



# ESSER RESOURCES

## FISCAL MONITORING

*Ensure*  
OPERATIONAL EXCELLENCE

The purpose of the Elementary and Secondary School Emergency Relief Fund (ESSER) Fiscal Monitoring guidance, is to provide subgrantees with information that will support successful internal controls and support the Nebraska Department of Education's on-going efforts to make recipients aware of their responsibilities associated with fiscal management requirements that apply to recipients of the Nebraska CARES Act ESSER subgrant award.

In general, the Nebraska Department of Education expects recipients will administer U.S. Department of Education grants in accordance with generally accepted business practices, exercising prudent judgment to maintain proper stewardship of taxpayer dollars. This includes using fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds. In addition, recipients may use grant funds only for obligations incurred during the funding period.

[Title 2 of the Code of Federal Regulations Part 200](#), "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," establishes requirements for Federal awards made to non-Federal entities.

*This website highlights major administrative requirements of 2 CFR Part 200. The specific sections of 2 CFR Part 200 that address the topics discussed are shown with direct regulation links. It is highly encouraged to read and understand the full text of these and other topics in the 2 CFR Part 200.*

Please keep in mind that a particular grant might be subject to additional requirements of the authorizing statute for the program that awarded the grant and/or any regulations issued by the Nebraska Department of Education Office ESEA Program office. You should become familiar with those requirements as well, being program-specific requirements might differ from those in 2 CFR Part 200.

In closing, it recommended that the project director and the fiscal management staff of a subgrant communicate frequently with each other about the grant budget. Doing so will help to assure that recipients use Federal funds only for those expenditures associated with activities that conform to the goals and objectives approved under the subgrant award.

This resource is intended to help provide clarity to subgrantees regarding internal controls procedures for the Nebraska CARES Act ESSER subgrant. This resource is not a substitute for existing requirements of the subgrant agreement, subaward assurances, Grant Award

Notification (GAN) terms and conditions, applicable state laws, or federal regulation ([2 CFR Part 200](#)) required by subgrantees of the award.

TECHNICAL ASSISTANCE: What is Fiscal Monitoring?

TECHNICAL ASSISTANCE: NDE Fiscal Monitoring Plan for LEAs

TECHNICAL ASSISTANCE: General Grant Management Guidance

## Timeline for Awarding, Obligating, and Liquidating ESSER Funds

As a subgrantee implements the Nebraska CARES Act ESSER subaward, it is important to be aware of the following dates that are critical to appropriate administration of the program:

**Declaration of National Emergency and Pre-award Costs: March 13, 2020**

- The Nebraska CARES Act ESSER subgrant may be used for any allowable expenditures incurred on March 13, 2020, or after, be reasonable and necessary and an allowable use of funds.

**Department of Education ESSER Award Date: May 22, 2020**

**Deadline for ESSER Nebraska to Award Funds: May 22, 2021**

- The Nebraska Department of Education will have one year, from the date of its ESSER award, to award funds and subgrant to LEAs. Any funds not awarded by the SEA within one year of receiving its award will be returned to the U.S. Department of Education to be reallocated to other States consistent with the CARES Act.

**Obligation Date & Tydings Amendment Period: September 30, 2022**

- This is the date by which any subgrantees must obligate ESSER funds to specific purposes consistent with [34 C.F.R. § 76.707](#). The grant period for the ESSER grant is May 22, 2020, through June 30, 2021, with 12 additional months carryover under the Tydings amendment. This means the LEA may begin to expend funds on March 13, 2020, (pre-award begin date) through September 30, 2022. This also the end of the performance period.

**Liquidation Date: No later than December 30, 2022**

Under [2 CFR § 200.343\(b\)](#), ESSER funds must be liquidated within 90 calendar days after the end of the performance period.

## Allowable Uses of Funds

The expenditure must be an allowable activity under the CARES Act. The allowable uses of

ESSER Funds are outlined in [Section 18003\(d\) of the CARES Act](#). This section reads as follows:

***“A local education agency that receives funds under this title may use the funds for any of the following:***

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 other 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*

*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 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.”*

***The USED generally does not consider the following to be an allowable use of funds:***

1. Bonuses, merit pay, or similar expenditures, unless related to disruptions or closures related to COVID-19.
2. Subsidizing or offsetting executive salaries and benefits of individuals who are not employees of the school district.
3. Expenditures related to state or local teacher or faculty unions or associations.

