

GUIDANCE

**2020 CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT: ADMINISTRATION
OF GOVERNOR'S EMERGENCY EDUCATION RELIEF (GEER) FUNDS AND ELEMENTARY AND
SECONDARY SCHOOL EMERGENCY RELIEF (ESSER) FUNDS**



New York State Education Department

Office of ESSA-Funded Programs

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TABLE OF CONTENTS

BACKGROUND

GOVERNOR’S EMERGENCY EDUCATION RELIEF (GEER) FUNDS

1. What is the Governor’s Emergency Education Relief (GEER) Fund?..... 5

2. Which LEAs are eligible for GEER funding?..... 5

3. How is an LEA’s allocation determined?..... 5

4. What is the funding period for GEER Funds? 5

5. If an LEA did not receive an FY 2019 Title I, Part A subgrant for school year 2019-2020 is it eligible to receive GEER formula funds?..... 5

6. What are the allowable uses of GEER funds by LEAs?..... 6

7. What are the allowable uses of GEER funds by LEAs?..... 6

8. What is a “non-public school” under the CARES Act programs?..... 7

9. Must an LEA or another public agency maintain control of GEER funds used to provide equitable services?..... 7

10. How can an LEA determine the amount of CARES funds for equitable services to non-public elementary and secondary schools?.....7

11. Does the method the LEA utilizes to distribute GEER funds to schools impact the LEA’s obligation to equitably share funds?..... 8

12. Must the same method of identifying participating schools be used for both GEER and ESSER Funds?..... 8

13. Since an LEA’s GEER grant allocation is based on the formula used to determine Title I, Part A allocations, is an LEA required to meet Title I, Part A requirements in spending the GEER funds?..... 9

14. May an LEA use its GEER funds to support any school in the district, regardless of a school’s Title I, Part A status?..... 9

15. Are GEER funds subject to a supplanting prohibition?..... 9

16. Since GEER funds are administered to school districts using the Title I, Part A formula, does that mean Title I, Part A regulations apply?..... 9

17. May an LEA reserve funds for administrative costs?..... 10

18. Is there any difference in the amount of GEER funds, or allowable uses of GEER funds, for a school that implements a schoolwide program under Title I, Part A as compared to a school that provides targeted support under Title I, Part A?..... 10

19. Is an LEA that receives GEER funds required to set-aside funds for any reason?.....10

20. Should LEAs anticipate monitoring or auditing of GEER funds?..... 10

ELEMENTARY AND SECONDARY SCHOOLS EMERGENCY RELIEF (ESSER) FUNDS

21. What is the Elementary and Secondary School Emergency Relief Fund?.....11

22. Which LEAs are eligible for ESSER funding?..... 11

23. How is an LEA’s allocation determined?..... 11

24. What is the funding period for ESSER Funds? 11

25. If an LEA did not receive an FY 2019 Title I, Part A subgrant for school year 2019-2020, is it eligible to receive ESSER formula funds?..... 11

26. What are the allowable uses of ESSER funds by LEAs?..... 11

27. Are non-public schools eligible to receive equitable services for ESSER funds?..... 13

28. Must an LEA or another public agency maintain control of ESSER funds used to provide equitable services?..... 13

29. How can an LEA determine the Proportional share of CARES funds for equitable services to non-public elementary and secondary schools?.....13

30. Does the method the LEA utilizes to distribute CARES funds to schools impact the LEA’s obligation to equitably share funds?.....13

31. Must the same method of identifying participating schools be used for both ESSER and GEERS Funds?..... 13

32. Since an LEA’s ESSER grant allocation is based on the formula used to determine Title I, Part A allocations, is an LEA required to meet Title I, Part A requirements in spending the ESSER funds?..... 14

33. May an LEA use its ESSER funds to support any school in the district, regardless of a school’s Title I, Part A status?..... 14

34. Are ESSER funds subject to a supplanting prohibition?..... 14

35. Since ESSER funds are administered to school districts and charter schools using the Title I, PART A formula, does that mean Title I, PART A regulations apply?..... 14

