CARES Act MOE requirements at the end of FY 2021 (i.e., after September 2021). At that time, USED will consider any requests for waivers related to the State’s FY 2020 and 2021 levels of support. This timeframe will allow USED to consider the waivers in the context of each State’s effort to maintain support for elementary and secondary education and higher education with a full understanding of the economic impact of COVID-19 on State and local revenues and subsequent funding decisions. This will also eliminate the need for a State to file more than one waiver request.
62	What does it mean for a State to experience “a precipitous decline in financial resources ”?	The CARES Act does not define the term “precipitous” and USED does not intend to issue regulations on the statutory MOE requirements in section 18008(a) or the Secretary’s waiver authority in section 18008(b). In considering whether a given State has had a precipitous decline in financial resources, USED will rely on the plain meaning of the word “precipitous.” In other words, USED will consider whether there has been an abrupt, steep drop in financial resources available for State effort to support elementary, secondary and postsecondary education.
63	What information and data might the Secretary consider when reviewing MOE waiver requests ?	<p>In reviewing a request for an MOE waiver, the Secretary will first determine, based on financial data provided by the State, whether the State has experienced a precipitous decline in financial resources. That information would include, for example, data on State revenues from the base years (FY 2017 to FY 2019) and the MOE comparison years (FY 2020 and FY 2021 years). To the extent that a State uses both State and local contributions to establish its levels of support for elementary and secondary education, the information would include data on both State and local revenues.</p> <p>If a State demonstrates that it failed to maintain fiscal effort as a result of a precipitous decline in financial resources, the Secretary will then determine whether to grant the State a waiver of the MOE requirements based on considerations including but not limited to the following:</p> <ul style="list-style-type: none"> • Whether the percentage of State revenues spent on elementary and secondary education in FYs 2020 and 2021 is at least as high as the percentage prior to the COVID-19 pandemic.

#	Question	Answer
		<ul style="list-style-type: none"> • Whether the percentage of State revenues spent on higher education in FYs 2020 and 2021 is at least as high as the percentage prior to the COVID-19 pandemic. • Whether the decreases in support for education were due to the COVID-19 pandemic. • Whether the State took steps to ameliorate its levels of support for education from State FY 2020 to State FY 2021.
64	What is the penalty if a State is not able to demonstrate that it maintains fiscal effort consistent with the requirements of the CARES Act and does not receive a waiver of those requirements from the Secretary?	If a State fails to meet the MOE requirements and does not receive an MOE waiver, USED generally would be entitled to recover the full amount of a State’s GEER Fund and ESSER Fund awards. There may be circumstances that justify other appropriate enforcement actions, which may include placing additional grant conditions on a State’s CARES Act programs under 2 C.F.R. § 200.207, designating an entity as a high-risk under 2 C.F.R. § 3474.10, and withholding of CARES Act funds under section 455 of the General Education Provisions Act.

Transferring State and Local Funds

#	Question	Answer
65	Where can an LEA or other CARES Act eligible entities find additional information regarding transferring state and local funds ?	Please refer to the USED link below – Fact Sheet For Transferring State-and Local-Level Funds. https://www2.ed.gov/documents/coronavirus/covid19-transfer-funds.pdf

#	Question	Answer
66	Will USED have 30 days to submit additional potential areas for waivers to Congress?	<p>Under the new National Emergency Educational Waivers authority, LEAs will be able to apply directly to USED for waivers of certain ESEA requirements. This is unlike the waiver authority in ESEA Section 8401, which requires LEAs to send their applications to the SEA, which then forwards them to USED if the SEA deems the request appropriate.</p> <p>NDE applied and was approved for all of the waiver flexibilities on behalf of our LEAs; thus, LEAs do not need to apply directly to USED for any waivers. If LEAs would like to take advantage of any of the waivers, they will need to submit a simple form to NDE. Please note that, per USED, waivers are only applicable to the 2019-2020 school year.</p>
67	Do you have specific details on when USED waivers will be released, or are states moving forward based on OMB guidance at this time?	<p>This question touches on two different types of waivers. First, are waivers of ESEA requirements. Both ESEA and the CARES Act permit USED to waive certain ESEA requirements. SEAs can apply for ESEA waivers at any time using the mechanisms described in Section 8401 of the law. The definition of professional development is described in Section 8101(42) of ESEA for the FY-2019-2020 school year. Second, are the waivers of OMB's Uniform Grant Guidance (UGG) requirements that apply to USED funds. OMB has authorized federal agencies to waive certain UGG requirements. <i>On April 7, 2020, USED approved NDE's request for certain federal grant requirements. Through this waiver, LEAs and schools are granted flexibility in the following areas:</i></p> <ul style="list-style-type: none"> • All LEAs are allowed to carry over more than 15% of their Title I, Part A funds. • An extension was granted for LEA's to spend FY-2019/ SY 2018-2019 federal funds until September 30, 2021 for programs necessary in each school. • It allows LEA's to use Title IV, Part A funds without limits on technology and without requiring an amendment of a needs assessment to do so. • It provides greater flexibility to LEA's and schools to provide short-term professional development for educators to meet their immediate needs. <p>The NDE Office of Student and School Supports is currently preparing additional guidelines for LEA's and schools related to this waiver.</p>

