

## ESSER I, ESSER II, and ESSER III Side by Side Requirements Document

Topic	ESSER I (CARES Act)	ESSER II (CRRSA Act)	ESSER III (ARP Act)
<b>Fund Code</b>	266	281	282
<b>Start Date for Pre-award Costs</b>	March 13, 2020	March 13, 2020	March 13, 2020
<b>NOGA End Date before Carryover</b>	9/30/2021	9/30/2022	9/30/2023
<b>Period of Availability including Carryover</b>	March 13, 2020 - September 30, 2022	March 13, 2020 - September 30, 2023	March 13, 2020 - September 30, 2024
<b>LEA Close Out Period</b>	60 days	90 days	90 Days
<b>Amendment Deadline (including carryover)</b>	Amendments must be submitted to Grants Administration by: 7/5/2022	Amendments must be submitted to Grants Administration by: 7/5/2023	Amendments must be submitted to Grants Administration by: 7/5/2024
<b>FER and RFER Due Dates (including carryover)</b>	11/1/2022	1/2/2024	1/2/2025
<b>Application Type</b>	Paper/PDF application to be submitted by email to GrantApplications@tea.texas.gov	eGrants Application submitted electronically	eGrants Application submitted electronically
<b>Tracking of Funds</b>	All ESSER I, II, and III funds must 1) be tracked separately, and 2) retain their identity as federal grant funds and follow all federal grant rules and regulations. See individual Fund Codes above.		
<b>Statute</b>	<a href="#">Section 18003 of the CARES Act</a>	<a href="#">Section 313 of the CRRSA Act</a>	<a href="#">Section 2001 of the ARP Act</a>
<b>LEA Entitlements</b> <a href="#">Explanation of Formula Calculations</a>	<a href="#">ESSER I Entitlements</a>	<a href="#">ESSER II Entitlements</a>	<a href="#">ESSER III Entitlements</a>
<b>Statutory Intent</b>	The statutory intent and purpose of the CARES Act education funding is to prevent, prepare for, and respond to the coronavirus.	The statutory intent and purpose of the CRRSA Act is to add additional stimulus funding to be available to LEAs to prevent, prepare for, and respond to the coronavirus.	The statutory intent and purpose of the ARP Act is to provide wrap-around services in light of the challenges of COVID-19; and assistance needed to enable homeless children and youth to

			attend school and participate fully in school activities.
<b>USDE-defined Intent</b>	USDE has defined the intent of all three ESSER grants as: to prevent, prepare for, or respond to the COVID-19 pandemic, including its impact on the social, emotional, mental health, and academic needs of students.		
<b>State Offset/Supplant</b>	State funding formulas provide school system funding based on average daily attendance of students in school. In March 2019, all in-school attendance stopped. The state provided a hold harmless, providing funding based on an assumption of attendance for the rest of the school year. ESSER I was used as a partial funding source for this hold harmless. Hold harmless calculations were adjusted to ensure at least some portion of ESSER I funding to school districts would be supplemental, above the hold harmless guarantee.	For the 2020-2021 school year, LEAs will be eligible to receive hold harmless adjustments (increases in ADA/FTEs) for attendance figures as previously announced. For each LEA that actually receives a hold harmless ADA adjustment, TEA will fund a portion of that hold harmless adjustment with federal funds in a manner similar to how the 2019–2020 hold harmless was funded using CARES funds. The mechanics for the portion funded using ESSER II funds will also be an ADA reduction. For 2020-2021, TEA will reduce total Refined ADA in an amount necessary to ensure each LEA receives total state and ESSER II funding equal to the amount that would have been available through the FSP while receiving the benefit of the hold harmless provided by the State.	ESSER III is supplemental to LEAs and will not be supplanted by the state.
<b>FAQ</b>	<a href="#">CARES Act Funding and Reimbursement FAQ</a> <a href="#">FAQ-ESSER I, ESSER II, ESSER III</a>	<a href="#">FAQ-ESSER I, ESSER II, ESSER III</a>	<a href="#">FAQ-ESSER I, ESSER II, ESSER III</a>
<b>LEA Supplement, not Supplant (S/NS)</b>	LEAs may supplant locally with ESSER funds. Due to having no supplement, not supplant requirement, an LEA may use its unrestricted indirect cost rate for these grants.		

