



California Department of Education

It Needs to Provide Better Oversight to Ensure That
Local Educational Agencies Promptly and Effectively
Use Federal COVID-19 Funds

October 2021

REPORT 2021-614





CALIFORNIA STATE AUDITOR

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October 19, 2021
2021-614

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As authorized by state law, my office conducted a state high-risk audit of the California Department of Education's (Education) management of the federal funding it received to help local educational agencies (LEAs) respond to the COVID-19 pandemic. The following report details our conclusion that Education must improve its oversight of these funds from the Elementary and Secondary School Emergency Relief Fund (ESSER) and the Governor's Emergency Education Relief Fund (GEER) to ensure that LEAs spend the funding before the associated deadlines and comply with relevant requirements.

Education has not ensured that LEAs consistently submit required quarterly reports that include the amounts they have spent on various allowable categories. Without these reports, Education lacks the data it needs to administer the funds and to adequately oversee how LEAs are using the funds to mitigate the effects of the pandemic. Ensuring that LEAs report all data will be especially important going forward because of the significantly larger additional allocations that LEAs recently received from ESSER and GEER.

Furthermore, Education has not used the spending data it did receive to identify and provide assistance to LEAs that may be at risk of not spending all of their initial ESSER and GEER allocations before the January 2023 spending deadline. Almost one-fifth of the LEAs that received ESSER or GEER funds through initial allocations had spent 20 percent or less of their allocations as of the end of June 2021. Assuming these LEAs continue to spend at this slow rate, we project that they may forfeit as much as \$160 million of their initial ESSER and GEER allocations.

Finally, Education needs to improve its monitoring of LEAs' compliance with relevant requirements. For fiscal year 2020–21, Education monitored only 15 LEAs, or less than 1 percent of the approximately 1,700 LEAs that received ESSER or GEER funds. Education secured additional staffing to review 50 LEAs for fiscal year 2021–22; however, it has not used the spending data it collects from LEAs to identify and select those that may be at higher risk of misspending funds or miscategorizing their expenditures. As a result, Education is missing an opportunity to improve its monitoring of LEAs' use of these funds.

Respectfully submitted,

A handwritten signature in black ink that reads "Elaine M. Howle". The signature is written in a cursive, flowing style.

ELAINE M. HOWLE, CPA
California State Auditor

Selected Abbreviations Used in This Report

CARES Act	Coronavirus Aid, Relief, and Economic Security Act
CRF	Coronavirus Relief Fund
CRRSA	Coronavirus Response and Relief Supplemental Appropriations Act
ESSER	Elementary and Secondary School Emergency Relief
GEER	Governor's Emergency Education Relief
LEA	Local educational agencies

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Summary

Results in Brief

In response to the COVID-19 pandemic (pandemic), the federal government enacted various pieces of legislation to provide economic assistance to states. Collectively, three of these laws provided more than \$24 billion to California through the Elementary and Secondary School Emergency Relief Fund (ESSER) and the Governor's Emergency Education Relief Fund (GEER). The California Department of Education (Education), which administers the State's K-12 public school system, has begun allocating ESSER and GEER funds to local educational agencies (LEAs)—such as school districts and charter schools—to help mitigate the effects of the pandemic and enable the safe reopening of schools. LEAs must spend their first allocations of ESSER and GEER funds by January 2023 and their subsequent allocations by January 2024 and January 2025. Any funds unspent after these deadlines will revert to the federal government.

Under federal and state law, Education must oversee LEAs' use of ESSER and GEER funds and report on their spending to the federal government. However, Education has not ensured that LEAs consistently submit the required spending data that could help it oversee their efforts to meet the educational and safety needs of their students and staff. Although Education requires LEAs to submit these spending data quarterly, the number of LEAs that did not do so increased from September 2020 to March 2021. For the quarter ending in March 2021, 64 of the more than 1,400 LEAs that were required to report on their use of ESSER funds did not report that data and 77 of the more than 1,500 LEAs that were required to detail their use of GEER funds did not do so. Education saw an improvement in LEAs' data reporting for the quarter ending in June 2021, which it attributed to its hiring of limited term staff to perform outreach to LEAs during the reporting period. Considering the lack of reporting in the past and the fact that LEAs will soon need to submit spending data for their subsequent—and in some cases, significantly larger—allocations of ESSER and GEER funds, Education must continue to take steps to help ensure that it has the data necessary to understand how LEAs are using these funds.

Additionally, Education has not taken a strong leadership role in ensuring that LEAs are effectively and promptly using the ESSER and GEER funds that it allocates to them. As of June 30, 2021, the spending data show that nearly 90 LEAs had spent less than 20 percent of their initial ESSER allocations and that more than 140 had spent less than 20 percent of their initial GEER allocations. At their current pace of spending, we project that

Audit Highlights . . .

Our audit of Education's oversight of the Elementary and Secondary School Emergency Relief Fund (ESSER) and the Governor's Emergency Education Relief Fund (GEER), highlighted the following:

- » *Because local educational agencies (LEAs) are not consistently reporting spending data, Education does not have the information necessary to oversee LEAs' use of funds to meet educational and safety needs of their students.*
- » *Education has not taken a strong leadership role in ensuring that LEAs are effectively and promptly using the ESSER and GEER funds.*
 - *As of June 30, 2021, nearly 90 LEAs had spent less than 20 percent of their initial ESSER allocations and more than 140 had spent less than 20 percent of their initial GEER allocations.*
 - *We project that these LEAs will collectively have nearly \$160 million in unspent initial ESSER and GEER allocations, which would then revert to the federal government after the spending deadlines.*
- » *Education monitored less than 1 percent of the LEAs that received these additional funds during fiscal year 2020–21.*
- » *Education has not used LEA spending data to help inform its selection of LEAs to monitor.*

these LEAs will collectively have nearly \$160 million in unspent initial ESSER and GEER funds after the spending deadlines, which would cause these funds to revert to the federal government. Further, these projections do not include more than 80 LEAs that had reported spending none of their nearly \$8 million in initial ESSER allocations as of the end of June 2021 and the nearly 200 LEAs that had reported spending none of their \$26 million in initial GEER allocations. The LEAs we interviewed asserted that they had prioritized spending funds from other sources whose deadlines were earlier than those for ESSER and GEER. Some LEAs also told us that the delays in reopening schools for in-person learning had affected their ability to spend their ESSER and GEER allocations quickly.

Notwithstanding the timing of schools' reopening, we found that LEAs that planned early to identify ways to spend their ESSER and GEER funds during remote learning were generally more successful in spending their initial allocations at a faster pace. However, Education has not used the spending data that it collects from LEAs each quarter to identify best practices for effectively and quickly using allocations and to communicate those practices to all LEAs. As a result, Education is missing an opportunity to provide effective leadership to LEAs as they navigate their schools' recovery from the pandemic.

Moreover, in fiscal year 2020–21, Education did not monitor an adequate number of LEAs to ensure their compliance with federal requirements. More than 1,600 LEAs received ESSER I funds and more than 1,700 received GEER I funds. However, Education selected only 15, or less than 1 percent, of these LEAs to monitor during fiscal year 2020–21. The small number of LEAs that Education monitored is concerning given that it identified significant issues related to unsupported or unallowable expenditures at some of the 15 LEAs that it selected. Education explained that it did not have enough staff to monitor a larger number of LEAs in fiscal year 2020–21 but that it has secured additional temporary staff for fiscal years 2021–22 and 2022–23. It currently plans to review 50 LEAs in fiscal year 2021–22. Because Education will be responsible for monitoring LEAs for ESSER and GEER funds for several more years, selecting an adequate number of LEAs to monitor annually will be critical to its ability to identify any misspending, misuse, or incorrect categorization of funds, as well as noncompliance with other federal requirements.

Education also has not sufficiently used available spending data to inform its selection of LEAs to monitor. Federal law allows LEAs to report certain ESSER expenses in the general category of Other Activities if those expenses do not relate to the other specific

spending categories defined in law. Because these distinct spending categories appear to encompass most types of likely spending, we expected LEAs to use the Other Activities category sparingly. However, as of June 2021, LEAs had collectively reported 40 percent of their ESSER spending in the Other Activities category. For example, Los Angeles Unified School District had categorized more than half of its ESSER spending in the Other Activities category as of June 2021. However, some of the items and activities that Los Angeles Unified told us it included in this category appear to meet the criteria for more specific spending categories. Although LEAs may have appropriately included costs in the Other Activities category, high amounts in this nonspecific category may indicate that LEAs either miscategorized their expenditures or are using funds for unallowable purposes. Nevertheless, Education has not focused its monitoring efforts on LEAs that have reported large amounts of spending under the Other Activities category.

Summary of Recommendations

To ensure that LEAs submit spending data as required so that it can effectively oversee their use of ESSER and GEER funds, Education should do the following:

- Continue to track the number of LEAs that fail to submit their quarterly spending reports and perform targeted outreach to those LEAs.
- Seek additional resources and staffing as necessary to ensure that all LEAs submit required spending reports.

