



Wisconsin Department of Public Instruction
Proposal for Modifications to Wisconsin's State Plan for the
Elementary and Secondary School Emergency Relief Fund III
(American Rescue Plan Act, 2021)

Federal Response to the COVID-19 Pandemic

The U.S. Congress has now enacted three major pieces of legislation in response to the emergence of the novel coronavirus disease (COVID-19) outbreak and the ongoing COVID-19 pandemic in the United States (also referred to as federal stimulus packages), following the declaration by the president of a national emergency on March 1, 2020: the Coronavirus Aid, Relief, and Economic Security Act (CARES Act; P.L. 116–136) in March 2020; the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA Act; P.L. 116–260) in December 2020; and finally, the American Rescue Plan Act (ARP Act, P.L. 117-002), in March 2021.

All three of the federal stimulus packages appropriate federal funding to address the impacts of the COVID-19 pandemic across many sectors of the economy, including education. The first CARES Act created the Education Stabilization Fund (ESF), which provided funding for institutions of higher education (IHEs) and for K-12 local educational agencies (LEAs)¹. The CRRSA Act provided an additional \$53.9 billion under the ESF for K-12 schools and IHEs. Likewise, the ARP Act appropriated additional funding to states to address the impact of the coronavirus pandemic on K-12 education. The State of Wisconsin was awarded a total of \$1,541,857,439 under the ARP Act ESSER (i.e., ESSER III) fund².

Under Wis. Stat. sec. 115.295, DPI is required to submit a plan to the Joint Committee on Finance (the Committee) in the event that federal legislation results in receipt of federal funds by DPI in an amount that varies by five percent or more from the federal appropriations for DPI, as included in appropriations schedule for DPI, under Wis. Stat. Chapter 20. In accordance with state law, DPI submitted its plans to the Committee for the use of the discretionary portion of the state's ESSER I fund (April 24, 2020), ESSER II fund (January 26, 2021), and ESSER III fund (April 1, 2021). The Committee approved DPI's plan for ESSER I as submitted and modified DPI's plans for ESSER II and ESSER III funds.

¹ The term "LEA" includes public school districts and independent charter schools.

² DPI received a revised ESSER III Grant Award Notice (GAN) on December 6, 2021; the revised amount included in this proposal is \$ 1,072,584 greater than the initial GAN received by DPI when ARPA was signed into law (\$1,540,784,855).

ARP Act ESSER III Fund

Under all three of the federal stimulus packages, states are required to distribute 90 percent of their ESSER I, II, and III funds according to each LEA's proportionate share of funding under the federal Title I, Part A grant.³ The remaining 10 percent of a state's ESSER grant are available to the State Education Agency (SEA) to use at the state's discretion, with varying degrees of flexibility in how states can use the discretionary funds.

The ARP Act created earmarks within the 10 percent discretionary portion of the ESSER III fund to be used for activities and interventions that respond to students' academic, social, and emotional needs, and that addresses the disproportionate impact of COVID-19 on underrepresented student subgroups, students experiencing homelessness, and children and youth in foster care. Specifically, each SEA must reserve the following amounts (percent of the state's total ESSER III allocation):

- Five percent (\$77,092,872) for the implementation of evidence-based interventions aimed specifically at addressing learning loss, such as summer learning or summer enrichment, extended day, comprehensive afterschool programs, or extended school year programs.
- One percent (\$15,418,574) for evidence-based summer enrichment programs.
- One percent (\$15,418,574) for evidence-based comprehensive afterschool programs.
- Each SEA may use the remaining three percent (\$46,255,724) for any of the purposes allowed under ARP Act within the ESSER III fund (unrestricted discretionary), including up to a half percent for administrative costs and emergency needs to address issues related to COVID-19.

DPI Plan for Discretionary ESSER III Funds

DPI submitted its plan for distribution of the state's unrestricted discretionary portion of the ESSER III grant to the Committee on April 1, 2021. DPI's plan proposed using the discretionary portion of the ESSER III grant to guarantee that all LEAs receive a total ESSER III grant of at least \$600,000⁴. Additionally, the plan specified \$5,000,000 from the state's allocation for administrative costs would be dedicated to an initiative to improve reading.

