

COVID-19, Use of Funds for DEI

Congress of the United States

Washington, DC 20515

April 3, 2023

The Honorable Miguel Cardona
Secretary
U.S. Department of Education
400 Maryland Ave, SW
Washington, DC 20202

Dear Secretary Cardona:

The Committee on Oversight and Accountability, Committee on Education and the Workforce, and Select Subcommittee on the Coronavirus Pandemic continue to investigate the misuse of COVID-19 relief funds intended to help schools safely reopen, mitigate the spread of COVID-19, and address catastrophic learning loss. The Committees are giving priority to oversight of COVID-19 relief programs to determine the Department of Education's ("ED") role in monitoring and guiding states in their use of billions in Elementary and Secondary School Emergency Relief ("ESSER") funds. It is important for the American people and their elected lawmakers to understand how ED administers funds intended to assist students during the pandemic and the extent to which any funds may have been misused by State Educational Agencies ("SEAs") or Local Educational Agencies ("LEAs") for unrelated purposes. The purpose of this letter is to request documents and information related to the use of COVID-19 relief funds.

Congress appropriated a combined \$67.5 billion in the *Coronavirus Aid, Relief, and Economic Security ("CARES") Act* and the *Coronavirus Response and Relief Supplemental Appropriations ("CRRSA") Act of 2021* for the ESSER Fund.¹ ESSER funds were intended to be awarded to states "[to] provid[e] local educational agencies...with emergency relief funds to address the impact that COVID-19 has had, and continues to have, on elementary and secondary schools across the Nation."² Under the *American Rescue Plan (ARP) Act*, Democrats provided yet another \$122 billion to "help safely reopen and sustain the same operation of schools and address the impact of the coronavirus pandemic on the Nation's students."³ The intended purpose of these funds was clear.

Further, it was clear from early in the pandemic that students were experiencing "alarming" learning loss due to prolonged school closures with remote learning a poor substitute for in-person instruction.⁴ As early as June 2020, experts knew that school closures were having

¹ *Elementary and Secondary School Emergency Relief Fund*, Office of Elementary and Secondary Education, U.S. DEP'T OF EDUC. (Mar. 3, 2023); see ESSER I & ESSER II.

² *Elementary and Secondary School Emergency Relief Fund*, Office of Elementary and Secondary Education, U.S. DEP'T OF EDUC. (Mar. 3, 2023); see ESSER I.

³ *Elementary and Secondary School Emergency Relief Fund*, Office of Elementary and Secondary Education, U.S. DEP'T OF EDUC. (Mar. 3, 2023); see ARP ESSER.

⁴ Howard Blume, *LAUSD students suffered 'alarming' academic harm during pandemic, report says*, LOS ANGELES TIMES (March 31, 2021); Gabrielle Borter and Brendan O'Brien, *Another danger for kids in the age of COVID*:

a detrimental impact on students and recommended that “all policy considerations for the coming school year should start with a goal of having students physically present in school.”⁵ One meta-analysis that incorporated data from more than three dozen studies across fifteen countries found that children’s learning deficits due to COVID-19- related school closures arose early in the pandemic and equaled “one-third of a school year’s worth of knowledge and skills...and had not recovered from those losses more than two years later.”⁶ Achievement gaps in educational outcomes between children of different socioeconomic backgrounds also widened, signaling that students from poorer families suffered the most from prolonged school closures.⁷

Rather than use ESSER funds to help students recover from learning losses, some states and school districts that kept schools closed appear to have spent ESSER funds to push favored social agendas. For example, Newburyport Public Schools in Newburyport, Massachusetts, spent at least \$56,800 in ESSER funds to hire a consultant who coached a high school principal to use a racial slur in front of other faculty members.⁸ The California Department of Education’s Final ARP ESSER State Plan indicates that California will spend \$1.5 billion to provide professional development resources for school staff in “specified high-need topics,” including “restorative practices...and implicit bias training.”⁹ Additionally, California will spend an unspecified amount of money to “increase educator training and resources” in subjects like “anti-bias strategies, environmental literacy...ethnic studies, and LGBTQ+ cultural competency.”¹⁰ Illinois’ plan for ESSER funds includes “an emphasis on equity and diversity...” as well as “equity-based allocations” of funds to LEAs.¹¹ Similarly, New York used part of the \$9 billion it received to provide staff development on “culturally responsive sustaining instruction” and “privilege.”¹² These activities appear to have nothing to do with COVID-19 mitigation or learning loss and are a waste and misuse of taxpayer-funded COVID-19 relief programs.

