

## Elementary and Secondary Schools Education Relief Fund (ESSER)

	Act	Enacted	Texas Allocation	Allowed for State Set-aside	LEA Allocation
ESSER I	Coronavirus Aid, Relief, & Economic Security Act (CARES)	3/27/2020	\$1.29 billion	\$130 million	\$1.16 billion
ESSER II	Coronavirus Response & Relief Supplemental Appropriations Act (CRRSA)	12/27/2020	\$5.53 billion	\$553 million	\$4.98 billion
ESSER III	American Rescue Plan Act (ARP)	3/11/2021	\$12.4 billion	\$1.24 billion	\$11.18 billion

In 2020, the State of Texas chose to supplant the funding available to schools through ESSER I. On April 28, 2021, state leaders announced that the entirety of the \$11.2 billion from the LEA allocation under ESSER III would flow to Texas schools. At this time, what remains unknown is how or how much of the funding available through ESSER II will reach schools, as well as the \$1.2 billion allowed for state reservation under ESSER III.

**This document is intended to focus specifically on the ESSER III allocation for school districts.** The Texas Education Agency has provided [more specific guidance online](#) that informed much of this document.

You can view grant allocation amounts per district here:

<https://tea.texas.gov/sites/default/files/covid/2020-2021-ARP-Act-ESSER-III-Allocation-Amounts-by-LEA.pdf>

### How will districts receive this funding?

School districts must submit a grant application to TEA in order to receive these funds. The application is available from the [TEA Grant Opportunities](#) page. Select "2020-2023 ARP ESSER III Federal Grant Application" from the Application Name field, or search for "ARP".

### When will schools receive this funding?

Federal statute requires TEA to make allocations to schools within 60 days of receiving the funds. The deadline for when funds must be available to schools is May 23, 2021. Keep in mind that the award of funds will be two-thirds of the total grant amount, with the remaining one-third to come to schools once the US Department of Education (USDE) releases the remainder of funds through the state application process at a later date. All funds must be awarded by March 24, 2022.

### Over what timeline may ESSER III funds be spent?

**March 13, 2020 – September 30, 2024.** Funds may be used for allowable activities from March 13, 2020 (with approved pre-award) through September 30, 2023. Districts will then have the standard 12-month carryover available through September 30, 2024.

## **What strings are attached? What requirements must districts follow?**

Districts must expend **a minimum of 20%** of their ESSER III funds on **evidence-based interventions**, such as summer learning, extended day comprehensive after-school programs, or extended school year programs. Schools must ensure interventions respond to students' academic, social, and emotional needs and address disproportionate impact of coronavirus on Title I students, students experiencing homelessness, and youth in foster care.

Districts must engage in meaningful consultation with stakeholders—including students, families, district administrators (including special education administrators), teachers, principals, school staff, and other stakeholders/members of the public (in particular organizations that represent children with disabilities, English Language Learners, children experiencing homelessness, children in foster care, migrant students, children who are incarcerated, and other underserved students). Stakeholders must have the opportunity to provide input on the **ESSER III Use of Funds Plan**.

District plans must be provided in an understandable, uniform format. These plans must be available to parents by request (and available in a format and language assessable to that parent). Plans are to be posted to the district's website.

In addition to/along with the plan about the use of funds, districts must post a **"Safe Return to In-Person Instruction and Continuity of Services Plan"** within 30 days of the receipt of funds. Before posting this plan to the website, districts must make the proposed plan available for public comment and consider those comments before finalizing the plan. Existing plans may also be used to meet this requirement, and the plan must be reviewed every 6 months and revised for any necessary updates to ensure compliance with evolving requirements and recommendations from the state and federal level.

