CARES Act ESSER Grant PNP Interim Final Rule Update and Implications

July 2, 2020

Cory Green, Associate Commissioner
LaNetra Guess, Private School Ombudsman
Department of Grant Compliance and Administration
Texas Education Agency

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Training Notes and Norms

Ensure you have registered through the Qualtrics Survey Link.

Training is being recorded and will be shared with registrants.

Submit questions in the Q&A feature. Questions will be answered at the end of the presentation.
This presentation is intended solely to provide general information and guidance to Texas LEAs, ESCs, and Private Nonprofit school officials and reflects the Texas Education Agency’s current understanding of the CARES Act and applicable federal guidance. The content of this presentation is subject to change as a result of further potential information and guidance provided by federal agencies with regulatory oversight of CARES Act programs. This presentation does not constitute legal advice, and LEAs are, therefore, advised to seek legal counsel regarding the information and guidance provided in this presentation before acting on such information and guidance.
Agenda

- Overview of Interim Final Rule (IFR) Process
- IFR Changes to Equitable Services Calculation
- Impact to Consultation
- Impact to ESSER Grant Application
- Impact to Equitable Services
TEA’s original guidance to follow the USDE April 30 guidance is now superseded by the new IFR.

TEA guidance, application schedules, and Affirmation of Consultation will be revised and posted next week.
Interim Final Rule Process

- Emergency process under the Administrative Procedures Act (APA) to waive rulemaking process “for good cause, [when the federal agency] finds that the requirement is impracticable”
- IFR became effective yesterday, July 1, 2020, when published in Federal Register
  - IFR carries weight of law
Interim Final Rule Process

- Provides 30-day public comment period after posting
  - Comments due to USDE July 31, 2020
- USDE not required to review or act on public comments received under APA process
What did not change?

The following slides describe how the provisions of ESEA section 1117 (Title I, Part A) apply, reconciled when necessary, to meet the purposes of the CARES Act programs according to USDE guidance.
What did not change?

- Available to any students and teachers in any PNP schools within the LEA’s boundaries
- Secular, neutral, and nonideological.
- Timely manner, equitable in comparison to services and benefits provided to the public school students and teachers
- Ombudsman monitors and enforces
What did not change?

- Obligate equitable services in 2020-2021 to address impact of COVID-19
- Consultation during design and development; before application submitted
  - Service delivery, pooling, before decisions made, goal to reach agreement
- Submit Affirmation of Consultation (9/30/2020)
What did not change?

- Provide written rationale of disagreements
- No need to collect poverty data (when using Options 1a and 2)
  - may not require poverty date be submitted (when using Options 1a and 2)
- District controls funding, retains ownership and title to equipment, materials
- Provide services directly from district or through contract with other public or private entity
IFR Changes to Equitable Services Calculation
Calculation Options – District serves only Title I, Part A Campuses with ESSER*

- The district may calculate equitable services total amount by-
  - Option 1a – use the percentage calculated under Title I, Part A in the 2019-2020 school year, or
  - Option 1b – calculate the proportionate share by counting ages 5-17 students in the district and ages 5-17 students residing in Title I, Part A served campus attendance areas who are enrolled in the participating private schools, or
  - Option 2 – described on next slide

*the supplement, not supplant methodology requirement applies on the Title I, Part A side
Calculation Options – District reserves funds at district-level and/or serves non-Title I Campuses

- The district must calculate equitable services total amount by–
  - Option 2 – calculate the proportionate share by counting ages 5-17 students in the district and ages 5-17 students in the participating private schools (original calculation guidance)
**EXAMPLE – Option 1a** District serves only Title I, Part A Campuses with ESSER, uses prior TIPA percentage

- If the district calculated and reserved 4.7% of the 2019-2020 Title I, Part A funds for Title I, Part A equitable services, then district reserves 4.7% of the ESSER allocation

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. ESSER Allocation</td>
<td>$55,000</td>
</tr>
<tr>
<td>2. Percent reserved for Title I, Part A equitable services in the 2019-2020 school year</td>
<td>4.7%</td>
</tr>
<tr>
<td>3. Calculated total ESSER equitable services amount (Line 1 X Line 2)</td>
<td>$2,585</td>
</tr>
</tbody>
</table>
**EXAMPLE – Option 1b** District serves only Title I, Part A Campuses with ESSER, calculating new percentage from updated data

