

CARES Act, ESSER Fund and COVID-19 Updates

Office of Federal Programs Guidance and Frequently Asked Questions (FAQs)

March 17, 2020

(Updated April 15, 2020, May 1, 2020, May 5, 2020, May 15, 2020, May 29, 2020, June 05, 2020, July 09, 2020, July 29, 2020, September 14, 2020, October 27, 2020)

Special Note: Updates on the CARES Act and ESSER Fund information is provided often from the U.S. Department of Education. These updates may impact state policy and implementation determinations. It is important to read this document from the viewpoint of the date the article or information was added. We will try to update this document regularly. If a section, guidance link, article, question or answer to a question is updated, the most recent information will be italicized and/or indented. The most up-to-date information will be placed in the “New Section” under Ohio ESSER Fund Implementation. In most instances, the older information in the “historical information section” of the document is still relevant but we will try to remove outdated information to the end of the document.

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CARES Act and ESSER Fund Information

Updated May 15, 2020

The Ohio Department of Education's (ODE) Office of Federal Programs (OFP) will provide stakeholders with important information and implementation updates on the Elementary and Secondary School Emergency Relief Fund (ESSERF) as they become available.

General Information

On April 23, 2020, the US Department of Education (USED) released a streamlined application and provided basic information regarding the ESSER Fund, authorized under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The ESSER Fund provides support to local educational agencies (LEAs) to address the impact that the novel Coronavirus Disease 2019 (COVID-19) has had, and continues to have, on elementary and secondary schools across the nation. LEAs receiving ESSER Funds must provide equitable services to students and teachers in nonpublic schools as required under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Public districts must ensure that they consult with all nonpublic schools, both chartered nonpublic schools and non-chartered, non-tax schools regarding participation in ESSERF equitable services.

Funding Levels:

ESSER Fund (National): \$13.23 billion

ESSER Fund (Ohio):

- LEA (School District) Amount: \$440,284,680
- State Reservation Amount: \$48,920,520
 - State Administration Amount: \$2,446,026
(1/5 of 1% of total allocation)
- Total Amount: \$489,205,200

LEA Uses of Funds (See [ESSER Fund Certification and Assurances](#), page 6)

Below are excerpts:

1. Any activity authorized by the ESEA of 1965, including the Native Hawaiian Education Act and the Alaska Native Educational Equity, Support, and Assistance Act (20 U.S.C. 6301 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) ("IDEA"), the Adult Education and Family Literacy Act (20 U.S.C. 1400 et seq.), the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) ("the Perkins Act"), or subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.)

2. Coordination of preparedness and response efforts of local educational agencies 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 coronavirus
3. Providing principals and others school leaders with the resources necessary to address the needs of their individual schools
4. Activities to address the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including how outreach and service delivery will meet the needs of each population
5. Developing and implementing procedures and systems to improve the preparedness and response efforts of local educational agencies
6. Training and professional development for staff of the local educational agency on sanitation and minimizing the spread of infectious diseases
7. Purchasing supplies to sanitize and clean the facilities of a local educational agency, including buildings operated by such agency
8. Planning for and coordinating during long-term closures, including for how to provide meals to eligible students, how to provide technology for online learning to all students, how to provide guidance for carrying out requirements under the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.) and how to ensure other educational services can continue to be provided consistent with all Federal, State, and local requirements
9. Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the local educational agency 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
10. Providing mental health services and supports
11. Planning and implementing activities related to summer learning and supplemental afterschool 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 in foster care
12. Other activities that are necessary to maintain the operation of and continuity of services in local educational agencies and continuing to employ existing staff of the local educational agency

Ohio ESSER Fund Implementation

New Information – October 27, 2020 Updates

Updates on CARES Act Nonpublic Equitable Services – CCIP Note 450

The U.S. Department of Education (USED) has decided not to appeal the ruling against the Interim Final Rule ([DeVos letter 9/25/2020](#)) and recently provided non-binding guidance ([USED Guidance 10/9/2020](#)).

What Does This Mean?

The national disagreement on how to address the nonpublic equitable services under the CARES Act has been challenging for everyone. The latest actions from the USED will require state educational agencies and, in many cases, local educational agencies (LEAs) to make some additional process determinations as well as take additional actions. It is important to understand that the recent USED guidance is non-binding. Strict adherence to the USED guidance could result in some unintended outcomes, and the Office of Federal Programs (OFP) is recommending that local educational agencies (LEAs) and nonpublic schools follow the Ohio Department of Education's (ODE) guidance articulated in this document and calculate and provide services according to [ESEA Section 1117](#). Furthermore, ODE recommends that an LEA consults its legal counsel to determine how best to comply with the CARES Act nonpublic equitable service requirements. Below are recommendations to consider.

Action Steps to Take

1. **Review ODE guidance and USED guidance for comparison purposes:** ODE recommends the LEA compare the guidance offered by OFP and the USED and make its own determination about how best to proceed. OFP believes its guidance (this document) best reflects compliance with the intention and requirements of ESEA Section 1117. In the event of complaints or audit challenges, OFP will provide support to LEAs and nonpublic schools who follow OFP's guidance.
2. **Recalculate:** Recalculate the LEA's proportionate share of ESSER funds for equitable services under ESEA Section 1117 (using the table and instructions included in CCIP Note 448). See additional comments below.
3. **Consult with Nonpublic School Officials:** The updates to this process will require the LEA to, once again, consult with the impacted private school officials ([See Question 6 of the USED Guidance](#)). The LEA must engage in consultation with the nonpublic schools regarding this process as well as keep documentation and have readily available the decisions that are made based on the timing of the consultations and decisions given the recent change in guidance.
4. **Submit a Budget Revision:** The LEA should complete the nonpublic equitable services spreadsheet included in CCIP Note 448 ([CCIP Note 448](#)), consult with nonpublic school officials on the service levels that will be provided, and submit a budget revision in the CCIP ESSER application.

Recommended Process for Recalculation Under ESEA Section 1117

Refer to Previous Guidance: [CCIP Note 448](#) issued on September 25 included a spreadsheet and instructions on how to gather the public and nonpublic low-income data to assist with the calculation of the district's proportionate share of equitable service amounts that are to be used for eligible nonpublic schools according to ESEA Section 1117. The USED also provided a description on how to calculate the nonpublic equitable services ([Refer to Question 10 in USED Guidance 10/9/2020](#)). *(Note: The OFP recommends that the LEA follow ESEA Section 1117 for calculating its proportionate share which uses low-income data for students residing in the LEA including those attending nonpublic schools within or outside of the LEA (Title I model). This is believed to be more in keeping with the intention and language of ESEA Section 1117. The USED guidance indicates that the LEA's proportionate share calculation should use the low-income counts of students enrolled in nonpublic schools within the LEA.)*

After all of the resident student low-income nonpublic school data is compiled, the LEA should establish a proportionate share amount. The allocation amounts to individual nonpublic school buildings would be part of the consultation process between the nonpublic schools and the LEA. (See additional comments below.)