**TECHNICAL ASSISTANCE: What are Allowable and Unallowable Costs?**

## Determine the Appropriateness of Coding an Expenditure & Documenting

***Not sure about the appropriateness of coding an expenditure to ESSER, ask these 3 questions:***

1. Does this expenditure prevent, prepare for, and respond to Coronavirus?
2. Will coding this expenditure to the Nebraska CARES Act ESSER subaward in the fiscal year being expensed still allow the LEA to meet Maintenance of Effort (MOE) requirements for other awards?
3. Did this expenditure occur on or after March 13, 2020?

**What is the absolute minimum that should be documented?**

At an absolute minimum, document the expenditures as you normally would and ***specify in writing:***

1. The need for the expenditure,
2. If using federal funds, why federal funds are needed to address the need, and
3. That it is COVID-19 related.

***What fiscal year should these funds be account for?***

The funds should be accounted for in the fiscal year in which they are expended or received.

***What account codes should be used for expenses and revenue incurred under ESSER?***

For accounting purposes:

Expenses Function Code: 6996

Revenue Function Code: 4996

## TECHNICAL ASSISTANCE: Accounting Structure & Users' Manual

### Equitable Services and Fiscal Requirements

#### *What can appropriately be coded to ESSER for nonpublic equitable services?*

An school district must offer to provide equitable services to students and *teachers in all non-public schools* located in the school district, even if a non-public school has not previously participated in federal education programs, such as Title I, Part A or Title VIII of the Elementary and Secondary Education Act (ESEA). The nonpublic may identify allowable services to meet their needs and those nonpublic services are not required to be the same as the services the school district provide to its campuses, students, or staff.

The expenditure must be an allowable activity under the CARES Act, including IDEA & ESEA activities, as well as technology purchases for students, supplies to sanitize & clean schools, mental health services & supports, summer learning and afterschool programs is allowable to provide equitable services to the nonpublic. The allowable uses of ESSER Funds are outlined in [Section 18003\(d\) of the CARES Act](#) and under the 'Required Elements for Supporting Documentation' section of this FAQ.

#### *Fiscal requirements when providing equitable services to the nonpublic:*

1. Control of the funds, must remain with the school district and the school district, must administer such funds. In other words, no funds go directly to the nonpublic.
2. A school district must have title to materials, equipment, and property purchased with subgrant funds and must follow its policies and procedures with regards to inventory, as applicable.
3. Materials, equipment, and services must be secular, neutral and nonideological.
4. Services must be provided by the school district directly, or through contract with, another public or private entity. ([Section 18005\(b\) of the CARES Act.](#))

*For example:*

#### *Purchasing materials or goods for the nonpublic:*

1. *A school district should purchase the goods needed by the nonpublic and directly remits payment to the vendor.*
2. *A nonpublic school could purchase the goods; however, the school district must remit payment directly to vendor on the nonpublic behalf to be an allowable expenditure under the program.*

Providing and/or purchasing services for the nonpublic:

1. *Services must be provided or administered by the school district.*
    - a. *An employee of the school district may provide such service.*
    - b. *Paying nonpublic employees are not staff of the school district (Category 12); therefore, would be unallowable.*
  2. *Or, contracted with another public or private entity to provide.*
    - a. *Contracts for services provided must be paid directly to the public or private agencies, organizations, or institutions providing the service.*
5. Districts provide equitable services to the extent that the proportionate share lasts.
  6. Districts need to have documentation that shows how the proportionate share funds were obligated and expended for, or on behalf of, the private school, its students, and/or its teachers.
  7. Districts need to keep the proportionate share funds separate and distinct for auditing and monitoring purposes.
  8. Written documentation supporting:
    - a. The need for an expenditure,
    - b. If using federal funds, why federal funds are needed to address the need, and
    - c. That it is COVID-19 related.
  9. Districts may use some of the equitable services funds for administrative costs as long as those administrative costs are reasonable and necessary for administering equitable services under the Nebraska CARES Act ESSER program.
  10. Consumables/disposables (e.g., masks, shield guards, cleaning supplies) are allowable if the district purchases pursuant to its policies and procedures.
  11. Districts cannot pay for nonpublic school staff salaries (Category 12) as no funds may go directly to the nonpublic.
  12. If technology (e.g., laptops) are purchased, districts own the property, must inventory, and keep an accounting pursuant to its inventory policies and procedures.
  13. Post award guidance calls with the USED, indicated that construction as part of private nonprofit (PNP) equitable services is not allowable under the program.
- NOTE:** many federal programs (e.g., ESSA Title I, Title II, Title III, IDEA) require equitable services. Equitable services requirements under those federal programs may differ, please direct questions to:

*Jim Kent* | 402-471-1749 | [Jim.Kent@nebraska.gov](mailto:Jim.Kent@nebraska.gov)

Nebraska Department of Education

Office of ESEA Programs, Title Consultant, Nonpublic Ombudsman

***Can a nonpublic have COVID-19 related expenses that occurred on or after March 13, 2020 reimbursed?***

School districts are not permitted to reimburse a nonpublic for activities that were paid for by the nonpublic and the nonpublic cannot accept federal funding. However, under the Nebraska CARES Act ESSER subgrant, the school district can reimburse through alternative methods for COVID-19 related expenditures that occurred on or after March 13, 2020.