#	Question	Answer
68	Do you anticipate 12 or 24-month waivers to extend the use of funds ? Will the waivers apply to school year 2019-2020 funds only or also to school year 2018-2019?	USED will have the authority to grant the new National Emergency Educational Waivers only for school year 2019-2020. The only exception is for MOE determinations; for those, a state may receive a waiver the covers its spending in 2019-2020 and the waiver may extend through additional fiscal years as applicable to the implementation.
69	Do you anticipate a one-page waiver for federal programs from USED similar to USED's expedited assessment and accountability waiver released on March 20, 2020?	While the law calls for a streamlined process with respect to the provisions which SEAs exclusively can request waivers of (assessments, accountability, reporting provisions related to these items and carryover limitations), USED has not yet indicated what the waiver request instructions will look like.
70	Will the process to obtain a carryover waiver for Title I and other federal grant programs be similar to what some states requested/had approved in a USED Ed-Flex waiver program?	Under the CARES Act, SEAs and LEAs may request a waiver from the Secretary to waive the cap of 15% on the amount of Title I funds that can be carried over. Under the USED Ed-Flex waiver program, states themselves grant waivers of certain provisions once approved for Ed-Flex participation, so individual Ed-Flex states may be subjected to different processes. There are multiple flexibilities regarding waivers in the various other federal grant programs. We encourage LEAs to work with the grant specialists listed below for waiver information specific to each federal grant program.



Title II, Part A (Title IIA)

#	Question	Answer
71	<p>In reference to the Memorandum - To The Heads Of Executive Departments And Agencies (M-20-17) - Does this document apply to Title IIA? Who is the awarding agency? USED or the SEA?</p>	<p>On March 19, 2020, OMB issued Memorandum M-20-17. This guidance provides flexibilities that each of the federal agencies, including the USED, may provide to grantees. Therefore, in the memo "awarding agencies" means federal agencies such as USED, and "awardees," "recipients," and "grantees" are terms describing SEAs that receive formula grants from USED, including Title IIA grants. USED is currently considering flexibilities it may offer for formula programs, including Title IIA grants. An SEA may not offer similar flexibilities to its subgrantees unless USED, as the awarding agency, provides this flexibility to the SEA.</p> <p>The FAQ will be updated when USED determines what additional flexibilities they may offer for formula programs.</p>
72	<p>Can LEAs allow carryover of any unspent funds for individual private schools without them applying to the prospective LEAs for a waiver for the 2020/21 year?</p>	<p>Title IIA funds allocated to LEAs for educational services and other benefits to eligible private school educators must generally be obligated in the fiscal year for which the funds are received by the LEA (Section 8501(a)(4)(B)). The purpose of this requirement is to ensure that an LEA obligates the funds available under a Title VIII-covered program to provide equitable services in the fiscal year for which the funds are appropriated so that eligible students and educators receive the services to which they are entitled in a timely manner. This provision reinforces the requirement that an LEA conduct timely consultation with private school officials to design appropriate equitable services so that those services can begin at the beginning of the school year for which the funds are appropriated.</p> <p>In a typical school year, if an LEA is providing equitable services as required and meeting the obligation of funds requirement, it generally should not have any significant carryover. <i>The ESEA, however, does not prohibit carryover of funds for equitable services and, in most cases, requires it.</i> Due to the current national emergency caused COVID-19, with many schools being closed for an extended period of time, we understand that the provision of equitable services is likely to be delayed. LEAs should consult with appropriate private school officials on whether to continue providing equitable services--e.g., via virtual opportunities--or whether carrying the funds over to next year to provide equitable services would be more appropriate. Please note that Title IIA funds for equitable services must remain in the control of the LEA; they do not become funds for a private school and therefore no waiver from the LEA is necessary or appropriate.</p>

#	Question	Answer
73	It is understood that online teaching platforms can be provided for professional development, but can it be extended to student use and paid for with Title IIA funds?	<p>While technology purchases associated with allowable uses of Title IIA funds (including allowable uses associated with distance learning) are permissible for teachers, principals, and other school leaders, purchases for students, including purchase of online teaching platforms, are not an allowable use of Title IIA funds. SEAs and LEAs may, however, transfer up to 100 percent of Title IIA funds to the Title IV, Part A program under which technology purchases for students are allowable.</p> <p><i>Please note that prior to transferring Title IIA funds, an SEA or LEA must engage in timely and meaningful consultation with appropriate private school officials. (ESEA section 5103(e)(2).) With respect to the transferred funds, the SEA or LEA must provide private school students and teachers equitable services under the program(s) to which, and from which, the funds are transferred, based on the total amount of funds available to each program after the transfer.</i></p>
74	If a device was purchased with Title IIA funds to use for professional development , can teachers use that device for providing instruction (dual purpose of one device) during this time of eLearning due to the COVID-19 pandemic?	<p>Generally, computers and other related devices purchased with Title IIA funds to carry out Title IIA professional development may only be used for purposes of that program. To combat the impact of COVID-19, however, USED has provided grantees and subgrantees an exception allowing temporary use of Federally purchased equipment and supplies that are not in use to carry out a federal grant program to meet the general education needs of students and teachers during the national emergency caused by COVID-19. See the April 29, 2020 question and answer at [www2.ed.gov/documents/coronavirus/...]. In the situation you pose, we assume the Title IIA computers would be idle during the time schools are closed and students are learning remotely. Accordingly, a Title IIA subgrantee may repurpose computers purchased with Title IIA funds that are not in use to carry out Title IIA professional development to be used, on a temporary basis during the national emergency caused by COVID-19, for students to enable continuity of learning.</p>
75	Has it been confirmed that state waivers for assessment and accountability include waivers on teacher evaluations? Does this include a waiver for the data reporting requirements on effective educators?	<p>This question is in reference to the waivers that NDE requested and was granted in response to USED's offer on March 13, 2020, to waive requirements in ESEA section 1111 regarding State assessments, accountability, and certain reporting requirements related to assessments and accountability for the 2019-2020 school year. <i>There are no Federal requirements in the ESEA mandating that SEAs or LEAs conduct teacher evaluations, so no waivers of State or local teacher evaluation requirements can be, or have been, granted by USED.</i></p> <p>If a States use Title IIA funds to implement a teacher, principal, or other school leader evaluation and support system, consistent with</p>