36. May an LEA reserve funds for administrative costs?..... 15

37. Is there any difference in the amount of ESSER funds, or allowable uses of ESSER funds, for a school that implements a schoolwide program under Title I, Part A as compared to a school that provides targeted support under Title I, Part A?.....15

38. Is an LEA that receives ESSER funds required to set-aside funds for any reason?..... 15

39. Should LEAs anticipate monitoring or auditing of ESSER funds?..... 15

BACKGROUND

On March 27, 2020, Congress passed, and the President signed into law the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The CARES Act provides funding to prevent, prepare for and respond to the coronavirus, and consists of the following:

- The Governor’s Emergency Education Relief Fund (GEER) as outlined in Section 18002 of the CARES Act, provides grants to Governors for the purpose of providing educational agencies with emergency assistance to address the impact of impact that Novel Coronavirus Disease 2019 (COVID-19); and
- The Elementary and Secondary School Emergency Relief Fund (ESSER) as outlined in Section 18003 of the CARES Act, provides grants to State Educational Agencies (SEAs) for the purpose of supporting local educational agencies (LEAs), including charter schools that are LEAs, with emergency relief funds to address the impact that COVID-19 has had, and continues to have, on elementary and secondary schools.

Governor’s Emergency Education Relief Fund (GEER)

New York State has been allocated \$164.2 million under the Governor’s Emergency Education Relief Fund (GEER). The entirety of New York State’s GEER funds were programmed by the Division of the Budget and the Legislature in the 2020-21 enacted New York State budget through the application of a “pandemic adjustment” to partially offset the state share of state aid to school districts.

Pursuant to the direction of the Governor’s Office and the Division of the Budget, GEER funding is being allocated to the State’s 673 major school districts. GEER funds are not being allocated to LEAs that are charter schools, Special Act School Districts, or school districts employing fewer than eight teachers. These funds will be allocated to eligible school districts using the relative shares of grants awarded under Title I, Part A of the ESEA for the most recent fiscal year (2019-20).

Elementary and Secondary School Emergency Relief Fund (ESSER)

New York State has been allocated \$1.037 billion under the Elementary and Secondary School Emergency Relief Fund (ESSER). ESSERF funds to school districts were programmed by the Division of the Budget and the Legislature in the 2020-21 enacted New York State budget through the application of a “pandemic adjustment” to partially offset the state share of state aid to school districts.

ESSER funding is being allocated all LEAs, including charter schools and Special Act School Districts, that received 2019-20 Title I, Part A subgrants are eligible to receive ESSER Funding. Pursuant to the terms of the CARES Act, Local Educational Agency (LEA) allocations were calculated using the relative shares of grants awarded under Title I, Part A of the Elementary and Secondary Education Act (ESEA) for the most recent fiscal year (2019-20).

**Governor's Emergency Education Relief Fund (GEER)
FREQUENTLY ASKED QUESTIONS**

1. What is the Governor's Emergency Education Relief (GEER) Fund?

On April 14, 2020, the U.S. Department of Education announced that nearly \$3 billion would be made available to Governors to ensure education continues for students of all ages impacted by the ongoing COVID-19 pandemic. The Governor's Emergency Education Relief (GEER) Fund, authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, is a flexible emergency block grant designed to allow Governors to decide how best to meet the needs of students, schools, postsecondary institutions and other education-related organizations in their states.

In New York State, Governor Andrew Cuomo has decided to make the entirety of the State's \$164.2 million GEER allocation available to the major school districts to help ensure continued educational services for students amid the unprecedented public health emergency.

2. Which LEAs are eligible for GEER funding?

Pursuant to the direction of the Governor's Office and the Division of the Budget, New York State is allocating GEER funding to the State's 673 major school districts. School districts that employ fewer than eight teachers, charter schools, and Special Act School Districts are not eligible for GEER funding.

3. How is an LEA's allocation determined?

As required by the CARES Act, an LEA's GEER allocation was determined as a proportionate share based on the 19-20 Title I, Part A funds.