<table>
<thead>
<tr>
<th>Line #</th>
<th>Calculations</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>LEA Total Low-Income Student Enrollment (ages 5-17)</td>
<td>650</td>
</tr>
<tr>
<td>2</td>
<td>PNP Total Low-Income Student enrollment (ages 5-17) who reside in Title I, Part A campus attendance areas within the district</td>
<td>30</td>
</tr>
<tr>
<td>3</td>
<td>Total Low-Income Enrollment (1 + 2)</td>
<td>680</td>
</tr>
<tr>
<td>4</td>
<td>Total current year ESSER allocation</td>
<td>$55,000</td>
</tr>
<tr>
<td>5</td>
<td>Total per pupil allocation (line 4 / line 3)</td>
<td>$80.88</td>
</tr>
</tbody>
</table>

Calculated PNP School Reservation for ESSER (line 2 x line 5) $2,426
**EXAMPLE – Option 2** District reserves funds at district-level and/or serves non-Title I Campuses

<table>
<thead>
<tr>
<th>Line #</th>
<th>Calculations</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>LEA Total Student Enrollment (ages 5-17)</td>
<td>1120</td>
</tr>
<tr>
<td>2</td>
<td>PNP Total Student enrollment (ages 5-17)</td>
<td>90</td>
</tr>
<tr>
<td>3</td>
<td>Total enrollment (1 + 2)</td>
<td>1210</td>
</tr>
<tr>
<td>4</td>
<td>Total current year ESSER allocation</td>
<td>$55,000</td>
</tr>
<tr>
<td>5</td>
<td>Total per pupil allocation (line 4 / line 3)</td>
<td>$45.45</td>
</tr>
<tr>
<td></td>
<td>Calculated PNP School Reservation for ESSER</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(line 2 x line 5)</td>
<td>$4,090</td>
</tr>
</tbody>
</table>

Note: In this example, the PNP equitable services share exceeds 5%, so the district should contact the TEA at GrantSupport@tea.texas.gov to request additional PNP equitable services funding.
Calculating Equitable Services Proportionate Share

Comparing – Options 1a, 1b, and 2

• Assuming this is the same district–

  • Option 1a = $2,585
  • Option 1b = $2,426
  • Option 2 = $4,090
Calculating *Individual* PNP School Equitable Share

- District begins with the total equitable services calculated amount in application using Option 1a, 1b, or 2

<table>
<thead>
<tr>
<th>Line #</th>
<th>Calculations</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Calculated Total PNP Equitable Services Reservation -- ESSER</td>
<td>$2,426</td>
</tr>
<tr>
<td>2</td>
<td>Total Participating PNP School ages 5-17 Enrollment</td>
<td>90</td>
</tr>
<tr>
<td>3</td>
<td>PNP Per-Pupil Amount (line 1 / line 2)</td>
<td>$26.95</td>
</tr>
<tr>
<td>4</td>
<td>Individual PNP School ages 5-17 enrollment</td>
<td>PNP #1 – 40</td>
</tr>
<tr>
<td></td>
<td>Individual PNP School Equitable Services allocation (line 3 X line 4)</td>
<td>PNP #2 – 50</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$1,078</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$1,348</td>
</tr>
</tbody>
</table>
Reminder…

- When the district serves only Title I, Part A campuses (calculating under options 1a or 1b) the supplement, not supplant methodology requirement applies on the Title I, Part A side.
Impact to Consultation
Impact on Consultation Process

- If consultation already completed and district is changing the calculation option, consultation must be reopened, revised consultation process must be documented.
- Recommend extending consultation timeline.
- If no change to calculation methodology, district must just notify the private schools of no changes since consultation occurred.
- Expect additional information to be made available in next few weeks.
Impact on Consultation Process

- New rule may change amount of equitable services – USDE changed the rules, not TEA, and not districts
  - The district makes the final decision on calculation option used (Option 1a, 1b, or 2) and provides written rationale to PNP officials

Affirmation of Consultation availability will be delayed, expected due date remains September 30, 2020
Draft PNP CARES Affirmation of Consultation

Coronavirus Aid, Relief, and Economic Security (CARES) Act
Elementary and Secondary School Emergency Relief Fund (ESSER)
Affirmation of Consultation for Private Nonprofit School (PNP) Equitable Services
Participating in the CARES Act ESSER Program: School Year 2020-2021

The Elementary and Secondary School Emergency Relief Fund (ESSER) requires that consultation occur between the local educational agency (LEA) and private nonprofit school (PNP) officials.

The purpose of this form is to document that the required consultation took place. For each of its participating PNPs, the LEA completes this form as follows:

1. LEA and PNP officials review the Elements of Consultation section to ensure that the LEA addressed each of the listed topics (in accordance with ESSA 1117 and USDE Equitable Services FAQs).
2. The LEA official completes the Uses of Funds section by checking each box that corresponds to the LEA’s intended use of CARES Act ESSER funds.
3. LEA and PNP officials sign the form.