Committee Action on DPI Plan for ESSER III

The Committee modified DPI's plan for distributing ESSER III discretionary funds when it met to review DPI's plan on May 27, 2021. Under Motion 57, the Committee directed DPI to distribute a

³ Title I, Part A of the 1965 Elementary and Secondary Education Act (reauthorized as the Every Student Succeeds Act in December 2015).

⁴The DPI specified a minimum grant of \$200,000 for the Norris School District and LEAs with 25 or fewer pupils. Additionally, the plan included \$200,000 grants for each of the state's two residential schools, and grants of \$600,000 for the Syble Hopp School operated by the Brown County Children with Disabilities Education Board (CCDEB) and the Lakeland School operated by Walworth County CCDEB.

total of \$114.6 million to LEAs on the basis of in-person instructional hours provided during the 2020-21 school year, so as to guarantee LEAs a minimum of \$781 per pupil in ESSER III funds (based on the LEA's initial Title I-A based ESSER III grant). To be eligible, an LEA had to have provided in-person instruction for at least 50 percent of the 2020-21 school year. The motion further directed DPI to distribute any funds remaining from that allocation to the same set of LEAs (less than \$781 per pupil) on the basis of each LEA's proportionate share of in-person instructional hours provided during the 2020-21 school year. The \$114.6 million included the amount allocated under the ARP Act for addressing learning loss (i.e., the five percent earmark) and the state's unrestricted discretionary ESSER III allocation.

Under Motion 57, the Committee included grants for the state's two residential schools, the Syble Hopp School CCDEB, the Lakeland School CCDEB, and the Lincoln Academy, an independent charter school scheduled to open in the fall of 2021. Finally, Motion 57 required DPI to use \$5,000,000 of the state's discretionary funding for a reading initiative, and specified how those funds are to be distributed by DPI.

USDE Response to Wisconsin's ESSER III State Plan

DPI submitted the ESSER III State Plan to USDE on August 27, 2021. The state plan reflected the directives included in the Committee's Motion 57. In a communication to DPI dated December 6, 2021, the USDE indicated that portions of the ESSER III State Plan would not be approved as submitted. Specifically, the USDE identified the component of the plan that would distribute ESSER III funds on the basis of in-person instructional hours as an unallowable use of the five percent earmark for addressing learning loss, because that method of distributing the funds would not target students who were disproportionately impacted by the COVID-19 pandemic, as required under the ARP Act. Per the communication from USDE:

"... this directive will explicitly exclude the students who lost the most in-person instructional time as a result of the pandemic from receiving much-needed services, conflicting with the ARP Act's statutory requirement that the State reserve address the disproportionate impact of the coronavirus on certain student subgroups."

"Wisconsin's exclusion of those LEAs that lost the most in-person instructional time in the 2020-2021 school year is inconsistent with section 2001(f)(1) of the ARP Act."

The communication from USDE indicates that the approval of Wisconsin's ESSER III State Plan will require modifications to the state plan:

"Accordingly, this approval is conditioned on Wisconsin revising section D.1 of its ARP ESSER State plan, including to be consistent with the requirement in section 2001(f)(1) of the ARP Act that the funds be used to address the academic impact of lost instructional time and the disproportionate impact of the pandemic on certain subgroups of students as required by the ARP Act."

"This revision of section D.1 is required before Wisconsin may implement any of the planned uses of funds described in D.1. The revised Section D.1 must describe how Wisconsin will use the funds under

section 2001(f)(1) to address the academic impact of lost instructional time in a manner that will not exclude an LEA from eligibility based solely on the LEA's lack of in-person instruction in the 2020-2021 school year prior to accessing any portion of this set aside."