For a nonpublic to have COVID-19 related allowable expenses reimbursed, the nonpublic will need to determine the status of their COVID-19 related invoices. If the invoice has been paid by the provider, the nonpublic can work with the vendor or service provider to issue a refund and ask to invoice the school district. If the invoice has not been paid, the nonpublic can ask the provider to re-issue the invoice to the school district for payment.

This process and the allowability of expenses must be addressed during the consultation (or amended expenditure plan) between the nonpublic and the district and an agreement must be met before reimbursement can occur for the allowable COVID-19 related expenses. Please direct questions to:

*Jim Kent* | 402-471-1749 | [Jim.Kent@nebraska.gov](mailto:Jim.Kent@nebraska.gov)

Nebraska Department of Education

Office of ESEA Programs, Title Consultant, Nonpublic Ombudsman

***How does a recipient account for equitable services under the original interim final rule and after vacating the interim final rule?***

On September 28, 2020, the Commissioner of the Nebraska Department of Education, provided the following [CARES ACT Equitable Services Update](#):

*On September 4, 2020, in NAACP v. DeVos, the U.S. District Court for the District of Columbia issued an [opinion](#) and an [order](#) vacating the Interim Final Rule (IFR) under the CARES Act in its entirety nationwide. This order “vacates” the rule, leaving no IFR in place for the U.S. Department of Education (USED) to enforce in any jurisdiction.*

*The USED respects the rule, will enforce the law as the courts have opined, and will not appeal these rulings. The 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. See [letter from the Secretary of Education](#).*

*With this guidance, going forward the Nebraska Department of Education (NDE) is honoring and reimbursing school districts for expenditures already made through September 11, 2020 under contracts and agreements for the provisions of services or goods provided to private schools, the NDE notified Nebraska schools of the court order.*

*For ESSER funds not under contract or agreement for the provision of equitable services to private schools after September 11, 2020, school districts must provide consultation and*

*calculate the minimal proportional share according to the formula required under Section 1117 of the ESEA of 1965, which the USED will enforce to ensure school districts comply with this and other relevant equitable services requirements.*

If you have questions, please contact:

**Brian Halstead** | [Brian.Halstead@nebraska.gov](mailto:Brian.Halstead@nebraska.gov)

Nebraska Department of Education, Deputy Commissioner

**NOTE:** Items purchased before September 11, came in after September 11, for which purchase orders, sales order, subscriptions, were sent to vendors on or before September 11, 2020, can be completed since all parties detrimentally relied upon the guidance/interim final rule from the U.S. Department of Education and September 11, 2020 was when the Nebraska Department of Education notified all recipients of the Nebraska CARES Act ESSER subgrant award that the U.S. Department of Education interim final rule guiding equitable services was vacated.

**NOTE:** Contracts or agreements signed with individuals, or entities to provide services, on or before September 11, 2020, for services to occur in nonpublic schools for the 2020-21 school year as part of equitable services can be honored for the term of the contract or agreement since all parties detrimentally relied upon the guidance/interim final rule from the U.S. Department of Education and September 11, 2020 was when the Nebraska Department of Education notified all recipients of the Nebraska CARES Act ESSER subgrant award that the U.S. Department of Education interim final rule guiding equitable services was vacated.

**NOTE:** It is important to maintain date specific primary documentation supporting and identifying the administration of, contracting for services, and purchasing for equitable services provided before and after the interim final rule:

- a. Invoice,
- b. Receipt,
- c. Purchase Order/Sales Order,
- d. Contract/Agreement for service provided; original and amended, and
- e. Emails.

## Key Financial Management Requirements for ESSER

*This section highlights major administrative requirements of 2 CFR Part 200 for administering the Nebraska CARES Act ESSER subgrant award.*

### Financial Management Systems ([2 CFR Part 200.302](#))

In general, subgrantees are required to have financial management systems that:



- provide for accurate, current, and complete disclosure of results regarding the use of funds under grant projects,
- provide adequate source documentation for Federal and non-Federal funds used under grant projects,
- contain procedures to determine the allowability, allocability, and reasonableness of obligations and expenditures made by the grantee, and
- enable the grantee to maintain effective internal control and fund accountability procedures, e.g., requiring separation of functions so that the person who makes obligations for the grantee is not the same person who signs the checks to disburse the funds for those obligations.