Name of LEA

Name of PNP
# Draft PNP CARES Affirmation of Consultation

## Elements of Consultation

LEA and PNP officials review this section to ensure the LEA addressed each of the following topics in the consultation.

<table>
<thead>
<tr>
<th>TOPIC</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eligibility</td>
<td>Participating PNP schools must be PNP K-12 elementary and/or secondary schools in existence before the enactment of the CARES Act on March 13, 2020.</td>
</tr>
<tr>
<td>Beneficiaries</td>
<td>The LEA may provide equitable services with CARES Act ESSER funds to any students and teachers in PNP.</td>
</tr>
<tr>
<td>Secular</td>
<td>The LEA must provide equitable services and other benefits, including materials and equipment, that are secular, neutral, and nonideological.</td>
</tr>
<tr>
<td>Equitable</td>
<td>The LEA must provide services and other benefits for PNP students and teachers in a timely manner that are equitable in comparison to the services and benefits provided for public school students and teachers.</td>
</tr>
</tbody>
</table>
### Draft PNP CARES Affirmation of Consultation

<table>
<thead>
<tr>
<th>Timely</th>
<th>Consultation occurs before an LEA makes any decision that affects the opportunities of PNP students and teachers to receive equitable services and before the application is submitted and any LEA or PNP services begin.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delivery</td>
<td>Consultation included discussion of service delivery mechanisms an LEA may use to provide PNP equitable services.</td>
</tr>
<tr>
<td>Mechanisms</td>
<td></td>
</tr>
<tr>
<td>Control of</td>
<td>Control of funds and title to materials, equipment, and property must be in the public agency (LEA).</td>
</tr>
<tr>
<td>Funds</td>
<td></td>
</tr>
<tr>
<td>Procedures</td>
<td>During consultation, LEAs should share local procedures and timelines relative to processing and purchasing requests. Both parties should discuss timing and methods for ongoing communication and consultation.</td>
</tr>
<tr>
<td>Reporting</td>
<td>Both parties may need to provide information relative to reporting as needed to meet TEA reporting requirements.</td>
</tr>
</tbody>
</table>
# Draft PNP CARES Affirmation of Consultation

## Uses of Funds

- Funds may be used for any activity authorized under ESEA, IDEA, the Adult Education and Family Literacy Act, Perkins and McKinney-Vento Homeless Assistance Act.

- Coordination of preparedness and response efforts of LEAs with State and local public health departments, etc., to improve coordinated responses to prevent, prepare for, and respond to coronavirus.

- Providing principals and other school leaders with necessary resources to address the needs of individual schools.

- 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, etc.
## Uses of Funds

- Training and professional development for staff of the LEA on sanitation and minimizing the spread of infectious diseases.
- Purchasing supplies to sanitize and clean the facilities of an LEA, including buildings operated by such agency.
- Planning for and coordinating during long-term closures, including for how to provide meals, technology for online learning to all students, guidance for carrying out IDEA to eligible students and how to ensure other educational services can continue to be provided consistent with all Federal, State, and local requirements.
**Draft PNP CARES Affirmation of Consultation**

### Affirmation Signature and Submission

The LEA and PNP officials must sign this section to complete the affirmation of consultation.

<table>
<thead>
<tr>
<th>LEA Official</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>PNP Official</th>
</tr>
</thead>
</table>

By September 30, 2020, the LEA must upload this completed affirmation to the secure Every Student Succeeds Act (ESSA) Reports application, accessible through TEAL. When uploading, select "PNP CARES Act Affirmation" from the Response Template Title dropdown menu.

The LEA and the PNP must maintain a local copy of this completed affirmation.
Impact to ESSER Grant Application
Grant Application Timeline

Application opened
- TEA Grant Opportunities web page
- Part 1 (PDF) and Part 2 (Excel) submitted by email

June 12, 2020

August 24, 2020
- Application closes
- Required PNP amendment due

Reallocation of funds in September

September 2020
Impact to ESSER Grant Application

- If not submitted – wait for new private school questions to be added into the application if you have private schools participating

- If submitted, not negotiated – make updates to private school questions during negotiations

- If NOGA’d or in final review – must amend the private school section of application by August 24, 2020
Impact to ESSER Grant Application

- Sections 5 and 5A remain

- New 5B for how district serves public school and option used for calculating the overall equitable services and indicate to either complete 5C or 5D

- New 5C for calculating by Option 1a or 1b

- Existing 5B becomes 5D for calculating by Option 2
5: PNP Equitable Services

Are any private nonprofit schools located within the applicant ISD’s boundaries?