4. What is the funding period for GEER Funds?

The funding period for GEER funds is from March 13, 2020 to September 30, 2022. LEAs must obligate GEER funds by September 30, 2022 and must liquidate GEER funds by October 30, 2022.

5. If an LEA did not receive an FY 2019 Title I, Part A subgrant for school year 2019-2020, is it eligible to receive GEER formula funds?

No, pursuant to guidance issued by the U.S. Department of Education, an LEA is not eligible to receive GEER formula funds if they did not receive a FY 2019 Title I, Part A subgrant. This applies to LEAs that did not generate a Title I, Part A allocation or declined their allocation in 2019-20.

6. What are the allowable uses of GEER funds by LEAs?

Unless otherwise restricted by the Governor at the time of award, the LEA has considerable flexibility in determining how best to use GEER funds to prevent, prepare for, or respond to COVID-19. Grant funds awarded under subsection may be used to—

- (1) Implement 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.) (Section 18002(c)(3)).
- (2) provide child care and early childhood education, social and emotional support, and the protection of education-related jobs.
- (3) support the ability of local educational agencies to continue to provide educational services to their students and to support the ongoing functionality of the local educational agency;

The United States Department of Education has encouraged States and LEAs to invest GEER funds in technology infrastructure and professional development that will improve capacity to provide high quality, accessible, distance education, or remote learning. This may include:

- Providing access to reliable, high-speed internet for students and teachers through the purchase of internet-connected devices/equipment, mobile hotspots, wireless service plans, or installation of Community Wi-Fi Hotspots, especially in underserved communities;
- Purchasing hardware and software applications for students and teachers;
- Providing access to high-quality digital learning content, apps, and tools that can deliver engaging and relevant learning experiences that are accessible to all students;
- Covering costs associated with making materials accessible for students with disabilities or English learners; and
- Providing professional development and training for teachers on effective strategies for the delivery of remote and digital instruction.

7. Are nonpublic schools eligible to receive equitable services for GEER funds?

While non-public schools are not eligible to apply to the New York State Education Department (NYSED or "the Department") for GEER funds, LEAs are required to equitably share funds for services with in-district non-public schools, even if the non-public school has not previously participated under Title I, Part A or Title VIII of the ESEA.

In general, the activities described above in Question #6 are allowable for participating non-publics.

8. What is a “non-public school” under the CARES Act programs?

For both GEER and ESSER, a “non-public school” means a non-public elementary or secondary school that (A) is accredited, licensed, or otherwise operates in accordance with State law; and (B) was in existence prior to the date of the qualifying emergency for the CARES Act programs. For purposes of this definition, the date of the qualifying emergency is March 13, 2020.

A for-profit non-public school is not eligible to receive equitable services for its students and teachers under the CARES Act programs.

9. Must an LEA or another public agency maintain control of GEER funds used to provide equitable services?

Yes. Control of funds for services and assistance provided to non-public school students and teachers under the CARES Act programs, and title to materials, equipment and property purchased with such funds, must be in a public agency, and a public agency must administer such funds, materials, equipment, and property. No funds may go directly to a non-public school, even for reimbursement purposes (see Question #8 above for a definition of non-public school). In addition, services for non-public school students and teachers must be provided by a public agency directly or through contract with another public or private entity. All services and benefits an LEA provides with GEER funds must be secular, neutral, and nonideological.

10. How can an LEA determine the amount of CARES funds for equitable services to non-public elementary and secondary schools?

On July 1, 2020, the U.S. Department of Education (USDE) published in the Federal Register an [Interim Final Rule \(IFR\)](#) which outlines how LEAs are to calculate the amount of ESSER and GEER funds available for providing equitable services to students and teachers in non-public schools. The IFR was effective immediately upon publication, and NYSED intends to comply with the IFR.

The IFR provides two options for LEAs to choose from as they move forward with the implementation of CARES Act (ESSER and GEER) funding. One option is a Proportional allocation that applies to all students attending within the district (public and private); the other is based on the relative proportions of low-income students attending.