Providing Service Amounts

CCIP Note 448 also contained scenarios and recommendations based on the OFP's best interpretation at the time (prior to the latest USED guidance). The scenarios and recommendations in CCIP Note 448 are still applicable in most cases. It is important to understand that the calculation table (spreadsheet) provided is based on what the nonpublic schools would have received under ESEA Section 1117 and does not necessarily mean that the spreadsheet includes all nonpublic schools that may receive ESSER equitable services. According to the USED guidance, all nonpublic schools within the LEA are eligible to participate in receiving ESSER services. Furthermore, it does not necessarily mean that the nonpublic schools on the spreadsheet will receive the service levels used in calculating the LEA's proportionate share. In other words, there are other factors discussed below that could impact the amount of services provided to individual nonpublic schools. The LEA should determine, in consultation with the nonpublic schools, the service amounts for the participating schools.

The USED makes it clear that after the date that the Interim Final Rule (IFR) was rescinded (September 9, 2020), the LEAs must provide ESSER equitable services according to ESEA Section 1117. However, ESSER nonpublic school service amounts under ESEA Section 1117 are dependent on how the LEA spent the ESSER funds and nonpublic equitable service reservation prior to the IFR being rescinded. The letter issued by the US Secretary on September 25, 2020 stated:

The Department (USED) will not take any action against States or local districts that followed the guidance and/or the IFR prior to notice of the court's decision. Going forward, districts must calculate the minimal proportional share for CARES Act equitable services according to the formula provided in Section 1117(a)(4)(A) of the ESEA of 1965. Section 1117 requires robust consultation with private schools, among other things, and we will use our enforcement authority

aggressively to ensure districts comply with this and other relevant equitable services requirements.

We interpret this to mean that LEAs who spent ESSER funds and provided equitable services in accordance with the IFR will be held harmless for the decisions made at that time but the LEA will need to ensure the equitable services are provided consistent with ESEA Section 1117 moving forward. However, since the services have already been rendered in many cases, OFP is suggesting that the LEA adjust any remaining service amounts, up to the LEA’s proportionate share under ESEA Section 1117, for the participating, eligible nonpublic schools. LEAs should not attempt to recover from a nonpublic school the costs of any equitable services that may have been provided prior to the revocation of the IFR (even though the services under the IFR are no longer required.) On the other hand, LEAs that budgeted equitable service amounts for nonpublic schools that were eligible under the IFR but are not eligible under ESEA Section 1117 (and where services have yet to be rendered) should end any obligations and notify the nonpublic schools of the change and rationale.

The prior spending decisions (made during the IFR period) could impact the amount of services the nonpublic school will receive going forward. Depending on circumstances, the LEA may not be able to provide the total service amount entered on the calculation spreadsheet (included in CCIP Note 448) to the individual nonpublic building. Reasons for this include (but are not limited to) the examples below depending on the timing of those decisions:

- o If the LEA already spent the entire amount of ESSER funds prior to September 9, 2020.
- o If the LEA already provided the entire amount of the required LEA-level reservation (proportionate share) under ESEA Section 1117 prior to September 9, 2020.
- o If the LEA already provided equitable service amounts to nonpublic schools eligible for services under the IFR but not eligible under ESEA Section 1117 prior to September 9, 2020. In this instance, the amount of those services would be subtracted from the LEA’s aggregate proportionate share amount required under ESEA Section 1117, accordingly. The LEA should consult with the ESEA Section 1117 eligible nonpublic school officials and provide any remaining amounts of the LEA’s proportionate share, in a **proportional manner**, to the eligible, participating schools until the LEA proportionate share has been reached under ESEA Section 1117.
- o Visual Example:

Nonpublic School	Location	Equitable Service Amount Under Interim Final Rule (IFR)	Equitable Service Amount Under ESEA Section 1117	Actual Expenditures until Interim Final Rule was Rescinded
St. James	In-district	\$20,000	\$0	\$10,000
St. Michael	Out-of-district	\$0	\$15,000	\$0

In this instance, we believe the district should subtract the \$10,000 from the LEA’s aggregate proportionate share amount required under ESEA Section 1117. In this scenario, the district has an additional equitable service obligation of \$5,000.

Note of Caution

An LEA that has already spent its ESSER funds and/or provided the total required proportionate share of equitable services under ESEA Section 1117 during the IFR period may provide its own local/state funds to any nonpublic schools that does not receive the total amount of what has been entered in the calculation spreadsheet in CCIP Note 448. However, OFP does not believe an LEA may use more of its federal ESSER allocation (above the required proportionate share amount calculated under ESEA Section 1117) to support nonpublic schools that are eligible for services. In other words, if the LEA spent more than the required proportionate share amount under ESEA Section 1117, the LEA would not be providing the full amount of ESSER funds required for the public school students and educators. The logic behind this interpretation is that LEA already met its obligation for the proportionate share requirement under ESEA Section 1117 even if some, or all, of the nonpublic equitable services were provided to nonpublic schools not eligible under ESEA Section 1117 but previously eligible under the IFR. The importance of the timing of when these spending decisions were made is paramount and should be well documented and part of the consultation with nonpublic school officials.

Support

The Ohio Department of Education's Office of Federal Programs will provide support for the LEA and nonpublic schools that followed the recommendations outlined above should there be any complaints or inquiries from federal or state auditors.

Please note that the Office of Federal Programs is attempting to streamline and minimize the time and effort needed for LEAs and nonpublic schools to accommodate this new process while also ensuring the state, LEAs and nonpublic schools meet the requirements of ESSER and minimize risks. As such, we recommend the LEA submit a budget revision and a history log note indicating that it will take the actions outlined above (including recalculating based on ESEA Section 1117, consulting with nonpublic school officials, and ensuring the nonpublic schools receive services equivalent to the LEA's proportionate share under ESEA Section 1117).

General Questions

If you have any questions, please contact Chantelle Carter at chantelle.carter@education.ohio.gov.

Historical Information – September 14, 2020 Updates

CARES Act Update: The U.S. Department of Education's Interim Final Rule is No Longer In Effect

On September 9, 2020, the U.S. Department of Education (USED) made it known that the [Interim Final Rule](#) that they published on July 1, 2020 is no longer in effect. The USED decision was reached after various legal challenges and court rulings. The impact of this change and the updates to the Ohio Department of Education (Department) guidance is being reviewed. The Department will provide guidance as it is developed. In the meantime, the Department's Office of Federal Programs (OFP) recommends the following:

- **Starting immediately**, Local Educational Agencies (LEAs) receiving CARES Act funds, including ESSER and GEER funds, should provide equitable services consistent with [ESEA 1117](#). In general, this means that the LEA set aside for nonpublic equitable services should be calculated using low-income data for students who reside in the LEA who are attending nonpublic schools within or outside of the LEA. As such, LEAs are not required to calculate equitable service amounts for nonpublic schools based on the enrollment data of nonpublic schools.
 - From the onset of the CARES Act, the OFP provided LEAs with an Excel spreadsheet of baseline data to review and verify in calculating the nonpublic equitable services reservation for each eligible nonpublic school building. This spreadsheet included both low income data and enrollment data.
 - At that time, the Department recommended LEAs set aside the nonpublic equitable service amount that was the higher of the two approaches and spend no more than the lower amount of the reservation in nonpublic schools located within the district bounds. This recommendation was made to ensure LEAs and nonpublic schools would not incur obligations that would require reimbursement should the USED determination be reversed.
- LEAs should consult with their nonpublic schools on how the equitable service amounts will be calculated under Section 1117 and how the funds will be budgeted and spent for the remaining period of availability until September 30, 2022. This consultation should be documented.
- The LEAs should make any necessary budget revisions and updates to the ESSER funding application.