#	Question	Answer
		<p>ESEA section 2101(c)(4)(B)(ii), the State must report to USED on the results of that evaluation system (section 2104(a)(3)). This reporting requirement, which applies <i>only</i> if a State uses Title IIA funds to support its evaluation system, is addressed through USED’s annual survey, administered through <i>EDFacts</i>, on uses of SEA-level Title IIA funds. If a State uses Title IIA funds to support its evaluation system but cannot report on the results of the survey because student assessment data used in the system is not available, it would be appropriate for the State to simply note this in its response to the relevant question on the survey. States should note that the question on the SEA survey that addresses this reporting requirement asks for evaluation result data from the prior school year. Thus, the SY 2019-2020 survey will ask about evaluation results from SY 2018-2019, which States should have. Next year's SY 2020-2021 survey will ask States that use Title IIA funds to report on evaluation results from SY 2019-2020, which may not be available due to disruptions caused by the COVID-19 outbreak.</p> <p>This waiver also includes data reporting requirements on effective educators. ESEA section 1111(h)(1)(C)(ix) requires each State and LEA to report on its respective report card information on the professional qualifications of teachers, including the number of inexperienced teachers, teachers teaching with emergency or provisional credentials, and teachers who are not teaching in the subject or field for which they are licensed or certified. That reporting requirement has not been waived. Similarly, <i>USED has not waived ESEA section 1111(g)(1)(B), which requires a State to publicly report how low-income and minority children enrolled in Title I schools are not served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers.</i></p>
76	Can you clarify the ESEA Title IIA provisions under the CARES Act?	The CARES Act gives USED the authority to waive (for school year 2019-2020 only) the definition of “professional services” in ESEA section 8101(42). That definition covers all professional development provided under ESEA programs. No other provisions in CARES directly impact TIIA.
77	Does the waiver for professional development apply to allowable participants in that any school/LEA personnel can be funded with Title IIA?	No. The waiver provided is of the definition of "professional development" in ESEA section 8101(42). This waiver affects only the type of professional development an SEA or LEA provides with Title IIA funds (and funds under other ESEA programs that permit professional development). Absent the offered waiver, if an SEA or LEA uses Title IIA funds for allowable Title IIA "professional development" activities, the agency would need to ensure that the professional development meets the full definition of "professional development" in section 8101(42). An SEA with a waiver may, during

#	Question	Answer
		<p>the 2019-2020 school year, use Title IIA funds to support shorter-term LEA workshops and activities that are not necessarily sustained, "intensive, collaborative, job-embedded, data-driven, and classroom-focused." The waiver of section 8101(42) does not alter the types of educators who may receive professional development with Title IIA funds. For example, when ESEA section 2103(b)(3)(E) permits an LEA to use Title IIA funds to provide professional development "for teachers, instructional leadership teams, principals, or other school leaders," a waiver of section 8101(42) would not expand the types of school personnel included in this use of Title IIA funds.</p> <p>SEAs and LEAs should note that waving 8101(42) also does not affect the definition of "school leader" provided in section 8101(44). When Title IIA permits professional development to be provided to "other school leaders," this means a school leader who is a principal, assistant principal, or other educator who is: an employee or officer of an elementary school or secondary school, local educational agency, or other entity operating an elementary school or secondary school; and responsible for the daily instructional leadership and managerial operations in the elementary school or secondary school building.</p> <p>While the waiver of the definition of professional development does not alter who may receive professional development offered under specific allowable uses of State- or LEA-level Title IIA funds, SEAs and LEAs may, under sections 2101(c)(4)(B)(xxi) and 2103(b)(3)(P), respectively, use Title IIA program funds to carry out activities that the State has determined to be evidence-based and that carry out the purpose of Title II, as described in section 2001. These uses of funds may allow for training and professional development for a wide range of school personnel on topics that further the purpose of the program.</p>
78	<p>Can Title IIA funds be used to purchase devices (tablets/laptops or hot spots for connectivity) for students to ensure equitable access to effective to effective educators since</p>	<p>While technology purchases associated with allowable uses of Title IIA funds (including allowable uses associated with distance learning) are permissible for teachers, principals, and other school educational leaders, purchases for students are not an allowable use of Title IIA funds. SEA's and LEAs, may however, transfer up to 100% of Title IIA funds to Title IV, Part A, where technology purchases for students are allowable. There are at present no current plans or guidance from USED for waivers to allow Title II funds to be used for the purchase of technology for students.</p> <p>As SEAs and LEAs continue to transition to distance and online</p>