To ensure that LEAs effectively use their ESSER and GEER funds before the spending deadlines, Education should develop a robust process for tracking LEAs' spending of these funds. As part of this process, Education should do the following:

- Regularly assess LEAs' spending data to identify those that may be in jeopardy of not spending all of their allocations before the deadlines. This assessment should include projecting LEAs' future spending based on their spending patterns.
- Identify the best practices that have enabled some LEAs to spend their ESSER and GEER funds quickly and effectively. Education should communicate those practices to all LEAs to help them maximize their use of these funds.

To appropriately monitor LEAs' use of ESSER and GEER funds, Education should do the following:

- Establish and follow a policy that specifies, at a minimum, the number of LEAs it will select for monitoring reviews to obtain adequate assurance that LEAs are spending funds in accordance with requirements.
- Use the spending data that LEAs submit to select for monitoring LEAs that may be at higher risk of noncompliance, such as those that report significant spending in the Other Activities category for ESSER.

Agency Comments

Education agreed with some of our recommendations and indicated that it will take steps to implement them. However, some of Education's proposed actions were not consistent with our recommendations and it disagreed with our recommendations aimed at strengthening its monitoring efforts.

Introduction

Background

The California Department of Education (Education) administers the State's K-12 public school system, which comprises more than 2,000 local educational agencies (LEAs) that include school districts, charter schools, and county offices of education. These LEAs collectively served more than 6 million students during the 2020–21 school year. Education oversees the LEAs' funding, testing, and curriculum, and it approves statewide academic standards for content and student performance. In addition, Education administers many federal and state programs that provide funds to LEAs.

In March 2020, the COVID-19 pandemic (pandemic) resulted in the statewide emergency closure of schools. As a result, schools shifted to remote learning conducted online, and many remained closed to in-person learning throughout the 2020–21 school year. Research has found that the pandemic has caused significant shortfalls in students' English and math skills. For example, from fall 2019 through fall 2020, students reportedly learned only 87 percent of the reading skills and 67 percent of the math skills that grade-level peers would typically have learned.¹ Further, this learning loss has been most severe for socioeconomically disadvantaged students and English language learners, exacerbating existing achievement gaps for those student groups.²

California Has Received More Than \$24 Billion in Federal Funding to Address the Impacts of the Pandemic on K-12 Education

From March 2020 through March 2021, the federal government responded to the pandemic by enacting the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA Act), and the American Rescue Plan Act of 2021 (ARP Act). Collectively, these laws provided \$24 billion in education funding to California through two federal programs: the Elementary and Secondary School Emergency Relief Fund (ESSER) and the Governor's Emergency Education Relief Fund (GEER). As Table 1 shows, the purposes of these programs are to help LEAs mitigate the effects of the pandemic and to safely reopen schools. LEAs also received pandemic-related funding through other federal and state programs and laws during fiscal year 2020–21, including \$4.4 billion from the Coronavirus Relief Fund (CRF), which the CARES Act created, and \$2.5 billion from the State's General Fund through the Expanded Learning Opportunities grant program.

¹ Research conducted by McKinsey and Company, a global management consulting firm that serves businesses, governments, nongovernmental organizations, and nonprofits.

² Research published by Policy Analysis for California Education, an independent, nonpartisan research center focused on the California education system.

Table 1
Funding Levels for California and Requirements for ESSER and GEER Under Federal Laws

	CARES ACT		CRRSA ACT		ARP ACT*
	ESSER I	GEER I	ESSER II	GEER II	ESSER III
Award Amount and Date	\$1.6 billion (May 2020)	\$355 million (May 2020)	\$6.7 billion (January 2021)	\$341 million (January 2021)	\$15.1 billion (April 2021)
Purpose	To prevent, prepare for, and respond to COVID-19.	To provide emergency support to LEAs or institutions of higher education that have been most affected by COVID-19, or other education-related entities that the Governor deems essential to carrying out emergency educational services. California chose to award these funds to K-12 LEAs.	Same as ESSER I.	Same as GEER I. Also, to provide emergency assistance to nonpublic schools.	To help states and K-12 LEAs safely reopen and sustain the safe operation of schools, as well as to address the impact of COVID-19 on students.
Award Method Prescribed by	Federal law.	Delegated to states. [†]	Federal law.	LEAs: Delegated to states. [†] Nonpublic schools: Federal law.	Federal law.
Award Methodology	Not less than 90% to LEAs in the same proportion as Title I awards in the most recent fiscal year. [‡] At a state's discretion, up to 9.5% to address emergency needs resulting from COVID-19. [§] Up to 0.5% (\$8.2 million) for a state's administrative activities (California budgeted \$1.5 million for Education's administrative costs in fiscal year 2020–21).	To LEAs based on LEA's count of students with exceptional needs aged 3 to 22 years.	Same as CARES Act funds.	LEAs: To LEAs based on the number of homeless pupils and their local control funding formula entitlement, and to state special schools based on the rate of average daily attendance. Nonpublic schools: Prioritize awards to nonpublic schools that serve low-income students and are most impacted by COVID-19.	Same as CARES Act funds.
Month Education Made Awards	August 2020	September 2020	February 2021	LEAs: August 2021 Nonpublic schools: May 2021	May 2021
Month of First Payment to LEAs	September 2020	December 2020	June 2021	LEAs: Not yet paid Nonpublic schools: May 2021	August 2021
Deadline for LEAs to Reserve Funds and Deadline for LEAs to Spend Funds	September 30, 2022 and January 30, 2023	September 30, 2022 and January 30, 2023	September 30, 2023 and January 30, 2024	September 30, 2023 and January 30, 2024	September 30, 2024 and January 30, 2025

Source: Federal and state laws and documents obtained from Education.

* California did not receive any GEER III funds through the ARP Act.

[†] Award method for GEER I prescribed by state Senate Bill 98, which was signed into law on June 29, 2020. Award method for GEER II prescribed by state Assembly Bill 130, which was signed into law on July 9, 2021.

[‡] Title I is a federal program designed to help disadvantaged students meet state academic content and performance standards.

[§] California awarded these funds to the University of California to support the mitigation of learning loss among K-12 students and to LEAs for school meal costs incurred as a result of the pandemic. It also used these funds to support and expand existing community schools, which are run by county offices of education to provide education for certain student groups with special circumstances.

Under federal and state law and state guidance, LEAs may use ESSER and GEER funds for a number of distinct but broad categories, as Table 2 shows. For example, LEAs may use ESSER funds to purchase educational technology, such as internet hot spots for students' use, laptops for distance learning, and software and online programs for distance learning. LEAs may also use ESSER funds under a broadly defined category of Other Activities for expenditures that are necessary to maintain their operation and continuity of services or to continue their employment of their existing staff. LEAs may use GEER funds for 10 specific categories, including for resources to address learning loss associated with the pandemic.

Table 2
ESSER and GEER Programs Broadly Define Allowable Spending Categories

ESSER CATEGORIES	GEER CATEGORIES
Preparedness and response efforts: * Develop and implement procedures and systems to improve LEAs' preparedness and response efforts to prevent, prepare for, and respond to COVID-19.	Enhance learning supports: Address learning loss or to close learning gaps through the implementation, expansion, or enhancement of learning supports.
Resources to address school needs: Provide principals and other school leaders with resources to address the needs of their individual schools.	Resources for academic services: Provide additional academic services, such as diagnostic assessments or intensive instruction.
Needs of at-risk youth: Provide for activities to address the needs of low-income students, children with disabilities, English learners, minorities, students experiencing homelessness, and foster care youth.	Additional instructional materials or supports. †
Planning and coordinating long-term closures: Plan for and coordinate activities during long-term closures, including providing meals, online learning technology, and guidance for ensuring that educational services continue consistent with requirements.	Extending instructional time: Extend the instructional minutes or school year to increase the amount of instructional time or services provided to pupils based on learning needs.
Training on sanitation: Provide training and professional development to staff on sanitation and minimizing the spread of infectious disease.	Training and professional development: Provide professional development opportunities to help teachers and parents support pupils in distance-learning contexts.
Purchase of cleaning supplies: Purchase supplies to sanitize and clean LEA facilities.	Safety equipment and supplies: Provide public health testing, personal protective equipment, and supplies to sanitize and clean facilities and school buses.
Purchase of educational technology: Purchase of educational technology, including hardware, software, and connectivity, for students that aids in interaction between students and their classroom instructors.	Education technology: Provide devices or connectivity for in-classroom and distance learning.
Mental health services and supports. †	Health, counseling, and mental health services. †
Supplemental school programs: Plan and implement summer learning and supplemental after-school programs.	Addressing pupil trauma and social-emotional learning. †
Elementary and Secondary Education Act activities: Provide for any activity authorized by the ESEA, the Individuals with Disabilities Act, the Adult Education and Family Literacy Act, the Carl D. Perkins Career and Technical Education Act of 2006, or part of the McKinney-Vento Homeless Assistance Act.	Meal services: Provide access to school breakfast and lunch programs.
Other activities: Perform other activities necessary to maintain the operation and continuation of services in the LEA and to continue employment of existing staff.	

Source: Federal and state laws and Education requirements.

* We combined two ESSER I reporting categories related to LEAs' preparedness and response efforts because these categories are substantially similar.