Special Note: The Department recognizes that there may be rare circumstances where an LEA has already spent more of the ESSER Fund allocation than the equitable service amount calculated under the Title I (low income) approach. For instance, this is possible if the LEA spent all its funds during the period of time the Interim Final Rule was in effect and where the LEA was not required to provide equitable services under one of the options. In those rare circumstances, the Department does not anticipate there will be any request for reimbursement from the LEA if the LEA obligated funds in accordance with the Department guidance and specific to the time period that the Interim Final Rule was in effect. LEAs must ensure they are calculating equitable services according to ESEA 1117 moving forward.

If you have any questions, please contact Chantelle Carter at chantelle.carter@education.ohio.gov.

Historical Information – July 29, 2020 Updates

Clarification to CCIP Note 442 Regarding Caution on Supplement, Not Supplant

CCIP Note #442 ([link](#)) provided guidance that may be interpreted that the U.S. Department of Education's (USED) interim rule on equitable services under the CARES Act applies a supplement, not supplant requirement under certain circumstances. The CARES Act funds are not subject to supplement, not supplant but it is very important to understand that other federal title programs are subject to supplement, not supplant requirements. The USED's rule ([link](#)) added a reminder of the Title I supplement, not supplant requirement if an local educational agency (LEA) decides to use the CARES Act funding only in Title I schools (and thus be able to calculate equitable services using a low-income approach rather than a total enrollment approach).

For example, if an LEA plans to only use CARES Act funds in Title I schools, the LEA must be careful not to redirect any of the state and local resources that would have otherwise gone to their Title I schools. The Title I supplement, not supplant test requires that LEAs have a methodology that ensures that state and local resources are provided to Title I and non-Title I buildings in a neutral manner. In other words, Title I schools are entitled to the same amount of resources they would have received absent the federal funds. It may be a supplanting situation if the LEA uses CARES Act funds at Title I schools for an allowable cost and then redirect the state and local funds that would have been used for that same service to non-Title I schools.

Historical Information - July 09, 2020 Updates

U.S. Department of Education Releases Interim Rules on Non-public Equitable Services and Offers 30 Day Comment Period

The U.S. Department of Education (USED) has published in the Federal Register an Interim Final Rule (IFR) on the equitable services requirements of the USED administered programs in the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The rule is located on the USED website [here](#). Once published, the rule became effective immediately. There is a 30-day public comment period. Interested parties may submit comments through the Federal eRulemaking Portal by going to www.regulations.gov.

Application of the Rule

There are a few notable concepts relative to the application of the rule.

- ***No impact on community schools:*** Nothing in the rule, and nothing in this document impacts community school spending of USED CARES Act program funds, since they do not have set geographic boundaries. Only traditional public school districts are impacted by this rule and responsible for equitable services determinations and support.
- ***Applies only to USED administered CARES Act programs:*** The rule's applicability is only to the CARES Act programs administered by the USED and received by State Educational Agencies or Local Educational Agencies (LEAs or districts). These programs are the Elementary and Secondary School Emergency Relief (ESSER) funds, including the state activities reservation, and the Governor's Education Emergency Relief (GEER) funds. (The rule does not apply to other

CARES Act funds not administered by the USED, but which may be made available to schools and districts.)

Interpreting the Rule

The Ohio Department of Education (Department) and its Office of Federal Programs (OFF) are reviewing the IFR for its impact on the implementation of the USED CARES Act programs (ESSER and GEER funds). There are still many unknowns and we will provide guidance as it becomes available. (Of note is that the Attorneys General for four states and the District of Columbia have filed a legal challenge to overturn the IFR.) The USED will be updating their frequently asked questions document found [here](#). LEAs have until September 2022 to spend the ESSER fund formula grant funds.

Highlights of Rule (based on the Department's Initial Interpretation)

It is important to understand that how a district chooses to **spend its own share of USED CARES Act program funds**, will determine the amount that must be spent by the district on **equitable services** for non-public schools. A district does not need to spend amounts received under the various USED CARES Act programs in the same way.

Options for How a District Can Spend USED CARES Act Program Funds: When receiving any of the USED CARES Act program funds, the LEA has two options for how to spend them. Each option has particular requirements and ramifications, including the amount and manner in which equitable services amounts for non-public schools must be computed:

1. Spending USED CARES Act program funds ONLY in Title I schools

In this case, the district chooses to use its share of USED CARES Act program funds only in its Title I schools.

- **Determining Equitable Services Amounts:** The equitable services amount that the district must spend can be calculated using one of the following two approaches:
 - i. Making a calculation in a manner comparable to the computation made under Title I, Part A in the 2019-20 school year. This required using 2019-20 school year data to compute the proportion of the number of low-income children in participating non-public schools (***including outside-the-district non-public schools***) compared to the combined number of low-income children in participating district Title I schools plus the low-income children in non-public schools; or
 - ii. Making a calculation based on the number of low-income children in participating non-public schools ***within the district only*** compared with the number of low-income children in participating district Title I schools plus the low-income children in non-public schools ***within the district***.
- **Supplement, not Supplant Applies:** The district's use of the USED CARES Act program funds ***must comply with Title I, Part A supplement not supplant requirements***. In other words, the funds must be used only at Title I schools ***and*** in a supplemental manner, not replacing the state and local responsibility.

2. Spending USED CARES Act program funds districtwide or in any non-Title I school

In this case, a district chooses to use its funds more broadly and not limited to Title I schools.

- *Determining Equitable Services:* The equitable services amount must be calculated using the total enrollment of participating non-public school students as a proportion of the total enrollment of students in the district plus total enrollment of participating non-public school students.
- *Supplement, not Supplant Does Not Apply:* If the LEA chooses this option, the **supplement, not supplant provision does not apply** to how the LEA uses its funds, and LEA funds may be used in any school in the district, not just Title I schools.

Consultation Requirement: The LEAs must consult with non-public schools prior to making a decision impacting the non-public school participation, including consultation on the approach the LEA should take regarding the option of spending the CARES Act funds which will determine how the LEA will make the equitable service calculations.

In conducting the consultation, LEAs should communicate with the appropriate non-public schools the following, in particular the bolded sentence, which is specifically quoted from the IFR:

*The U.S. Department of Education “...discourages the small number of financially well-resourced non-public K-12 schools from accepting CARES Act-funded equitable services. Such schools include non-public boarding and day schools with tuition and fees comparable to those charged by the most highly selective postsecondary institutions. These schools tend to serve families from the highest income brackets, although they sometimes offer a limited number of scholarships to low- and middle-income students each year. **The USED believes such non-public schools have ample resources to serve their students and teachers during the COVID-19 national emergency and should not rely on taxpayer funds to do so.**”*

Private schools are afforded the opportunity to file a formal complaint against any LEA they believe has not complied with the timely and meaningful consultation requirements.

Historical Information - June 05, 2020 Updates

Auditor of State CARES Act Accounting Guidelines

The Auditor of State CARES Act Accounting Guidelines letter can be found [here](#).