The USDE has indicated that the state would be permitted to use the *unrestricted* discretionary portion of its ESSER III grant to distribute funding on the basis of in-person instruction (i.e., discretionary funds outside of the earmarks specified under the ARP Act). Further, USDE did approve the component of the plan to provide grants to the state's two residential schools, the Syble Hopp School (Brown County CCDEB), the Lakeland School (Walworth County CCDEB), and the Lincoln Academy independent charter school.

Additionally, the letter from USDE indicated approval of other portions of Wisconsin's ESSER III State Plan for discretionary allocations, including the distribution of the one percent earmarks for evidence-based summer enrichment programs and for evidence-based comprehensive afterschool programs (\$15,418,574 each), and for administrative costs (\$1,200,000). Finally, the letter directs DPI to work with USDE to provide technical revisions to the component of the state plan that allocates \$5,000,000 for a reading initiative.

DPI has developed a proposal for distribution of the five percent earmark that is consistent with the intent of the ARP Act. The proposal includes a modification of the amount of ESSER III funding that would be distributed based on in-person instructional hours during the 2020-21 school year, and a description of technical revisions (timeline of activities and deliverables) for the reading initiative included in Wisconsin's ESSER III State Plan. The proposal is described below.

Proposal for Modifying the ESSER III State Plan

The DPI's proposal for modifying the ESSER III State Plan includes four components:

1. Distribute the unrestricted discretionary ESSER III allocation (\$37,643,324) based on in-person instructional hours provided in 2020-21.
2. From the five percent earmark for addressing learning loss (\$77,092,872), set aside \$10,000,000 for two new grant programs.
3. Distribute the remaining \$67,092,872, so as to ensure that all LEAs receive a minimum per pupil amount and a minimum total LEA grant. Specifics of these two allocations are described below.
4. Technical revisions to the timeline of activities and deliverables for the reading initiative.

Appendix A to this letter is a listing of each LEA's ESSER III funding eligibility under this proposal to modify the ESSER III State Plan in accordance with directives from USDE.

Distribution Based on In-Person Hours of Instruction (\$37,643,324)

As noted above, Wisconsin would be permitted to distribute the unrestricted discretionary portion of the ESSER III grant on the basis of in-person instructional hours. Based on the USDE-approved components of the ESSER State Plan for discretionary funds, a total of \$37,643,324 could be distributed in the manner described in Motion 57, except that the eligibility threshold is reduced, from less than \$781 per pupil to less than \$400 per pupil, as a result of the lower amount available for this purpose. DPI has determined that 68 LEAs meet the criteria for funding based on having provided in-person instruction for at least 50 percent of the 2020-21 school year (and an initial ESSER III grant less than \$400 per pupil), qualifying them for “first round” funding; this includes 63 school districts and five independent charter schools. The total awards under the first round is \$29,671,244.

As with Motion 57, funds remaining after the first round are to be distributed to eligible LEAs in proportion to each LEA's share of reported in-person instructional hours for the 2020-21 school year. This second round produces awards totaling \$7,972,080, provided to 151 LEAs, including 64 LEAs that received funding in round 1 and 87 that received funding only in round 2 (see Table 2).

LEAs receiving ESSER III funding from this unrestricted discretionary allocation would have flexibility in how to use the funds to address the impact of the COVID-19 pandemic on students (i.e., not required to use the funds to address learning loss specifically).

Table 2. Distribution of ESSER III Funding Based on In-Person Hours of Instruction (2020-21)

Distribution Round	Number of LEAs	Total Awarded
Round 1 and 2 (50%+ IPHI)	68	\$33,161,919
Round 1 only* (50%+ IPHI)	4	\$4,301,405
Round 2 only (share of IPHI)	87	\$180,000
TOTAL	151	\$37,643,324

*Independent charter schools that opened in Fall 2021 that received funding under round 1 only because their initial ESSER III grant was less than \$400 per pupil but they had no reported hours of in-person instruction in the 2020-21 school year (because they were not open).

Five Percent Earmark to Address Learning Loss – Set Aside for Competitive Grants (\$10,000,000)

All monies allocated from the ESSER III five percent earmark to address learning loss (learning disruption) must align to the Evidence-Based Improvement Strategies (EBIS) requirement embedded in the ARP Act. This includes funding from the proposed new grants, as well as the per-pupil minimum/LEA minimum grant formula funds, described below.

