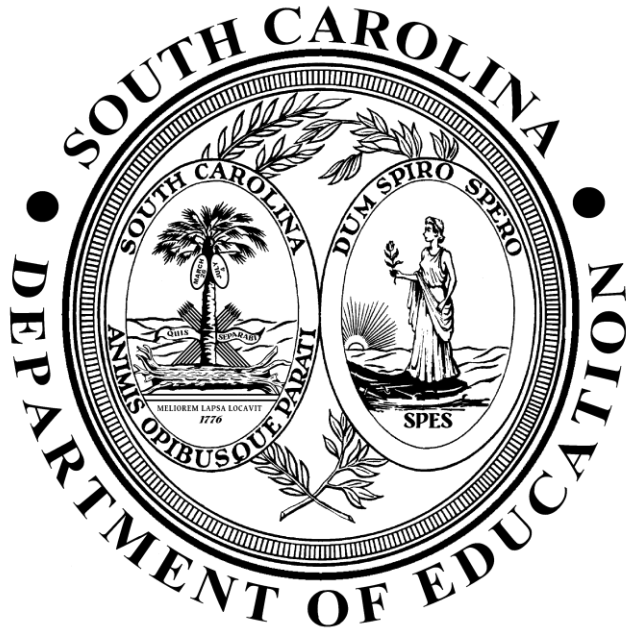


STATE OF SOUTH CAROLINA
DEPARTMENT OF EDUCATION

MOLLY M. SPEARMAN
STATE SUPERINTENDENT OF EDUCATION



ESSER II FAQ

Coronavirus Response and Relief Supplemental Appropriations Act, 2021
Public Law 116-260

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Purpose:

The purpose of this document is to provide non-regulatory and non-statutory guidance to local educational agencies/subgrantees for the Elementary and Secondary Schools Emergency Relief (ESSER) II program, as authorized by the Coronavirus Response and Relief Supplemental Appropriations Act, 2021, Public Law 116-260.

Answers are based on available information provided by the questions posed. Specific or nuances to these questions should be submitted to scesser@ed.sc.gov.

Section 1: Application Process

1A) Q: How can the new projects be started under the new pot, if ESSER I has to be spent first?

1B) Q: Are pre-award activities only applicable to the three new categories?

1C) Q: You all stated that ESSER I fund must be spent first. We have our private schools set up to pay for cleaning supplies for the life of the ESSER I grant. Can we use ESSER II prior to these ESSER I funds being used? Thanks!

A: There are 15 allowable spending categories under ESSER II, 12 of which are allowed under ESSER I. If a district has unclaimed or unobligated ESSER I in any of those same 12 categories, it should revise its ESSER I spending plan by completing an [ESSER I Spending Plan Amendment](#), and spend from that allocation first. If the funds are already obligated, or if it has expenditures in any of the 3 new ESSER II categories, the district can begin expending those using ESSER II funds after approval. Obligated funds may also include funds for equitable services under ESSER I.

2) Q: Do we have to submit a spending plan for 100% of our allocation initially?

A: All ESSER II funds that have been allocated for a district should be budgeted in a district's [ESSER II Spending Plan](#) – the allocated amount should equal the budgeted amount on the summary page. If the purpose for any funds is not known at the time the spending plan is submitted, the district may budget the remaining funds in category #15 (with notation in the description field) until the use is determined.

3) Q: When is the ESSER II spending plan due?

A: There is no due date however, districts are encouraged to submit the plan as soon as possible. Districts cannot claim funds until they have an approved spending plan, the SCDE has received a signed GAN, and the district has an approved budget in GAPS.

4) Q: If we budget funds to Category 12 in ESSER I or Category 15 ESSER II, do we have to justify the amount we spend/claim out of that category? Does the amount spent/claimed have to be tied to a specific amount, or event, or do we have autonomy to claim as much as we need within our budget?

A: Yes. The district needs to provide a description of how funds are budgeted in Category #15 (ESSER II) for approval. Districts may use category #15 as a temporary placeholder, which must still be described in the spending plan. When the use of any placeholder funds is determined, the district should submit an ESSER II Spending Plan Amendment.