#	Question	Answer
	students can't go to school? Or will there be a wavier about purchasing devices?	learning, educators may need professional development on techniques and strategies to provide effective instruction. This professional development is an allowable use of both SEA and local district Title IIA funds.
79	Under the CARES Act can the Secretary of Education waive the Title IV, Part A minimum caps on well-rounded education, safe and healthy students and technology?	The new authority gave the Secretary the authority to waive the requirement that an LEA spend at least 20% of its Title IV-A funds on providing a well-rounded education, the requirement to spend 20% on safe and healthy students, and the 15% cap on funds on educational technology.
80	Can Title IVA funds be used for cleaning and disinfecting classrooms and related student learning facilities?	Yes. Title IVA funds may be used for expenses such as cleaning supplies, hand sanitizer, wipes, etc., if the SEA determines it is allowable and consistent with the purposes of the safe and healthy students content area; if they are reasonable, necessary and allocable to the Title IVA grant, and supplement, not supplant, other local funds that would otherwise be used to pay for this allowable activity. We encourage LEAs to first look at using their respective shares of ESSER funding before requesting an amendment to use Title IVA funding for this activity.
81	Can Title IVA funds be used to support childcare for essential workers so they may protect the health and safety of students, staff and their communities?	If an LEA determines that allocating funds to support childcare of essential workers is necessary, this is an allowable use after considering the guidance regarding the prioritization of the LEAs share of ESSER funding provided in #43 above. Also, please refer to #51.



Application Requirements

#	Question	Answer
82	Do you have any additional information on what the SEA applications will include?	Under the Education Stabilization Fund, both the portions of funding to Governors and SEAs require applications to be submitted to USED. In both cases the law requires USED to have applications available within 30 days. NDE has provided the application for the LEA ESSER funds. NDE will soon provide applications for the State activities set-aside ESSER funding. The Governor will soon provide applications for GEER funds.
83	How soon will USED release the reporting requirement?	Briefly, the CARES Act requires recipients that receive more than \$150,000 to report: (a) the total amount of funds received from USED; (b) the amount spent or obligated for each project or activity supported with CARES Act funds; (c) a list of projects supported with CARES Act funds (including name, description, and estimated number of jobs created or retained), and (d) information on subcontracts and subgrants. These reporting requirements are still being finalized by USED and NDE will continue to provide updates as they become available.

Students with Disabilities (IEP)/Individuals with Disabilities Education Act (IDEA)

#	Question	Answer
84	Does the CARES Act include funds for compensatory education services for students with an Individualized Education Program (IEP)?	For LEAs, the authorized uses of funds under the K12 portion of the Education Stabilization fund include, among others, any activity authorized under ESEA or IDEA. For the funds, 10% of each state's allocation reserved by the SEA, there is no list of allowable uses of funds laid out in the law, only that funds need to be used for emergency needs related to COVID-19 as determined by the SEA. Thus, the K12 portion of the Education Stabilization fund could be used for compensatory services for students with disabilities as determined by the SEA and each LEA.
85	Is there a need for the Office of Elementary and Secondary Education (OESE) to collaborate with the Office of Office of Special Education and Rehabilitative Services (OSERS) and the Office of Special Education Programs (OSEP) on the funding guidance.	CCSSO will bring this suggestion to USED as the Department considers additional guidance.



Nutrition/School Lunch Program

#	Question	Answer
86	How might the U.S. Department of Agriculture (USDA) support state agencies due to the fewer meals being served and lower National School Lunch Program (NSLP) meal reimbursement. Would they adjust the state Demonstrative Expense (SAE) funding allocations?	The second COVID-19 package, The Families First Coronavirus Response Act, provided \$1 billion in nutritional aid, allowed expanded SNAP benefits to go to school meal eligible children through EBT, expanded access to COVID-19 testing, and created paid sick and emergency leave benefits. The bill also provided the U.S. Department of Agriculture (USDA) with authority to grant waivers (until September 30, 2020 for various 8 provisions of Child Nutrition and Lunch School Acts. This is all flexibility as it relates to the existing structure, but not necessarily pertaining to reimbursement rates. CCSSO will be examining this issue to see what additional changes might be necessary.
87	How will the per meal reimbursement funding be reviewed?	USDA has not presently made any announcements with respect to per meal reimbursement. Congress has not addressed this issue specifically in any of the COVID-19 packages.

Child Care

#	Question	Answer
88	Do the childcare appropriations in the CARES Act include additional funds for the Child Care and Development Block Grant (CCDBG)?	The bill provides \$750 million for Head Start and \$3.5 billion for the Child Care and Development Block Grant (CCDBG) program. For CCDBG, funds can be used to help existing providers reopen or remain open or used to provide childcare assistance to health care workers, emergency responders and sanitation workers without regard to income eligibility requirements.



Charter Schools

#	Question	Answer
89	Have there been any discussions from USED on extending the deadline for Charter School Program Grant applications ? If so, how do the current subgrantee’s apply for an extension?	<p>Yes. SEA’s have been given the option to extend the period of the grant. Currently, the grant period is scheduled to end on September 30, 2020. It is the intent of NDE to apply for a 6-month extension period, which would extend the availability of grant funds to March 30, 2021. Each subgrantee will have the option to request an extension if the subgrantee is unable to use a portion or all of the funds during the original grant period due to the circumstances of the COVID-19 outbreak.</p> <p>NDE reserves the right to determine the reasonableness of each request for extension. Extension requests must be applied for no later than July 30, 2020. For more information, please contact Maria Sauter, msauter@doe.nv.gov.</p>