Historical Information - May 29, 2020 Updates

Guidance on the Short-Term Provision of Services to Nonpublic Students and Educators

Unfortunately, there is still significant disagreement at the national level on the process for addressing the equitable services requirements under the CARES Act. The Ohio Department of Education believes we have taken the appropriate steps to ensure that the state and districts are meeting the federal law and expectations for administering the grant

requirements. The U.S. Department of Education will be issuing a regulation and seeking feedback to help render a final determination. This process could take months before a resolution. In order to ensure that students at nonpublic schools receive support and services that they are entitled to, and until there is a final determination in which the Ohio Department of Education can provide final guidance and direction to districts and nonpublic schools, we are requesting districts and nonpublic schools do the following:

- Districts consult with and engage all impacted nonpublic schools in a collaborative manner to collect the necessary data, identify eligible schools including ensuring that participating nonpublic schools are not for-profit, and determine the appropriate equitable service amounts for all eligible nonpublic schools under both of the following scenarios:
 1. Total number of low-income students residing in the district that attend nonpublic schools within or outside of the district (excluding any for-profit schools).
 2. Total enrollment of the not-for-profit nonpublic schools within the district (excluding any for-profit schools).
- The districts will need to make the calculations under both scenarios, upload the data in available spreadsheets and reserve the highest amount of the calculations for their district set aside for nonpublic equitable services.
- The district will not be permitted to request or spend ESSER funds over the amount of the highest reserve for equitable services until a final determination is made by the state.
- Instructions for this process are provided within the nonpublic equitable services page in the CCIP application. Helpful spreadsheets are linked within the application to determine calculations. These spreadsheets contain information that was collected as of May 15, 2020. In the course of consultation with nonpublic school leaders, districts should confirm or revise this information.
 - **Special Note: Revisions to the spreadsheets were made on May 27, 2020 at 11:00 AM.** If your district downloaded these files **prior** to the revised date and time, you will need to download the revised spreadsheets currently on the nonpublic service page. If you have any questions, please contact your Office of Federal Programs Consultant.
- **New: Providing Services/Spending Nonpublic Equitable Services:** The Department requests districts reserve the higher of the two calculations noted above and, until a final decision is rendered, districts should expend no more than the lower of the amounts reserved based on the calculations for each school. In other words, until a final determination is made, a district must consult and plan accordingly with each impacted nonpublic school to the amount and method for rendering services and supports to the students and teachers under both scenarios. However, when it comes to actually rendering services and seeking reimbursement of funds to the state, the district should only provide services for the lower of the two calculations for each school. In most instances this will be equal to the amounts calculated for low-income students enrolled in the nonpublic schools **residing within the district boundaries**. Below is an example of the limitations for spending equitable services for a district with resident low-income students enrolled in nonpublic schools both within their district boundaries as well as outside the district.

Example: District dollar calculation and temporary spending limitations using four nonpublic school examples

Impacted Nonpublic School	Description of Nonpublic School	Amount of equitable services reserved for each building under the Low-Income Approach (1)	Amount of equitable services reserved for each building under the ADM or Enrollment Approach (2)	Temporary Spending Limitation (amount of equitable services that may be expended prior to final guidance)
A	Out of district nonpublic school with low-income students from the district	\$100	\$0	\$0
B	In district nonpublic school with no low-income students from the district	\$0	\$100	\$0
C	In district nonpublic school with low-income students from the district	\$50	\$100	\$50
D	In district nonpublic school with low-income students from the district	\$100	\$75	\$75
Total		\$250	\$275	\$125

Summary of Example

The amount that should be reserved on the nonpublic line of the budget until a resolution of the final guidance is \$275. This satisfies the higher of both calculations. However, until a decision is final, the limit of spending by the district from the reservation should be the lowest amount at the building level since the building and students served could be duplicative across programs/districts. In this scenario, the limit would be \$125. The district would not need to provide services to low-income students attending nonpublic schools outside of the district or to provide services to nonpublic school buildings within the district where there are no low-income students residing in the district, as long as it is the lower of the two approaches. Under this scenario, the district would be held to

providing services to nonpublic students and teachers based on the low-income calculation for students within the district boundaries until a final decision is rendered. The district would not have to reclaim funds already rendered and would still have the reservation of funds for services needed should there be a different determination. The scenarios below describe the process for deriving the amount of equitable services that may be expended prior to final guidance.

First scenario (Nonpublic School A): This represents a nonpublic school that does not lie within the district's boundary. The district would have an equitable service amount obligation under Approach 1, but no equitable service amount under Approach 2. This district would not provide equitable services with funds until a final decision is made.

Second scenario (Nonpublic School B): This represents a nonpublic school that lies within the district's boundary but the nonpublic school does not have any low-income students from the district that attend that nonpublic school. Because no low-income students from the district attend the nonpublic school, the district would not have a nonpublic equitable service requirement for students at that school under Approach 1. However, the district would have an equitable service obligation under Approach 2. This district would not provide equitable services with funds until a final decision is made.

Third scenario (Nonpublic School C): This represents a nonpublic school that lies within the district's boundary that also has low-income students from the district that attend the school. While the district would have obligations under both approaches, the district should only provide nonpublic equitable services for students at this school at the lower of the two amounts until a final decision is made. In this case, the Low-Income Approach produces the lower amount.

Fourth scenario (Nonpublic School D): As with the third scenario, this represents a nonpublic school that lies within the district's boundary that also has low-income students from the district that attend the school. While the district would have obligations under both approaches, the district should only provide nonpublic equitable services for students at this school at the lower of the two amounts until a final decision is made. In this case, the ADM or Enrollment Approach produces the lower amount.

Historical Information - May 15, 2020 Updates

Update on Allocations for ESSER Funds

Last month, the Office of Federal Programs made preliminary allocations for LEAs as well as the anticipated set aside levels for nonpublic equitable service based on enrollment data of the nonpublic buildings within the district boundaries. These preliminary allocations were determined based on current data available and on current guidance from the U.S. Department of Education (USED). The process of determining nonpublic equitable services amounts is still under review. At the state and national level, there are disagreements about how to appropriately address the nonpublic equitable services requirements ranging from using only non-public school low-income student counts for

the calculation to using total enrollment for the calculation. The Department will provide guidance and clarification as it becomes available. Instructions will be within the application in the CCIP system once it goes live which we expect the week of May 25, 2020.

LEA Preliminary Allocations

Click [here](#) for the LEA preliminary ESSERF allocations. The preliminary allocations are subject to change over the period of availability and duration of the grant depending on various factors such as additional direction and guidance from the U.S. Department of Education and/or set aside amounts required for new and significantly expanded charter schools.

Nonpublic Equitable Service Amounts: Process and Plans

Unlike other federal programs, the Ohio Department of Education does not have complete data to support districts and nonpublic schools in determining the equitable services amounts for the ESSER Funds. Below are some suggestions for how districts and nonpublic schools should plan accordingly. Districts and nonpublic school officials must engage in **timely and meaningful consultation** the same as they would with other federal programming. Among other requirements of the consultation, the process should include the identification of eligible nonpublic schools and the verification of the enrollment and low-income student counts. This identification includes consulting and generating the data from the nonpublic schools that have not previously participated in Title I programming or did not report low-income student data. Furthermore, the district must ensure that participating nonpublic schools are not-for-profit since nonpublic schools that are for-profit are ineligible for an allocation.

At this time, the various approaches to the non-public equitable services allocation under consideration will likely use one or both of the following data sets:

3. Total number of low-income students residing in the district that attend nonpublic schools within or outside of the district (excluding any for-profit schools).
4. Total enrollment of the not-for-profit nonpublic schools within the district (excluding any for-profit schools).

Pending a final decision and in the interest of being ready to submit an application, the Department suggests that districts and all impacted nonpublic schools collaborate to collect the necessary data and determine the district reservation and the appropriate allocation amounts for the impacted nonpublic schools under both of the above scenarios.