Section 2: Finance

1) Q: I have a requisition ready to go for tech devices. I can only cover a portion with ESSER I, which will commit the remainder of that. Can I go ahead and encumber the remainder of that purchase with fund 225 before my spending plan is approved?

A: No, you should not encumber and/or expend funding until you have an approved application and signed GAN for ESSER II funds. After approval of ESSER II funds, you may commit the remainder.

2) Q: And should finance use a separate fund modifier to delineate between the two pots of funds within the same fund number.

A: The two funds should be budgeted and tracked completely separately. The subfund number for ESSER II is 225. No separate modifier is required.

3) Q: Do you have to remove capital expenditures from the indirect cost calculation?

A: If you want to claim capital expenditures for the ESSER II program, you must exclude those expenditures from the modified total direct cost when applying the indirect cost rate. In other words, you cannot claim the same cost as a direct cost and then recover indirect cost on the same expenditure.

4) Q: If we haven't decided which positions we would like to use category 12 "Maintain FTEs" yet, once we decide, do we have those employees go back and complete a Semi-Annual Certification for August - December 2020?

A: Yes.

5) Q: Do we need to follow procurement policies, or are we allowed to utilize and emergency purchase forms for COVID-19 purchases?

A: Yes. Districts must follow their procurement policies.

6) Q: Can we go ahead and encumber purchases in 225 prior to spending plan approval?

A: No, the district must submit and have an approved ESSER II spending plan and have a signed GAN prior to encumbering new purchases under ESSER II.

7) Q: In the earlier communications about ESSER2, was that a typo or are districts going to be able to claim indirect costs based on the UNRESTRICTED rate?

A: Districts may choose any indirect cost rate as long as it is **at or below** the unrestricted indirect cost rate.

8) Q: On CRF we have some stipends in there and permanent subs coming from these funds. Do they need to complete a PAR and if so, do you have one specifically to these funds for us to use?

A: Yes. Time and effort documentation must be completed for CRF funds, and districts should use their existing time and effort forms.

9) Q: Also, on the ESSER I CARES Act funds we have semi annuals that we are using since we have 1.0 FTEs that are paid from her but we may have some temp interventionists that we need to pay out of ESSER II funds so would we use Semi-annual or PARS on those?

A: If the interventionists are contracted there will be no requirement for semi-annual or PARS. If the interventionist are employees of the school district, the district must complete a PARS or semi-annual depending on the percentage of their salary coming from federal funds.

10) Q: With most of our federal grants, all expenditure reports for funds spent by June 30th, 2021, are due in GAPS submitted to the SCDE by August 15th, 2021. I just want to make sure I am understanding correctly that with CARES ESSER funds I and II, all expenditure reports for funds spent by June 30th, 2021, would be due in GAPS submitted to the SCDE by July 5th, 2021. The quarterly report would be due on July 5th as well. Is this correct?

A: Quarterly reports are due by the fifth day following each calendar quarter. These reports show how the district has claimed funds in GAPS by the respective allowable ESSER categories. With respect to claims, all claims for federal funds for the preceding state fiscal year must be entered into GAPS by August 15th following the end of the state fiscal year.

11) Q: There was a lot of talk about making sure you continue to pay your staff. We have a district policy/Administrative rule for COVID leave. Is there a requirement for how many days are allowed to be covered in COVID leave? Right now, we have a 10 day but are we to allow more than that if someone has been exposed and has to quarantine multiple times?

A: There is no hard maximum of the number of days that can be paid out of ESSER funds. However, please make sure you are keeping adequate documentation for the leave pay and how it relates to the COVID pandemic.

Section 3: Bonuses

1) Q: Are bonuses for only the employees that return to the district for next school year considered "across the board"?

A: Districts giving bonuses to incentivize teachers signing their contracts is allowable as long as it is determined on an individual basis and the district has appropriate documentation.

2) Q: If all of our teachers have to teach virtually and face-to-face, are we allowed to pay all our teachers a bonus?