Equitable Services to Private School Students and Educators

#	Question	Answer
90	Does the requirement to provide equitable services to students and teachers in non-public schools apply to any programs under the CARES Act?	<p>Yes. The CARES Act established two new funds to which equitable services requirements apply. Specifically, an LEA that receives funds under either the Governor’s Emergency Education Relief Fund (GEER Fund) (section 18002 of the CARES Act) or the Elementary and Secondary School Emergency Relief Fund (ESSER Fund) (section 18003 of the CARES Act) (“CARES Act programs” for purposes of this document) to provide equitable services to students and teachers in non-public schools in the same manner as provided under section 1117 of the Elementary and Secondary Education Act of 1965 (ESEA). (Section 18005(a) of the CARES Act).</p> <p>An institution of higher education or education-related entity that receives funds under the GEER Fund is not required to provide equitable services to students and teachers in non-public schools.</p>
91	What is a “non-public school” under the CARES Act programs?	A “non-public school” means a non-public elementary or secondary school that (A) is accredited, licensed, or otherwise operates in accordance with State law; and (B) was in existence prior to the date of the qualifying emergency for the CARES Act programs. For purposes of this definition, the date of the qualifying emergency is March 13, 2020. (Section 18007(6) of the CARES Act).
92	Is a for-profit non-public school eligible to receive equitable	A for-profit non-public school is <i>not eligible</i> to receive equitable services for its students and teachers under the CARES Act programs. Section 18007(6) of the CARES Act defines a “non-public school” as a

#	Question	Answer
	<p>services for its students and teachers under the CARES Act programs?</p>	<p>non-public elementary or secondary school. Section 18007(8) of the CARES Act incorporates the definitions in ESEA section 8101 for any terms not defined in the CARES Act. ESEA section 8101(19) and (45) defines “elementary school” and “secondary school,” respectively, and specifies that they must be non-profit.</p>
<p>93</p>	<p>Which LEA is responsible for providing equitable services to non-public school students and teachers under the CARES Act programs?</p>	<p>USED has determined that, under the CARES Act programs, the LEA in which a non-public school is located is responsible for providing equitable services to students and teachers in the school, as it is under most ESEA programs that require an LEA to provide equitable services. Outside of Title I, Part A, the responsibility typically falls on the LEA in which a non-public school is located because equitable services are generally available to all students or teachers in the non-public school in the LEA and the LEA in which the school is located is closest and best able to meet the needs of students and teachers.</p> <p>Title I, Part A of the ESEA is different; ESEA section 1117 sets forth a student residency requirement, rather than a school location requirement, for receipt of equitable services under Title I, Part A. Only low-achieving students who live in a participating Title I public school attendance area are eligible for services and, therefore, the LEA where students reside is responsible for providing equitable services. <i>The CARES Act programs have no such residency requirement for eligibility for services.</i> Rather, the CARES Act programs provide LEAs full discretion, unless funds are targeted for a specific purpose or population of public and non-public school students by the Governor under the GEER Fund or by an SEA through the SEA reserve under the ESSER Fund (see section 18003(e) of the CARES Act), to use CARES Act funds to provide educational services to students in public and non-public schools in the LEA through a broad range of allowable activities. Thus, providing equitable services with CARES Act funds is similar to other ESEA programs where equitable services are provided by the LEA in which a non-public school is located.</p>
<p>94</p>	<p>Must an LEA or another public agency maintain control of CARES Act funds used to provide equitable services?</p>	<p>Yes. Control of funds for services and assistance provided to non-public school students and teachers under the CARES Act programs, and title to materials, equipment and property purchased with such funds, must be in a public agency, and a public agency must administer such funds, materials, equipment, and property. In addition, services for non-public school students and teachers must be provided by a public agency directly or through contract with another public or private entity. (Section 18005(b) of the CARES Act).</p>

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95	Who is responsible for initiating the consultation process and how should it begin?	<p>Similar to how an LEA provides equitable services under the ESEA, an <i>LEA is responsible for initiating the consultation process</i>. The LEA must contact officials in all non-public schools in the LEA to notify them of the opportunity for their students and teachers to obtain equitable services under the CARES Act programs. Through this initial contact, the LEA can explain the services available under the CARES Act programs and how non-public school students and teachers can participate. If non-public school officials have not been contacted, they may contact the LEA or the State ombudsman to inquire about equitable services under the CARES Act programs.</p> <p>If non-public school officials want equitable services for their students and teachers, the LEA must consult with those officials during the design and development of the LEA’s programs and before the LEA makes any decision that affects the opportunity of non-public school students and teachers to participate in the activities funded under the CARES Act programs. If a non-public school declines to participate in the CARES Act programs or does not respond to an LEA’s good-faith effort to make contact, the LEA has no further responsibility to provide equitable services to students or teachers in that school. The LEA, however, must be able to demonstrate that it made a good faith effort to contact all the non-public schools in the LEA.</p>
96	How does an LEA that receives funds under the CARES Act programs provide equitable services “in the same manner as provided under section 1117 of the ESEA”?	<p>An LEA that receives funds under the CARES Act programs must provide equitable services to students and teachers in a non-public school in the same manner as provided under section 1117 of the ESEA, as determined in consultation with representatives of non-public schools. (Section 18005(a) of the CARES Act). This requirement, on its face, necessitates that USED interpret how the requirements of section 1117 apply to the CARES Act programs, given that an LEA under the CARES Act programs may serve all non-public school students and teachers without regard to family income, residency, or eligibility based on low achievement. Unless the requirements of section 1117 would limit equitable services under the CARES Act programs, we conclude they apply as outlined below.</p> <p>We have interpreted “in the same manner as under section 1117” in light of the significantly broader eligibility and uses of funds authorized under the CARES Act as compared to Title I, Part A, reasonably reconciling differences. In doing so, we gave meaning to section 1117(a)(3), which requires educational services and other benefits for students in non-public schools to be equitable in comparison to those for public school students. The services that an LEA may provide under the CARES Act programs are</p>