A subrecipients, must be sufficient to permit the preparation of reports that may be required under the award as well as provide the tracing of expenditures to a level adequate to establish that award funds have not been used in violation of any applicable statutory restrictions or prohibitions.

#### **Personnel** ([2 CFR Part 200 Subpart E](#))

General rules governing reimbursement of salaries and compensation for staff working on grant projects are addressed in the cost principles in 2 CFR Part 200 Subpart E. In all cases, payments of any type to personnel must be supported by complete and accurate records of employee time and effort. For those employees that work on multiple functions or separately funded programs or projects, the subgrantee must also maintain time distribution records to support the allocation of employee salaries among each function and separately funded program or project.

#### **Cost Principles** ([2 CFR Part 200 Subpart E](#))

All costs incurred under any subgrant are subject to the cost principles found in 2 CFR Part 200 Subpart E. The cost principles provide lists of selected items of allowable and unallowable costs and must be used in determining the allowable costs of work performed under the subgrant.

#### **Procurement Standards** ([2 CFR Part 200.317-326](#))

Under 2 CFR Part 200.317, States are required to follow the procurement rules the States have established for purchases funded by non-Federal sources. When procuring goods and services for a grant's purposes, all other grantees may follow their own procurement procedures, but only to the extent that those procedures meet the minimum requirements for procurement specified in the regulations. These requirements include written competition procedures and codes of conduct for grantee staff, as well as requirements for cost and price analysis, record-keeping and contractor compliance with

certain Federal laws and regulations. These regulations also require grantees to include certain conditions in contracts and subcontracts, as mandated by the regulations and statutes.

### **Audit Requirements** ([2 CFR Part 200 Subpart F](#))

2 CFR 200 Subpart F requires that subgrantees obtain a non-Federal audit of their expenditures under their Federal grants if the grantee expends more than \$750,000 in Federal funds in one fiscal year. 2 CFR Part 200 Subpart F contains the requirements imposed on grantees for audits done in connection with the law.

The Department recommends hiring auditors who have specific experience in auditing Federal awards under the regulations and the Compliance Supplement.

### **Other Considerations**

Some other topics of financial management covered in 2 CFR Part 200 that might affect particular grants based on the allowable uses of funds or nature of ESSER include: cost sharing or matching ([2 CFR Part 200.306](#)), property management requirements for equipment and other capital expenditures ([2 CFR Parts 200.313, 200.439](#)).

### **What internal controls are required to be maintained under the Nebraska CARES Act ESSER subaward?**

The primary documentation submitted through the expense reimbursement process provides initial review that the expenditures of the subaward are reasonable and allocable as required under 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirement for Federal Awards.

Pursuant to [2 CFR §200.331](#), the NDE, as a federal pass-through entity, has responsibility to monitor subrecipients to ensure the sub-award is used for authorized purposes, is in compliance with Federal and State statutes, regulations, subaward assurances, and the terms and conditions of the sub-award.

The financial monitoring conducts a comprehensive desk review or on-site reviews to monitor that the subgrantee has an effective internal control system, standards, and established practices:

- Operations: Effectiveness and efficiency of operations
- Reporting: Reliability of reporting of internal and external use
- Compliance: Compliance with applicable laws and regulations

An effective internal control system can help an entity to address and manage fluctuating demands, environmental paradigms, emerging risks, and priorities.

## Required Policies and Procedures

*The Uniform Grants Guidance (UGG), officially titled Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, (2 Code of Federal Regulations [C.F.R.] 200) was issued by the Office of Management and Budget (OMB) on December 26, 2014, and took effect the same day.*

2 CFR 200 is the guiding policy for all federal grants and requires recipients of federal program funds, including grants under the CARES Act, to maintain the following written policies and procedures:

1. Payroll; [2 CFR §200.430\(i\)](#)
2. Suspension and Debarment; [2 CFR §200.212](#)
3. Financial Management; [2 CFR §200.302](#)
4. Cost Sharing or Matching; [2 CFR §200.306](#)
5. Program Income; [2 CFR §200.307](#)
6. Equipment; [2 CFR §200.313](#) (And Inventory)
7. Procurement; [2 CFR 200.318](#) through 2 CFR §200.326
8. Record Retention (5 years); [2 CFR §200.333](#)