A: The SCDE would need specific information in order to provide a response, however individual determinations must be made for bonuses, and it must be linked to impact caused by the COVID-19 pandemic.

3) Q: Are districts allowed to use ESSER II funds to temporarily increase compensation for substitute teachers in an attempt to alleviate sub shortages in response to increased teacher absences caused by the pandemic?

A: Yes, but the district would need to ensure it is following its time and effort policies and procedures.

4) Q: There was also mention that our "policy" must include bonuses. Is that Board Policy or a general word more so addressed in procedures?

A: It should be both a Board Policy as well as an additional policy/procedure related specifically to ESSER funds.

5) Q: Would school nurses working harder and longer hours due to the need for contact tracing be a good enough justification to pay nurses an additional hourly rate under ESSER II?

A: Yes, additional pay for working outside of normal work hours is allowable.

Section 4: Allowability Under New Categories

1) Q: Is it allowable to purchase media center text more aligned to students' Lexile levels to address learning loss?

A: Yes, as long as it is tied to learning loss as a result of the COVID-19 pandemic.

2) Q: Are we allowed to use ESSER II funds to provide funding for food for families in need?

A: Maybe. In emergency situations, where there are no other food sources available, it may be an allowable activity under the provisions of McKinney-Vento. The SCDE would need additional information about this request prior to approval.

3) Q: Are we allowed to use ESSER II funds to assist families needing housing vouchers?

A: No. That is not an allowable use of ESSER I or ESSER II funds, nor other federal education programs.

4) Q: Are we allowed to provide incentives to parents to get parental involvement?

A: This may be allowable but the SCDE would need additional information to make a determination prior to approval.

5) Q: Are we allowed to purchase vaccines and items to administer vaccines if we are forced to do so at the schools?

A: That may be allowable under ESSER II Categories 2 and 5, but only if otherwise unfunded.

6) Q: For revenue shortfall in athletics and arts, are we allowed to utilize ESSER II funds to purchase student items such as uniforms, safety gear, equipment, etc.

A: No. That is not an allowable use of ESSER I or ESSER II funds, unless safety gear relates to Personal Protective Equipment (PPE).

7) Q: Can districts recoup funds in lost revenue for fundraising and extracurricular activities, including athletic events?

A: No. That is not an allowable use of ESSER I or ESSER II funds.

8) Q: Are we allowed to cover lost textbooks and library books with ESSER II funds?

A: This may be allowable under ESSER II category 3 but would need to be due to/caused by the COVID-19 pandemic.

9) Q: Under category 12, to encourage student attendance, would student incentives be allowable.

A: This may be allowable but the SCDE would need additional information to make a determination.

10) Q: We have a gym roof that is leaking and is contributing to poor indoor air quality. Classes are conducted in the building as well as sporting events. We have made numerous repairs to the existing roof but need a new roof. Can we pay for a new roof with bucket #13 ESSER 2 Funds? If so, do we contact a contractor and get an estimate and contact OSF or does the SDE handle that internally as mentioned in the web seminar?

A: Yes, however they would need to follow all state procurement procedures and work with the SCDE Office of School Facilities.

11) Q: Do you have any suggestions on how we can prove/prioritize the air quality of a school? I know our principals are all jumping on board that they need new HVAC but trying to find a way to prove and see the true needs for air quality.

A: The American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) is a well-known and recognized source for Design Professionals when determining how to address air quality. According to ASHRAE, 15 years is an average HVAC expected life. Some districts (e.g. Horry & Charleston) are replacing their units that are 14-17 years old. For maintaining HVAC units, ASHRAE recommends the following:

<https://www.ashrae.org/file%20library/technical%20resources/covid-19/core-recommendations-for-reducing-airborne-infectious-aerosol-exposure.pdf>

- Ensure you meet minimum outdoor airflow rates for ventilation per code
- Use MERV 13 or better filters
- When this is not possible, use the best filter possible and supplement with other technologies (e.g. portable HEPA purifiers, etc.)

- Other ASHRAE Resources:

<https://www.ashrae.org/file%20library/technical%20resources/covid-19/ashrae-reopening-schools-and-universities-c19-guidance.pdf>

12) Q: Was the decision to not allow funds to build new facilities made by SCDE or the Feds? Is there an appeal process?