<b>Equitable Service for Private</b>	District provides equitable services to participating private non-profit schools per Title I, Part A Equitable Services Provisions.	PNPs receive their own Emergency Assistance for Non-Public Schools (EANS) services from TEA per statute. LEAs have no role.
<b>Program Intent Code (PIC)</b>	Use appropriate Program Intent Code for each expense; if not for a specific program use code 99.	
<b>Time &amp; Effort</b>	<p>An LEA must maintain time distribution records (sometimes called “time and effort” reporting) <i>only</i> if an individual employee is split-funded between ESSER and activities that are not allowable under the ESSER program.</p> <p>However, it is likely there will be very few situations in which an employee of an LEA would perform multiple activities where some are not allowable under ESSER, and thus would be required to maintain time distribution records, given that an LEA is authorized to use funds on “activities that are necessary to maintain the operation of and continuity of services in [an LEA] and continuing to employ existing staff of the [LEA]” in order to “prevent, prepare for, and respond to the COVID-19 pandemic.”</p>	
<b>Monitoring and Audit</b>	Grantees should expect federal monitoring of all stimulus funding. TEA's Division of Federal Fiscal Monitoring will conduct fiscal reviews of ESSER I, ESSER II, and ESSER III grants each year of the period of availability. The program office in the Department of Grant Compliance and Administration will conduct program compliance validations each year of the period of availability.	
<b>Documentation to Maintain for Audits and Monitoring</b>	<p>Auditors will request and review documentation to verify that program funds were obligated in compliance with fiscal, program, and other applicable grant requirements. Auditors will review the LEA’s financial management system, internal controls, cash management, budgetary controls, allowability of costs, period of availability, and set-asides. Additionally, auditors will request and review source documentation supporting both payroll and non-payroll costs to determine that expenditures charged to grant funds were allowable, allocable, reasonable, and necessary to meet program requirements. At a minimum, the LEA should maintain the following documentation to demonstrate compliance with program requirements.</p> <ul style="list-style-type: none"> <li>• Policies and procedures</li> <li>• Detailed general ledgers and payroll journals compliant with FASRG</li> <li>• Procurement records (e.g., contracts, leasing agreements)</li> <li>• Personnel records including job descriptions, salary authorizations, payroll and time and effort records (if applicable) reconciled to payment</li> <li>• Needs assessment and/or planning documents describing the need for the use of program funds</li> <li>• Inventory records of equipment purchased with grant funds</li> <li>• Source documentation supporting expenditure of grant funds (e.g., purchase orders with accompanying Invoices, receipts, canceled check/check registry/screenshot from accounting system, proof of electronic payment/payment screenshots,(as applicable, indicating that payment was made</li> <li>• Spreadsheet or other documents with relevant supporting documentation reconciling payment documentation to dollar amount that includes description of how funds were used, a unique payment number, the date payment was recorded, and a signatory approval</li> </ul>	

	ESSER I Year I Validations focused on Private School Equitable Services and Year 2 will focus on the needs assessment process.	ESSER II Compliance Topics are TBD	ESSER II Compliance Topics are TBD
<b>Maintenance of Effort</b>	<p>No local MOE requirement</p> <p>1. A State’s application for funds to carry out sections 18002 or 18003 of this title shall include assurances that the State will maintain support for elementary and secondary education, and State support for higher education in fiscal years 2020 and 2021 at least at the levels of such support that is the average of such State’s support for elementary and secondary education and for higher education provided in the 3 fiscal years preceding the date of enactment of this Act.</p> <p>2. The secretary may waive the requirement for the purpose of relieving fiscal burdens on States that have experienced a precipitous decline in financial resources.</p>	<p>No local MOE requirement</p> <p>1. At the time of award of funds, a State shall provide assurances that such State will maintain support for elementary and secondary education, and for higher education in fiscal year 2022 at least at the proportional levels of such State’s support for elementary and secondary education and for higher education relative to such State’s overall spending, averaged over fiscal years 2017, 2018, and 2019.</p> <p>2. The Secretary may waive the requirement for the purpose of relieving fiscal burdens on States that have experienced a precipitous decline in financial resources.</p>	<p>No local MOE requirement</p> <p>1. As a condition of receiving funds, a State shall maintain support for elementary and secondary education, and for higher education, in each of fiscal years 2022 and 2023 at least at the proportional levels of such State’s support for elementary and secondary education and for higher education relative to such State’s overall spending, averaged over fiscal years 2017, 2018, and 2019.</p> <p>2. For the purpose of relieving fiscal burdens incurred by States in preventing, preparing for, and responding to the coronavirus, the Secretary of Education may waive any maintenance of effort requirements.</p>
<b>Maintenance of Equity</b>	No requirement	No requirement	New requirement for Maintenance of Equity (MOQ) under ESSER III. The local MOQ requirement is that LEAs shall not reduce (1) per-pupil spending of state and local funds, or (2) FTEs, for any high poverty school by an amount that exceeds the total reduction(s) within the LEA. “High poverty school” is defined as a school with a higher percentage of economically disadvantaged students than the median school percentage of the LEA or the LEA’s