† Federal law, the U.S. Department of Education (U.S. ED), and Education do not provide detailed descriptions for these categories.

Federal and State Laws Prescribe Methods for Allocating ESSER and GEER Funds

The federal government allocated ESSER I funds to each state in the same proportion as each state received in the most recent fiscal year under Title I, Part A, of the Elementary and Secondary Education Act of 1965 (Title I). Federal law requires states to allocate no less than 90 percent of these funds to LEAs in proportion to the funds the LEAs received under Title I in the most recent fiscal year. For example, if an LEA received 1 percent of the total Title I funds that a state allocated in school year 2019–20, the LEA would receive 1 percent of the total ESSER I funds that the state allocated.

In contrast, the federal government allocated GEER I funds to each state based on that state's relative population of individuals ages 5 to 24 and its relative number of children, which generally includes children ages 5 to 17 and those in institutions for neglected and delinquent children. However, federal law then allows the governor of each state to determine whether to use the GEER I funds to provide support to LEAs, institutions of higher education, or other education-related entities that the state deems essential for carrying out emergency educational services.

California chose to appropriate all its GEER I funds to LEAs. The State's fiscal year 2020–21 Budget Act appropriated the GEER I funds based on, among other things, the number of students ages 3 to 22 with exceptional needs enrolled at each LEA.³ Similarly, California generally appropriated its GEER II funds to LEAs; state special schools, such as a school for the blind; and nonpublic—or private—schools. A trailer bill to the State's fiscal year 2021–22 Budget Act appropriated \$154 million of the State's GEER II funds to be apportioned proportionally to LEAs generally based on their number of students experiencing homelessness and on their proportion of local control funding formula entitlements and to state special schools based on their average daily attendance. Education allocated these funds to LEAs in August 2021.

Federal law also reserved a portion of GEER II funds to provide emergency assistance to nonpublic schools. It requires that states prioritize awarding this funding to nonpublic schools that enroll low-income students and that are most affected by the pandemic. California received about \$188 million in GEER II funds for this purpose, and Education had allocated about \$165 million to nonpublic schools as of September 2021.

³ California's Education Code defines "individuals with exceptional needs" as individuals generally ages 3 to 22 who have a disability and whose impairment requires instruction and services that cannot be provided with modification of the regular school program.

Federal law allows California to reserve up to 0.5 percent of its ESSER funds for administrative costs, and federal guidance allows governors to charge any reasonable and necessary amount of GEER funds to effectively administer the program. The State's fiscal year 2020–21 budget reserved \$1.5 million, or 0.1 percent, of California's ESSER I allocation for Education's administrative activities. However, the state law that appropriated GEER I funds did not appropriate funds for administrative activities. Nevertheless, federal law generally allows states to combine administrative funds for certain federal programs. In accordance with federal guidance, Education is using the \$1.5 million budgeted from ESSER I to pay for administrative activities related to both ESSER I and GEER I.

Education Must Report Spending Data to Federal Agencies

Education is required to oversee LEAs' use of federal funds and to provide periodic reports on the funds to various federal agencies, including the U.S. ED. For example, Education must report detailed information each month on the awards it has made to LEAs. In addition, U.S. ED requests that Education provide an annual report detailing how it has used the funds that it has reserved for its administrative activities, how much it has allocated to LEAs, and how they have spent their funds.

Education uses both internally available and externally acquired data to comply with these reporting requirements. Specifically, to comply with the monthly reporting requirements, Education uses its internal accounting and budget records to report the amount it paid to LEAs. To comply with the annual reporting requirements, Education obtains data from LEAs. Before initially releasing funds to LEAs, Education requires them to submit certification of assurances that they will comply with certain reporting requirements as a condition of receiving the funding, including providing information on the amount of money they have spent, the number of schools they have served, how they have spent those funds, and their number of staff. Education uses these data to populate the annual reports it submits to the federal government.

Education Provides LEAs With ESSER and GEER Funds in Advance Every Quarter

Education determined each LEA's allocation for ESSER I funds in August 2020 and GEER I funds in September 2020. Upon receiving the assurances from eligible LEAs for ESSER I, Education advanced them payments equal to 25 percent of their total allocations in September 2020. In December 2020, it released the 25 percent advance payments to LEAs for GEER I. Education stated that it

delayed releasing the GEER I payments so that LEAs could first focus on spending other available funds that had earlier spending deadlines.

Education is making subsequent ESSER I and GEER I payments to LEAs based on their reported spending. Specifically, once it awards funds to LEAs, it requires them to report quarterly on the total amount they have spent and the amounts they have spent in each of the allowable categories in Table 2. After LEAs submit their spending data, Education reimburses them quarterly for their spending up to their total allocation amounts. As a result of this disbursement process, LEAs can retain as much as 25 percent of their ESSER I and GEER I allocations as an advance until they report spending their entire allocation. LEAs that do not submit spending data will not receive additional funds until they do so.

Education stated that it plans to pay LEAs an advance of 25 percent of their GEER II allocations. However, it explained that it plans to advance LEAs only 10 percent of their allocations for ESSER II and ESSER III because these programs will provide LEAs with much larger allocations and Education does not want them to retain large amounts of funds as advances.

Education Is Responsible for Monitoring LEAs' Use of Funds

Federal and state laws require Education to monitor LEAs to ensure their compliance with a broad range of federal program requirements, including requirements related to ESSER and GEER. Education requires LEAs to submit a certification of assurances through which LEAs agree to comply with all applicable requirements, including that they will use the funds they receive only for allowable purposes. Each year, Education selects about 130 LEAs for review. It performs on-site reviews of half of the selected LEAs and conducts desk reviews of the others. Although both on-site and desk reviews involve the online submission and review of documentation, on-site reviews also include interviews of LEA staff and observations of instructional settings. Because of the pandemic, Education chose to conduct desk reviews of all LEAs it selected for review during fiscal year 2020–21; however, it plans to conduct both on-site and desk reviews during fiscal year 2021–22.

Education selects LEAs for monitoring based on several criteria, including their program allocations and past compliance issues. Each office within Education that administers federal programs then determines which of the 130 selected LEAs they will monitor for their programmatic requirements. Education's monitoring of LEAs' ESSER and GEER spending includes reviewing the LEAs' policies and procedures, as well as reviewing a sample of

expenditures to ensure that they were for allowable purposes. We discuss Education's efforts to monitor LEAs' spending of ESSER and GEER funds in the Audit Results.

In addition to monitoring LEAs, Education has also provided them guidance on spending ESSER and GEER funds. From October 2020 through April 2021, Education conducted six virtual training sessions for LEAs related to requirements of the CARES Act, including those specific to ESSER and GEER. Education has also issued guidance to LEAs through numerous letters and email communications and through information it posts on its website.

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Audit Results

Despite Its Efforts to Collect Spending Data, Education Lacks the Complete Spending Data Necessary for It to Oversee LEAs' Use of ESSER and GEER Funds

Education has not ensured that all LEAs submit required spending data, hampering its ability to effectively oversee their efforts to use the funds to prevent, prepare for, and respond to coronavirus. As the state agency that received ESSER and GEER funds, Education is responsible for ensuring that LEAs use these funds in a timely and prudent manner that aligns with the purposes outlined in federal law and guidance. In part to meet these responsibilities, Education requires LEAs to submit quarterly spending reports that include the cumulative amounts they have spent in each allowable category, as Table 2 in the Introduction shows. Using these spending data, Education can identify how quickly LEAs are using the funds and the broad purposes for which they are spending them. This information is critical to ensuring that LEAs spend the funds by federal deadlines and for authorized purposes.

As Table 3 shows, the number of LEAs required to report their spending data has changed each quarter from September 2020 to June 2021. Education requires any LEA that has not spent its entire ESSER and GEER allocations to submit a quarterly report. If an LEA has not spent any funds in a quarter, Education requires that it submit a report stating that fact. Education stops requiring quarterly reports only after an LEA has reported spending its entire allocation. Moreover, according to Education, a small number of LEAs applied for ESSER I or GEER I funds after the first quarter. Therefore, these LEAs were not required to submit reports until after Education allocated funds to them.

However, the number of LEAs required to report their spending data that failed to do so increased from September 2020 to March 2021, although Education saw an improvement in the reporting for the quarter ending June 30, 2021. As Table 3 shows, nearly every LEA reported spending data for the quarter ending September 30, 2020. However, two quarters later, 64 of the more than 1,400 LEAs required to report their spending data for ESSER I did not do so. Moreover, for that same quarter, 77 of the more than 1,500 LEAs that were required to report their GEER I spending failed to do so. Education explained that many LEAs were closed for spring break during the reporting window for the quarter ending March 31, 2021, which it believes contributed to the lower reporting rate. However, Education provided LEAs two weeks to report their data for this quarter, which should have allowed time for them to report data despite the spring break. Considering that some LEAs failed to report data during all four quarters we reviewed and that

Education will pay LEAs much larger ESSER and GEER amounts through additional allocations, Education needs to ensure that all LEAs report data as required.