A: After further review, the SCDE has learned that new construction may be allowable. The district needs to clearly delineate on its spending application. For any Alteration Level 2 or Level 3 facilities request, the district would likely get a conditional approval on its ESSER II spending plan, and then be required, working with its design professional and the SCDE, Office of School Facilities, to take the necessary steps for full approval of the use of funds. It is important to note that to meet the standard of reasonable cost, the district must 1) provide documentation that new construction is a cost savings over repair and renovation to new facilities, 2) provide documentation that the new construction is due to or caused by COVID-19, and 3) ensure that applicable ESSER II funds are expended on or by September 30, 2023.

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Because ESSER funds may be used for “any activity authorized by the ESEA,” and construction is an allowable activity under the ESEA’s Impact Aid program, a district may use ESSER funds for construction, subject to prior written approval by the SCDE (See section 18003(d)(1) of the CARES Act, Title VII of the ESEA, and 2 CFR § 200.439(b)(1)). Specifically, the Impact Aid definition of “construction” includes remodeling and renovations, under which many activities related to COVID-19 would likely fall.

As is the case with all activities charged to the ESSER Fund, construction costs must be reasonable and necessary to meet the overall purpose of the program, which is “to prevent, prepare for, and respond to” the COVID-19 pandemic (See CARES Act Department of Education, Education Stabilization Fund heading and 2 CFR §§ 200.403-200.405). Therefore, any construction activities, including renovations or remodeling, that would be necessary for an LEA to prevent, prepare for, and respond to COVID-19 would be permissible. This might include renovations that would permit an LEA to clean effectively (e.g., replacing old carpet with tile that could be cleaned more easily) or create a learning environment that could better sustain social distancing (e.g., bringing an unused wing of a school into compliance with fire and safety codes in order to reopen it to create more space for students to maintain appropriate social distancing).

Approved construction projects must comply with applicable Uniform Guidance requirements, as well as the US Department of Education’s regulations regarding construction at 34 CFR § 76.600. As is the case with all construction contracts using laborers and mechanics financed by federal education funds, a district that uses ESSER funds for construction contracts over \$2,000 must meet all Davis-Bacon prevailing wage requirements and include language in the construction contracts that all contractors or subcontractors must pay wages that are not less than those established for the locality of the project (prevailing wage rates). (See 20 U.S.C. 1232b Labor Standards.)

13) Q: ESSER funds from round 1 can be used in the same manner as round 2? In short, can we spend for the 3 new categories?

A: The SCDE encourages districts to use ESSER II funds for the 3 new categories only.

14) Q: Does replacement of old carpeting qualify as an improvement to air quality since it will help air quality in classrooms and media centers?

A: Yes, however they would need to follow all procurement policies procedures and work with the SCDE Office of School Facilities.

15) Q: Also, can these funds be used for repairs and maintenance and air quality improvements for support buildings such as the district office, transportation department, etc.?

A: Yes. If the district can relate the repairs back to the COVID-19 pandemic with appropriate documentation.

16) Q: Can Summer School Contractors be paid out of these funds? For example, my district is considering paying the Bell Group to run our summer school.

A: Yes, there is no prohibition against paying contractors with this money however, districts need to follow their district procurement procedures.

17) Q: Can they pay for students' virtual school fees next year? For example, our District will not offer virtual school. However, they have stated they will use this money to pay for the students to attend other virtual schools.

A: The SCDE would need more information to respond to this question.

18) Q: What type of work can it cover? I expect that it covers the replacement of HVAC units. But if in replacing those, it triggers other code compliance upgrades to the building will those be covered? For instance, we know of one project we might like to accomplish will require the upgrade of the fire alarm system at the school at significant cost. Can the grant cover that or is that something the district needs to cover?

