

ESSER Unallowable Use of Funds

Generally, in determining whether an activity is an allowable use of funds, a State or LEA must determine:

1. Is the use of funds intended to prevent, prepare for, or respond to the COVID-19 pandemic, including its impact on the social, emotional, mental health, and academic needs of students?
2. Does the use of funds fall under one of the 20 authorized uses of ESSER funds?
3. Is the use of funds permissible under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance, 2 CFR Part 200)?
4. Is it necessary and reasonable for the performance of the ESSER award (Uniform Guidance, 2 CFR 200.403-200.404)?

Elementary and Secondary School Emergency Relief (ESSER) Programs Use of Funds

1. **Any activity authorized by the ESEA**, including the Native Hawaiian Education Act and the Alaska Native Educational Equity, Support, and Assistance Act (20 U.S.C. 6301 et seq.).
2. Any activity authorized by the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 et seq.).
3. Any activity authorized by the Adult Education and Family Literacy Act (AEFLA) (29 U.S.C. 3271 et seq.).
4. Any activity authorized by the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins V) (20 U.S.C. 2301 et seq.).
5. Any activity authorized by subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (McKinney-Vento) (42 U.S.C. 11431 et seq.).
6. Coordinating preparedness and response efforts of LEAs with State, local, Tribal, and territorial public health departments, and other relevant agencies, to improve coordinated responses among such entities to prevent, prepare for, and respond to COVID-19.
7. Providing principals and other school leaders with the resources necessary to address the needs of their individual schools.
8. Activities to address the unique needs of low-income children or students, students with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children and youth in foster care, including how outreach and service delivery will meet the needs of each population.
9. Developing and implementing procedures and systems to improve the preparedness and response efforts of LEAs.
10. Training and professional development for staff of the LEA on sanitation and minimizing the spread of infectious diseases.
11. Purchasing supplies to sanitize and clean the facilities of the LEA, including buildings operated by such LEA.
12. Planning for, coordinating, and implementing activities during long-term closures, including providing meals to eligible students, providing technology for online learning to all students, providing guidance for carrying out requirements under the IDEA and ensuring other education services can continue to be provided consistent with all Federal, State, and local requirements.
13. Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the LEA that aids in regular and substantive educational interaction between

students and their classroom instructors, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment.

14. Providing mental health services and supports, including through the implementation of evidence-based full-service community schools.
15. Planning and implementing activities related to summer learning and enrichment and supplemental after-school programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children and youth in foster care.
16. Addressing the academic impact of lost instructional time among an LEA's students, including low-income students, students with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children and youth in foster care, including by—
 - a. Administering and using high-quality assessments that are valid and reliable to accurately assess students' academic progress and assist educators in meeting students' academic needs, including through differentiating instruction.
 - b. Implementing evidence-based activities to meet the comprehensive needs of students.
 - c. Providing information and assistance to parents and families on how they can effectively support students, including in a distance learning environment.
 - d. Tracking student attendance and improving student engagement in distance education.
17. School facility repairs and improvements to enable operation of schools to reduce risk of virus transmission and exposure to environmental health hazards, and to support student health needs.
18. Inspection, testing, maintenance, repair, replacement, and upgrade projects to improve the indoor air quality in school facilities, including mechanical and non-mechanical heating, ventilation, and air conditioning systems, filtering, purification and other air cleaning, fans, control systems, and window and door repair and replacement.
19. Developing strategies and implementing public health protocols including, to the greatest extent practicable, policies in line with guidance from the CDC for the reopening and operation of school facilities to effectively maintain the health and safety of students, educators, and other staff.
20. Other activities that are necessary to maintain the operation of and continuity of services in the LEA and continuing to employ existing staff of the LEA.

Uniform Guidance, 2 CFR Part 200

200.421 Advertising and public relations costs

Unallowable advertising and public relations costs include the following:

- (1) All advertising and public relations costs other than as specified;
- (2) Costs of meetings, conventions, convocations, or other events related to other activities of the entity (see also [§ 200.432](#)), including:
 - (i) Costs of displays, demonstrations, and exhibits;
 - (ii) Costs of meeting rooms, hospitality suites, and other special facilities used in conjunction with shows and other special events; and
 - (iii) Salaries and wages of employees engaged in setting up and displaying exhibits, making demonstrations, and providing briefings;
- (3) Costs of promotional items and memorabilia, including models, gifts, and souvenirs;
- (4) Costs of advertising and public relations designed solely to promote the non-Federal entity.

200.423 Alcoholic beverages

Costs of alcoholic beverages are unallowable.

200.438 Entertainment costs

Costs of entertainment, including amusement, diversion, and social activities and any associated costs are unallowable, except where specific costs that might otherwise be considered entertainment have a programmatic purpose and are authorized either in the approved budget for the Federal award or with prior written approval of the Federal awarding agency.

200.442 Fundraising and investment management costs

Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable. Fund raising costs for the purposes of meeting the Federal program objectives are allowable with prior written approval from the Federal awarding agency.

200.445 Goods and services for personal use

Costs of goods or services for personal use of the non-Federal entity's employees are unallowable regardless of whether the cost is reported as taxable income to the employees.

200.469 Student activity costs

Costs incurred for intramural activities, student publications, student clubs, and other student activities, are unallowable, unless specifically provided for in the Federal award. (ESSER funds may be used to support activities addressing the unique needs of students from low-income backgrounds, students with disabilities, English learners, students of color, students experiencing homelessness, and children and youth in foster care, by paying fees, including outstanding balances, to help ensure equitable access to programs that meet students' social, emotional, mental health, and academic needs.)