Table 3
LEAs Have Not Consistently Submitted Required Quarterly Spending Reports to Education

QUARTER ENDING ON	ESSER I			GEER I		
	REQUIRED	FAILED	PERCENT	REQUIRED	FAILED	PERCENT
September 30, 2020	1,614	5	0.3%	1,726	6	0.3%
December 31, 2020	1,612	27	2	1,667	29	2
March 31, 2021	1,475	64	4	1,501	77	5
June 30, 2021	1,628	18	1	1,217	15	1

Source: Quarterly reports that LEAs submitted and Education published on its website.

Note: The number of LEAs required to submit reports may fluctuate from one quarter to the next. Specifically, Education requires only LEAs that have a balance of ESSER I or GEER I allocations to report. As LEAs spend all of their ESSER I and GEER I allocations, the number of LEAs that Education requires to report in subsequent quarters generally decreases. Further, a small number of LEAs did not apply for funds until close to the application deadline of April 7, 2021, and were therefore not required to submit a report for prior quarters.

Although some LEAs did not consistently report their spending data, Education believes its quarterly process for paying LEAs creates an incentive for them to do so. As we describe in the Introduction, Education advanced each LEA 25 percent of its total ESSER I and GEER I allocations. For every subsequent quarter, Education has reimbursed each LEA for the amount it has reported spending, adjusted to ensure that the LEA maintains its 25 percent advance until it has received its entire allocation. Education indicated that this process creates an incentive for LEAs to report their spending data because if they do not, it has no basis to reimburse them for their spending.

However, LEAs that have spent less in total than their 25 percent advance may have a reduced financial incentive to report data: they still have advance funds and may not have immediate need for additional funds. Further, LEAs that have received payments equaling their entire allocations but have not yet spent all funds also have less incentive to report data. In fact, Education's data show that all 64 LEAs that did not report data for ESSER I for the third quarter ending March 31, 2021, had already received payments equaling their entire ESSER I allocations. This lack of incentive may explain why an increasing number of LEAs that were required to report their spending data did not do so during the first three quarters.

Education explained that it has a process to follow up with LEAs that do not report their spending data. The documentation it provided to us shows that it contacts these LEAs through multiple means. Initially, it sends mass email communications to all LEAs

to remind them of the reporting deadlines. It then sends targeted emails and makes calls to those LEAs that do not submit the required reports. Education also enlists the help of the California County Superintendents Educational Services Association—an organization that helps county superintendents of schools to promote quality, cost-effective educational practices and services—to perform outreach to LEAs that do not submit required spending data.

In recognition of its need for complete spending data, Education has recently taken additional steps to ensure all LEAs report quarterly. Specifically, Education attributed the improvement in required reporting for the quarter ending June 30, 2021, to the limited term staff that it secured through June 2023 to assist in performing outreach to LEAs during the reporting period. To ensure that it has complete data, Education should continue to seek additional resources or staff as necessary to perform this work, especially because LEAs will also soon need to submit spending data for ESSER II, ESSER III, and GEER II funds. Having complete data will allow Education to identify those LEAs that are at risk of not meeting spending deadlines and work with them to ensure that California can maximize the benefits from the funds. Ensuring that LEAs have spending plans for the funds is especially important because, as we discuss later, federal law does not provide for the funds' reallocation.

Education Is Missing an Opportunity to Ensure That LEAs Spend ESSER and GEER Funds Before Federal Deadlines

In addition to not ensuring that it has complete data, Education has not adequately used the data it does collect to monitor LEAs' spending and identify those that may be at risk of losing their ESSER and GEER funds. As the text box shows, LEAs must reserve—or set aside—and spend ESSER and GEER funds by certain dates. Any funds that they have not spent by these dates revert to the federal government. The spending data that LEAs submit each quarter to Education allow it to track how quickly LEAs are using funds and for what purposes. Although Education could use these data to proactively identify and reach out to LEAs that may be at risk of not spending their funds effectively and by the required dates, Education stated that it will instead perform such outreach as the deadline for spending those funds approaches.

Deadlines for ESSER and GEER Funds

The State and LEAs must reserve and spend ESSER and GEER funds by specific dates. Unspent funds revert to the federal government after the spending deadlines.

ESSER I and GEER I: Reserve by September 30, 2022, and spend by January 30, 2023.

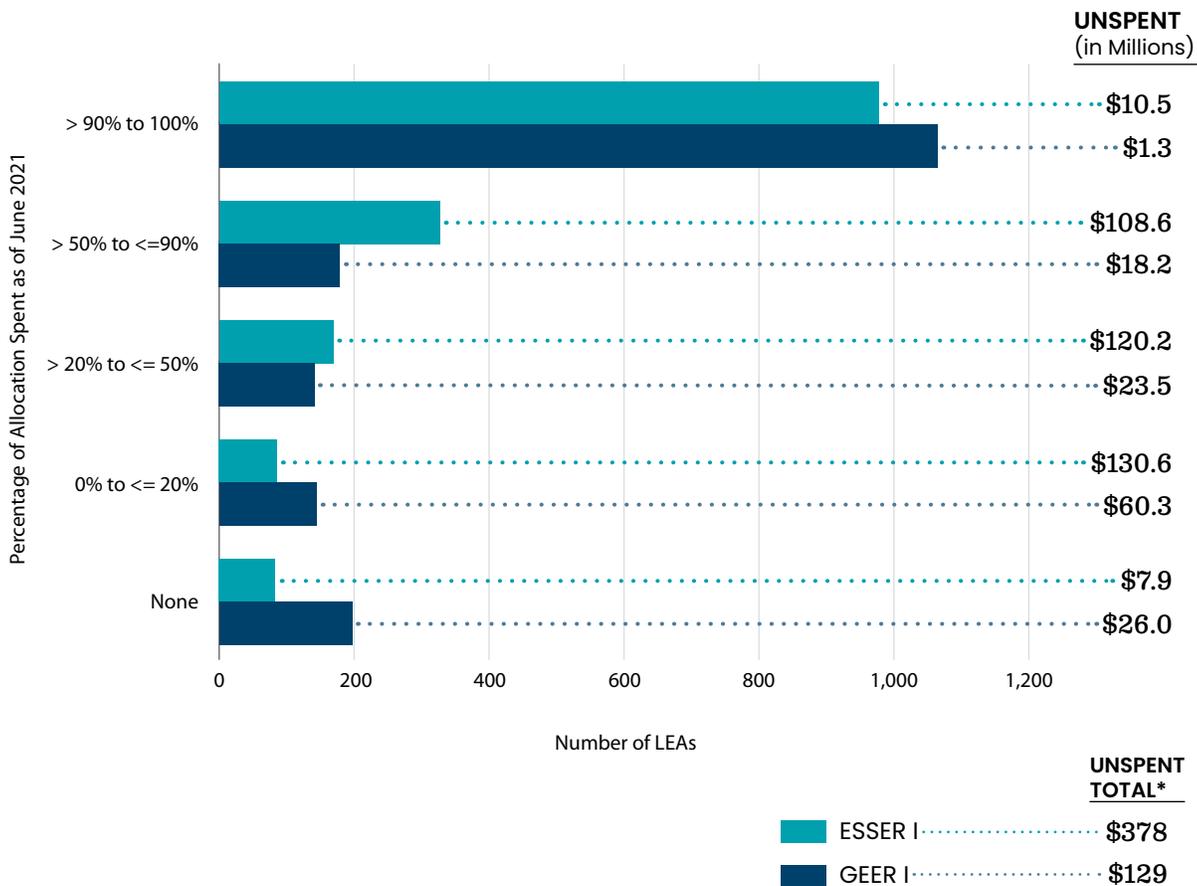
ESSER II and GEER II: Reserve by September 30, 2023, and spend by January 30, 2024.

ESSER III: Reserve by September 30, 2024, and spend by January 30, 2025.

Source: Federal law and state guidance.

Our review of LEAs’ spending data found that some have spent very little of their ESSER I and GEER I allocations. As of the end of June 2021—the most recent period for which data are available—more than half of the LEAs had spent all or most of their allocations, as Figure 1 shows. However, about 170 of the more than 1,600 LEAs that received ESSER I funds and about 340 of the more than 1,700 LEAs that received GEER I funds reported spending less than 20 percent of their allocations as of that same date, and some of these LEAs had yet to spend any funds. As of June 2021, LEAs had about \$378 million in unspent ESSER I funds and about \$129 million in unspent GEER I funds.

Figure 1
LEAs Have Spent Significantly Different Percentages of Their ESSER I and GEER I Allocations
As of June 2021



Source: Spending data reported by LEAs and published on Education’s website for the quarter ending June 30, 2021.

Notes: LEAs must reserve ESSER I and GEER I program funds for specific purposes by September 2022 and spend those funds by January 2023. Funds that are not reserved and spent by these deadlines will revert to the federal government.

There were 1,642 LEAs that received ESSER I allocations and 1,726 LEAs that received GEER I allocations. All LEAs reported data during at least one quarter as of the quarter ending June 30, 2021, and are included in this graphic.

* Total amounts unspent may not agree due to rounding.