A: On page 5 of the U.S. Department of Education's ESSER II FAQ document, it gives the following example of bringing an unused wing up to fire and safety codes to promote social distancing as an allowable cost. Therefore, if the district can prove that the repair and improvement is directly related to reducing the risk of virus transmission and environmental health concerns, it appears it is allowable. If the district simply wants to upgrade their fire alarm system and cannot provide an impact to health, then they should pay with some other district funding.

If the district had to move or install a fire alarm device in order to install or remove a window or door related to air quality; the cost associated with moving the fire alarm device is allowed (including the door and window project). If the district wanted to upgrade their fire alarm system because it does not work properly, then it should pay with some other district funding.

19) Q: Does this grant require that we follow Buy American guidelines? This could possibly affect what products are specified in the design. It could possibly prevent us from specifying the units/equipment that we want. Or, it could potentially prevent an otherwise "equal" product from being approved. How far does the requirement go? Most HVAC systems will include processors that are not made in the USA and we can't determine where the precious metals are smelted.

A: There is no "buy American" requirement. A school district should follow its written procurement code and document and monitor all procurements fully in compliance with 2 CFR Part 200.318-327. The Procurement Code and the Model Procurement Code both provide guidance on Resident Vendor preference including US end product and SC end product. Offerors have to certify and essentially "opt-in" on each line of a solicitation for which it applies, but it does not apply to all.

- **SECTION 11-35-1524.** Resident vendor preference, says in part:
B)(1) When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease by seven percent the price of any offer for a South

Carolina end product.

(2) When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease by two percent the price of any offer for a United States end product. This preference does not apply to an item to which the South Carolina end product preference has been applied.

(3) Whether award is to be made by item or lot, the preferences must be applied to the price of each line item of end product. A preference must not be applied to an item for which a bidder does not qualify.

Districts should also ensure that they comply with 2 CFR Section 200.215 that prohibits any “Contract with the Enemy” as well as 2 CFR Section 200.216, which prohibits certain telecommunications and video surveillance services or equipment.

No federal subgrant funds can be used for transactions prohibited by 2 CFR Part 200.216 Prohibition on certain telecommunications and video surveillance services or equipment, which implements National Defense Authorization Act (NDAA) (Public Law 115-232), section 889. This prohibition includes contracts with the following telecom companies and any of their subsidiaries or affiliates:

- Huawei Technologies Company
- ZTE Corporation
- Hytera Communications Corporation
- Hangzhou Hikvision Digital Technology Company
- Dahua Technology Company

Subgrantees are restricted from using the funds to procure or obtain, or enter into a contract for equipment, services and systems prohibited under Section 889. Recipients are responsible for ensuring funds are only used for allowable costs and would be obligated to refund the government for any costs that are unallowable

20) Q: Could we use these funds to continue our Virtual Academy next year for those students who are uncomfortable returning to face-to-face instruction? And code to Category #15 Other Activities to ensure continuity of education and employment.

A: Yes as long as it is related to the COVID-19 pandemic.

Section 5: General

1) Q: Is there a way to learn the total amount of available ESSER II dollars for the district.

A: Yes, these can be found in the Allocation table found on the SCDE ESSER II Webpage <https://ed.sc.gov/policy/federal-education-programs/esser-funding-information/esser-2-funding-information/sc-esser-ii-fund-district-allocation-table/>

2) Q: To what memo on #13 is John referring

A: Below is a link to the memo that was referenced.

- <https://ed.sc.gov/newsroom/school-district-memoranda-archive/esser-updates-and-guidance/esser-updates-and-guidance-memo/>

3) Q: What is the execution timeframe for ESSER II funds?

A: All ESSER II funds must be expended by September 30, 2023. By August 15 of each year, districts must claim any funds from the preceding state fiscal year.

4) Q: Will we be able to print the PowerPoint?

A: Yes, the slides can be found on the [SC ESSER II website](#) under ESSER II Technical Assistance Session. A video of the live recording has also been posted for your reference.

5) Q: Can we receive more clarification on the use of funds for repayment of COVID leave?

A: Districts must have policies and procedures and should consult the memorandum the SCDE issued on February 2, 2021. District may cover the leave in a daily rate as well as cover associated fringe costs, consistent with their district COVID leave policy.