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		<p>clearly available to all public school students and teachers, not only low-achieving students and their teachers as under Title I, Part A. Similarly, there is no limitation on residence in a participating Title I public school attendance area for services provided in public schools under the CARES Act programs. For CARES Act services to be equitable in comparison to public school students and teachers, it follows that the same principles must apply in providing equitable services to non-public school students and teachers.</p> <p>The following describes how the provisions of ESEA section 1117 apply, reconciled, when necessary, to meet the purposes of the CARES Act programs:</p> <ul style="list-style-type: none"> •1117(a)(1) – Under Title I, Part A, an LEA must provide equitable services to low-achieving students as defined in ESEA section 1115(c) who reside in a participating Title I public school attendance area and attend a non-public school and their teachers. Under the CARES Act programs, an LEA may provide equitable services <p>with CARES Act funds to any students and teachers in non-public schools, unless limited by a Governor under section 18002 of the CARES Act or an SEA through the SEA’s reserve under section 18003(e) of the CARES Act. (See Questions #8 and #9).</p> <ul style="list-style-type: none"> •1117(a)(2) – Under both Title I, Part A and the CARES Act programs, an LEA must provide equitable services and other benefits, including materials and equipment, that are secular, neutral, and nonideological. •1117(a)(3)(A) – Under both Title I, Part A and the CARES Act programs, an LEA must provide services and other benefits for non-public school students and teachers in a timely manner that are equitable in comparison to the services and benefits provided for public school students and teachers. •1117(a)(3)(B) – Under Title I, Part A, an SEA must designate an ombudsman to monitor and enforce the equitable services requirements. An SEA must use the ombudsman also to monitor and enforce the requirements of the CARES Act programs that an LEA provide equitable services to students and teachers in non-public schools. •1117(a)(4)(A) – Under both Title I, Part A and the CARES Act programs, an LEA must determine the proportional share available to provide equitable services to students and teachers in non-public schools based on the total amount of funds an LEA receives prior to any allowable expenditures or transfers. Under the CARES Act programs, the LEA calculates the proportional share based on the number of children enrolled in each non-public school whose

#	Question	Answer
		<p>students or teachers participate in the CARES Act programs compared to the number of students enrolled in public schools in the LEA. The LEA makes this determination under each CARES Act program separately. (See Question #10).</p> <ul style="list-style-type: none"> •1117(a)(4)(B) – Under Title I, Part A, an LEA must obligate funds available for equitable services in the fiscal year for which the funds are received by the LEA. An LEA must obligate CARES Act funds for equitable services in the fiscal years for which those funds are intended for services to address the impact of COVID-19. •1117(a)(4)(C) – Under both Title I, Part A and the CARES Act programs, an SEA must provide notice in a timely manner to appropriate non-public school officials in the State of the allocation of funds for educational services and other benefits that each LEA has determined are available for non-public school students and teachers. •1117(b)(1) – Under both Title I, Part A and the CARES Act programs, an LEA must consult with appropriate non-public school officials during the design and development of the LEA’s activities on relevant issues such as those contained in this section of Title I, Part A. The LEA and non-public school officials shall both have the goal of reaching agreement on how to provide equitable and effective services and the LEA must transmit the results of that agreement to the ombudsman. •1117(b)(2) – Under both Title I, Part A and the CARES Act programs, if an LEA disagrees with the views of non-public school officials during consultation, the LEA must provide in writing to the non-public school officials the reasons why the LEA disagrees. •1117(b)(3) – Under both Title I, Part A and the CARES Act programs, consultation must occur before an LEA makes any decision that affects the opportunities of non-public students and teachers to receive equitable services. Meetings between the LEA and non-public school officials need not occur in person if they cannot be conducted due to closed schools or social distancing rules. In this case, the Department recommends LEAs and non-public school officials consult remotely. •1117(b)(4) – Under both Title I, Part A and the CARES Act programs, consultation must include discussion of service delivery mechanisms an LEA may use to provide equitable services. 1117(b)(5) – Under both Title I, Part A and the CARES Act programs, an LEA must maintain and provide to the SEA written affirmation signed by non-public school officials that timely and meaningful consultation has occurred and, if non-public school officials do not provide such affirmation, the LEA must forward to the SEA the documentation that such consultation

#	Question	Answer
		<p>has, or attempts at such consultation have, taken place.</p> <ul style="list-style-type: none"> •1117(b)(6) – Under both Title I, Part A and the CARES Act programs, non-public school officials have a right to file a complaint with the SEA; the SEA must provide services directly or through contracts if requested to do so by non-public school officials and the SEA determines that the LEA did not meet applicable requirements. •1117(c)(1) – Under Title I, Part A, to determine the proportional share, an LEA must calculate the number of children, ages 5 through 17, who are from low-income families and reside in a participating Title I public school attendance area. Because an LEA determines the proportional share based on enrollment in public and non-public schools under the CARES Act programs, the LEA need not collect poverty data from non-public schools (see Question #10 for information on determining the proportional share of CARES Act funds the LEA must reserve to provide equitable services to non-public school students and teachers). •1117(c)(2) – Under Title I, Part A, non-public school officials may file a complaint with the SEA if they dispute the count of children from low-income families. Because an LEA need not collect poverty data to determine the proportional share available for equitable services under the CARES Act programs, there would be no reason for non-public school officials to file a complaint regarding poverty data with the SEA. <p>1117(d) – Under Title I, Part A, control of funds and title to materials, equipment, and property must be in public agency. With respect to the CARES Act programs, this provision is superseded by section 18005(b) of the CARES Act, which also requires public control of funds. (See Question #5).</p>
97	<p>Must an LEA offer to provide equitable services under the CARES Act programs to students and teachers in all non-public schools located in the LEA, even if a non-public school has not previously participated in equitable services under Title I, Part A or Title VIII of the ESEA?</p>	<p>Yes. An LEA must offer to provide equitable services under the CARES Act programs to students and teachers in all non-public schools located in the LEA, even if a non-public school has not previously participated under Title I, Part A or Title VIII of the ESEA.</p>
98	<p>Are all students and teachers in a non-public school eligible</p>	<p>Yes. All students and teachers in a non-public school are eligible to receive equitable services under the CARES Act programs, unless a Governor (under the GEER Fund) or an SEA (through the SEA reserve</p>