What to Expect and Next Steps:

Basic information about our implementation process includes:

1. ***Ohio Submitted Application to the USED:***

The Ohio Department of Education submitted the ESSER application to the US Department of Education on May 5, 2020 and received approval on May 8, 2020. Ohio's Application may be found [HERE](#).

2. **Ohio LEA Application Update:**

The Office of Federal Programs has created a local educational agency application. The application will be hard coded in the e-grant system known as the CCIP and we expect the application to be available in the CCIP by the week of May 25. In the meantime, LEAs may access the application in a PDF template [HERE](#). OFP encourages the LEAs to use this template to begin consulting with their public and private schools and other stakeholders to plan and budget the ESSER Funds. Once the application is available in the CCIP, LEAs may simply cut and paste the information they have available in the template into the CCIP application.

This application is unique as it is a "life of a grant application" available for use from March 13, 2020 through September 30, 2022. It is technically being loaded into the CCIP as a state fiscal year 2021 application (July 1, 2020 to June 30, 2021). The Department is committed to provide districts the option to have access to the ESSER Funds this fiscal year (2020) if they have a need for allowable costs. The districts should provide budget information in the application that could be used for associated costs in any year without the need to address carryover applications between years or submit a final expenditure report (FER) until the end of the grant (or at least September 2021). Since the grant funds are available until September 30, 2022, the Department will likely need to require districts to complete a continuation application if the LEA funds are still available at the start of fiscal year 2022 (July 1, 2021). Under this application, the substantially approved date would be back to March 13, 2020 and could be used until September 30, 2022.

The Department is requesting that LEAs indicate in the application whether they need to use the ESSER funds this fiscal year ending June 30, 2020 or if access to funds can wait until the start of fiscal year 2021 (July 1, 2020). Districts needing ESSER funds for this current fiscal year should be aware that additional reporting and accounting requirements may be necessary for fiscal year 2020. The Department will approve applications as they are submitted.

3. **OFP CARES Act/ESSER Fund Guidance:** The Office of Federal Programs has created a working guidance document for the CARES Act/ESSER Fund. This document provides spending guidance, allocation information and other helpful resources. It is accessible [HERE](#) and will be updated regularly.

U.S. Department of Education Resources

Key USED information on the CARES Act and ESSER Fund is located in the CCIP Document Library [HERE](#). The USED COVID-19 website may be accessed [HERE](#).

USED Instructions on Administrating and Calculating Nonpublic Equitable Services Under the CARES Act

Shortly after the release of CCIP Note #435 ([link here](#)), the USED released important information regarding how state educational agencies and LEAs must administer and calculate equitable services for nonpublic schools. This new information impacts the approach we (the Ohio Department of Education) originally had for planning and administering the ESSER Fund and calculating nonpublic equitable service allocations. The USED information guidance on administering and calculating nonpublic equitable services may be found [HERE](#). Public districts should ensure that they consult with all nonpublic schools, both chartered nonpublic schools and non-chartered, non-tax schools (NCNT) regarding participation in ESSERF equitable services. Interested NCNT schools who wish to participate in ESSERF equitable services will need to contact Chantelle Carter at Chantelle.Carter@education.ohio.gov to begin the process of being added to the Nonpublic Data System. This process may take a few days as the Ohio Educational Directory System (OEDS) requires an overnight update. It is recommended that LEAs contact NCNT schools immediately to ensure enrollment data may be entered by the deadline.

See article above "Update on Allocations for ESSER Funds" for the latest information on the process and plans for nonpublic equitable services

Clarification on Data Needed in the NPDS

The Nonpublic Data System (NPDS) window is being extended to May 15, 2020. It is important for all nonpublic schools to upload and verify low income data that is used for Title I, Part A equitable service calculations. The Title I, Part A equitable service amount at the district-level is based on total low-income counts of the nonpublic students, regardless if a private school chooses not to participate.

- Updated Nonpublic Navigation Instructions and Technical Assistance Videos are available [HERE](#).
- If you have questions, please contact Chantelle Carter, Nonpublic Ombudsman at Chantelle.Carter@education.ohio.gov or an ESEA Education Program Specialist in the Office of Federal Programs at (614) 466-4161.

COVID-19 Information

Administrative Relief and Flexibilities

On March 19, Office of Management and Budget (OMB) provided a memorandum to state agencies revealing administrative relief for recipients of federal financial assistance ([link here](#)). The memorandum provides short term relief for administrative, financial management and audit requirements under 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards.

The Ohio Department of Education's Office of Federal Programs, along with other offices, will be reviewing the latest information to determine what flexibilities may be afforded to Ohio's public school districts and nonpublic schools and applicants of federal education funds. Information on the flexibilities will be communicated directly through the Department's Comprehensive Continuous Improvement Plan (CCIP) Notes to superintendents, treasurers and federal program contacts.

Update April 7, 2020:

The recently enacted [Coronavirus Aid, Relief, and Economic Security Act \(CARES Act\)](#) provides the U.S. Secretary of Education with additional waiver authority of specific ESEA requirements listed below. The Ohio Department of Education applied for and was approved by the U.S. Department of Education for the waivers below.

Available Flexibility for Federal Fiscal Year (FY) 2019 (State Fiscal Year 2020)

The waiver opportunities below are only available for this current school year (SY 2019-2020)

1. **Title I, Part A Carryover limitation** for Federal fiscal year (FY) 2019. This waives the requirement that limits a State Education Agency's (SEA) ability to grant to its Local Education Agencies (LEAs) a waiver of the 15 percent Title I, Part A carryover limitation in section 1127(a) more than once every three years.
2. **Period of availability of FY 2018 funds:** This extends the period of availability of FY 2018 funds for programs in which the SEA participates under its approved consolidated State plan until September 30, 2021. The following grants are applicable:
 - Title I, Part A of the ESEA (Improving Basic Programs Operated by LEAs), including the portions of the SEA's Title I, Part A award used to carry out section 1003 school improvement, section 1003A direct student services, if applicable, and Title I, Part D, Subpart 2
 - Title I, Part B of the ESEA (State Assessment Formula Grants)
 - Title I, Part C of the ESEA (Education of Migratory Children)
 - Title I, Part D, Subpart 1 of the ESEA (Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At

Risk)

- Title II, Part A of the ESEA (Supporting Effective Instruction)
 - Title III, Part A of the ESEA (English Language Acquisition, Language Enhancement, and Academic Achievement)
 - Title IV, Part A of the ESEA (Student Support and Academic Enrichment Grants)
 - Title IV, Part B of the ESEA (21st Century Community Learning Centers)
 - Title V, Part B, Subpart 2 of the ESEA (Rural and Low-Income School Program)
 - McKinney-Vento Education for Homeless Children and Youth Program
3. **Title IV, Part A flexibility for LEAs receiving \$30,000 or more in allocation:** This waiver includes the following:
- Needs assessment requirements in section 4106(d) for the 2019-2020 school year.
 - Content area spending requirements in section 4106(e)(2)(C), (D), and (E): the requirements to use a minimum percentage of Title IV, Part A funds for activities under sections 4107, 4108 and 4109 for FY 2019 funds and any available FY 2018 carryover funds.
 - Spending limitation in section 4109(b): the 15 percent limit on the use of funds under section 4109 to purchase technology infrastructure for FY 2019 funds and any available FY 2018 carryover funds.
4. **The definition of professional development** in section 8101(42) of the ESEA for the 2019-2020 school year. This waiver will allow LEAs to conduct time-sensitive, one-time or stand-alone professional development focused on supporting educators in providing effective distance learning.