Federal Programs Allowable Use of Federal Funds Guide

Other universal unallowable ESEA activities include, but are not limited to:

- Airline upgrades; Early check-in fees; TSA Pre-check; Travel insurance
- Gratuities or tips; Personal incidental hotel costs; Long distance personal phone calls from a hotel; Rental car insurance; Parking tickets
- Cell phones, or cell phone decorative accessories, for personal use
- Ceremonies, banquets, or celebrations expenditures; Entertainment, recreation, and social event expenditures; Meeting or event décor (i.e. flowers, balloons); Flowers for a token of appreciation; Office décor
- Field trips for social, entertainment, or recreational purposes
- Fund-raising activities – costs of organized fundraising, including solicitation of gifts and banquets, endowment drives, financial campaigns, and similar expenses incurred to raise capital or obtain contributions are not allowable.
- Gift cards of any kind; Gifts or items that appear to be gifts; Any item for personal use (i.e. luggage, coffee cup, t-shirts, sweatshirts, personal calendars)
- Professional or individual liability insurance for individual employees; Professional licenses for individuals (i.e. CPA)
- Memberships in civic and social organizations or lobbying organizations

Elementary and Secondary School Emergency Relief Programs Frequently Asked Questions, December 7, 2022

May ESSER and GEER funds be used to provide incentive payments directly to parents and students to encourage students to attend school?

Using ESSER or GEER funds to pay students or families for undertaking a mandatory activity, such as attending school, or to pay family members to ensure the students attend school, is not an allowable use of ESSER funds.

May an LEA use ESSER and GEER funds to renovate, remodel, or construct athletic facilities, such as swimming pools, playing fields, or sports stadiums?

This would not be an allowable use of funds unless there is a connection between the expenditure and preventing, preparing for, or responding to COVID-19. In addition, the Department discourages LEAs from using these funds for new construction, as this use of funds limits an LEA's ability to meet other, more pressing needs related to the pandemic's impact on learning and the emotional and mental health and well-being of our children and youth. It is the responsibility of the grantee and subgrantee to ensure that, among other Federal requirements, any project is targeted to the overall purpose of the ESSER or GEER program, which is "to prevent, prepare for, and respond to" COVID-19.

May an SEA or LEA use ESSER and GEER funds to supplement or restore its "rainy day" fund rather than use the funds for specific purposes?

No. An SEA's or LEA's transfer of ESSER funds to its "rainy day" fund would not constitute an "obligation" of the funds. The SEA or LEA must obligate ESSER I funds for specific allowable activities.

Frequently Asked Questions to Assist U.S. Department of Education Grantees To Appropriately Use Federal Funds for Conferences and Meetings

When a grantee is hosting a meeting, may the grantee use Federal grant funds to pay for food, beverages, or snacks?

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 grantee is hosting a meeting, the grantee should structure the agenda for the meeting so that there is time for participants to purchase their own food, beverages, and snacks. In addition, when planning a meeting, grantees may want to consider a location in which participants have easy access to food and beverages. Grantees will have to make a compelling case that the unique circumstances they have identified would justify these costs as reasonable and necessary.

May Federal grant funds be used to pay for food and beverages during a reception or a "networking" session?

In virtually all cases, using grant funds to pay for food and beverages for receptions and "networking" sessions is not justified because participation in such activities is rarely necessary to achieve the purpose of the meeting or conference.

5 critical questions when discussing food allowances:

1. Is a working lunch necessary? The information must be critical to the overall agenda. The agenda must state this is a working lunch.
2. Is the lunch portion of the agenda a critical, substantive discussion?
3. Is there a genuine time constraint to get lunch due to a topic-packed agenda prohibiting time for lunch? In very rare cases, are there no meal places within a couple of hours' access?
4. Is the lunch cost reasonable?
5. Has the local education agency (LEA) carefully documented that it is reasonable and necessary?

What are the consequences of using Federal grant funds on unallowable expenses?

The Department may seek to recover any Federal grant funds identified, in an audit or through program monitoring, as having been used for unallowable costs, including unallowable conference expenses.

Brustein & Manasevit

Can we repave our school parking lots?

No. How does this expense tie out to overall purpose: "to prevent, prepare for and respond to the coronavirus"?

Can we use ESSER funds for multi-year contracts?

Depends. Must "obligate" within the period of availability.

Grant activities carried out through a valid obligation of funds may continue beyond that date; must be liquidated within 120 calendar days after the end of the performance period.

Considerations: how far past the period would the subscription last? Is the cost still allocable to the program (related to the prevention/response to coronavirus)?

Can we upgrade the lights in school buildings to LED lighting in order to be more cost efficient?

No. Is the light upgrade responsive to the pandemic? Are there environmental hazards? Safety of students at risk?

No tie to pandemic= unallowable

Can we add/ renovate gymnasium, athletic fields or convert outdoor space?

Maybe... Needs prior approval (equipment; capital expenditures)

Consider first improvements to an existing gymnasium or fields to facilitate social distancing and a safer environment. Look to most reasonable, cost-efficient options.

New lights for night games - probably no

Wifi to access space for classroom use – maybe

Can I use my ESSER funds to address future needs like a roof that will need to be replaced in 5 years?

No. Hard to demonstrate how future needs prepare, respond and prevent COVID-19.