#	Question	Answer
	to receive equitable services under the CARES Act programs?	under the ESSER Fund) targets funds for a specific purpose or population of public and non-public school students. Unlike Title I, Part A, equitable services under the CARES Act programs are not based on residence in a participating Title I public school attendance area and are also not limited only to low-achieving students and their teachers.
99 	How does an LEA determine the proportional share of funds that must be reserved to provide equitable services to non-public school students and teachers under the CARES Act programs	<p>The equitable share will be calculated in alignment with the U.S. Department of Education’s Interim Final Rule (2020-14224) in which the following calculation methods are allowable:</p> <ol style="list-style-type: none"> i. Calculate the funds for equitable services based on the total enrollment in participating licensed nonprofit nonpublic schools; or ii. Calculate the funds for equitable services based on the total number of low-income students in Title I and participating nonpublic schools; or iii. Calculate the funds using the LEA’s Title I, Part A share from the 2019-2020 school year. <p>If using method ii or iii to calculate the equitable share, an LEA must only be using competitive ESSER funds in its Title I schools.</p>
100	<p>After an LEA has determined the proportional share of funds for equitable services under each CARES Act program, how does it then determine the amount of funds available for services to students and teachers in individual private schools?</p>	<p>For consultation purposes, in order to determine what equitable services to provide to students and teachers in a given non-public school, an LEA, after reserving funds that are reasonable and necessary for administering equitable services under the CARES Act programs, would divide the remainder of the proportional share of funds available for equitable services by the <i>total enrollment in non-public schools</i> whose students and teachers will participate in each of the CARES Act programs to obtain a <i>per-pupil amount</i>. The LEA would then multiply that per-pupil amount by the enrollment in an individual non-public school to determine the amount of services the LEA can provide to students and teachers in that school. With agreement between the LEA and appropriate non-public school officials, the LEA may pool funds among a group of non-public schools and provide equitable services to students and teachers in non-public schools within the pool based on need without regard to how the funds were generated. (See ESEA section 1117(b)(1)(J)(i)).</p>
101	<p>Do the requirements in 34 C.F.R. § 200.66 apply to equitable services under the CARES Act programs?</p>	<p>No. The requirements in 34 C.F.R. § 200.66 do not apply to equitable services under the CARES Act programs. 34 C.F.R. § 200.66 is a Title I, Part A regulation that requires an LEA to provide Title I, Part A services that (1) supplement, and in no case supplant, the services that would, in the absence of Title I, Part A services, be available to participating non-public school students; and (2) only meet the needs of participating non-public school students and not the needs of the non-public school or the general needs of children in the non-public</p>

#	Question	Answer
		<p>school. These provisions are necessary in the Title I, Part A context because equitable services must be supplemental to what non-public students otherwise receive and may only be provided to low-achieving students who reside in a participating Title I public school attendance area and attend a non-public school.</p> <p>Equitable services under the CARES Act programs are much broader than under Title I, Part A. Equitable services under the CARES Act programs, by definition, may benefit a non-public school, such as purchasing supplies to sanitize and clean the facility, or all students in a non-public school, such as any activity authorized under the ESEA. Unlike Title I, they are not based on residence in a participating Title I public school attendance area or limited only to low-achieving students. Moreover, the CARES Act does not have a supplement not supplant requirement.</p>
102	<p>Is a non-public school whose students and teachers receive equitable services under the CARES Act programs a “recipient of Federal financial assistance”?</p>	<p>No. A non-public school whose students and teachers receive equitable services under the CARES Act programs is not a “recipient of Federal financial assistance.” <i>A public agency must control and administer the CARES Act funds</i>; in other words, no funds may go directly to a non-public school. Thus, a non-public school is not a recipient of Federal financial assistance by virtue of its students and teachers receiving equitable services from an LEA under a CARES Act program. As a result, certain Federal requirements that apply to a recipient of Federal financial assistance are not directly applicable to a non-public school whose students or teachers receive equitable services under the CARES Act programs, unless the school otherwise receives Federal financial assistance for other purposes.</p>
103	<p>What services and benefits under the CARES Act programs are available to non-public school students and teachers?</p>	<p>In general, the services and benefits available to non-public school students and teachers are the same as those available to public school students and teachers. Specifically, the ESSER funds that flow to LEAs by formula may be used for a broad range of allowable activities. (See section 18003(d) of the CARES Act). The ESSER funds that an SEA may reserve for State purposes may also be used for a broad range of activities to address issues responding to COVID-19, unless the SEA decides to target them for a specific purpose or population of public and non-public school students. For example, an SEA could target the SEA reserve to provide technology to support distance learning for public and non-public school students from low-income families. (See section 18003(e) of the CARES Act). Similarly, a Governor may target GEER funds that it makes available to an LEA for a specific purpose or population of public and non-public school students. (See section 18002(c)(1) or (3) of the CARES Act).</p>