**TECHNICAL ASSISTANCE: Grant Compliance Policies & Procedures**

## ESSER Funds: Paying Employees on Leave Status and Policies

*What is required in a policy under unexpected or extraordinary circumstances at the LEA or State level to permit ESSER subgrantees to use ESSER funds for employee compensation when employees are on leave due to school closures related to COVID-19?*

On October 9, 2020, the U.S. Department of Education, Office of Elementary and Secondary Education, Office of State and Grantee Relations provided the following response:

*We have determined that, because ESSER specifically authorizes continuing to pay existing employees (CARES Act Section 18003(d)(12)), the authority includes paying staff who are on leave because schools are closed due to COVID-19. Accordingly, ESSER funds may be used for that purpose even in the absence of a policy that specifically addresses these circumstances.*

The [U.S. Department of Education's Fact Sheet](#), dated April 8, 2020, and the Uniform Guidance provisions on compensation in [2 C.F.R. § 200.430](#) generally require a policy to

*use Federal funds for compensation for employees who are not working due to extraordinary circumstances of COVID-19. That requirement, however, is applicable for programs that, unlike ESSER, do not specifically authorize use of funds for the purpose of paying employees who cannot work due to COVID-19. In other words, the specific authority in ESSER governs instead of the more general authority in the Uniform Guidance.*

**NOTE:** If a school district pays, consistent with its policies and procedures, similarly situated employees who compensation is paid with non -Federal funds during an extended closure, then those paid with grant funds from the U.S. Department of Education may also continue to be paid under [2 CFR §§ 200.403\(c\)](#) (allowability of costs), [200.404](#) (reasonable costs), [200.405](#) (allocable costs), [200.430\(b\)](#) requirements.

**Fiscal monitoring and paying existing employees when on leave due to school closures related to COVID-19, is as follows:**

1. Review of the internal controls maintained by the school district and discussed in the following sections.
2. Recipients are required to maintain appropriate records, leave policies, cost documentation, and record retention as required by [2 CFR § 200.302](#) (Financial management), [2 CFR § 200.333](#) (Retention requirement of records), for 5 years, [2 CFR § 200.430](#) (Compensation – personal services), [2 CFR § 200.431\(b\)\(1\)](#) (Compensation – fringe benefits) to substantiate the charging of any salaries and other project activities costs related to interruption of operations or services.
3. The CARES Act ESSER grant application includes the following assurance - “The LEA will comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) requirements in [Subpart D](#)—Post Federal Award Requirements (2 CFR §§200.300-345) and [Subpart E](#)—Cost Principles (2 CFR §§200.400-475) to ensure, ESSER funds are used for purposes that are reasonable, necessary, and allocable under the CARES Act.”
4. Post-award calls with the Nebraska ESSER Federal Compliance team has deemed it necessary for school districts to provide burden of proof that it in fact continued to charge salaries and benefits to the ESSER subaward consistent with the recipients policies and procedures of paying salaries (under normal operating policies and procedures) from all funding sources, Federal and non-Federal.

**IMPORTANT: Other Federal Funds: Paying Employees on Leave Status and Policies**

*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)?*

On April 8, 2020, the U.S. Department of Education issued [Select Questions Related to Use of Department of Education Grant Funds During the Novel Coronavirus Disease 2019](#), the FAQs states:

*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.[1] 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.[2] 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.*

*[1] See Office of Management and Budget (OMB) Memorandum M-20-17, <https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-17.pdf>.*

*[2] [2 CFR §§ 200.403\(c\)](#) (allowability of costs), [200.404](#) (reasonable costs), [200.405](#) (allocable costs), [200.430\(b\)](#) (compensation for personal services), and [200.431\(a\)-\(b\)](#) (fringe benefits).*

**NOTE:** The administrative relief provided originated with [M-201-11](#) and continued through [M-20-17](#). Due to the uncertainty of the re-opening phase and the speed of the ramp-up effort, [M-20-26](#) provides an extension of Allowability of salaries and other project activities (item 6 in M-20-17) through September 30, 2020.

**Fiscal monitoring and paying existing employees when on leave due to school closures related to COVID-19, is as follows:**

1. Review of the internal controls maintained by the school district and discussed in the following sections.
2. Recipients are required to maintain appropriate records, leave policies, cost

documentation, and record retention as required by [2 CFR § 200.302](#) (Financial management), [2 CFR § 200.333](#) (Retention requirement of records), for 5 years, [2 CFR § 200.430](#) (Compensation – personal services), [2 CFR § 200.431\(b\)\(1\)](#) (Compensation – fringe benefits) to substantiate the charging of any salaries and other project activities costs related to interruption of operations or services.