At the LEAs' current pace of spending, a significant number may miss the opportunity to use ESSER and GEER funding to address student and staff needs before the spending deadlines. This risk is especially high for LEAs that had spent less than 20 percent of their allocations as of June 2021. For example, as Figure 1 shows, about 140 LEAs reported spending more than zero but less than 20 percent of their GEER I allocations as of the end of June 2021. Education allocated about \$64 million in GEER I funds to these LEAs. If these LEAs continue to spend at the same rate at which they have spent for the past four quarters, they will spend only 15 percent of their collective allocations before the end of January 2023. This would result in nearly \$55 million in GEER I funds reverting to the federal government. Similarly, about 86 LEAs reported spending more than zero but less than 20 percent of their ESSER I allocations—totaling about \$147 million—by the end of June 2021. If they continue this rate of spending, they will have collectively spent only 29 percent of their ESSER I allocations by January 2023, and more than \$100 million will revert to the federal government.

Further, these projections are understated. They do not include more than 80 LEAs that, as of the end of June 2021, had reported spending none of their ESSER I allocations or the nearly 200 LEAs that had reported spending none of their GEER I allocations. We omitted these LEAs from our calculations above because their lack of spending would distort our projections. However, Education allocated about \$8 million in ESSER I funds and \$26 million in GEER I funds to these LEAs, amounts that are at risk of reverting to the federal government if the LEAs do not spend them. Moreover, the projections also do not take into account nearly \$22 billion in ESSER II and III funds—vastly more than the nearly \$1.7 billion in ESSER I allocations—that Education only recently allocated to these LEAs and that LEAs have yet to spend.

When we interviewed representatives from 10 LEAs that had spent 10 percent or less of their ESSER I and GEER I allocations as of March 2021, we learned that they had spent little of these funds in part because they had prioritized spending funds from sources that had earlier deadlines. For example, Long Beach Unified School District explained that it had prioritized spending funds allocated to it from the CRF and the State's General Fund because their spending deadlines were at the end of May 2021 and June 2021, respectively. Although the district told us that it has high-level plans for spending its ESSER and GEER funds in the future, Long Beach Unified had spent only about 11 percent of its ESSER I allocation and about 1 percent of its GEER I allocation as of June 2021. The other nine LEAs we interviewed provided similar reasons for their slow pace of spending and explained that they, too, had high-level plans to spend the funds in the future.

If they continue this rate of spending, 86 LEAs will have collectively spent only 29 percent of their ESSER I allocations by January 2023, and more than \$100 million will revert to the federal government.

In addition, some of the LEAs indicated that the timing of their schools' reopening also affected how quickly they had spent funds. For example, San Diego Unified School District had spent almost none of its ESSER I and GEER I funds as of the end of March 2021. It attributed the delay to changes to its school reopening timeline that caused it to adjust its spending plans accordingly. As of June 2021, the district had spent more than 70 percent of its ESSER I funds but almost none of its GEER I funds.

However, we also interviewed 10 LEAs that spent large amounts of their ESSER and GEER funds, even though they generally faced the same competing spending deadlines. Many of these LEAs attributed their high rate of spending to the fact that they had identified the needs of their students and districts early, which enabled them to plan to meet the demands of distance learning and of safely reopening schools. For example, as of March 2021, Grossmont Union High School District—which returned groups of students to school sites once a week beginning in September 2020—reported spending more than 90 percent of its ESSER I funds on education technology, summer learning, and supplemental after-school programs. Similarly, Colton Joint Unified School District stated that it rapidly spent its ESSER I funds to facilitate its initial plan to return to in-person instruction by January 2021. Although the district ultimately decided to delay reopening because of an increase in COVID-19 cases in its area, this decision did not affect its planned spending.

Some LEAs we interviewed indicated that early planning by their management to prioritize and spend funds was the main reason for their higher spending.

Other LEAs we interviewed also indicated that early planning by their management to prioritize and spend funds was the main reason for their higher spending. For example, Hayward Unified School District did not offer optional in-person instruction until May 2021 but reported spending nearly all of its ESSER I allocation on technology, such as laptops; training for teachers on distance learning; and personal protective equipment. The district stated that it was able to spend its funds quickly because it immediately identified the needs of its students based on its learning continuity and attendance plan—a plan that state law requires LEAs to develop and adopt that describes how they will provide continuity of learning and address the impact of COVID-19.⁴ Similarly, San Ramon Valley Unified School District did not offer optional in-person instruction until February 2021 but explained that it had previously identified which students needed access to the internet for distance learning and prioritized its spending of GEER I funds on student devices, such as iPads and Chromebooks, and internet hot spots. Further, Twin Rivers Unified School District,

⁴ According to Education, this plan is not specific to ESSER and GEER funds. However, it can help an LEA plan its use of funds because it describes the needs of the LEA's students and how the LEA intends to address them.

which began partial in-person instruction in April 2021, stated that it primarily spent its GEER I funds on renovating its heating, ventilation, and air conditioning systems to improve air circulation in preparation for in-person learning.

Education indicated that it will contact LEAs about unspent ESSER I and GEER I funds as the deadline to spend them nears. However, we believe that the magnitude of the unspent funding requires Education to take steps sooner to ensure that LEAs are aware of best practices to effectively plan and prioritize for the use of funds before the deadlines. The fact that some LEAs have experienced success in spending their funds while others have not underscores the importance of Education providing LEAs with best practices, such as using existing learning continuity plans to identify how they can spend their ESSER and GEER allocations effectively and in a timely manner. Using the spending data that it collects from LEAs quarterly, Education could identify those that reported spending most or all of their ESSER I and GEER I allocations and work with a selection to identify best practices that helped them to spend the funds effectively and expediently. Education could then share those practices with all LEAs as a resource to assist them in spending their funds before the deadlines.

Unfortunately, Education has neither adequately assessed the spending data for this purpose nor taken steps to determine whether LEAs are on track to spend their allocations before the deadlines. Not surprisingly, representatives from some LEAs we interviewed stated that Education has not communicated any concerns to them about their slow pace of spending. Currently, the only information that Education provides LEAs consists of state and federal requirements for ESSER and GEER—such as allowable spending categories and reporting requirements—as well as links to federal information about the funds. Although this information can help LEAs better understand compliance requirements, it does not provide them with any guidance on how best to use their allocations to effectively address the effects of the pandemic on student learning and safety.

In general, Education has not taken a proactive approach to administering LEAs' spending of ESSER I and GEER I funds. It answers questions and provides technical assistance to LEAs about the funds but indicated that it is not the authority on how the LEAs should use them. Similarly, Education stated that LEAs are best able to judge how quickly they can spend funds and that it does not have authority to criticize their pace of spending. According to Education, once the deadline for spending ESSER I and GEER I passes, it will invoice any LEA with unspent funds because federal law does not provide for the reallocation of funds. Any unspent funds after the deadline will revert to the federal government.

Education has not taken a proactive approach to administering LEAs' spending of ESSER I and GEER I funds.

The slow pace of some LEAs' spending is particularly concerning given that the LEAs must spend ESSER II and GEER II funds by the end of January 2024 and ESSER III funds by the end of January 2025.

The slow pace of some LEAs' spending is particularly concerning given that the LEAs must spend ESSER II and GEER II funds by the end of January 2024 and ESSER III funds by the end of January 2025. In fact, both ESSER II and ESSER III provide LEAs with significantly more funds than ESSER I. Education stated that it anticipates LEAs will be able to spend all the funds by their respective deadlines. However, absent a robust and regular analysis of the LEAs' spending patterns, its assertion is based on speculation and ignores the difficulties LEAs may face in spending large amounts in a short period, especially considering the unprecedented and challenging times LEAs must navigate as they reopen schools. As the state agency responsible for administering the State's public school system, Education is responsible for showing the leadership needed to ensure that LEAs fully leverage ESSER and GEER funds to address the needs of their most vulnerable students, close the learning loss gaps that emerged because of the pandemic, and return students safely to schools.

Education Did Not Monitor an Adequate Number of LEAs to Ensure That They Properly Spent Their ESSER I and GEER I Funding

The Legislature appropriated specific funds to Education to support the allocation and monitoring of federal CARES Act funds. Although Education plans to use this appropriation in part to increase the number of LEAs it monitors for compliance with ESSER and GEER program requirements in fiscal year 2021–22, it monitored a very small number of LEAs in fiscal year 2020–21. Education used the same selection of LEAs to monitor for compliance with both ESSER and GEER requirements. More than 1,600 LEAs received ESSER I funds, and more than 1,700 received GEER I funds. However, Education selected only 15, or less than 1 percent, of these LEAs to monitor during fiscal year 2020–21.

To put the size of this selection into context, in that same year, Education selected 30 LEAs to monitor for the homeless education program and 31 LEAs to monitor for the adult education program. However, Education allocated nearly two hundred times as much funding to LEAs through the ESSER I program than it did through the homeless education program, and nearly four times as much as it allocated through the adult education program. Education's reviews are a critical means by which it can oversee LEAs' use of the ESSER and GEER funds. Because of the small number of LEAs it selected to monitor in fiscal year 2020–21, it does not have adequate assurance that LEAs are complying with federal requirements.

