

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

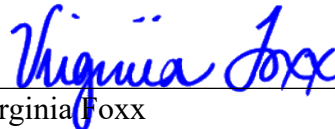
Page 4 of 4

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