1. Proportional: Under the IFR, if an LEA chooses to use CARES Act funding for students in all its public schools, it must calculate the funds for equitable services

based on the proportionate number of students enrolled in private schools in the district.

2. Low-Income: If an LEA chooses to use CARES Act funding only for students in its Title I schools, it has two options:
 - a. Calculate the funds for equitable services based on the total number of low-income students in Title I and participating private schools; or
 - b. Calculate the funds for equitable services using the LEA's Title I, Part A share from the 2019-2020 school year.

The IFR further states that, if an LEA uses one of the low-income student options, the LEA must not violate the Title I supplement-not-supplant requirement in section 1118(b)(2) of the Elementary and Secondary Education Act (ESEA). That is, an LEA cannot divert state or local funds from its Title I schools because it receives CARES Act funds.

11. Does the method the LEA utilizes to distribute GEER funds to schools impact the LEA's obligation to equitably share funds?

No. The method an LEA uses to determine the amount of GEER funds for equitable services does not limit its obligation to provide the opportunity to receive services in any non-public elementary or secondary school in the LEA.

12. Must the same method of identifying participating schools be used for both GEER and ESSER Funds?

No, an LEA may, but does not need to, use the same method of identifying participating schools for both ESSER and GEER Funds. An LEA could choose to distribute funds to schools as follows:

- An LEA may choose to distribute GEER funds to all schools using the Proportional method and then use one of the Low-Income methods with ESSER funds to distribute funds only to Title I schools.
- An LEA may choose to distribute GEER funds to only Title I schools using one of the low-income methods, and then use the Proportional method to distribute ESSER funds to all schools.
- An LEA may choose to distribute GEER and ESSER funds to only Title I schools using one of the low-income methods.
- An LEA may choose to distribute GEER and ESSER funds to all schools using the Proportional method.

13. Since an LEA's GEER grant allocation is based on the formula used to determine Title I, Part A allocations, is an LEA required to meet Title I, Part A requirements in spending the GEER funds?

No. Although an LEA receives GEER formula funds via the Title I, Part A formula, GEER formula funds are not Title I, Part A funds and generally are not subject to Title I, Part A requirements. However, as noted above in Question #10, if an LEA uses one of the low-income student options, the LEA must not violate the Title I supplement-not-supplant requirement in section 1118(b)(2) of the Elementary and Secondary Education Act (ESEA). That is, an LEA cannot divert state or local funds from its Title I schools because it receives CARES Act funds.

14. May an LEA use its GEER funds to support any school in the district, regardless of a school's Title I, Part A status?

It depends on the method the LEA selects for the purposes of calculating the equitable services share for students and teachers in non-public schools. An LEA that selects the Proportional method may charge direct costs that are reasonable and necessary to support any school in the district. An LEA that selects one of the Low-Income methods may only support costs in Title I buildings. Please note that all salaries paid for with GEER funds must be supported by time and effort documentation required by the Federal Uniform Grant Guidance (2 CFR 200.430).

15. Are GEER funds subject to a supplanting prohibition?

As described in the USDE's Interim Final Rule (IFR) on equitable services requirements for the CARES act, the answer to this question is dependent on the LEA's method of funds distribution. The IFR states that, if an LEA uses one of the low-income student options, the LEA must not violate the Title I supplement-not-supplant requirement in section 1118(b)(2) of the Elementary and Secondary Education Act (ESEA). That is, an LEA cannot divert state or local funds from its Title I schools because it receives CARES Act funds.

Please see Question #10 for more details on how the method of fund distribution impact supplement no supplant requirements.

16. Since GEER funds are administered to school districts using the Title I, Part A formula, does that mean Title I, Part A regulations apply?

No. The requirements of Title I, Part A do not apply to GEER funds unless the LEA uses one of the low-income student options. If an LEA uses one of the low-income student options, the only Title I, Part A requirement that the LEA must not violate is the Title I supplement-not-supplant requirement in section 1118(b)(2) of the Elementary and Secondary Education Act (ESEA).