Education's small selection of LEAs for monitoring is also troubling because the reviews it did perform identified significant issues with some LEAs' spending. For example, Education found that, at the

time of its review, Hayward Unified School District was unable to provide documentation to support the allowability of more than \$4 million in ESSER I spending and more than \$10,000 of GEER I spending. Similarly, Oakland Unified School District was initially unable to provide the necessary documentation to support \$10,000 that it spent out of its ESSER I allocation. Finally, Education found that a third LEA, St. HOPE Public School 7, could not support any of its \$207,000 in ESSER and GEER expenditures. Oakland Unified subsequently provided the necessary documentation to support its spending and, as of September 2021, Hayward Unified and St. HOPE were in the process of resolving their findings. However, the fact remains that these LEAs could not readily support that this spending was appropriate.

Although not specific to ESSER I and GEER I funding, Education's findings related to another pandemic-related fund suggest that LEAs may be at risk of improperly spending funds newly allocated to prevent, prepare for, and respond to the pandemic. Following its review, Education required Oakland Unified to transfer more than \$360,000 in unrestricted district funds to reimburse the CRE, which provided funding to cover necessary expenditures incurred because of the pandemic. The district had spent these funds to purchase three commercial trucks and a communication software program. Education determined that the purchase of trucks was not reasonable or necessary to respond to the pandemic. Further, before the passage of the CARES Act, the district had budgeted from other available funding sources for the purchase of the software program. Under federal law, LEAs could use funds from the CRF only to cover costs not accounted for in the budget most recently approved as of the date of the CARES Act. This finding suggests that, without increasing the number of LEAs it monitors, Education will lack adequate assurance that they are appropriately spending ESSER and GEER funds.

Education has increased the number of LEAs it plans to monitor to 50 in fiscal year 2021–22. Education asserted that it chose to monitor 15 LEAs during fiscal year 2020–21 because it had only two part-time retired annuitants to conduct those reviews. However, in January 2021, it identified the need for additional staff to perform these reviews during fiscal years 2021–22 and 2022–23. Education allocated five temporary positions for this purpose for two years, which it was in the process of filling as of October 2021, and it is using administrative funds from ESSER to support this effort. Monitoring a larger number of LEAs will provide Education with greater assurance that LEAs are spending ESSER and GEER funds appropriately.

Education's findings related to another pandemic-related fund suggest that LEAs may be at risk of improperly spending funds newly allocated to prevent, prepare for, and respond to the pandemic.

Education Has Not Used Key Data to Select LEAs for Monitoring

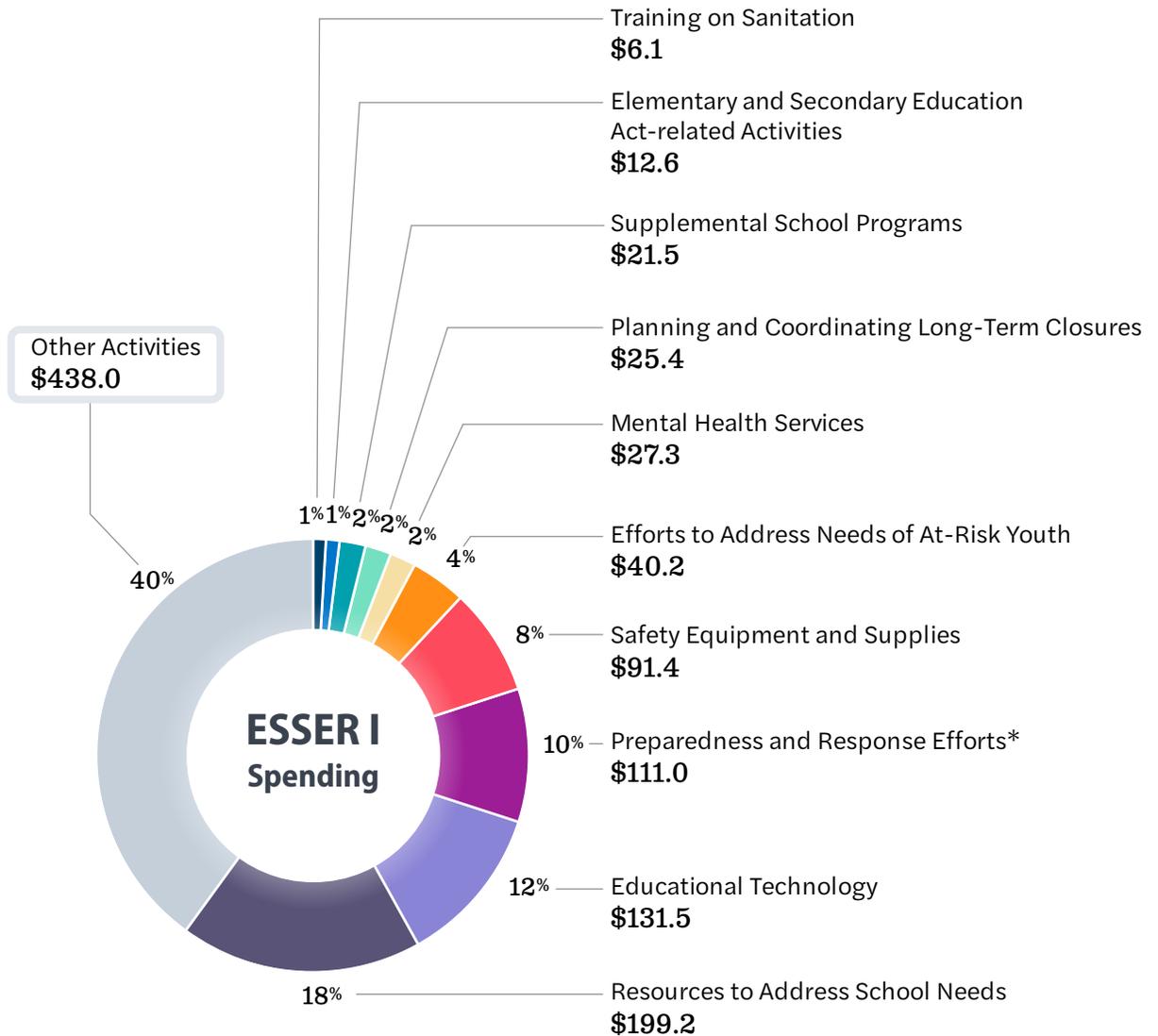
When selecting LEAs for monitoring, Education has not fully used the spending data it receives from them to consider key risk factors associated with noncompliance with ESSER and GEER requirements. As we discuss in the Introduction, LEAs that receive ESSER I funds may use them for a number of categories that are necessary for maintaining their operations and services and for supporting their students. Large amounts of spending in a single, broad category may indicate that an LEA is improperly categorizing its costs. Thus, we expected LEAs to have reported most of their spending under specific categories, such as Purchase of Education Technology, and to have used the broad Other Activities category for only those activities that do not belong under specific categories. However, as of the quarter ending June 30, 2021, LEAs had collectively reported 40 percent, or \$438 million, of their \$1.1 billion in ESSER I spending in the Other Activities category. As Figure 2 shows, it was the largest category of spending by far. Although LEAs may have appropriately included costs in this category, some LEAs' large amounts of spending in the Other Activities category may indicate that they are unaware of how to properly categorize their spending or that they are using ESSER I funds for unallowable purposes.

For example, as of June 2021, Los Angeles Unified School District had categorized more than 60 percent of its ESSER I spending—\$175 million of its \$287 million allocation—in the Other Activities category. When we spoke to the district, it explained to us that it charged such a significant amount to that category because the items and services on which it spent its ESSER I funds did not fit into the distinct, more narrowly defined categories. For example, Los Angeles Unified told us it categorized expenses such as those for hazard pay and continuity of employment for substitute teachers in the Other Activities category. However, some of the items and activities that the district included in the Other Activities category met the criteria for distinct spending categories. For example, it told us it charged \$1.7 million for sanitizers and disinfection to Other Activities; however, federal law established a category for ESSER I funds specifically for purchasing supplies to sanitize and clean LEA facilities.

Miscategorized spending hinders Education's and U.S. ED's ability to accurately evaluate how LEAs are spending the funds and what results to expect from such spending.

Miscategorized spending hinders Education's and U.S. ED's ability to accurately evaluate how LEAs are spending the funds and what results to expect from such spending. However, Education has used the spending data only minimally to inform its selection of LEAs to monitor. Education explained that LEAs had not yet submitted their data at the time it selected those it would monitor during fiscal year 2020–21. Consequently, Education stated that it prioritized reviewing LEAs with large allocations, which is reasonable.

Figure 2
LEAs Categorized the Largest Amount of ESSER I Spending as *Other Activities* as of June 2021
 (In millions)



Source: Spending data reported by LEAs and published on Education’s website as of the quarter ending June 30, 2021.

* We combined two ESSER I reporting categories related to LEAs’ preparedness and response efforts because these categories are substantially similar.

However, Education had received spending data for three quarters of the previous fiscal year at the time it selected LEAs to monitor for fiscal year 2021–22. Nevertheless, it chose to use the spending data in a limited manner. It explained that in addition to prioritizing LEAs that received large allocations, it selected those that had reported spending a large proportion of their allocations. It did not select LEAs that reported a large proportion of their spending in the Other Activities category. According to Education, it instead

asked its division that collects and compiles LEAs' spending data to determine whether to include specific LEAs for monitoring based on their spending trends. However, Education told us that the division did not suggest any such LEAs.