Out-of-School Time Grant

This proposal includes a carve out of \$5,000,000 for a competitive grant program under which LEAs and community-based organizations could apply for funding to expand out-of-school time

services to students. Evidence-based out-of-school programming has been shown to result in increased student achievement and reductions in behavior problems⁵, and there is significant unmet need for out-of-school programming.

Graduation Alliance

This proposal includes a carve out of \$5,000,000 for a program under which Graduation Alliance⁶ would work with LEAs to identify and re-engage those students who have been chronically absent during the COVID-19 pandemic. Graduation Alliance works with the SEA and LEAs to identify students who have been chronically absent and connect them with a personal academic coach who works with students to re-engage them with school and help get them back on track to high school graduation. This program will target high school students.

Distribution of Remaining Five Percent Earmark to Address Learning Loss (\$67,092,872)

As noted above, the communication from USDE directs DPI to submit revisions to the ESSER III State Plan that demonstrates how the five percent earmark to address learning loss (i.e., funds under section 2001(f)(1), APR Act) will be used to address the academic impact of lost instructional time in a manner that does not exclude any LEA from eligibility based solely on the LEA's lack of in-person instruction during the 2020-2021 school year.

The department proposes an approach to distributing the \$67,092,872 remaining with a combination of a per-pupil minimum guarantee and an LEA minimum grant:

- If an LEA's initial ESSER III grant is less than \$578 per pupil, provide additional funding to raise the LEA's grant to \$578 per pupil.
- If an LEA's ESSER III grant with the per pupil minimum adjustment is below \$320,863, provide additional funding to raise the LEA's grant to \$320,863.
- For very small LEAs with fewer than 25 pupils, the minimum LEA grant amount is \$200,000.

Note that the term "initial ESSER III grant" refers to the amount that is generated for an LEA based on the LEA's proportionate share of Title I, Part A funding (i.e., the formula used to distribute 90 percent of the state's ESSER III award). It does not include any of the other discretionary ESSER funds received by an LEA. Thus, LEAs that are eligible to receive ESSER III funds based on in-person hours of instruction (from the state's unrestricted discretionary allocation) would receive those funds in addition to amounts for which they are eligible under the per-pupil minimum test and the minimum LEA grant test.

Using this methodology, the entire \$67,092,872 would be fully allocated to LEAs. The number of

⁵ Outcomes Linked to High-Quality Afterschool Programs: Longitudinal Findings from the Study of Promising Afterschool Programs at: <https://files.eric.ed.gov/fulltext/ED499113.pdf>

⁶ <https://www.graduationalliance.com/>

LEAs eligible for additional ESSER III funding are shown in Table 3. In total, 132 LEAs will receive additional ESSER III funds under the five percent earmark: 24 LEAs are eligible under both the per-pupil minimum and the LEA minimum grant tests; 80 are eligible under just the per-pupil minimum test; and 28 are eligible under just the LEA minimum grant test.

Table 3. Distribution of ESSER III Funding Based – Five Percent Earmark

Component	Number of LEAs	Total Awarded
Raise to \$578 per pupil	104	\$ 60,787,045
Minimum LEA grant of \$320,863	49	\$ 6,027,075
Minimum LEA grant of \$200,000 (<25 pupils)	3	\$278,752
TOTAL		\$ 67,092,872

Revisions to the Reading Initiative Timeline

Motion 57 included an allocation of \$5,000,000 from ESSER III discretionary funds for a reading initiative and specified the purposes for which the funds were to be used. This included professional development for teachers, principals, and other administrative staff; grants to Cooperative Education Service Agencies (CESA) to support continued evidence-based reading training; an allocation to conduct a landscape analysis of reading programs in UW teacher education programs; and grants to those UW teacher education programs who decide to make changes to their teacher education programs based on the results of the landscape analysis.