17. May an LEA reserve funds for administrative costs?

Yes, an LEA may reserve funds for reasonable and necessary administrative costs after the equitable services share amount has been determined. An LEA may charge direct costs that are reasonable and necessary for the administration of the GEER funds. Keep in mind that all salaries paid for with GEER funds must be supported by time and effort documentation required by the Federal Uniform Grant Guidance (2 CFR 200.430).

18. Is there any difference in the amount of GEER funds, or allowable uses of GEER funds, for a school that implements a schoolwide program under Title I, Part A as compared to a school that provides targeted support under Title I, Part A?

No. The Title I, Part A requirements related to Schoolwide Programs and Targeted Assistance programs do not apply to ESSER funds.

19. Is an LEA that receives GEER funds required to set-aside funds for any reason?

No. Unlike Title I, Part A requirements to set-aside funds for students experiencing homelessness, neglected youth, and parent and family engagement, there are no required set-asides required of GEER funds. However, LEAs are required to equitably share funds for services with participating non-public schools.

20. Should LEAs anticipate monitoring or auditing of GEER funds?

Yes. NYSED will monitor the use of GEER funds. In addition, GEER funds are subject to audit requirements under the Single Audit Act.

**Elementary and Secondary School Emergency Relief Fund (ESSER)
FREQUENTLY ASKED QUESTIONS**

21. What is the Elementary and Secondary School Emergency Relief Fund?

Under the Elementary and Secondary School Emergency Relief Fund (ESSER Fund), the United States Education Department (USDE) awards grants to State educational agencies (SEAs) for the purpose of providing local educational agencies (LEAs), including charter schools that are LEAs, with emergency relief funds to address the impact of Novel Coronavirus Disease 2019 (COVID-19) on elementary and secondary schools across the nation. LEAs must provide equitable services to students and teachers in non-public schools as required under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act).

22. Which LEAs are eligible for ESSER funding?

All LEAs, including charter schools and Special Act School Districts, that received 2019-20 Title I, Part A subgrants are eligible to receive ESSER Funding.

23. How is an LEA's allocation determined?

As required by the CARES Act, an LEA's ESSER allocation was determined as a proportionate share based on the 19-20 Title I, Part A funds.

24. What is the funding period for ESSER Funds?

The funding period for ESSER funds is from March 13, 2020 to September 30, 2022. LEAs must obligate GEER funds by September 30, 2022 and must liquidate GEER funds by October 30, 2022.

25. If an LEA did not receive an FY 2019 Title I, Part A subgrant for school year 2019-2020, is it eligible to receive ESSER formula funds?

No, pursuant to guidance issued by the U.S. Department of Education, in general, an LEA is not eligible to receive ESSER formula funds if they did not receive a FY 2019 Title I, Part A subgrant. This applies to LEAs that did not generate a Title I, Part A allocation or declined their allocation in 2019-20. There are two exceptions: 1) If the LEA is a new charter school that did not exist in the 2019-2020 school year; or 2) if a charter school LEA that was previously established significantly expanded during the 19-20 school year and therefore its larger student population makes it eligible for Title I, Part A funds in the 2020-2021 school year.

26. What are the allowable uses of ESSER funds by LEAs?

An LEA may use ESSER funds for any of the following activities:

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 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.

27. Are non-public schools eligible to receive equitable services with ESSER funds?

While non-public schools are not eligible to apply to the New York State Education Department (NYSED or “the Department”) for ESSER funds, LEAs are required to equitably share funds for services with in-district non-public schools, even if the non-public school has not previously participated under Title I, Part A or Title VIII of the ESEA.

In general, the activities described above in Question #26 are allowable for participating non-publics.

28. Must an LEA or another public agency maintain control of ESSER funds used to provide equitable services?

Yes. Control of funds for services and assistance provided to non-public school students and teachers under the CARES Act programs, and title to materials, equipment and property purchased with such funds, must be in a public agency, and a public agency must administer such funds, materials, equipment, and property. No funds may go directly to a non-public school, even for reimbursement purposes (see Question #8 above for a definition of non-public school). In addition, services for non-public school students and teachers must be provided by a public agency directly or through contract with another public or private entity. All services and benefits an LEA provides with ESSER funds must be secular, neutral, and nonideological.

