

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

exec-gad-sep24item01

# California State Board of Education September 2024 Agenda Item #11

## Subject

Request to approve a Tydings Waiver to obtain an extension to the obligation of American Rescue Plan Act (ARP)/Elementary and Secondary School Emergency Relief (ESSER) Funds until March 31, 2026, and approve the funds consolidated as of July 1, 2024, under Title I, Part A of the Elementary and Secondary Education Act (ESEA).

## Type of Action

Action, Information, Consent

## Summary of the Issue(s)

The California Department of Education (CDE) consolidated its American Rescue Plan Act (ARP) Elementary and Secondary School Emergency Relief (ESSER), ARP Homeless Children and Youth (HCY), and ARP Emergency Assistance to Non-Public Schools (EANS) Administrative Funds with its FY 2022 Title I, Part A of Elementary and Secondary Education Act (ESEA) State Administrative Funds as of July 1, 2024. A Tydings Waiver is now necessary to obtain an extension to the obligation of the consolidated funds until March 31, 2026. The CDE provided the public and all local educational agencies (LEAs) in the State with notice of, and the opportunity to, comment on this request by posting information regarding the waiver request and the process for commenting on the CDE website for 30 days until September 10, 2024, in the manner in which the CDE customarily provides such notice and opportunity to comment.

## Recommendation

The CDE recommends that the State Board of Education (SBE) approve a Tydings Waiver to obtain an extension to the obligation of American Rescue Plan Act (ARP)/ Elementary and Secondary School Emergency Relief (ESSER) Funds until March 31, 2026, and approve the funds consolidated as of July 1, 2024, under Title I, Part A of the Elementary and Secondary Education Act (ESEA).

## Brief History of Key Issues

The CDE consolidated its American Rescue Plan Act (ARP) Elementary and Secondary School Emergency Relief (ESSER), ARP Homeless Children and Youth (HCY), and ARP Emergency Assistance to Non-Public Schools (EANS) Administrative Funds with its FY 2022 Title I, Part A of Elementary and Secondary Education Act (ESEA) State Administrative Funds as of July 1, 2024, and therefore requests a Tydings Waiver to obtain an extension to the obligation of the consolidated funds until March 31, 2026.

The waiver would allow CDE an extension of time to use ARP ESSER, ARP HCY and ARP EANS funds reserved for administration under ESEA section 8201 to provide necessary guidance and technical support to LEAs and avoid diverting funds away from critical services for schools, students, teachers, and other educational staff.

The waiver would allow the CDE to continue to focus its resources on meeting students’ academic needs, including groups of students most impacted by the pandemic. It would also enable CDE to help LEAs and school leaders navigate the financial uncertainties following the end of ARP ESSER funding.

CDE will use consolidated administrative funds under the respective programs in accordance with the provisions of all applicable statutes, regulations, program plans, and applications not subject to these waivers.

## Summary of Previous State Board of Education Discussion and Action

N/A

## Fiscal Analysis (as appropriate)

The U.S. Department of Education is permitting States to seek a waiver of section 421(b) of the General Education Provisions Act, to extend the period of availability for ARP administrative funds and fiscal year (FY) 2022 ESEA program administrative funds to consolidate under ESEA section 8201. Under this federal authority, the California Department of Education consolidated as of July 1, 2024, Title I, Part A of the ESEA (Improving Basic Programs Operated by LEAs) with three expiring grants:

1) ARP ESSER; 2) ARP Homeless Children and Youth (ARP HCY); and 3) ARP Emergency Assistance for Non-Public Schools (EANS).



**Attachment(s)**

* **Attachment 1:** Submitted Request to Approve a Tydings Waiver and Obtain an Extension of Obligation of Its ARP/ESSER Funds to March 31, 2026 (2 pages)
* **Attachment 2:** Public Comment Announcement (1 page) (<https://www.cde.ca.gov/sp/sw/>)



September XX, 2024

Adam Schott, Deputy Assistant Secretary

Delegated the Authority to Perform the Functions

and Duties of the Assistant Secretary

Office of Elementary and Secondary Education

U.S. Department of Education

400 Maryland Avenue, SW

Washington, DC 20202

Subject: Request for California Tydings Waiver

Dear Mr. Schott,

On behalf of the California State Board of Education, the California Department of Education (CDE) respectfully requests an extension of the Tydings period pursuant to § 8401 of the Elementary and Secondary Education Act (ESEA) of 1965 the period of availability of administrative funds in section 421(b) of General Education Provision Act (GEPA) until March 31, 2026, for the consolidated administrative funds as described below.