Additional Administrative Relief the Ohio Department of Education is Considering

The Ohio Department of Education (ODE) is requesting all flexibility that is specified under the CARES Act and offered by the U.S. Department of Education (USED). The streamlined waiver requests submitted on April 7, 2020 may not represent all of the flexibilities ODE will seek from the USED. Some examples of additional flexibilities the ODE may request to the USED or seek clarification include the following:

- **Waive the rules/law regarding the ability for districts to only be able to draw and use federal funds to the date in which their consolidated or individual grant are in a substantially approval state:** We hope to allow districts to be able to draw federal funds for costs back to July 1, 2020 regardless if they submit their application after July 1.
- **Reporting Requirements:** The Department will continue to review any U.S. Department of Education programmatic and/or fiscal data reporting requirement deadlines for flexibilities and extensions. If those deadlines appear to cause burden and/or are unrealistic given the crisis, the Department will take action and seek waiver authority if needed. Some examples include the CSPR or EdFacts reporting, Title IVA expenditure reporting, federal Restart Grant reporting, etc.

- **Complaint Reviews:** The Department is working with districts on some complaint reviews and investigations according to prescribed timelines and deadlines. The Department may ask for the U.S. Department of Education to extend the deadlines if information is the evidence and/or documentation is burdensome to receive within the timelines.
- **Maintenance of Effort:** ESEA and IDEA require that school district education expenditures being paid from state and local resources be maintained at a certain level from one year to the next. Under ESEA, the state and local resources (either in the aggregate or on a per pupil basis) can be no less than 90% of the preceding year. Districts are permitted to apply for a waiver of this requirement once every 5 years. The Department may seek a waiver to allow for a one-year grace period from these requirements applicable to the FY2020 comparison year so districts will not need to use a waiver.
- **Spending of Nonpublic Equitable Services:** Under ESEA, districts are able to carryover some or all of their title funds to the following year. However, under ESEA, the nonpublic equitable share applicable to those grants must be obligated in the year the funds are allocated, with certain exceptions. The Department may seek a waiver to allow for the districts to carryover any unused equitable service funds from FY2020 without applying the state extenuation circumstances process that require agreement with the nonpublic schools as long as the districts engage in good faith consultation.

Postponement and Delays of Meetings

- **Committee of Practitioners:** In response to the impact on schools and districts due to COVID-19, the Office of Federal Programs postponed the March 20, 2020 Committee of Practitioners meeting and will provide materials to the members for review and provide input. Arrangements will be made in the coming weeks to discuss having a remote meeting.
- **On-site Compliance Reviews:** The Office of Federal Programs has delayed the onsite monitoring reviews previously scheduled for school districts during the winter and spring. Office staff will be working directly with the districts selected for the onsite reviews to determine if a review may be accomplished in the summer, conducted remotely or via a desk-review.

Cross Program Flexibility Review

The Office of Federal Programs and Office of Grants Management are leading an agency wide initiative to provide public districts and schools, nonpublic schools and organizations with programmatic and fiscal flexibilities. The initiative involves creating a platform to discuss similar questions, issues and flexibility requests across all the programs to ensure consistent and real time responses to those seeking relief.

Frequently Asked Questions Regarding COVID-19

April 8, 2020 FAQs from the U.S. Department of Education

(Questions 1 through 3)

1. May a grantee or subgrantee continue to pay the compensation of an employee paid with grant funds from the Department during the period the employee is unable to work because his or her organization is closed due to novel Coronavirus Disease 2019 (COVID-19)?

Yes. Generally, a grantee or subgrantee may continue to charge the compensation (including but not necessarily limited to salaries, wages, and fringe benefits) of its employees who are paid by a currently active grant funded by the Department to that grant, consistent with the organization's policies and procedures for paying compensation from all funding sources, Federal and non-Federal, under unexpected or extraordinary circumstances, such as a public health emergency like COVID-19. Thus, if the organization pays, consistent with its policies and procedures, similarly situated employees whose compensation is paid with non-Federal funds during an extended closure, those paid with grant funds from the Department may also continue to be paid. However, an employee who is being paid with Department grant funds while the program grant activities are closed in whole or in part due to the COVID-19 pandemic may not also be paid for the time during which the program is closed by the organization or another organization for working on other activities that are not closed down.

If a grantee or subgrantee does not currently have in place a policy that addresses extraordinary circumstances such as those caused by COVID-19, the grantee or subgrantee may amend or create a policy in order to put emergency contingencies in place for Federal and non-Federal similarly situated employees. If the conditions exist for charges to be made to the Federal grant, charges may also be made to any non-Federal sources that are used by a grantee or subgrantee in order to meet a matching requirement.

A grantee and subgrantee must maintain appropriate records and cost documentation as required by 2 CFR § 200.302 (financial management), 2 CFR § 200.430(i) (standards for documenting personnel expenses), and 2 CFR § 200.333 (retention requirements for records) to substantiate the charging of any compensation costs related to interruption of operations or services.

At the same time, recipients should consider ways that employees paid with grant funds can support continuing activities, including distance learning opportunities for students served by the grant.

- 2. If a conference, training, or other activity related to a grant from the Department is cancelled due to COVID-19, may grant funds be used to reimburse nonrefundable travel (e.g., conveyance or lodging) or registration costs that were properly chargeable to the grant at the time of booking?**

Yes, provided that a grantee or subgrantee first seeks to recover nonrefundable costs (e.g., travel, registration fees) associated with a grant from the Department from the relevant entity that charged the fee (e.g., airline, hotel, conference organizer). Some businesses are offering flexibility with regard to refunds, credits, and other remedies for losses due to the COVID-19 outbreak. Moreover, many agreements or contracts for conferences, training, or other activities related to a grant contain an emergency or “act of God” provision, and the grantee and its subgrantees must seek to exercise those clauses to the extent possible in light of the COVID-19 outbreak. If a grantee or subgrantee is unable to recover the costs, the grantee or subgrantee may charge the appropriate grant for the cancellation costs, provided the costs were reasonable and incurred in order to carry out an allowable activity under the grant, consistent with the Federal cost principles described in 2 CFR Part 200 Subpart E of the *Uniform Administrative Requirements, Cost Principles, And Audit Requirements For Federal Awards* (Uniform Guidance).

Grantees and subgrantees should not assume additional funds will be available should the charging of cancellation or other fees result in a shortage of funds to eventually carry out the event or travel. Grantees and subgrantees must maintain appropriate records and cost documentation as required by 2 CFR § 200.302 (financial management) and 2 CFR § 200.333 (retention requirements for records) to substantiate the charging of any cancellation or other fees related to the interruption of operations or services.

- 3. If a grantee or subgrantee is planning future travel under a grant from the Department, may it purchase travel insurance with grant funds?**

Due to health concerns related to COVID-19, grant-supported travel generally should not be occurring. However, if travel is permitted by Federal, State, and local directives and is the only means to carry out an essential grant function that must be undertaken on a time-sensitive basis during the COVID-19 pandemic, consistent with the grantee’s or subgrantee’s travel policy, travel insurance is allowable provided the cost is reasonable and allocable to the grant consistent with the Federal cost principles described in 2 CFR Part 200 Subpart E of the Uniform Guidance.