29. How can an LEA determine the Proportional share of CARES funds for equitable services to non-public elementary and secondary schools?

See the response to Question #10 above.

30. Does the method the LEA utilizes to distribute ESSER funds to schools impact the LEA’s obligation to equitably share funds?

No. The method an LEA uses to determine the amount of ESSER funds for equitable services does not limit its obligation to provide the opportunity to receive services in any non-public elementary or secondary school in the LEA.

31. Must the same method of identifying participating schools be used for both ESSER and GEER Funds?

See the response to Question #12 above.

32. Since an LEA’s ESSER grant allocation is based on the formula used to determine Title I, Part A allocations, is an LEA required to meet Title I, Part A requirements in spending the ESSER funds?

No. Although an LEA receives ESSER formula funds via the Title I, Part A formula, ESSER funds are not Title I, Part A funds and generally are not subject to Title I, Part A requirements. However, as noted above in Question #10, if an LEA uses one of the low-income student options, the LEA must not violate the Title I supplement-not-supplant requirement in section 1118(b)(2) of the Elementary and Secondary Education Act (ESEA). That is, an LEA cannot divert state or local funds from its Title I schools because it receives CARES Act funds.

33. May an LEA use its ESSER funds to support any school in the district, regardless of a school’s Title I, Part A status?

It depends on the method the LEA selects for the purposes of calculating the equitable services share for students and teachers in non-public schools. An LEA that selects the Proportional method may charge direct costs that are reasonable and necessary to support any school in the district. An LEA that selects one of the Low-Income methods may only support costs in Title I buildings. Please note that all salaries paid for with ESSER funds must be supported by time and effort documentation required by the Federal Uniform Grant Guidance (2 CFR 200.430).

34. Are ESSER funds subject to a supplanting prohibition?

As described in the USDE’s Interim Final Rule (IFR) on equitable services requirements for the CARES act, the answer to this question is dependent on the LEA’s method of funds distribution. The IFR states that, if an LEA uses one of the low-income student options, the LEA must not violate the Title I supplement-not-supplant requirement in section 1118(b)(2) of the Elementary and Secondary Education Act (ESEA). That is, an LEA cannot divert state or local funds from its Title I schools because it receives CARES Act funds.

Please see Question #10 for more details on how the method of fund distribution impact supplement no supplant requirements.

35. Since ESSER funds are administered to school districts and charter schools using the Title I, PART A formula, does that mean Title I, PART A regulations apply?

No. The requirements of Title I, Part A do not apply to ESSER funds unless the LEA uses one of the low-income student options. If an LEA uses one of the low-income student options, the LEA must not violate the Title I supplement-not-supplant requirement in section 1118(b)(2) of the Elementary and Secondary Education Act (ESEA).

36. May an LEA reserve funds for administrative costs?

Yes. An LEA may charge direct costs that are reasonable and necessary for the administration of the ESSER funds. Keep in mind that all salaries paid for with ESSER funds must be supported by time and effort documentation required by the Federal Uniform Grant Guidance (2 CFR 200.430).

37. Is there any difference in the amount of ESSER funds, or allowable uses of ESSER funds, for a school that implements a schoolwide program under Title I, Part A as compared to a school that provides targeted support under Title I, Part A?

No. The Title I, Part A requirements related to Schoolwide Programs and Targeted Assistance programs do not apply to ESSER funds.

38. Is an LEA that receives ESSER funds required to set-aside funds for any reason?

No. Unlike Title I, Part A requirements to set-aside funds for students experiencing homelessness, neglected youth and parent and family engagement, there are no required set-asides required of ESSER funds. However, LEAs are required to equitably share funds for services with participating non-public schools.

39. Should LEAs anticipate monitoring or auditing of ESSER funds?

Yes. NYSED will monitor the use of ESSER funds. In addition, ESSER funds are subject to audit requirements under the Single Audit Act.