			<p>grade span (based on Title I, Part A economically disadvantaged student data).</p> <p>An LEA that has fewer than 1000 total enrollment, has only one campus within the LEA, only one campus per grade span within the LEA, or receives a waiver from USDE may be exempt from the MOQ requirement.</p> <p>More information will be provided once USDE releases MOQ guidance.</p>
<p><b>LEA Use of Funds Plan Requirements</b></p>	<p>No requirement</p>	<p>No requirement</p>	<p>LEA ESSER III Use of Funds Plan -- this requirement is created in federal rule and requires the following:</p> <p>The LEA must engage in meaningful consultation with stakeholders and give the public an opportunity to provide input in the development of its plan for the uses of ARP ESSER III funds.</p> <p>The LEA must specifically engage in meaningful consultation with students; families; school and district administrators (including special education administrators); and teachers, principals, school leaders, other educators, school staff, and to the extent present in or served by the LEA tribes, civil rights organizations (including disability rights organizations) and stakeholders representing the interests of children with disabilities, English language learners, children experiencing homelessness, children in foster care, migrant students, children who</p>

			<p>are incarcerated, and other underserved students.</p> <p>The LEA must provide its plan for the uses of ARP ESSER III funds in an understandable and uniform format; to the extent practicable, written in a language that parents can understand or, if not practicable, orally translated; and, upon request by a parent who is an individual with a disability, provided in an alternative format accessible to that parent.</p> <p>At a minimum, the plan must include a description of:</p> <ol style="list-style-type: none"><li>1. The extent to which and how the funds will be used to implement prevention and mitigation strategies that are, to the greatest extent practicable, consistent with the most recent CDC guidance on reopening schools, in order to continuously and safely open and operate schools for in-person learning.</li><li>2. How the LEA will use the funds it reserves under section 2001(e)(1) of the ARP Act to address the academic impact of lost instructional time through the implementation of evidence-based interventions, such as summer learning or summer enrichment, extended day, comprehensive afterschool programs, or extended school year.</li><li>3. How the LEA will spend its remaining ARP ESSER funds consistent with section 2001(e)(2) of the ARP Act. and</li></ol>
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<p><b>LEA Safe Return to In-Person Instruction and Continuity of Services Plan Requirements</b></p>	<p>No requirement</p>	<p>No requirement</p>	<p>First, the LEA’s plan must include how it will maintain the health and safety of students, educators, and other school and LEA staff, the extent to which it has adopted policies, and a description of any such policies on each of the CDC’s safety recommendations.</p> <p>The current CDC recommendations include:</p> <ul style="list-style-type: none"> <li>• universal and correct wearing of masks;</li> <li>• modifying facilities to allow for physical distancing (e.g., use of cohorts/ podding);</li> <li>• handwashing and respiratory etiquette;</li> <li>• cleaning and maintaining facilities;</li> <li>• including improving ventilation;</li> </ul>

			<ul style="list-style-type: none"><li>• contact tracing in combination with isolation and quarantine, in collaboration with the State, local, territorial, or Tribal health departments;</li><li>• diagnostic and screening testing;</li><li>• efforts to provide vaccinations to school;</li><li>• appropriate accommodations for children with disabilities with respect to health and safety policies; and</li><li>• coordination with State and local health officials.</li></ul> <p>Second, the plan must describe how the LEA will ensure continuity of services, including but not limited to services to address students' academic needs and students' and staff social, emotional, mental health and other needs, which may include student health and food services.</p> <p>The plan must also be reviewed and, as appropriate, revised every six months until September 30, 2023, including stakeholder input and public comment. If the LEA revises its plan, the revised plan must address each of the aspects of safety currently recommended by the CDC at the time of the revision or, if the CDC has updated its safety recommendations at the time the LEA is revising its plan, each of the updated safety recommendations.</p> <p>A plan is required of all LEAs, even those who have already returned to in-person instruction. An LEA that developed a plan</p>
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<p><b>Set-aside Requirements</b></p>	<p>Private School Equitable Services as described above</p>	<p>No requirement</p>	<p>LEAs must:</p> <ol style="list-style-type: none"> <li>1. Expend a minimum of 20% of their grant funds on evidence-based interventions, such as summer learning, extended day comprehensive after-school programs, or extended school year programs; and</li> </ol>

