

**Elementary and Secondary Education Act (ESEA)
COVID-19 FAQ
March 31, 2020**

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STAFF

1. Our school is closed, can we pay our ESEA funded employees, e.g. Title I, during this time?

Employees who are supported with federal grants, such as those under Title I, should be treated the same as similarly situated employees of the district, according to *Non-Regulatory Guidance on Flexibility and Waivers for Grantees and Program Participants Impacted by Federally Declared Disasters*, 120 LRP 142 (EDU 09/01/18).

In the case of K-12 education programs, federally funded employees should be treated the same as similarly situated state and locally funded employees. This means that if the district's policy or state and local law and policies provide for similarly situated employees to be paid during an extended closure due to coronavirus, those supported with federal grants, including Title I, would also be paid. 2 CFR 200.430 (a)(1).

The Education Department General Administrative Regulations (EDGAR) also allow the use of federal funds to pay "fringe benefits," which could include the cost of family leave, sick leave, or vacation leave, "provided that the benefits are reasonable and are required by law, non-Federal entity-employee agreement, or an established policy of the non-Federal entity." 2 CFR 200.431 (a).

2. Our school is closed but will operate via remote teaching and learning. Can we offer Title services in this same manner through our certified Title staff?

As classroom certified staff are expected to support students during remote learning, so must the federally-funded certified staff, including equitable services at non-public schools. The Title I certified staff should collaborate with the administrators and classroom certified staff to determine the best methods for these services. For example, the Title I staff could be a second set of educators that reach out to ensure remote learning lessons are understood and completed by students. Title I staff could

conduct small group learning virtually with students in need of additional support. This is determined locally, including through consultation for equitable services at non-public schools. However, the LEA may also decide to have Title I staff conduct alternate activities as well, such as participate in virtual professional development, update the Title I schoolwide plan, plan future professional development activities when staff returns, and so on.

3. Our LEA has paid for activities with ESEA funds, such as professional development conferences under Title II, that are now cancelled or the LEA does not want to participate due to restrictions. How should we proceed?

The LEA should attempt to recoup all fees paid so that the funding may be repurposed for an alternate activity. In the case that certain funds cannot be recouped because vendors will not refund the costs but will provide vouchers, consider rescheduling at a later date within the same project period. If all else fails and certain funds are lost, then keep documentation of the attempt to recoup the costs and the LEA may still charge the lost funds to the federal award. If the LEA later receives a refund from the vendor after already seeking reimbursement, this serves as a rebate or cash on hand, which must be either returned or proportionally reduce the next reimbursement under the same project. The LEA must consult with all non-public schools utilizing federal funding for equitable services in order to achieve an agreed upon result regarding replacement activities. If USED provides additional guidance that updates this answer, we will share at a later date.

4. Due to the cancellation of several events in which our LEA is expending ESEA funds, we may not encumber all of our funds within the project period. Is an extension available?

At this time no. The LEA should attempt to carry out alternate activities within the project period. Your [Federal Programs Supervisor](#) can support you in this endeavor. ESEA Finance can offer late liquidation requests, but for most federal grants the LEA still has through December 15, 2020 to liquidate, and must be based upon activities occurring by the encumbrance deadline (September 30 for most federal grants). For many formula federal grants, carryover is available and can be utilized. If USED provides further guidance that updates this answer, we will share at a later date.

5. If our plan changes and different activities will now occur, must we amend our grants?

Generally, yes. If an activity is different than what is stated within your grant, then an amendment must be submitted. All activities must be reasonable, allocable and necessary.

6. Can Title I staff assume other limited duties during a school closure?

The Every Student Succeeds Act (ESSA) contains the following language: [Staff paid with Title I funds can] “assume limited duties that are assigned to similar personnel who are not so paid, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school.”

Based on this language, DESE provides the following guidance: If staff paid with general revenue are preparing material for students, engaging in professional development and/or checking in with students regularly, and also helping with other duties such as meal preparation and distribution, then staff paid with Title I funds would be allowed to perform the same duties. If the LEA is requiring their staff paid

with general revenue to perform other tasks, it would be allowable for Title I staff to do so at the same rate that staff paid with general revenue are being asked to do so. Schools are reminded that they should still be providing supplemental equitable services to their non-public children as well. This may require LEAs to consult with the non-public school officials to work out how those services will or can be provided.