3. The CARES Act ESSER grant application includes the following assurance - “The LEA will comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) requirements in [Subpart D](#)—Post Federal Award Requirements (2 CFR §§200.300-345) and [Subpart E](#)—Cost Principles (2 CFR §§200.400-475) to ensure, ESSER funds are used for purposes that are reasonable, necessary, and allocable under the CARES Act.”
4. Post-award calls with the Nebraska ESSER Federal Compliance team has deemed it necessary for school districts to provide burden of proof that it in fact continued to charge salaries and benefits to the ESSER subaward consistent with the recipients policies and procedures of paying salaries (**under unexpected or extraordinary circumstances policies and procedures**) from all funding sources, Federal and non-Federal.

## Maintaining Fiscal Internal Controls

*The following is a general list of internal controls a subgrantee should maintain at an absolute minimum and have available for monitoring, state auditors, and federal auditors per state and federal regulations.*

1. Subaward assurances are supported.
2. Program objectives are achieved as specified in the subgrant application.
3. Subgrantees using federal grant funds to meet COVID-19 related needs 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 costs to federal education grant funds related to the interruption of operations or services.
4. Document in writing:
  - a. The need for the expenditure,
  - b. If using federal funds, why federal funds are needed to address the need, and
  - c. That the expenditure is COVID-19 related.

**NOTE:** Support in the general ledger with subcategory, local, or intent coding so the school district can specifically identify all the types of costs should the expenses, at a later, time, be deemed allowable uses of state or federal reimbursement funding or other federal grant funds.

5. Expense reimbursement primary documentation provided to the NDE, if applicable, is supported by:

- d. The general ledger report (transaction level detail),
- e. Payroll distribution reports,
- f. Return to work agreement, if on leave status,
- g. Invoice, receipt, purchase order, sales order,
- h. Contracts/Agreements; original and amended,
- i. Capital Outlay and equipment; Nebraska Department of Education Office of ESEA Programs prior written approval,
- j. Time & Effort Reporting,
  - i. A grantee must maintain appropriate records and cost documentation as required by [2 CFR §200.302](#) Financial Management, [2 CFR §200.430\(j\)](#) (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. For a list of application federal requirements, see the [Nebraska Certification and Agreement for the ESSER Fund](#),
- k. Applicable policies and procedures.

## Maintaining Fiscal Internal Controls: Equitable Services

*The following is a general list of internal controls a subgrantee should maintain for equitable services at an absolute minimum and have available for monitoring, state auditors, and federal auditors per state and federal regulations.*

- 2. Consultation agreements.
- 3. Determination and documentation of allocations for the nonpublic before and after the U.S. Department of Education vacated the interim final rule.
- 4. Date specific primary documentation supporting and identifying the administration of, contracting for services, and purchasing for equitable services provided before and after the interim final rule:
  - a. Invoice,
  - b. Receipt,
  - c. Purchase Order/Sales Order,
  - d. Contract/Agreement for service provided; original and amended, and
  - e. Emails.
- 5. General ledger transactional detail report with the ability to identify COVID-19 equitable services and supported by:
  - a. Adjusting journal entries,
  - b. Payroll distribution report; if applicable,
  - c. Return to work agreement, if on leave status,
  - d. Time & Effort Reporting; if applicable
  - e. Written documentation supporting:
    - i. The need for the expenditure,

- ii. If using federal funds, why federal funds are needed to address the need,
- iii. That it is COVID-19 related.

## Time & Effort Reporting Under the CARES ACT

### *Will a school district be required to document Time & Effort Reporting when paying for salaries and benefits with ESSER funds?*

Yes. Just as with any federal grant, the Uniform Guidance applies to compensation expenditures for ESSER funds. For example, if salary and benefits is paid with federal funds, Time & Effort Reporting is generally required. A school district would maintain the records it generally maintains for salaries and wages, including for employees in leave status, as long as payments to employees in leave status are made consistent with grantee policies and procedures that apply to all employees, whether they are paid with Federal or other funds.

A school district 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), [2 CFR §200.431](#) (Compensation – fringe benefits), and [2 CFR §200.333](#) (Retention requirements for records) to substantiate the charging of any compensation costs related to interruption of operations or services.

An LEA must maintain time distribution records (sometimes called “time and effort” reporting) only if an individual employee is splitting his or her time between activities that may be funded under ESSER and activities that are not allowable under ESSER. However, there will be very few situations when 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. ([Section 18003\(d\)\(12\)](#))

TECHNICAL ASSISTANCE: What is Time & Effort Certification?

