

Health, Economic Assistance, Liability Protection, and Schools (HEALS) Act Summary of K–12 Education Provisions



Augmenting the CARES Act Education Stabilization Fund (ESF): \$105 billion

- **\$70 billion** for public and private elementary and secondary schools, split 33%-67% based on district reopening plans
- **\$29 billion** for institutions of higher education
- **\$5 billion** for governors to support K–12, higher education, and other education entities
- **\$1 billion** for the Bureau of Indian Education and outlying areas

No Funding for Home Internet Access: The HEALS Act excludes dedicated funding to close the homework gap and help schools purchase computers, tablets, and devices, hotspots, and home internet service for students.

Distribution of K–12 Funds (Elementary and Secondary School Emergency Relief Fund, ESSER): The amount of funding allocated to each state and local educational agency (LEA) will be based on its relative share of Title I, Part A funding under the Every Student Succeeds Act (ESSA). States are required to subgrant at least 90% of ESSER funds to LEAs.

LEA Eligibility for ESSER Funds Conditioned on District Reopening Plans:

- **\$23 billion:** available to all LEAs, regardless of reopening plans for the 2020–21 school year
- **\$46 billion:** available only to LEAs that submit a reopening plan to the governor for approval that includes (1) at least half of students receiving in-person instruction at least half of each school week (LEA eligible for full allocation) or (2) some in-person instruction for less than half of students or for less than half of each school week (LEA eligible for reduced allocation on a pro-rated basis, determined by the governor)

Funding for Private Schools:

- **ESSER Set-Aside.** Instead of an equitable services requirement, before providing subgrants to LEAs, each state must set-aside a portion of its ESSER funds equal to the percentage of students enrolled in private schools statewide prior to the pandemic. Governors distribute the set-aside to each private school based on (1) its relative share of low-income students enrolled in private schools statewide and (2) its reopening plan. Private schools offering at least half of students in-person instruction for at least half of each school week are eligible for the full per-student amount; those exclusively offering virtual learning are eligible for one-third of the per-student amount. Schools that do not fully meet reopening criteria are eligible for a pro-rated amount per-student, determined by the governor.
- **Tax Credit Scholarships.** The HEALS Act authorizes—but does not fund—one-time, emergency “education freedom” grants for scholarship-granting organizations, which families could use to pay tuition at private schools or cover expenses of homeschooling.

Uses of ESSER Funds: Funds can be used for activities to support the reopening of public and private schools such as

- Coordinating with public health departments; purchasing PPE and supplies to sanitize facilities and training staff in their use; adapting or upgrading transportation services, lunch programs, and ventilation systems; providing health and mental health services; and implementing flexible schedules, summer learning, and afterschool programs;
- Addressing the needs of students from low-income backgrounds, children with disabilities, English learners, students of color, students experiencing homelessness, and foster care youth;
- Purchasing technology (including devices and connectivity) to support regular student-teacher interaction; and
- Maintaining operations during school closures, including provision of school meals, technology to support online learning, guidance for supporting students with disabilities (*only allowable from the \$23 billion portion of the ESF).

Maintaining State and Local Funding: To receive ESF, states must provide an “assurance” that they will provide at least as much funding for K–12 and higher education, as a percentage of their overall budget, in fiscal years 2020 and 2021 as they provided in fiscal year 2019. Districts may request waivers from ESSA maintenance of effort requirements.

Liability Protections: K–12 schools would be shielded from legal liability in coronavirus-related litigation. Plaintiffs would have to show that school officials were grossly negligent or demonstrated willful misconduct, and that they violated relevant state and local public health guidelines.