PAYMENTS

7. Will the LEA continue to receive reimbursement of ESEA funds for expenditures incurred?

LEAs will continue to receive reimbursement of federal funds for expenditure amounts submitted on payment requests in ePeGs. If federal funds are shifted from one category to another, a budget revision must be completed by the revision deadline to redirect these federal funds before funds can be requested.

ACTIVITIES

8. What costs are allowable when providing services through distance learning?

ESEA provides significant flexibility in how to meet the purpose of each of its programs. An expenditure is allowable if it is necessary and reasonable for implementing the grant award, allocable to the funding award consistent with the relative benefits for eligible participants and included in the plan based on the needs found in the needs assessment.

Each cost must be necessary for achieving the purpose of each grant award as listed below:

- **Title I, Part A:** improve achievement of students who are not meeting academic standards
- **Title II:** increase academic achievement of all students by improving access to effective teachers and school leaders
- **Title III:** ensure that English learners (ELs) and immigrant students attain English proficiency and meet state academic standards.
- **Title IV, Part A:** increase the local capacity to provide all students access to a well-rounded education; improve school conditions for safe and healthy students; and improve use of technology to improve academic achievement and digital literacy.
- **Title I, Part C:** ensure all migrant students reach challenging academic standards and graduate
- **Title I, Part D:** support dropout prevention and education continuity for at-risk and incarcerated youths

Specifically for Title I, Part A, school expenditures must only benefit Title I students according to the school's plan but, in a public Title I school, the expenditures are not required to be supplemental. In a public Title I school providing Targeted Assistance or in Title I services for students in nonpublic schools, Title I students are those who have been identified as needing assistance according to multiple, education-related, objective criteria established by the LEA and/or school. In a Title I school implementing Schoolwide school improvement, all students are Title I and allowable costs are related to strategies identified in the Schoolwide plan.

Title I funds which the LEA has set-aside must be supplemental to LEA-level expenditures of non-federal funds.

9. Is there additional guidance available on digital learning?

The United States Education Department (USED) [Readiness and Emergency Management for Schools Technical Assistance Center](#) has [guidance](#) on supporting continuity of teaching and learning during an emergency. The guidance includes a list of tools for facilitating distance learning, including students with all levels of technological knowledge.

Under [Section 2101\(c\)\(4\)\(B\)\(ix\)](#) of the [Every Student Succeeds Act](#), Public Law No. 114-95, states may use funds to support efforts to train teachers, principals, or other school leaders to effectively integrate technology into curricula and instruction, which may include training to assist teachers in implementing blended learning projects.

ESSA [Section 4102\(1\)](#) defines blended learning as a formal education program that leverages both technology-based and face-to-face instructional approaches:

- That include an element of online or digital learning, combined with supervised learning time, and student-led learning, in which the elements are connected to provide an integrated learning experience; and
- In which students are provided some control over time, path, or pace.
- When planning for continuity of learning, the guidance suggests districts consider technologies they already have available.

CARRYOVER

10. Can our LEA carryover money from our ESEA grants?

Title I.A – LEAs with a Title I.A allocation of \$50,000 or more may not carry over more than 15% of the funds allocated each year past September 30th of the following year. DESE may grant a waiver of this limitation once every three years if the LEA's request is reasonable and necessary. LEAs with an allocation of less than \$50,000 may carry over up to 100% of their allocation. If USED provides guidance that updates the waiver limitation of once every three years, DESE will share at a later date.

Title I.D, Title II.A, Title III, Title IV.A and Title V.B may carry over up to 100% of their funds into the next fiscal year.

LEAs with allocations for non-public schools not spent must carryover to those non-public schools in the following year.

MAINTENANCE OF EFFORT

11. In what circumstances will USED consider a waiver for maintenance of effort (MOE) requirements?

Due to exceptional or uncontrollable circumstances, such as a natural disaster, or if an LEA's financial resources significantly decrease, Section 8521(c) of the Every Student Succeeds Act, Pub. L. No. 114-95, allows USED to waive MOE requirements. COVID-19 may be considered a natural disaster and affect an LEA's financial resources.

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