The USDE communication to DPI included a directive to incorporate technical revisions to the component of the state plan that describes the reading initiative included under Motion 57. The revisions are adjustments to the timeline for certain processes and deliverables, to reflect appropriate time frames for conducting the work related to the reading initiative. The item numbers/letter refer to the items as specified under Motion 57.

Proposed revisions to item #8 of Motion 57, adopted by the Committee on May 27, 2021

8.a. The current deadline for CESAs and LEAs to use funds to attend the Voyager Sopris Language Essentials for Teachers of Reading and Spelling (LETRS) training is June 1, 2022.

Proposed alternative: extend the deadline to December 1, 2022, to allow participants to attend summer trainings or trainings in the first part of next school year. Per item 8g. (below), this extends reimbursements through December 1, 2023. DPI will request a federal waiver to ensure grants can be awarded through 2023.

8.b. The current language says, "Training should be delivered over at least six days spread over the course of the 2021-22 school year."

Proposed alternative: "Training should be delivered over at least six days spread over the

course of the 2021-2022 and 2022-2023 school years" to allow a reasonable amount of time for participants to attend and complete trainings.

8.c. The current deadline to grant money to CESAs 8 and 9 to expand evidence-based literacy trainings is July 31, 2021.

Proposed alternative: extend the deadline to July 31, 2022, to allow a reasonable amount of time for programmers to create the necessary application within WISE grants (DPI's online federal grants portal) and for the CESAs to plan for use of funds that aligns with the motion.

8.d. No changes proposed.

8.e. The current deadline for request for bids for an organization to conduct a landscape analysis of reading programs in University of Wisconsin (UW) schools is "within 30 days of approval".

Proposed alternative: DPI will issue a request for bids / proposals by May 1, 2022, for the purpose of retaining an organization that would conduct a landscape analysis of reading programs, by June 1, 2022.

8.f. The current language says, "Require DPI to award programs participating in the analysis under (e) with up to two grants of \$50,000 each for the purposes of addressing and implementing recommendations in the report within 24 months."

Proposed alternative: No change to Motion 57. DPI will request a federal waiver to ensure grants can be awarded through 2023.

8.g. The current language says "Specify that any funds described allocated under the reading program under (8) that are not allocated within one year of receipt, are not approved upon federal review, or remain unused and not earmarked for an alternate purpose after one year must be used for these purposes, in the following order:"

Proposed alternative: No change to Motion 57. DPI will request a federal waiver to ensure grants can be awarded through 2023.

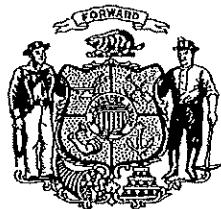
Conclusion

DPI appreciates the opportunity to work with the Committee to resolve the concerns raised by USDE and move forward to obtain approval for Wisconsin's ESSER III State Plan and looks forward to continuing our work with stakeholders and education partners to ensure children will continue to learn and thrive educationally and schools will be safe and healthy throughout this unprecedented time of the extended COVID-19 pandemic. Please direct questions about this proposal to Erin Fath (erin.fath@dpi.wi.gov) and Tom McCarthy (Thomas.McCarthy@dpi.wi.gov).

STATE OF WISCONSIN

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Joint Committee on Finance

February 2, 2022

State Superintendent Jill K. Underly
Department of Public Instruction
125 South Webster Street
Madison, WI 53707

Dear State Superintendent Underly:

We are writing to inform you that the Joint Committee on Finance has reviewed the Department's proposal, originally received on January 19, 2022, concerning the Department's proposal for modifications to the Wisconsin state plan for the Elementary and Secondary School Emergency Relief Funds III under s. 115.295.

No objections have been raised to this proposal. Therefore, the proposal is approved.

Sincerely,

A handwritten signature of Howard Marklein in black ink.

Howard Marklein
Senate Chair

A handwritten signature of Mark Born in black ink.

Mark Born
Assembly Chair

HM:MB:jm

cc: Members, Joint Committee on Finance
Robert Lang, Director, Legislative Fiscal Bureau
Brian Pahnke, Department of Administration