#	Question	Answer
		<p>In sum, equitable services permitted under sections 18002(c)(1) or (3), as applicable, and 18003(d) of the CARES Act must be available to best meet the needs of non-public school students and teachers, as determined through timely and meaningful consultation and consistent with any specific purposes established by a Governor under the GEER Fund or SEA through the SEA reserve under the ESSER Fund, regardless of the specific uses determined by the LEA to meet its own students' and teachers' particular needs.</p> <p>The control of any services or assistance provided to students and teachers in a non-public school, and title to materials, equipment, and property purchased with CARES Act funds, must be in a public agency and a public agency must administer those funds, materials, equipment, and property. A public entity must provide those services either directly or through a contract with a public or private entity.</p>
104	Can an LEA reserve administrative costs on the equitable share?	Yes, an LEA, in consultation with private school officials, may reserve a reasonable and necessary amount out of the calculated equitable share to administer equitable services to private schools.
105	<p>Can a private school be directly reimbursed for COVID-19 related expenses incurred on or after March 13, 2020?</p> 	<p>Under section 18005(b) of the CARES Act and 34 C.F.R. § 76.665(f), control of funds for services and assistance provided to non-public school students and teachers under the CARES Act programs, and title to materials, equipment, and property purchased with such funds, must be in a public agency, and a public agency must administer such funds, materials, equipment, and property. Thus, an LEA may only reimburse a non-public school for necessary expenditures the non-public school incurred in response to COVID-19 under limited circumstances where it can do so while also meeting these requirements. In doing so, the LEA must ensure those activities, materials, or equipment are allowable under the CARES Act and are secular, neutral, and non-ideological.</p> <p>For example, an LEA may use CARES Act funds to reimburse a non-public school for costs related to cleaning and sanitizing a school facility that occurred on or after March 13, 2020, in response to the COVID-19 pandemic, but before the LEA and non-public school officials engaged in timely and meaningful consultation. To maintain control over the CARES Act funds, the LEA must ensure that the non-public school's expenditures represent allowable expenses, that the non-public school has sufficient documentation supporting such expenditures, and that the school actually received the services or assistance related to those expenditures.</p>

#	Question	Answer
		<p>Similarly, for example, if a non-public school purchased laptops for students and teachers to facilitate online learning, and if the non-public school officials and LEA both agree, the LEA may use CARES Act funds to purchase those laptops from the non-public school, thereby also obtaining title for the laptops from the non-public school. Provided these conditions are met, the LEA may continue to allow the laptops to be used by non-public school students and teachers.</p>
106	<p>Can an LEA use CARES Act fund to pay existing private school employees?</p>	<p>USED has yet to release any guidance on whether or how ESSER funds can be used to “employ existing staff” at a private school. Traditionally, we know this is not allowable with the other federal grants with equitable services requirements, and paying staff members at a religious private school, in particular, poses several challenges.</p> <p>With that NDE recommends working in consultation with the private school to determine if there are other allowable expenses outside of payroll that ESSER funds could cover to free up some of their school’s operating budget allowing them to reserve the freed funds to pay their staff.</p>
<p>107</p> 	<p>Are LEAs required to provide equitable services to private schools for the competitive CARES Act funds?</p>	<p>Yes, equitable services is a requirement for LEAs on the formula ESSER fund and the competitive CARES Act funds.</p> <p>LEA recipients of competitive ESSER funds must set-aside a proportional share of their award to provide equitable services to participating nonpublic students and teachers. The equitable services provided must be aligned to the funding categories in which the LEA received an award. For example, if an LEA is awarded funding for the priority category of Providing High Quality Professional Development, then the equitable services provided through these funds to participating nonpublic students and teachers must be aligned to that category.</p>
<p>108</p> 	<p>Are other eligible entities who may receive funds through the ESSER competitive grant process required to provide equitable services to private school students and teachers?</p>	<p>No. An institution of higher education or education-related entity that receives funds through the competitive grant process is not required to provide equitable services to students and teachers in private schools.</p>
109	<p>How does an LEA provide consultation to nonpublic schools in</p>	<p>An LEA is required to provide equitable services to nonpublic school students and teachers if the LEA is awarded competitive ESSER funds. LEAs must contact the nonpublic schools within its geographic</p>

#	Question	Answer
	a competitive grant process?	boundaries and include the participating nonpublic schools in the design and development of the LEA’s application. The nonpublic equitable share must align with the funding categories for which the LEA applies.
110 	Can a nonpublic school apply directly for competitive ESSER funds?	Licensed nonprofit nonpublic schools may compete for funds that are in addition to the required equitable services funds available through their LEA if the nonpublic school secures a fiscal agent to maintain control of the funds per §18005 of the CARES Act. The fiscal agent may be an LEA or an eligible nonprofit organization that supports k-12 education. Licensed nonprofit nonpublic schools may not be direct recipients of these funds, so the fiscal agent will be responsible for managing any awarded funds on behalf of the nonpublic school. See FAQ number 94 for additional information.
111 	Can nonpublic schools participate in equitable services through their LEA and apply for additional competitive ESSER funds directly?	Yes. A licensed nonprofit nonpublic school may participate in equitable services through its LEA <u>and</u> the nonpublic school may also submit an application with a fiscal agent for additional funds.

For FAQ updates, please see the NDE website under “COVID-19 Resources”.

[Contact Information](#)

If you have any questions or need assistance, please contact the NDE program staff below:

- Title I:** Education Programs Professionals assigned to your LEA & Gabby Lamarre (glamarre@doe.nv.gov)
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