Monitoring LEAs based on risks specific to ESSER and GEER funds will be of even greater importance in the future because the allocations they will receive of ESSER II and ESSER III funds are significantly larger than the amounts they have received to date. Because LEAs have until January 30, 2025, to spend ESSER III funds, Education will need to continue to monitor them for several more years. Although some LEAs that Education selected for monitoring in fiscal year 2020–21 reported large amounts of spending in the Other Activities category, this fact appears coincidental, as Education's selection methodology did not consider this risk factor. As a result, Education has no assurance that its selection in future years will include such LEAs unless it makes a deliberate effort. Without considering the spending amounts that LEAs report under the Other Activities category, Education may overlook those that are at higher risk of spending funds in an unallowable manner.

Further, once Education has made its selection of LEAs to monitor, it does not specifically examine transactions in the Other Activities category when it monitors LEAs' compliance with ESSER requirements. Instead, it judgmentally chooses a sample of transactions from each LEA's accounting records, including any unusual expenditures, transfers between accounts, and loans, to ensure they are supported and for allowable purposes. Although we believe this approach is generally reasonable, Education could increase the effectiveness of its reviews by specifically assessing costs that the selected LEAs have included in Other Activities. It could ensure both that the LEAs appropriately categorized the costs and that they spent these funds for allowable purposes. Without specifically reviewing transactions that LEAs have included in Other Activities, Education is missing an opportunity to accurately identify how the LEAs are using their funds and whether their spending is for purposes allowed by federal law.

Recommendations

To ensure that LEAs submit required spending data so that it can effectively oversee their use of ESSER and GEER funds, Education should do the following:

- Continue to track the number of LEAs that fail to submit their quarterly spending reports and perform targeted outreach to these LEAs.

- Seek additional resources and staffing as necessary to ensure that all LEAs submit required spending reports.

To ensure that LEAs effectively use their ESSER and GEER funds before the spending deadlines to mitigate the effects of the pandemic on students, Education should develop a robust process for tracking LEAs' spending of these funds. As part of this process, Education should do the following:

- Regularly assess LEAs' spending data to identify those that may be in jeopardy of not spending all of their allocations before the deadlines. This assessment should include projecting LEAs' future spending based on their spending patterns.
- Follow up with identified LEAs to determine whether they have plans for spending all of their funds before the deadlines and whether these plans are reasonable.
- Identify the best practices that have enabled some LEAs to spend their ESSER and GEER funds quickly and effectively. It should communicate those practices to all LEAs to help them maximize their use of these funds.

To sufficiently monitor LEAs' use of ESSER and GEER funds, Education should establish a policy that specifies, at a minimum, the number of LEAs it will select for monitoring reviews to obtain adequate assurance that LEAs are spending funds in accordance with requirements. Further, Education should follow the new policy to ensure that it selects the appropriate number of LEAs to monitor.

To ensure that it monitors LEAs that may be at higher risk of misinterpreting spending requirements or misusing ESSER funds, Education should do the following:

- When selecting LEAs for monitoring, use the data that LEAs submit to identify those that have reported significant amounts of spending of ESSER funds in the category of Other Activities.
- As part of its monitoring, select and review transactions that LEAs have reported in the Other Activities category for the ESSER program to determine whether the LEAs have used these funds for purposes allowed under federal law.
- If it finds that the LEAs it monitors have improperly categorized their spending in Other Activities, provide guidance to all LEAs to clarify the types of spending that they should include in this category.

We conducted this performance audit in accordance with generally accepted government auditing standards and under the authority vested in the California State Auditor by Government Code sections 8543 et seq. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,

A handwritten signature in black ink that reads "Elaine M. Howle". The signature is written in a cursive, flowing style.

ELAINE M. HOWLE, CPA
California State Auditor

October 19, 2021

Appendix

Scope and Methodology

State law authorizes the California State Auditor’s Office to establish a program to audit and issue reports with recommendations to improve any state agency or address any statewide issue that our office identifies as presenting a high risk for waste, fraud, abuse, and mismanagement or as having major challenges associated with its economy, efficiency, or effectiveness. In January 2020, we issued our assessment of high-risk issues that the State and selected agencies face. In August 2020, we added the State’s management of pandemic-related federal funding to that assessment as a high-risk statewide issue because of the significant amount of money the State has received, the rapid nature of the allocation, and the urgent need for the funding. In August 2021, we issued our latest assessment of high-risk issues that the State and selected agencies face and reiterated that the State’s management of pandemic-related federal funds remains an area of concern. Education is responsible for managing a portion of the pandemic-related federal funds. The table lists the objectives we developed for our review and the methods we used to address them.

Audit Objectives and Methods Used to Address Them

AUDIT OBJECTIVE	METHOD
<p>1 Review and evaluate the laws, rules, and regulations significant to the audit objectives.</p>	<p>Reviewed relevant state and federal laws, rules, and regulations related to ESSER and GEER funds, as well as Education’s required oversight of these funds.</p>
<p>2 Determine whether Education is allocating and disbursing ESSER and GEER funds to LEAs in a timely and appropriate manner in accordance with federal and state laws. If there are any delays, assess how these delays have affected LEAs’ ability to maintain operations and respond to the pandemic.</p>	<ul style="list-style-type: none"> • Interviewed staff to understand the process Education has used to allocate funds. • Selected 10 LEAs and recalculated their allocations of ESSER and GEER funds. • Reviewed allocation documents to determine whether Education allocated funds to LEAs within the time frames federal law requires. • Determined that Education has allocated and disbursed ESSER and GEER funds to LEAs in a timely and appropriate manner in accordance with federal and state laws.

continued on next page . . .

AUDIT OBJECTIVE	METHOD
<p>3 Identify the amounts of ESSER and GEER funds that Education and LEAs have spent as of the most recent date that information is available. In doing so, analyze available data to determine the purposes for which Education and LEAs are spending the funds, particularly as the spending relates to maintaining their operations and safely reopening schools.</p>	<ul style="list-style-type: none"> • Obtained the most recent spending data that LEAs provided and that Education published on its website. • For a sample of 10 LEAs that reported ESSER spending data and 10 LEAs that reported GEER spending data, verified that the data that Education published on its website agree with the data that the LEAs reported by reviewing the spending reports that LEAs submitted to Education. We found that Education published accurate data. • Reviewed the LEAs' spending data to identify their total spending to date and to calculate the amount that they spent for each of the reporting categories. We also projected the amounts of ESSER and GEER funds LEAs will spend by the spending deadlines if they continue to spend at their current rate. • Identified the amount that Education has spent out of its ESSER state administration funds. We also assessed Education's processes for ensuring that it only charges allowable activities to these funds. Our review indicates that Education has appropriately used ESSER funds for its administrative activities.
<p>4 Determine what data Education collects from LEAs, what data it reports to U.S. ED, and whether the reports Education has submitted to U.S. ED are in compliance with reporting requirements. Assess whether Education uses the information it collects to draw conclusions about LEAs' use of ESSER and GEER funds to maintain operations, respond to the pandemic and, to the extent possible, safely reopen schools.</p>	<ul style="list-style-type: none"> • Interviewed staff to understand how Education complies with federal reporting requirements. • Reviewed the reports that LEAs submitted and determined whether they complied with federal requirements related to timing and frequency. • Interviewed staff at Education to determine their follow-up and outreach process to LEAs that have not submitted required reports. • For a selection of monthly reports covering three payment cycles and the one annual report that Education submitted, reviewed supporting documentation and verified the accuracy of the reports. We found that Education accurately reported data in the monthly and annual reports it submitted to U.S. ED. • Interviewed staff to understand how Education uses the data it collects from LEAs. Because Education indicated it does not use the data, we assessed the limitations on its ability to oversee LEAs' use of funds to address the impacts of the COVID-19 pandemic.
<p>5 Assess if Education's process for monitoring whether LEAs are appropriately using ESSER and GEER funds and are complying with applicable requirements is sufficient.</p>	<ul style="list-style-type: none"> • Interviewed staff and collected relevant documentation to determine how Education monitors LEAs' use of ESSER and GEER funds. • For a sample of three LEAs that Education reviewed during fiscal year 2021-22, assessed whether the reviews were adequate to ensure that the LEAs spent funds on allowable activities. • Assessed Education's follow-up efforts with LEAs that it found did not comply with requirements. • Evaluated the sufficiency of the guidance Education provided to its auditors and to LEAs to ensure that funds are spent on allowable activities. We found that Education's guidance and training were sufficient.
<p>6 Review and assess any other issues that are significant to the audit.</p>	<ul style="list-style-type: none"> • To determine whether LEAs are fully leveraging the ESSER and GEER funds, selected and interviewed five LEAs that reported spending less than 10 percent of their ESSER I funds and five LEAs that reported spending less than 10 percent of their GEER I funds. We also selected and interviewed five LEAs that reported spending more than 90 percent of their ESSER I funds and five LEAs that reported spending more than 90 percent of their GEER I funds. For each LEA, we determined the reasons for its rate of spending, identified how it spent the funds, and assessed whether it has plans to spend their remaining funds. • To ensure that Education paid ESSER and GEER funds appropriately, reviewed Education's accounting documents to assess whether Education paid the LEAs selected in Objective 2 the appropriate amounts of ESSER and GEER funds. We also reviewed spending data to identify instances when LEAs reported negative expenditures, and we interviewed staff at Education to determine why an LEA might report a negative expenditure and to document its process for ensuring that it does not overpay the LEA. We found that Education's process for handling these types of transactions is reasonable.