Ohio Department of Education FAQs

Employees and Staff Salaries

- 4. During the coronavirus-related school-building closure period, can we still pay employees who are funded by a federal grant program?**

Yes. See the USED FAQs [above](#). A LEA may continue to pay federally funded employees.

- 5. Can tutors who are working and providing services be paid with federal resources during the coronavirus-related school-building closure time period?**

Yes. Tutors who are hourly paid (not on a salary contract) can continue to be funded with federal dollars in the event of a COVID-19 related school-building closure as long as they are still working toward the intent of the federal grant, such as utilizing online-learning platforms, phone instruction, or work on curriculum and data analysis, etc. Districts should prepare for the situation in which an extended school year and subsequent salary costs may be necessary if closure during the school year for an extended time becomes necessary.

- 6. Can we use federal funds to pay for unemployment costs of our Title I tutors who are not working during the coronavirus-related school-building closure period?**

Unemployment costs are an allowable cost with Federal Funds, if the staff member was paid with federal funds prior to becoming unemployed. Prior to releasing federally funded personnel during the coronavirus-related school building closure, every attempt should be made to continue to provide students services supported with federal funds.

Recommendation: LEAs should consider alternatives to providing Title I services to students while the school building is closed. Special education, Nonpublic equitable services, and supplemental support services such as Title I can be made available in a virtual or remote education setting. Tutors can continue to keep a timesheet logging their time to contact students, the students' parents, and the students' teacher to assist with the learning that needs to occur even when a school building is closed. Another option is to consider offering those services to students later, in the summer, once the coronavirus-related school-building closure period ends and the school building reopens. LEAs are recommended to consider all options prior to releasing teachers or tutors paid with Federal Funds. A key assurance included in the new CARES Act grant will be to keep people employed.

- 7. Typically, we do not pay our literacy tutors and some specialty positions serving students with Individualized Education Programs (IEPs) on calamity days for weather closures. Can we continue paying our teachers with these federal grant dollars even though they may not be conducting face to face learning sessions?**

Yes. **No guidance document can anticipate every scenario as it relates to staff who are paid hourly. Federal funds are obligated when the work occurs and every district handles their tutors differently. The answer depends on the particulars of the contract between the district and the tutor. In general, staff who are on timesheets and hourly paid, not contracted, would need to continue to submit timesheets for work completed under the grant. Districts that want to continue to pay staff that are not salaried full-time paid staff members, should make arrangements for staff to be able to provide supplemental supports to students. This could be accomplished through several means including, but not limited to, the following:**

- phone calls with students about assignments
- Skype with the students, or any other mode of communication the district is able to provide dependent upon their resources.

Hourly tutors should keep a log of their activities including planning time for student needs, coordination with students' teachers they serve, etc. Under these unusual circumstances, we recommend districts to be flexible and provide assistance to students remotely. As the school continues to provide instruction for the students, the tutors may continue to provide supplemental support for these students remotely. Federal funds may be used. Something to consider is if the school or districts are required to make-up days or hours, then the tutors may end up working a longer school year than what was originally budgeted. Districts may need to increase the budgeted amount for tutors.

- 8. Will federal grant activities such as teleconferencing or working at home be permissible? What documentation would be acceptable?**

Yes. Time and effort documentation must continue whether the services are provided in-person or remotely. Keep a record of how the instruction and services are continuing. An example of this may be to track of the hourly work in an Outlook calendar.

Recommendation: We recommend that the staff paid with federal funds to provide supplemental services devote time collaborating and working with the regular education teachers on the services the students will require. These support staff should also be contacting their students on a regular basis to assess their readiness for the learning and to provide the additional supports the student may need.

When it comes to time and effort, staff that are paid hourly and complete a timesheet (i.e. tutors) must continue to log their hours on the timesheet. For the staff that are 100% paid from the federal fund (and complete a single source certification document twice a year that is signed by their supervisor), the LEA must determine how they want to document the time. It is recommended that the district develop an outline for how the district and each school plans to provide education to the students. Expectations for teachers during this time should be clearly identified. Requesting that teachers keep a log of their time and submit each pay period for Personnel Accountability Report (PAR) documentation is recommended. The Office of Federal Programs will continue to request time and effort documentation during the monitoring process and the information must be available for any potential audit or investigation

9. What do we do if we already paid the transportation costs, registration fee and other costs association with a professional development conference that was cancelled?

See FAQ from USED question 2 [above](#). The costs may be charged to the federal award. The LEA must maintain appropriate documentation and records to substantiate the action.

10. The airline will not refund the cost of the plane ticket for an event that was cancelled but is issuing a voucher that can be used for another year. Is this allowable and how do we account for it?

Yes, this is allowable. We recommend the LEA take the following steps:

- Contact your federal programs consultant for assistance with addressing these issues.
- Add a note to the CCIP history log (HL) explaining the situation. In the HL note, include a description of the voucher, what the original travel was for, the reason (i.e. Coronavirus 19) for the cancellation, how many vouchers were provided and/or amount of the voucher(s).
- Add a statement in the HL acknowledging that the federal funds used for this activity should occur in the year in which the services are rendered (i.e. obligation made and contract was paid).
- The consultant will approve the district's request to allow the payment of the vouchers with the federal funds.
- The LEA must document how the vouchers were used in the following year and provide evidence that the activity occurred.

11. How do we handle contractors if the services aren't being provided during the crisis? This is especially the case with transportation, janitorial and after school services.

While there is no specific guidance yet from the U.S. Department of Education on handling payment to contractors, the CARES Act Section 18006 states:

A local educational agency, State, institution of higher education, or other entity that receives funds under "Education Stabilization Fund," shall to the greatest extent practicable, continue to pay its employees and contractors during the period of any disruptions or closures related to coronavirus.

Unfortunately, there is no specific definition of "to the greatest extent practicable."

Recommendation: During this extraordinary period, and until there is clear guidance or instructions from the U.S. Department of Education, we advise LEAs to work directly with their contractors and legal counsel on what makes the most sense for all parties. Clearly LEAs should pay obligations for all services rendered but in the instances where the obligation has not been met or in circumstances where the contract involves performance-based services that are being reduced or postponed, we recommend that the parties find alternatives to meet the objectives, make necessary modifications to the contractors and/or take steps to ensure that there will not be disruption to the services once the crisis ends.

12. Should all activities with outside vendors be halted until such time in person education is allowed? For example, is providing psychological services, professional development, or instructional services via telephone, videoconferencing, and/or email allowable. If allowable, what documentation would be acceptable?

No, it is not recommended that outside contracts be cancelled until the school buildings reopen. Services may be provided in a number of alternative venues such as remotely. In the event that services need to be reduced, we recommend the contracts be modified and or arrangements for services can be extended.

13. Where can I find information on the bus purchase program and how do I apply in the CCIP?

Districts will need to go into FY 21 CCIP Funding Application to apply for the grant. Only eligible districts are able to apply. The deadline to apply is May 20th. Districts will need to upload the agreement and the estimate along with completing the budget page for the grant. A copy of the award letter and list of eligible districts has been sent to eligible districts. If a district does not see the application in their FY 21 CCIP Funding Application, then please check the list and contact the office on the on the webpage with questions. Over 400 districts in Ohio have qualified for the grant. Here is a link to the webpage with information about the program.