## **What are the allowable uses for the funding?**

The federal statute clearly spells out the 15 allowable uses of ESSER III dollars as follows:

1. Any activity authorized under ESEA, IDEA, Adult Education and Family Literacy Act, or the Carl D. Perkins Career and Technical Education Act of 2006
2. Coordination of preparedness/response efforts of LEA with State and local health departments, and other relevant agencies, to improve coordinated responses to prevent, prepare for, and respond to coronavirus
3. Activities to address the unique needs of low-income students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth
4. Developing and implementing procedures and systems to improve the preparedness and response efforts of LEAs

*(List continued on next page...)*

5. Training and professional development for school staff on sanitation and minimizing the spread of infectious diseases
6. Purchasing supplies to sanitize and clean school facilities
7. Planning for, coordinating, and implementing activities during long-term closures, including providing meals to eligible students, providing technology for online learning to all students, how to provide guidance for carrying out requirements under IDEA, how to ensure other educational services can continue to be provided consistent with all Federal, State, and local requirements
8. Purchasing educational technology (hardware, software, and connectivity) for students that aids in regular/substantive educational interaction between students and instructors, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment
9. Providing mental health services and supports, including through implementation of evidence based full-service community schools
10. Planning and implementing activities related to summer learning and/or supplemental afterschool programs, both of which may include providing classroom instruction or online learning and addressing the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care
11. Addressing learning loss among students, including low-income students, students with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children in foster care, including administering and using high-quality assessments, implementing evidence-based activities to meet the comprehensive needs of students, providing information and assistance to parents & families on effectively supporting students, and tracking student attendance and improving student engagement in distance education
12. School facility repairs and improvements to enable operation of schools to reduce risk of virus transmission and exposure to environmental health hazards, and to support student health needs
13. Inspection, testing, maintenance, repair, replacement, and upgrade projects to improve the indoor air quality in school facilities, including mechanical and non-mechanical heating, ventilation, and air conditioning systems, filtering, purification and other air cleaning, fans, control systems, and window and door repair and replacement
14. Developing strategies and implementing public health protocols including, to the greatest extent practicable, policies in line with guidance from CDC for the reopening and operation of school facilities
15. Other activities that are necessary to maintain the operation of and continuity of services in the LEA, including continuing to employ existing staff of the LEA to the greatest extent practicable

## Can districts supplant the funding?

At this time, the answer appears to be yes. There is no maintenance of effort for local school districts, so LEAs may choose to supplant state and local funds with ESSER III dollars. The use of ESSER III funding must still the allowable use guidelines in the federal law, but if such spending replaces expenditures that were already planned with local funding, a supplant of funding is allowed. **However**, keep in mind that federal rules are still being written, as are state applications. Some of those rules and reporting requirements for the use of the funds could make supplanting funds challenging. Additionally, districts should be mindful of the fact that ESSER III dollars are one-time funding and avoid supplanting funds for continuing needs in the district that cannot later be replaced when federal funds are no longer available. And finally, remember that MOE compliance for special education spending continue to apply, and will apply in the future as well.

## Can districts use ESSER III dollars to build up their fund balance?

If a district uses ESSER funds to pay for things previously paid for with state and local funds, that frees up state and local funds for other purposes. TEA actually says in their FAQ document that “Some LEAs may want to designate or otherwise preserve a portion of these freed up state and local funds for long term COVID-19 learning loss intervention support. One method to do this would be to add these funds on a restricted basis to your general fund balance.” Action is required by the district’s board of trustees to restrict or commit funds. It would be a good idea to be clear about the purpose and plans for funds in a district’s fund balance rather than leave them undesignated.

## What’s the Maintenance of Equity (MOQ) requirement?

*The following applies only to districts with **more than 1,000 students** that have **more than one campus per grade span** (elementary, middle school high school), or who have not received a waiver from the UDSE to be exempt from these requirements. If you are in one of the approximately 400 districts to which this applies, you must comply with MOQ requirements.*

The MOQ requirements prohibit districts from reducing per-pupil spending (of state and local funds combined) or FTEs for any high poverty school by an amount that exceeds the total reduction(s) within the school district. So long as there are no reductions that would violate the MOQ requirements, districts may use ESSER III dollars across all campuses within the district, and are not limited to use for Title I eligible campuses only.

## How will these funds be tracked?

You can absolutely expect plenty of tracking and reporting on these use of these funds, possibly including the results or outcomes of their use. There will be oversight and scrutiny over the use of these funds. TEA has established fund code 282 to track ESSER III dollars. (For reference, ESSER I’s fund code is 266, and ESSER II’s fund code is 281.) There will be lots more details to come on this topic.