The CDE consolidated its American Rescue Plan Act (ARP) Elementary and Secondary School Emergency Relief (ESSER), ARP Homeless Children and Youth (HCY), and ARP Emergency Assistance to Non-Public Schools (EANS) Administrative Funds with its FY 2022 Title I, Part A of Elementary and Secondary Education Act (ESEA) State Administrative Funds as of July 1, 2024, and therefore requests a Tydings Waiver to obtain an extension to the obligation of the consolidated funds until March 31, 2026.

The waiver would allow CDE an extension of time to use ARP ESSER, ARP HCY and ARP EANS funds reserved for administration under ESEA section 8201 to provide necessary guidance and technical support to local educational agencies (LEAs) and avoid diverting funds away from critical services for schools, students, teachers, and other educational staff.

The waiver would allow the CDE to continue to focus its resources on meeting students’ academic needs, including groups of students most impacted by the pandemic. It would also enable CDE to help LEAs and school leaders navigate the financial uncertainties following the end of ARP ESSER funding.

CDE will use consolidated administrative funds under the respective programs in accordance with the provisions of all applicable statutes, regulations, program plans, and applications not subject to these waivers.

CDE provided the public and all LEAs in the State with notice of, and the opportunity to comment on this request by posting information regarding the waiver request and the process for commenting on the State website in the manner in which the CDE customarily provides such notice and opportunity to comment.

Per the requirements of Sec. 8401, the State will provide the public and members of the public with notice of the proposed waiver and a reasonable opportunity to comment in the manner customary to the CDE, which is to say through a posting on its website for 30 days. The CDE will forward any comments received and will work with your staff to ensure that public concerns are addressed.

If you have any questions regarding this subject, please contact Natasha Middleton, Federal Policy Liaison, Government Affairs Division, by phone at (916) 319-0570 or by email at [nmiddleton@cde.ca.gov](mailto:nmiddleton@cde.ca.gov).

Sincerely,

Tony Thurmond

State Superintendent of Public Instruction

California Department of Education

Linda Darling-Hammond

President

California State Board of Education

# Attachment 2: Public Comment Period for California's Tydings Waiver Request to obtain an extension to the obligation of American Rescue Plan Act (ARP)/ Elementary and Secondary School Emergency Relief (ESSER) Funds until March 31, 2026, and approve the funds consolidated as of July 1, 2024, under Title I, Part A of the ESEA.

The California Department of Education (CDE), on behalf of the State Board of Education, is submitting to the United States Department of Education, a request for a waiver of Section 421(b) of the General Education Provisions Act (20 U.S.C. § 1225[b]), also known as the Tydings Amendment. The U.S. Department of Education is permitting States to seek a waiver to extend the period of availability for the ARP administrative funds and FY 2022 ESEA program administrative funds when they are consolidated in accordance with ESEA Section 8201.

The CDE consolidated its ARP ESSER, ARP Homeless Children and Youth (HCY), and ARP Emergency Assistance to Non-Public Schools (EANS) Administrative Funds with its FY 2022 Title I, Part A of the ESEA State Administrative Funds as of July 1, 2024. These funds have an expiration date of September 30, 2024, and CDE requests a Tydings Waiver to obtain an extension to the obligation of the consolidated administrative funds until March 31, 2026.

The waiver would allow the CDE an extension of time to use ARP ESSER, ARP HCY, and ARP EANS funds reserved for administration under ESEA Section 8201 to provide necessary guidance and technical support to LEAs and avoid diverting funds away from critical services for schools, students, teachers, and other educational staff.

The waiver would also allow the CDE to continue to focus its resources on meeting students’ academic needs, including groups of students most impacted by the pandemic, and enable CDE to help LEAs and school leaders navigate the financial uncertainties following the end of ARP ESSER funding.

A 30-day public comment period is open for interested parties and members of the public to submit comments or questions concerning this Tydings Waiver request until September 10, 2024. All inquiries should be addressed to Natasha Middleton, Federal Policy Liaison, and emailed to [NMiddleton@cde.ca.gov](mailto:NMiddleton@cde.ca.gov).