TECHNICAL ASSISTANCE: Time & Effort Reporting Forms and Samples



## CARES Act ESSER and Time & Effort Reporting Under the Uniform Guidance:

The salaries and wages of any employee charged to a federal grant must be supported by time and effort documentation that accurately reflects the work that an employee performed. Not budgeted but based on actual time worked. Time and effort is after the fact reporting.

- Is applicable to programs under the CARES Act.
- Is applicable to all compensation paid.
- A school district should maintain time and effort records it generally maintains for compensation paid to staff to perform generally the same activities.
  - Generally, no time and effort reporting under Nebraska CARES Act ESSER subgrant is required if time and effort reporting was not previously maintained for General funded compensation paid for generally the same activities.
  - Generally, time and effort reporting is required under the Nebraska CARES Act ESSER subgrant if time and effort reporting was previously maintained for Federal funded compensation paid for generally the same activities.
- The records generally maintained would be maintained for all staff in leave status, as long as payments to employees are made consistent with policies and procedures (or another form of approved assurance), whether paid with Federal or other funds and generally performing the same activities.

**EXCEPTION:** A school district must maintain Time & Effort Reporting under the Nebraska CARES Act ESSER subgrant if an employee is splitting time between activities funded under the ESSER program and activities not allowable under the ESSER program.

## Time & Effort Reporting Examples Under the ESSER Program:

### No Time & Effort Reporting Required:

- No time and effort reporting under the Nebraska CARES Act ESSER subgrant is required for the same activity if time and effort reporting was not previously required.
- An employee previously only paid with General funds and continuing to support the same activity under the Nebraska CARES Act ESSER subgrant.

### Semiannual or Personnel Activity Reports (PAR):

- Time and effort reporting is required under the Nebraska CARES Act ESSER subgrant if time and effort report was previously maintained.
- An employee previously paid with Federal funds only or a combination of Federal/General funds and continues to support the same activity is required to maintain the same time and effort reporting previously maintained.
- An employee previously paid throughout the year to perform the same activities but switched from any funding source or combination of funding

sources to CARES Act ESSER funds entirely or partially to perform new/other activities or provide COVID-19 related support would be required to maintain time and effort reporting. Based on the change in work that an employee performs could change the time and effort reported from Semiannual to a PAR.

- **EXCEPTION EXAMPLES:** an employee is splitting time between ESSER allowable activities and not allowable ESSER activity will be required to report time and effort reporting, such as:
  - Bonuses, merit pay, or similar expenditures, unless related to disruptions or closures related to COVID-19
  - Subsidizing or offsetting executive salaries and benefits of individual who are not employees of the school district.
  - Expenditures related to state or local teacher or faculty unions or associations included as employee salaries or wages.

Attestation:

If it is deemed impossible to obtain time and effort for an employee, an attestation would be allowable documentation if signed by a supervisor with direct knowledge.

***Are staff on FFRC leave and subs exempt from this?***

No, these staff would not be exempt from time and effort reporting required under leave status. Whether time and effort logs are required, would be based on what records were previous maintained for these employees prior to paying staff with ESSER funds. The same time and effort reporting efforts would be maintained under ESSER funds if the employee is reasonably maintaining the same work performed. An employee previously paid throughout the year to perform the same activities but switched from any funding source or combination of funding sources to CARES Act ESSER funds entirely or partially to perform new/other activities or provide COVID-19 related support would be required to maintain time and effort reporting. If previously reporting time and effort and based on the change in work that an employee performs could change the time and effort reported from Semiannual to a PAR.

***What about employees that were paid to be retained in their job even if not working, exempt from this?***

No, employees paid with ESSER to be retained (not to work) would not be exempt from time and effort reporting required under leave status. Whether time and effort logs are required, would be based on what records were previous maintained for these employees prior to paying staff with ESSER funds under leave status to be retained in their same position. The same time and effort reporting would be maintained under ESSER funds leave status due to closure as maintained prior to closure.

### *Who do you need time & effort logs for?*

Generally, 'who' is required to provide time and effort reporting is based on what time and effort reporting an employee maintained prior to compensation with ESSER funds, rather than based on position classifications. Except, that time and effort reporting may be now required due to the 'one exception' split coding (under allowable and unallowable) requirement and/or not maintaining similar activities (new/other activities than previously worked or COVID-19 work). Leave status does not change this requirement, however having documentation that an employee is in leave status and paying consistent under unexpected circumstances policy (or other acceptable assurance in lieu of leave policy) is important. All three forms of cost documentation (leave status, paying consistent with policy/assurance, and time & effort reporting) will be reviewed during fiscal monitoring review if employees were paid in leave status under all current Federal awards.