6) Q: We should go based on previously received allocations, correct?

A: The link below shows the allocation amount for each LEA under ESSER

II: <https://ed.sc.gov/policy/federal-education-programs/esser-funding-information/esser-2-funding-information/sc-esser-ii-fund-district-allocation-table/>

7) Q: Due to being able to support our school leaders and school needs, we would like to include our additional hired federal assistant admin person to come out of our ESSER II funding. We feel this is an allowable cost of the funds due to the increased number of grants, paperwork, reporting with district federal program requirements paired with the learning loss associated with COVID instruction. This position is also imperative that the management of such reporting, grants, etc. is separated from the support of instruction and curriculum design. This position will also assist in the heavy load to support and monitor instruction and grants within the district which are both full time positions in order to ensure each is managed correctly and with fidelity. Is this an acceptable list of activities to qualify to be budgeted in ESSER II funding?

A: Yes, but make sure you are able to provide appropriate documentation as well as justification for how these positions relate to the needs presented by the COVID-19 pandemic.

8) Q: I know that some grant funds require certified payroll from contractors or mandate certain minimum wages.

A: The Davis-Bacon Act applies to all construction-related costs.

9) Q: If we go ahead and give new schools an allocation amount, and they submit an approved spending plan, can they begin implementing and expending funds prior to opening (after approved by SCDE)? (Examples: PPE needed to open school safely) Or, do they have to wait until they are officially opened (July 1, 2021) to expend funds?

A: The SCDE will be approving spending plans by district not on an individual school level.

10) Q: Can you please explain the 90% spending that was mentioned at the very end of the meeting?

A: This is explained in introduction to the allocation table linked below.

- <https://ed.sc.gov/policy/federal-education-programs/esser-funding-information/esser-2-funding-information/sc-esser-ii-fund-district-allocation-table/>

11) Q: The district would like to purchase some multi-year software solutions to go along with student/teacher devices and is wondering if:

- 1. Could they pay for the multi-year software contract upfront, all at once or if the software services should instead be broken down annually over several reporting periods?
 - A: The district would need to follow its procurement policies and procedures.
- 2. As funds are available for obligation through 9/30/2022 – does this mean that ESSER funded software services must end by that date unless the district is ready to assume fiscal responsibility for on-going costs, or could the ESSER funded software contract extend beyond the obligation deadline?
 - A: ESSER I funds must be expended by 9/30/2022. Any costs paid for by ESSER I funds after 9/30/2022 must come from another source.
- 3. With ESSER II having a later obligation deadline of 9/30/2023 and these funds soon on the way to districts, how does the answer to question 2 change if the district were to use those funds in addition/instead of ESSER I?
 - A: ESSER II funds must be expended by 9/30/2023. Any costs paid for by ESSER II funds after 9/30/2023 must come from another source. A district, with approval, could continue funding an activity paid for from ESSER I for the

additional year allowed by ESSER II. It would be allowable for the contract to extend beyond the life of the grant as long as the contract has been fully paid before the grant expires.

12) Q: Can we recoup funds for lost revenue in food services?

A: The SCDE would need additional details as well as evidence of a documented loss of food services funds.

13) Q: Can we recoup funds for lost Medicaid revenue?

A: Districts may expend funds for any IDEA-related activity, with supporting documentation under ESSER II Category 1.

14) Q: Can we pay staff stipends for extra or overtime work?

A: Yes, if it is related to or caused by the COVID-19 pandemic, with time and effort documentation, consistent with district policies and procedures.

15) Q: For districts that are using ESSER funds to pay teachers for due to a shortfall in revenue, will they be required to complete time and effort requirements?

A: Yes. District may use individual time for each employee and effort, or the district may do a blanket certification that a group of employees worked on the cost objective.

16) Q: Is time and effort reporting required for bonuses and COVID-19 leave pay?

A: Yes. Time and effort is required for any bonuses and COVID-19 leave pay.

17) Q: Is time and effort required of employees who have helped to install Plexiglas, contribute to curriculum planning, etc.?

A: Yes, these employees will still have to complete time and effort.