Failing Grades, REUTERS (March 29, 2021); Leonhardt, David, *Not Good for Learning*, N.Y. TIMES (May 5, 2022) (relying on work by Professor Tom Kane at Harvard University).

⁵ Koioth, Trisha, *AAP interim guidance on school re-entry focuses on mitigating COVID-19 risks*, AM. ACADEMY OF PEDIATRICS (Jun. 26, 2020).

⁶ Emily Baumgaertner, *Students Lost One-Third of a School Year to Pandemic, Study Finds*, THE NEW YORK TIMES (Jan. 30, 2023).

⁷ Jacqueline Howard, *Children lost about 35% of a normal school year’s worth of learning during the pandemic, study suggests*, CNN (Jan. 30, 2023).

⁸ Three Newburyport Public Schools purchase orders dated July 8, 2022 (on file with the Committee); Email from Principal dated Jan. 13, 2021 (on file with the Committee).

⁹ *California State Plan for the American Rescue Plan Elementary and Secondary School Emergency Relief Fund*, U.S. DEPT. OF EDUC., (April 21, 2021), <https://oese.ed.gov/files/2021/11/California-ARP-ESSER-State-Plan-Final.pdf>.

¹⁰ *Id.*

¹¹ *Illinois State Plan for the American Rescue Plan Elementary and Secondary Emergency Relief Fund*, U.S. DEPT. OF EDUC., (Apr. 21, 2021).

¹² *New York State Education Department American Rescue Plan (ARP) Elementary and Secondary School Emergency Relief (ESSER)*, N.Y. STATE EDUC. DEPT. (Jul. 13, 2021), <http://www.nysed.gov/common/nysed/files/programs/federal-education-covid-response-funding/nysed-arp-esser-plan.pdf>.

To assist the Committees in conducting oversight of ED's administration of ESSER funds, we request the following documents and information as soon as possible but no later than April 17, 2023:

1. All documents and communications regarding any ED memoranda, guidance, technical assistance, or legal opinions on ED's administration of ESSER funds, including but not limited to restrictions on the use of funds for non-COVID-19 related purposes;
2. All ED memoranda, guidance, technical assistance, or legal opinions relating to the appropriate use of ESSER funds by SEAs and LEAs, including but not limited to any ED approval process for distributing funds based on a proposal;
3. All documents and communications containing any accounting for the length of time schools were closed for in-person instruction disaggregated by SEA and LEA;
4. All documents and communications containing any analysis of the measurable impact of the use of ESSER funds by SEAs or LEAs on the ability to return to in-person instruction and mitigate learning loss caused by school closures;
5. All documents and communications related to the approval of the State of California's Plan for ARP ESSER funds;
6. All documents and communications related to the approval of the State of New York's Plan for ARP ESSER funds;
7. All documents and communications related to the approval of the State of Illinois' Plan for ARP ESSER funds;
8. All documents and communications related to the approval of the State of Massachusetts' Plan for ARP ESSER funds;
9. All documents and communications related to the use of ESSER funds to facilitate professional development or teaching on subjects related to Critical Race Theory; diversity, equity, and inclusion; and/or other professional development on bias and/or programs; and
10. All documents and communications related to the use of ESSER funds to reimburse consultants for professional development by SEAs or LEAs unrelated to COVID-19 mitigation or empowering educators to overcome learning loss of students.