☐ Yes  ☐ No

If you answered “No” to the preceding question, stop here. You have completed the section.

Are any private nonprofit schools participating in the grant?

☐ Yes  ☐ No

If you answered “No” to the preceding question, stop here. You have completed the section.

5A: Assurances

The LEA shall provide equitable services in the same manner as provided under Section 1117 of the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA) to PNP students and teachers, as determined in consultation with representatives of PNP schools. [CARES Act, ESSER, Section 18005(a)].

☐ The LEA assures the CARES Act, ESSER Affirmations of Consultation will be provided to the TEA Private Schools Ombudsman in the manner and timeline requested.
New Section 5B

5B. How is the school district using ESSER funds to serve public school students and staff?

☐ All ESSER funds are allocated to Title I, Part A served campuses – Complete 5C below.

☐ ESSER funds are reserved at the district level and/or allocated to non-Title I, Part A as well as Title I, Part A served campuses – Complete 5D below.
New Section 5C

5C. Calculate the equitable services by one of the following methods when serving only Title I campuses in the district

Option 1a.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>ESSER Allocation</td>
</tr>
<tr>
<td>2.</td>
<td>Percent reserved for Title I, Part A equitable services in the 2019-2020 school year</td>
</tr>
<tr>
<td>3.</td>
<td>Calculated total ESSER equitable services amount (Line 1 X Line 2)</td>
</tr>
</tbody>
</table>
### New 5C continued

**Option 1b.**

<table>
<thead>
<tr>
<th>Line #</th>
<th>Calculations</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>LEA Total Low-Income Student Enrollment (ages 5-17)</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>PNP Total Low-Income Student Enrollment (ages 5-17) who reside in Title I, Part A campus attendance areas within the district</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Total Low-Income Enrollment (1 + 2)</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Total current year ESSER allocation</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Total per pupil allocation (line 4 / line 3)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Calculated PNP School Reservation for ESSER (line 2 X line 5)</td>
<td></td>
</tr>
</tbody>
</table>
New 5C continued

5C. Calculate the equitable services by one of the following methods

Option 2.
Complete section 5D below.
New 5D (prior 5B) for Calculating by Option 2

<table>
<thead>
<tr>
<th>5B: Equitable Services Calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Total student enrollment (ages 5-17) in LEA</td>
</tr>
<tr>
<td>2. Total student enrollment (ages 5-17) in all participating PNP schools within LEA boundaries</td>
</tr>
<tr>
<td>3. Total enrollment (line 1 plus line 2)</td>
</tr>
<tr>
<td>4. Total current-year ESSER allocation</td>
</tr>
<tr>
<td>5. Total Per Pupil Allocation (line 4 divided by line 3)</td>
</tr>
</tbody>
</table>

Calculated Private School Reservation for ESSER (line 2 times line 5)
Impact to Services
Impact to Services

- Expenditures for services at public or private school may not begin until the consultation process, including any new calculation information, is completed.

- Districts required to amend the application, must cease spending funds until revised consultation process occurs (if no change in calculation then consultation is not required to be revised).
Impact to Services

- **REMINDER:** Equitable services still serve all participating private schools regardless of whether Option 1a or 1b is used to calculate the overall equitable services amount.

34 CFR 76.665(d)(2) makes clear that, irrespective of the measure an LEA uses to determine the proportional share under paragraph (c)(1), the LEA still has the obligation to afford students and teachers in any non-public school in the LEA the opportunity to receive CARES Act services.
Impact to Services

- The private school must be physically located within the boundaries of the school district to be eligible for services.

- The location of the private school student’s residence does not impact the count of students for calculating equitable services (unless using Option 1b).

- The location of student residence does not impact his/her eligibility to receive services (regardless of option used to calculate).
CARES Act PNP FAQ Guidance

More detailed PNP guidance is available on the TEA Coronavirus website at:

Program and Reporting Support

- For questions on the CARES Act, ESSER program, or quarterly reporting, contact the GCA department office:
  - GrantSupport@tea.texas.gov

www.tea.texas.gov/coronavirus
Private School Equitable Services

- For questions on the CARES Act or ESSER private school equitable services, contact the PNP Ombudsman:
  - PNPombudsman@tea.texas.gov

www.tea.texas.gov/coronavirus
Application Assistance and Status

- For questions on submitting the application, status of application, or negotiations, contact the Grants Administration Division:
  - Grants@tea.texas.gov
  - (512) 463-8525

www.tea.texas.gov/coronavirus