### Use of Funds for Conferences, Meeting, and Meals (Working Lunches)

The Uniform Grants Guidance (UGG), officially titled Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, (2 Code of Federal Regulations [C.F.R.] 200) was issued by the Office of Management and Budget (OMB) on December 26, 2014, and took effect the same day. In issuing the UGG, OMB clarified, and in some cases strengthened, federal regulations relating to allowable expenses. Four UGG sections apply to conferences and meals:

- [2 C.F.R., section 200.412](#) Classification of Costs.
- [2 C.F.R., section 200.413](#) Direct Costs.
- [2 C.F.R., section 200.420](#) Considerations for Selected Items of Cost.
- [2 C.F.R., section 200.432](#) Conference.

The U.S. Department of Education issued [Frequently Asked Questions to Assist U.S. Department of Education Grantees to Appropriately Use Federal Funds for Conferences and Meetings](#) . The FAQs include a number of questions regarding using federal grant funds to pay for food. As a general rule, the FAQs states:

Generally, there is a very high burden of proof to show that paying for food and beverages with federal funds is necessary to meet the goals and objectives of a federal grant. When a Local Education Agency (LEA) is hosting a meeting, the LEA should structure the agenda for the meeting so that there is time for participants to purchase their own foods, beverages, and snacks. In addition, when planning a meeting, LEAs may want to consider a location in which participants have easy access to food and beverages.

While these determinations will be made on a case-by-case basis, and there may be some circumstances where the cost would be permissible, it is likely that those circumstances will be

rare. LEAs, therefore, will have to make a compelling case that the unique circumstances they have identified would justify these costs as reasonable and necessary.

To evaluate the appropriateness of using federal funds for a working lunch, an LEA should consider the following guidelines.

To evaluate the appropriateness of using federal funds for a working lunch, an LEA should follow its established policy and procedures and retain for burden of proof all cost documentation and specify in writing at the time of the occurrence (not at the time of monitoring) the following:

1. Is a working lunch necessary?
2. Is the portion of the agenda to be carried out during lunch substantive and integral to the overall purposed of the conference or meeting?
3. Is there a genuine time constraint that requires the working lunch?
4. Is a working lunch necessary, is the cost of the working lunch reasonable?
5. Has the school district carefully documented that a working lunch is both reasonable and necessary?

This can be accomplished:

1. Through the conference or meeting agenda,
2. At the time staff requests reimbursement or payment to the vendor, and/or
3. Through email support.

Please note that, aside from a working lunch that meets these guidelines, it is unlikely that other food and beverage costs for a conference or meeting – for example, breakfast, dinner, snacks, or networking receptions – would be reasonable and necessary. Please remember that entertainment costs, including costs for amusement, diversion, and social activities, are never allowable.

If non-federal funds are used to pay for food and beverages, the LEA should make clear through a written disclaimer or announcement (e.g., a note on the agenda for the meeting) that federal funds were not used to pay for the cost of the food or beverages.

In providing this guidance, please note that this does not preclude an LEA from paying the travel expense of those attending a conference or meeting that is necessary to carry out its education program.

The Nebraska Department of Education may seek to recover any federal grant funds identified, in a federal audit, state audit or through monitoring, as having been used for unallowable costs, including unallowable food and beverage expenses.

## Contact Information

If you have questions or require support, the management structure for implementing and supporting the ESSER Fund grant includes a hierarchy of Administrators, Directors, and Specialists from the following Offices of the Nebraska Department of Education, please contact:

### *Beth Wooster*

Office of ESEA Programs, Administrator  
(402) 471-2452 | [beth.wooster@nebraska.gov](mailto:beth.wooster@nebraska.gov)

#### *Services Provided:*

Programmatic support to public school districts, public and nonpublic schools, and program personnel:

- Technical,
- Managerial, and
- Monitoring

Manages federal funds allocated for use by nonpublic schools

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### *Jen Utemark*

Office of Budget & Grants Management, Administrator  
(402) 471-4313 | [jen.utemark@nebraska.gov](mailto:jen.utemark@nebraska.gov)

### *Tom Goeschel*

Office of Budget & Grants Management, Director or Compliance  
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#### *Services Provided:*

Support to grant programs, personnel, and schools

- Operational budget and legislative activities
- Financial management,
- Grants management and reimbursement
- Grant reporting,
- Compliance, and
- Fiscal Monitoring