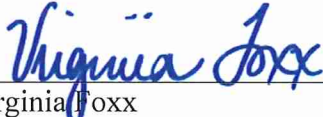
To arrange for the delivery of responsive documents or ask any related follow-up questions, please contact the Committee on Oversight and Accountability at (202) 225-5074 or the Committee on Education and the Workforce at (202) 225-6558. Attached are instructions for producing the documents and information.

The Honorable Miguel Cardona
April 3, 2023
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The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. Its jurisdiction also includes the “relationship of the federal government to the states and municipalities,” “government management and accounting measures,” and the “management of government operations and activities, including federal procurement.” Further, the Committee on Education and the Workforce has legislative and oversight jurisdiction over the “organization, administration, and general management of the [ED]”, including ESSER funds. Finally, the Select Subcommittee on the Coronavirus Pandemic has authority to investigate “the efficiency, effectiveness, and transparency of the use of taxpayer funds and relief programs to address the coronavirus pandemic, including reports of waste, fraud, or abuse” under H. Res. 5.

Sincerely,


James Comer
Chairman
Committee on Oversight and Accountability


Virginia Foxx
Chairwoman
Committee on Education and the
Workforce


Brad R. Wenstrup, D.P.M.
Chairman
Select Subcommittee on the Coronavirus Pandemic

cc: The Honorable Jamie Raskin, Ranking Member
Committee on Oversight and Accountability

The Honorable Robert “Bobby” Scott, Ranking Member
House Committee on Education and the Workforce

The Honorable Raul Ruiz, Ranking Member
Select Subcommittee on the Coronavirus Pandemic



THE UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 17, 2023

The Honorable James Comer
Chairman
Committee on Oversight and Accountability
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Comer:

Thank you for your April 3, 2023, letter to Secretary Cardona regarding the use of COVID-19 relief funds. I am pleased to respond on the Secretary's behalf. I am sending an identical response to each of the cosigners of your letter.

COVID-19 has had profound impacts on our children and youth. From day one of this administration, President Biden recognized the effects the pandemic would have on our students' academic progress and made it the Department's top priority to safely reopen 100 percent of schools for in-person learning. Within weeks of taking office, the Biden-Harris Administration published resources to help schools and colleges navigate some of the most difficult days of the pandemic; initiated regular surveys of school learning conditions; reinstituted federal assessment requirements to set clear targets for academic recovery; and signed the American Rescue Plan (ARP) Act to provide States and schools with critical resources to address learning loss, stabilize the education workforce, surge mental health supports to students, and dramatically expand summer and afterschool learning opportunities.

Under ARP, States and local educational agencies (LEAs) have access to \$122 billion to support what all available data suggest will be a multi-year recovery. To support public transparency, the Department required States to submit plans to the Department, and LEAs to submit plans to their State, for how they would use ARP funds and how parents, families, and other critical partners would inform these spending decisions. Similarly, the Department created the Education Stabilization Fund (ESF) [Transparency Portal](#) to track how funds are used. The Department's monitoring of State Educational Agencies (SEAs) helps ensure lawful, appropriate use of COVID-relief funds, including accountability for compliance with applicable requirements. Specifically, the Department's oversight of COVID-relief funds includes monitoring activities that may either focus on SEA compliance with specific federal requirements or a comprehensive review of fiscal and programmatic requirements.

Within the flexibility that Congress provided States and LEAs in decisions about spending ARP and other recovery funds, the Department has prioritized States' and LEAs' use of these resources to safely re-open schools, provide necessary academic and mental health supports, and serve students and

families most impacted by the pandemic. Across the country, States and LEAs are putting ARP funds to work to help students and families recover and expand academic supports for students:

- In Kentucky, Jefferson County Public Schools are opening [student support centers staffed by retired teachers](#) who are using their expertise to provide targeted supports to students.
- Elsewhere in Kentucky, Bourbon County Schools are using their ESSER funds to bring in new school counselors and to implement an engaging, hands-on science curriculum in elementary schools.
- In North Carolina, [Guilford County Schools](#) used relief funds to provide nearly 67,000 hours of intensive [tutoring to their students](#) in the past year alone.
- In Ohio, the Cleveland Metropolitan School District used ARP ESSER funds to increase summer learning participation seven-fold. In 2021, 8,400 students signed up for summer school, compared to 1,000-1,200 students in previous years.
- Also in Ohio, Dayton Public Schools are using ARP ESSER funds to support a double-teaching approach to classroom instruction by placing two teachers in elementary grade classrooms, focusing on small group instruction to accelerate student achievement.