			<p>2. Ensure interventions respond to students' academic, social, and emotional needs and address disproportionate impact of coronavirus on student populations as defined in ESEA, Title I, Part A; students experiencing homelessness; and youth in foster care.</p>
<p><b>Allowable Costs</b></p>	<p>USDE has clarified that ESSER I, ESSER II, and ESSER III grants may be expended for any allowable activity codified under statute in ESSER I, II, or III, making the allowable activities interchangeable among the activities that are listed in Section 18003(d) of the CARES Act, Section 313(d) of the CRRSA Act, and Section 2001(e) of the ARP Act. Any allowable use of funds to be charged to the ESSER grant must be reasonable and necessary, the LEA must justify the use of funds to the intent of the ESSER statute (which is to prevent, prepare for, or respond to the COVID-19 pandemic, including its impact on the social, emotional, mental health, and academic needs of students), and the LEA must align it to an allowable activity in the statute.</p> <p>In determining how to prioritize its funds, an LEA should consider how to use those funds to safely reopen schools for full-time instruction for all students, maintain safe in-person operations, advance educational equity, and build capacity. An LEA may provide services directly or enter into an agreement (e.g., a contract or interagency agreement consistent with procurement requirements or otherwise legally authorized) for allowable activities under ESSER. An LEA is not authorized to award subgrants with ESSER funds. contract or interagency agreement consistent with procurement requirements or otherwise legally authorized) for allowable activities under ESSER. An LEA is not authorized to award subgrants with ESSER funds.</p> <p>Note that all renovation, including minor remodeling, HVAC, and air quality projects are considered construction by USDE and must have TEA prior approval as described above.</p> <p>Per USDE guidance, LEAs may use ESSER I, ESSER II, and ESSER III grants for any of the following allowable uses:</p> <ol style="list-style-type: none"> <li>1. Any activity authorized by the ESEA, including the Native Hawaiian Education Act and the Alaska Native Educational Equity, Support, and Assistance Act (20 U.S.C. 6301 et seq.).</li> <li>2. Any activity authorized by the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 et seq.).</li> <li>3. Any activity authorized by the Adult Education and Family Literacy Act (AEFLA) (29 U.S.C. 3271 et seq.).</li> <li>4. Any activity authorized by the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins V) (20 U.S.C. 2301 et seq.).</li> <li>5. Any activity authorized by subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (McKinney-Vento) (42 U.S.C. 11431 et seq.).</li> </ol>		

6. Coordinating preparedness and response efforts of LEAs with State, local, Tribal, and territorial public health departments, and other relevant agencies, to improve coordinated responses among such entities to prevent, prepare for, and respond to COVID-19.
7. Providing principals and other school leaders with the resources necessary to address the needs of their individual schools.
8. Activities to address the unique needs of low-income children or students, students with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children and youth in foster care, including how outreach and service delivery will meet the needs of each population.
9. Developing and implementing procedures and systems to improve the preparedness and response efforts of LEAs.
10. Training and professional development for staff of the LEA on sanitation and minimizing the spread of infectious diseases.
11. Purchasing supplies to sanitize and clean the facilities of the LEA, including buildings operated by such LEA.
12. Planning for, coordinating, and implementing activities during long-term closures, including providing meals to eligible students, providing technology for online learning to all students, providing guidance for carrying out requirements under the IDEA and ensuring other education services can continue to be provided consistent with all Federal, State, and local requirements.
13. Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the LEA that aids in regular and substantive educational interaction between students and their classroom instructors, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment.
14. Providing mental health services and supports, including through the implementation of evidence-based full-service community schools.
15. Planning and implementing activities related to summer learning and enrichment and supplemental after-school programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children and youth in foster care.
16. Addressing the academic impact of lost instructional time<sup>6</sup> among an LEA's students, including low-income students, students with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children and youth in foster care, including by—
  - a. Administering and using high-quality assessments that are valid and reliable to accurately assess students' academic progress and assist educators in meeting students' academic needs, including through differentiating instruction.
  - b. Implementing evidence-based activities to meet the comprehensive needs of students.
  - c. Providing information and assistance to parents and families on how they can effectively support students, including in a distance learning environment.
  - d. Tracking student attendance and improving student engagement in distance education.
17. 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.

	<ol style="list-style-type: none"> <li>18. 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.</li> <li>19. Developing strategies and implementing public health protocols including, to the greatest extent practicable, policies in line with guidance from the CDC for the reopening and operation of school facilities to effectively maintain the health and safety of students, educators, and other staff.</li> <li>20. Other activities that are necessary to maintain the operation of and continuity of services in the LEA and continuing to employ existing staff of the LEA.</li> </ol>
<p><b>Unallowable Costs</b></p>	<ul style="list-style-type: none"> <li>• Bonuses, merit pay, or similar expenditures, <i>unless</i> related to disruptions or closures related to COVID-19</li> <li>• Subsidizing or offsetting executive salaries and benefits or individuals who are not LEA employees</li> <li>• Expenditures related to state or local teach or faculty unions or associations</li> <li>• Construction costs without prior written approval from TEA</li> </ul>