<http://education.ohio.gov/Topics/Finance-and-Funding/School-Transportation/School-Bus-Purchase-Program>

*Flexibility Questions***14. In light of the unprecedented times we are in, and the need for devices for remote learning, is there any flexibility in utilizing the remaining un-spent Title IVA funds (including re-allocation) on devices for students?**

Yes, the approved waiver request ([see article above](#)) removes the limitations on uses of funds within the three board categories. LEAs must make all the relevant adjustments within the Budget Details and Budget Page. Please note that this flexibility is only for the federal fiscal year 2019 funds (what the district received for the 2019-2020 school year).

15. Are there anticipated to be any extensions to timelines currently in place (ex. equitable access plan)?

Yes. The Office of Federal Programs and other Department offices are exploring flexibilities during this crisis from waiver requests to the U.S. Department of Education ([see article above](#)) or modifying internal business processes and timelines.

The deadline to submit local equity plans has been extended to June 15, 2020. Districts will no longer put their equity plan in the CCIP. To provide their equity plan, they need to go into the program Data Submission Forms in their OH WebID Portal sign in. Directions and information for completing their equity plan is available at this site. <http://education.ohio.gov/Topics/Teaching/Educator-Equity/Educator-Equity-in-Ohio/Local-Equity-Plan-1>

Other extensions include:

- **Technical Amendment to the ESSA Plan for Migrant Education:** The Office of Federal Programs plans to submit a technical waiver to the U.S. Department of Education pertaining to the program objectives for Title I-C, Migrant Education. In response to the impact on schools and districts due to COVID-19, the Office of Federal Programs will postpone the posting of the technical amendment for public review until a later date.
- **Extension for the ED STEPS Pilot District to Submit Three-Year Plans:** A key goal of ED STEPS is to foster collaboration within the organizations to develop comprehensive quality school improvement plans. In light of the impact of COVID-19 to the schools and districts, the Office of Federal Programs and the ED STEPS team has notified the 40 pilot districts, who have agreed to transition to a three-year planning cycle, of flexibilities in submitting their One Needs Assessments and One Plans. The deadline for a district to complete the One Needs Assessment and submit the one plan over a three-year period has been delayed from March 31 to April 30. Furthermore, the school building plans may be submitted separately by May 31. The ED STEPS Team will also ensure the agency's cross program support and review process does not delay the approval of the three-year

plans due to any required or recommended changes from a particular program area. Rather, those changes will need to be addressed prior to the district submitting an annual funding application before July 1.

- **Extension of FLICS Verification to May 15** In the ordinary course, the Office of Federal programs would work with Community Schools and with traditional Public Districts to arrive at the count of low income students enrolled in Community Schools in the Federal Low Income Count System (“FLICS”) in March. This process is needed in order to appropriately allocate funds to Community Schools. In an effort to alleviate some administrative pressure on Community Schools and traditional Public Districts, the FLICS process will remain open until Friday May 15, 2020.
- **Extension of NPDS Verification to May 15:** The Nonpublic Data System (NPDS) will remain open for the addition of nonpublic federal Average Daily Membership (ADM) and completion of participation forms until May 15th.
- **Extension for Small Rural School Achievement Grants Applications for May 15:** The United States Department of Education has extended the deadline for eligible Small Rural School Achievement districts to apply for the grant from April 17, 2020 to Friday May 15, 2020.

16. Has there been an extension provided for the Comprehensive State Development Literacy Grant?

Yes. The grant application period has been extended to June 10, 2020. You can find information for The Comprehensive State Development Literacy Grant info on this webpage.

<http://education.ohio.gov/Topics/Learning-in-Ohio/Literacy/Comprehensive-Literacy-State-Development-Grant>

Non-Public Equitable Services Questions

17. I am a school district with an equitable service obligation to a nonpublic school. Am I still obligated to provide services during the ordered school-building closure?

Yes. Equitable services are a requirement. Flexibilities have been extended to districts to help in the delivery of equitable services. These flexibilities include remote delivery of services and the same flexibilities afforded to district with professional development under Title II-A, definition for professional development, and Title IV-A fiscal relaxation on required percentages spent under each activity along with the 15% limit on technology infrastructure. *Please see USDoE responses on pages 3-4 of this document.*

18. I am a school district with an equitable service obligation to a nonpublic school. What should I be doing during the ordered school-building closure?

An essential requirement of the implementation of equitable services is timely and meaningful consultation. In this period of ordered school-building closure, the school district must engage in the following topics and modify any current programs to meet the identified needs of nonpublic school children, teachers and families:

- How the children's needs will be identified;
- What services will be offered;
- How, where, and by whom the services will be provided;
- How the services will be academically assessed and how the results of that assessment will be used to improve those services;
- The size and scope of the equitable services to be provided to the eligible private school children, the proportion of funds that is allocated for such services, and how that proportion of funds is determined;
- The method or sources of data that are used to determine the number of children from low-income families in participating school attendance areas who attend private schools, including whether the LEA will extrapolate data if it uses a survey;
- How and when the LEA will make decisions about the delivery of services to eligible children, including a thorough consideration and analysis of the views of the private school officials on the provision of services through a contract with potential third-party providers;
- How, if the LEA disagrees with the views of the private school officials on the provision of services through a contract, it will provide in writing to such private school officials an analysis of the reasons why it has chosen not to use a contractor;
- Whether the LEA will provide services directly or through a separate government agency, consortium, entity, or third-party contractor;
- Whether to provide equitable services to eligible private school children by creating a pool or pools of funds with all of the funds allocated based on all the children from low-income families in a participating school attendance area who attend private schools or based on the children in the LEA's participating school attendance area who attend private schools with the proportion of funds allocated based on the number of children from low-income families who attend private schools (see B-8 and B-9);
- When, including the approximate time of day, services will be provided; and
- Whether to consolidate and use funds in coordination with eligible funds available for services to private school children under applicable programs, as defined in ESEA section 8501(b)(1), to provide services to eligible private school children participating in those programs (see C-13).
- (ESEA section 1117(b)(1); 34 C.F.R. § 200.63)

19. If a district is unable to put services in place that will meet the needs of nonpublic school children, teachers and families, is that okay?

B-27 in the Updated Title I Private School Guidance Services describes the requirement of the obligation of funds from ESEA section 1117(a)(4)(B). If services are delayed (based on a natural disaster) and there are unobligated funds as a result, those funds must be used to provide services in the affected private school in the following year. Title II and IVA Guidance is currently being updated. We would advise any unexpended funds in IIA and IVA to follow the Title I guidance.

20. During this period of ordered school-building closure, how can I conduct initial consultations for services in FY21?

Ohio has an electronic Nonpublic Data System (NPDS) that is accessible remotely via OH-ID accounts. Nonpublic principals are currently entering data and completing participation forms for FY21. School districts should reach out to nonpublic schools with whom they have a relationship to engage in initial consultation. There is flexibility in the mechanism for consultation. Emails, telephone calls, on-line meetings are all acceptable methods of communication.

21. Will the Nonpublic Data System (NPDS) window be extended beyond May 8, 2020?

Yes. We are extending the deadline to align with the extension of the FLICS verification to May 15, 2020. This data is critical for determining the nonpublic equitable service amounts and public school federal allocations that are provided in early June. Nonpublic school principals have been uploading data and completing participation forms daily. School districts should engage in consultation to ensure nonpublic schools are meeting guidelines to enter their data in a timely manner.