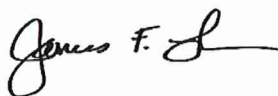
These critical funds go further when they are used alongside robust networks of public and nonprofit partners, which is why the Administration launched the [National Partnership for Student Success](#) to accelerate students' reading and math recovery, increase high school graduation rates, and reduce chronic absenteeism. To achieve these goals, the Department and the Corporation for National and Community Service are working with experienced organizations to recruit, screen, and train 250,000 additional tutors, mentors, student success coaches, wraparound service coordinators, and postsecondary transition coaches.

These efforts matter for our continuing recovery aims, as well as longer-term work to strengthen the education workforce. In addition to directly recruiting more tutors and mentors, State, local, and higher education leaders can leverage federal resources to address the national educator shortage, strengthen the educator pipeline, and keep teachers in the classroom. As an example, [Iowa is using over \\$45 million in relief funds](#) to create a program to train 500 new teachers and 500 new paraeducators to support and accelerate student recovery across the state.

In implementing the ARP, the Department has maintained continuous communication with Congress. Department staff have held regularly scheduled bipartisan meetings with staff on the Education and Workforce and Health, Education, Labor, and Pensions Committees, as well as the House and Senate Appropriations Committees concerning the use of these relief packages. These meetings are an opportunity for Committee staff to ask questions about the use of COVID relief funds, and how the Department's data collection, monitoring, and technical assistance support SEAs in their further implementation of these resources. In addition to these meetings, the Department has provided frequent briefings on uses of funds in response to Congressional inquiries.

Thank you for your interest in our continued work to ensure a robust, equitable academic recovery. Department staff will be in touch with Committee staff for any follow-up. If you have any additional questions or concerns, please contact the Office of Legislation and Congressional Affairs at (202) 401-0020.

Sincerely,

A handwritten signature in black ink, appearing to read "James F. Lane". The signature is fluid and cursive, with the first name "James" being more prominent and the last name "Lane" following in a similar style.

James F. Lane, Ed.D.
Senior Advisor, Office of the Secretary
Delegated the Authority to Perform the
Functions and Duties of the Assistant Secretary
Office of Elementary and Secondary Education



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF LEGISLATION AND CONGRESSIONAL AFFAIRS

April 28, 2023

The Honorable Virginia Foxx
Chairwoman
Committee on Education and the Workforce
U.S. House of Representatives
Washington, DC 20515

Dear Chairwoman Foxx:

The enclosed documents are a production of materials in response to your April 3, 2023, letter on the use of COVID-19 relief funds. Today's production bears the bates ranges: HCOA_HEW-118-(23-003507)-0000001 through HCOA_HEW-118-(23-003507)-0001078. This production contains 1,078 pages of documents in total.

The Department is delivering this production via its Microsoft SharePoint external sharing website. The Department is sharing via telephone the password that will decrypt the file containing the production.

The Department is making this production as an accommodation to the Committee and will be in touch with any remaining follow-up. Should you have any questions regarding this document production, please have your staff contact JoAnn Martinez-Shriver at JoAnn.Martinez-Shriver@ed.gov.

Sincerely,

Gwen Graham
Assistant Secretary
for Legislation and Congressional Affairs

cc:

The Honorable Bobby Scott, Ranking Member
Committee on Education and the Workforce

400 MARYLAND AVE., SW, WASHINGTON, DC 20202
<http://www.ed.gov/>

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

