

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

Purpose

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

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

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

Discussion and Considerations around the use of CARES funds

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

In addition to the ESSER funds, the Governor's office received approximately \$4.5 million through the Governor's Emergency Education Relief (GEER) fund, another component of the ESF. Governor Scott's office determined that it would use the funds to support CTE institutions across the state that were not entitled to ESSER funds and that the AOE would administer grants to support remote technology and infrastructure to meet the needs of these institutions. A third and much larger component of the CARES is the Coronavirus Relief Fund (CRF), which has many potential uses. The Vermont legislature has chosen to make available a portion of

these funds (\$50 million) to provide additional pandemic relief to schools. Under CARES, ESSER funds are distributed by formula to LEAs. CRF and GEER funds are not; they are discretionary.

Elementary and Secondary School Emergency Relief Fund (ESSER)

Status

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

ESSER and the General Education Fund

The interest of leadership in the General Assembly appears to be the use of ESSER funds to replace eligible items in FY2021 school district budgets to the greatest extent possible. Doing so would allow ESSER funds to reduce payments to the school districts from the FY2021 Education Fund, helping to offset the FY2021 deficit in the Education Fund. While this is termed a “claw back”, school districts would not see a financial impact so long as the ESSER funds replace education funds. The General Assembly understands that not all ESSER funds will be used to reimburse budgeted costs. These unbudgeted expenses could be treated differently in potential legislation.

Equitable Services

The Interim Federal Rule (IFR) referenced in the [Agency’s Equitable Services Calculation for ESSER Funds](#) (7/15) is still in effect. However, all three of the COVID-19 relief bills currently under consideration in Congress include language clarifying Congressional intent concerning Section 18005 of the CARES Act, the ESF equitable services requirement. Although they differ, the language of these bills mirrors Vermont’s conclusion that a plain reading of Section 18005 requires that the share calculated for equitable services be based on counts of children from low-income families in public and participating private schools, which essentially is Vermont’s Option 3 in the [Equitable Services Calculation for ESSER Funds](#). Language of one of the three bills under consideration requires this clarification to be retroactive to enactment of CARES.

Furthermore, a number of states are involved in litigation challenging the IFR, again with an interpretation of Section 18005 similar to the AOE’s. The situation remains fluid and therefore, the AOE continues to encourage LEAs to follow the guidance on calculating equitable share previously outlined in [Equitable Services Calculation for ESSER Funds](#), including calculation of a set aside amount. The AOE will update this guidance if anything changes at the national level that would modify or impact the recommendations outlined in the memo.

The choice of which option an LEA chooses to provide equitable services does not have any impact on the potential legislative claw back. Therefore, at this time, the Agency recommends that SU/SDs determine which equitable services option they will use based the needs of the SU/SD, and the advantages and disadvantages particular to each SU/SD presented by each option. In order to assist you in weighing advantages and disadvantages, the AOE will continually communicate regarding legislative deliberations.

Funding Childcare Costs for Staff

The AOE recently received clarification from the U.S. Department of Education (USED) on the use of ESSER funds for COVID-19-related childcare costs. In response to the question: May an LEA or SEA use ESSER funds to provide teachers with young children childcare services? USED responded:

Yes, if the costs are reasonable in amount and constitute a necessary response to the COVID-19 pandemic. See Sections 18003(d) of the CARES Act and 2 CFR §§ 200.403-200.405. For example, an LEA might contract with a daycare provider to make spaces available for teachers with young children whose regular daycare services are unavailable due to COVID-19 so that those teachers can continue to provide educational services to students. See CARES Act section 18003(d)(12). An LEA might also provide a retention incentive to teachers with young children that could offset the cost for childcare in order to retain those teachers, which is an allowable use of funds under Title II of the ESEA, if teacher retention is a challenge due to COVID-19. See CARES Act section 18003(d)(1).

If your LEA chooses to contract with a provider for spaces, or to provide services directly at the school site, use Allowable Use #5 Maintain Ops/Employment in the ESSER application located in GMS. This is the same as 18003(d)(12). If your LEA chooses the retention incentive option, please use Allowable Use #13 Title IIA in the GMS application, which is the same as 18003(d)(1).

Governor's Education Emergency Relief Fund (GEER)

The AOE is currently developing this grant application and aims to have it out to the field in September 2020. At this time, the AOE has not been made aware of any discussion by the Joint Fiscal Committee around the GEER fund or possible claw backs in the General Education Fund.

CRF

In late June, the General Assembly passed a host of bills tied to the Coronavirus Relief Fund (CRF) that were subsequently signed into law as Act 120. Through four different programs (School and Indoor Air Quality Grant Program, Summer Food Service Program, Approved Independent Schools grant and LEA grant) the AOE will administer CRF funds totaling approximately \$49 million for which [all eligible costs](#) must be incurred prior to December 30, 2020. This is a much shorter timeline than the timeline governing the ESSER and GEER funds.

Another significant difference for subrecipients to be aware of is that unlike other grants, reimbursements can only be made for costs that have been incurred (not obligated) prior to December 30, 2020. This means that any work must have been performed, and supplies received, by December 30, 2020 to be eligible for CRF reimbursement.

CRF- Summer Food Service Program Grant

On July 31, the AOE released the application for the Summer Food Service Program grant totaling \$12 million. After encountering a delay around FEMA eligibility, the Agency is creating the applications for the Approved Independent Schools and LEA Grants and intends to release the applications as soon as possible. LEAs and approved independent schools will also be able to work directly with Efficiency Vermont as part of the Indoor Air Quality Grant.

CRF- LEA Grant

For the CRF LEA grant, the AOE intends to reimburse all eligible costs incurred between March 1 and June 30, 2020, at 100%. Costs incurred between July 1 and December 30, 2020, will be reimbursed on a prorated basis if necessary, unless the General Assembly elects to provide additional aid for education from the \$100 million set aside for such purposes when they reconvene in late August.

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

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

CRF and the General Education Fund

Guidance published by the AOE on July 10, 2020, highlighted statutory language that stated CRF funds that reimburse eligible FY2020 costs districts would have made regardless of COVID-19 (e.g., staffing costs while developing remote learning capabilities) shall be carried forward as a revenue into FY2021 without the need for an audit. A school district that has fiscal year 2020 funds available from this section shall carry those funds into fiscal year 2021 as revenue without waiting for an audit to confirm the existence or amount of the available funds – 2020, No. 120, sec. A.50(c)(1)(B).

The AOE is required to evaluate the funds made available through carry forward CRF in each district and subtract an amount determined as not necessary for funding the district's education spending from the first two FY 2021 education fund payments – 2020, Act 120, sec. A.50 (c)(1)(B) [p. 44]. Accordingly, FY2021 education fund payments to school districts will be reduced by the appropriate amount of CRF reimbursement for eligible FY2020 expenditures without a financial impact to the school districts.

Final Considerations

The AOE plans to update the Federal Education Funding Planning Guidance to reflect the inclusion of CRF funds and all new information relevant to CARES funds and how to use various funding sources to address unmet needs in the coming year. As LEAs complete their ESSER and CRF grant applications, they should bear in mind that:

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

Please note that ESSER funds allocated to an LEA must be budgeted in an approved award prior to April 29, 2021. LEAs will permanently lose access to allocated funds that have not been budgeted in an approved Grant Award and those funds will be returned to the Federal Government.

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

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

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

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

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