

# The Federal Update for May 20, 2022

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Re: Federal Update

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## Legislation and Guidance

### Late Liquidation May be Available for ESSER Funds, ED Says

In response to recent communications sent to the U.S. Department of Education (ED) by the School Superintendents Association (AASA) regarding an extension of the timeline for funds to be used under the Elementary and Secondary School Education Relief Fund (ESSER), ED sent a letter late last Friday to the organization addressing late liquidation requests.

The letter specifically addresses projects related to school infrastructure or construction paid for with ESSER funds – an area where many schools are facing delays due to supply chain issues. The letter reinforces the September 30, 2024 obligation deadline for American Rescue Plan (ARP) ESSER funds and reminds grantees of the 120-day liquidation period following that obligation deadline. However, ED recognizes the potential need for requests to extend the liquidation period for some funds due to extenuating circumstances. ED says that it has the authority to consider and approve such requests for funds that are “properly and timely obligated” as the obligation deadline comes closer. If a grantee were to be approved for an extension, it would receive up to an additional 18 months for liquidation of funds, and ED says it may consider longer extensions in certain situations. The letter refers to States submitting late liquidation requests but does not address whether States will be able to submit requests on behalf of individual school districts, or whether States will be able to extend their own late liquidation authority to districts.

In the letter, ED also discourages grantees from using ARP ESSER funds for “new construction” because there are other “pressing needs related to the impact of the pandemic on learning and the emotional and mental health and well-being” of students. And the letter reminds grantees that any project paid for with ARP ESSER funds must be “targeted to the overall purpose of the ARP ESSER program, which is ‘to prevent, prepare for, and respond’ to COVID-19.”

Many stakeholders have been pushing for an extension of the obligation period of ARP ESSER funds, but Congress would be required to take action for that extension; ED does not have authority to change the obligation period.

[The ED letter to AASA is available here](https://oese.ed.gov/files/2022/05/Late-Liquidation-Letter.pdf).

Author: KSC

### House Passes WIOA Reauthorization Bill

On Tuesday, the House of Representatives passed the Workforce Innovation and Opportunity Act (WIOA) of 2022, which would reauthorize the current WIOA law. The legislation was passed largely along party lines, with only four Republican members voting in favor of the legislation.

The legislation was drafted by Democrats and released earlier this spring. The bill makes updates to the current law, including greater alignment with the Strengthening Career and Technical Education for the 21st Century Act and the Elementary and Secondary Education Act, increased funding authorization levels, and an expanded focus on equity. WIOA was last reauthorized in 2014 and is overdue for reauthorization.

The bill has now been sent to the Senate for consideration, but the Senate is unlikely to vote on the House bill. Given the lack of bipartisan support for the House bill, it is unable to pass the closely divided Senate in its current form. It is unclear whether the Senate will propose its own draft bill this year, and given the upcoming midterm elections in November and other competing legislative priorities, including fiscal year 2023 appropriations, Congress has limited time in session to focus on substantive policy work.

Author: KSC

### New FAQs Say HEERF Can be Used for Mental Health Needs

The U.S. Department of Education (ED) released new guidance Thursday discussing how institutions may use funds under the Higher Education Emergency Relief Fund (HEERF) to address the mental health needs of students, faculty, and staff.

The frequently asked questions (FAQs) suggest that college students often face challenges with mental health and substance use disorders and that those challenges have been exacerbated by the COVID-19 pandemic for many people. In addition, ED acknowledges that the HEERF funding will expire and not remain a continuous funding source for institutions but encourages grantees to use the funding now for initial investments in mental health programs and initiatives. Because of the temporary nature of HEERF funds, ED encourages grantees to seek out other sources of funding to allow those activities to continue later, such as philanthropic funding.

The FAQs name a number of activities related to mental health that institutions can use their funding for, providing specific examples of how institutions across the country are using funding for mental health supports and resources. The FAQs say that institutions can use HEERF funds for in-person or telehealth mental health professionals, wellness activities, suicide prevention training, peer support programs, call or text hotlines, suicide prevention coordinating committees, and task forces, among others. In addition, the guidance says that grantees may use funds to support the basic needs of students – an allowable use of funds that ED has noted in prior guidance – since a lack of basic needs often impacts a student’s mental health. These basic needs can include childcare, food, housing, transportation, health care, and others. The ED guidance says that the activities and initiatives included in the FAQs is not an exhaustive list and that there may be other allowable uses of funds related to mental health that grantees can use their HEERF funding for.

Finally, the guidance reminds institutions that mental health conditions may be considered a disability under federal civil rights law when they “substantially limit an individual’s ability to meaningfully participate in work or school,” which entitles students to certain accommodations.

[The FAQs on HEERF funding for mental health are available here](https://www2.ed.gov/about/offices/list/ope/heerfmentalhealthfaqs.pdf).

Author: KSC

## News

### ED Extends Waivers of Certain FAFSA Verification Requirements

In a Dear Colleague letter published this week, the U.S. Department of Education (ED) announced its plan to continue to waive all Free Application for Federal Student Aid (FAFSA) verification requirements except those that “strictly focus on identity and fraud” for the 2022-2023 award year.

ED first announced this waiver in a Dear Colleague letter last year to help colleges respond to administrative pressures caused by the COVID-19 pandemic. Colleges use verification to confirm information that students report on their FAFSA when applying for student financial aid. Critics of verification say the process disproportionately affects low-income students and say the process can be time-consuming, intrusive, and an unnecessary hurdle for students who are unable to provide documentation of proof of income. Like last year, this year’s waiver is designed to ease the administrative burden on colleges to verify certain student information during potential pandemic-related staffing shortages amongst other issues caused by the pandemic. According to ED, the waiver will also help colleges maintain enrollment of low-income students who are most susceptible to the challenges caused by the pandemic.

[The Dear Colleague Letter can be viewed here](https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2022-05-18/changes-2022-2023-verification-requirements).

Resources:

Juan Perez, “Education Department extends changes to federal student aid verification,” *Politico Pro*, May 18, 2022.

Author: ASB

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