Assessment of Data Reliability

In performing this audit, we obtained electronic data from Education's website related to the quarterly spending that LEAs reported. The U.S. Government Accountability Office, whose standards we are statutorily required to follow, requires us to assess the sufficiency and appropriateness of any computer-processed information we use to support our findings, conclusions, or recommendations. We performed electronic testing of the data and interviewed knowledgeable Education staff regarding them. Because LEAs submit these data electronically to Education without supporting documentation, we did not verify the accuracy and completeness of these data. As a result, the data are of undetermined reliability for our audit purposes. Although these determinations may affect the precision of the numbers we present, there is sufficient evidence in total to support our findings, conclusions, and recommendations.

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**CALIFORNIA DEPARTMENT
OF EDUCATION**

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September 30, 2021

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621 Capitol Mall, Suite 1200
Sacramento, CA 95814

Subject: *State High-Risk Audit regarding the California Department of Education's Management of the Elementary and Secondary School Emergency Relief Fund and Governor's Emergency Education Relief Fund – 2021-614 dated October 19, 2021*

Dear Ms. Howle:

The California Department of Education (Education) appreciates the opportunity to provide comments and address the recommendations outlined in the California State Auditor's (CSA) Audit Report titled, *State High-Risk Audit regarding the California Department of Education's Management of the Elementary and Secondary School Emergency Relief Fund and Governor's Emergency Education Relief Fund*.

Recommendation 1

To ensure that LEAs submit required spending data, so that it can effectively oversee their use of ESSER and GEER funds, Education should do the following:

- Continue to track the number of LEAs that fail to submit their quarterly spending reports and perform targeted outreach to these LEAs.

Education's Comments

Concur. Education will continue to track LEAs that fail to submit spending reports, and if necessary, perform targeted outreach.

- Seek additional resources and staffing as necessary to ensure that all LEAs submit required spending reports.

Education's Comments

Concur. Education will request additional resources and staffing, if necessary, to implement the requirements of the ESSER and GEER funds.

* California State Auditor's comments begin on page 37.

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Recommendation 2

To ensure that LEAs effectively use their ESSER and GEER funds before the spending deadlines to mitigate the effects of the pandemic on students, Education should develop a robust process for tracking LEAs' spending of these funds. As part of this process, Education should do the following:

- Regularly assess LEAs spending data to identify those that may be in jeopardy of not spending all of their allocations before the deadlines. This assessment should include projecting LEAs future spending based on their spending patterns.

Education's Comments

- ① Concur. Education regularly assesses LEAs spending data to identify those that may be in jeopardy of not spending all of their allocations prior to the deadlines.

Specifically, Education reviewed all fund sources, based on LEA's spending rate, and projects the majority of LEAs spending double their share of the \$7 billion GEER, ESSER, General Fund, and Coronavirus Relief Fund by September 30, 2022. With the removal of LEAs that have spent \$0 in all 4 funds (approximately 30 closed charter schools and LEAs that never signed assurances), only 2 LEAs are projected to spend less than 80%, if spending rates remain constant.

- ② As such, Education will continue to track LEA spending data and rates based on the entirety of stimulus funding available to LEAs and will follow-up with LEAs as the deadline to expend funds approaches, which is currently more than a year away.
- Follow-up with identified LEAs to determine whether they have plans for spending all of their funds before the deadlines and whether these plans are reasonable.

Education's Comments

- ② Concur. As previously stated, Education will continue to follow-up with LEAs and offer technical assistance regarding expending funds appropriately and in a timely manner, as the deadline to expend funds approaches, which is currently more than a year away (September 30, 2022).
- Identify the best practices that have enabled some LEAs to spend their ESSER and GEER funds quickly and effectively. It should communicate those practices to all LEAs to help them maximize their use of these funds.

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Education's Comments

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Concur. Education will continue to provide technical assistance, best practices, and guidance to LEAs in assisting them with spending their ESSER and GEER funds appropriately and effectively. Specifically, Education hosted several webinars to share best practices and answer questions regarding allowable uses of funding. Additionally, Education's current FAQs, ESSER I Fund Frequently Asked Questions - Federal Stimulus Funding (CA Dept of Education), are updated regularly as new guidance is issued by the federal government.

Recommendation 3

To sufficiently monitor LEAs use of ESSER and GEER funds, Education should establish a policy that specifies at a minimum, the number of LEAs it will select for monitoring reviews, to obtain adequate assurance that LEAs are spending funds in accordance with requirements. Further, Education should follow the new policy to ensure that it selects the appropriate number of LEAs to monitor.

Education's Comments

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Do not concur. The United States Department of Education has reviewed and approved the risk assessment process that Education uses to direct its monitoring activities. In accordance with federal regulations, Education conducts yearly risk assessments of LEAs to ensure sufficient monitoring of federal funds, considering such factors as funding levels, program size, and compliance history to select LEAs for review. Education conducted 15 Federal Stimulus monitoring reviews of LEAs in 2020-21, which represented over 25% of ESSER I and GEER I funds allocated to LEAs in California. Based on the 2021-22 risk assessment, Education is conducting an additional 50 monitoring reviews of LEAs and their use of Federal Stimulus funds. Education will continue to use a yearly risk-based approach to identify where it should direct its monitoring resources. Furthermore, the Federal Program Monitoring process is just one of the monitoring tools Education uses to ensure proper accountability, compliance and performance of the ESSER and GEER programs. Education will continue to provide ongoing guidance, technical assistance, and training to LEAs to ensure they are properly utilizing Federal Stimulus funds, including reviewing requests for prior approvals, monitoring LEA spending and reporting, and conducting other oversight and monitoring activities consistent with *Title 2, Code of Federal Regulations, Section 200.332(e)*. Therefore, Education does not concur with the recommendation to create a new policy identifying a minimum number of LEAs for monitoring reviews.

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Recommendation 4

To ensure that it monitors LEAs that may be at higher risk of misinterpreting spending requirements, or misusing ESSER or GEER funds, Education should do the following:

- When selecting LEAs for monitoring, use the data that LEAs submit to identify those that have reported significant amounts of spending of ESSER funds in the category of “other” activities.

Education’s Comments

Do not concur. The United States Department of Education has reviewed and approved the risk assessment process that Education uses to direct its monitoring activities. When selecting LEAs for its Federal Stimulus monitoring, Education uses a variety of data to direct its monitoring efforts, including the information reported by LEAs on the expenditure of ESSER and GEER funds. Additionally, as part of the Federal Stimulus monitoring review, Education verifies that LEAs properly report ESSER and GEER expenditures. However, Education does not agree that reporting expenditures in the Other Activities category indicates that an LEA is using ESSER funds for inappropriate or unallowable purposes. The Other Activities category includes expenditures that are necessary for the LEA to: 1) maintain the operation and continuity of services; and 2) continue to employ existing staff. Since the Other Activities category includes salaries, a significant expense for LEAs, Education was not surprised with the amount of expenditures reported in this category. Furthermore, Education does not believe that this would be a useful risk factor in identifying LEAs for monitoring, as it does not indicate that an LEA is misusing funds.

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- As part of its monitoring, select and review transactions that LEAs have reported in the Other Activities category for the ESSER program, to determine whether the LEAs have used these funds for purposes allowed under federal law.

Education’s Comments

Do not concur. As part of its current monitoring procedures, Education selects and reviews a sample of ESSER expenditures from all categories to ensure that the LEAs are using the funds for appropriate purposes.

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Education does not agree that focusing on the Other Activities category is the best way to determine if LEAs are misusing ESSER funds; Education considers its current approach as the strongest in identifying unallowable expenditures and misuse of funds. Furthermore, Education believes that limiting our monitoring of expenditures to the Other Activities category, would redirect our resources and prevent us from fully meeting our federal oversight responsibilities.

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- If it finds that the LEAs it monitors have improperly categorized their spending and “other” activities, provide guidance to all LEAs to clarify the types of spending that they should include in this category.

Education’s Comments

Do not concur. Education does not concur with the CSA's determination that improperly categorizing spending indicates that LEAs are misusing federal stimulus funds. Again, Education believes that focusing our monitoring efforts on expenditures in the Other Activities category, would prevent us from fully meeting our federal oversight responsibilities. Nonetheless, Education will continue to monitor the reporting of ESSER and GEER expenditures and provide ongoing guidance, technical assistance and training to all LEAs on the appropriate use and reporting of ESSER and GEER funds.

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If you have any questions regarding Education's comments, please contact Tami Pierson, Interim Director, Audits and Investigations Division, by phone at 916-323-6797 or by email at tpierson@cde.ca.gov.

Sincerely,



Mary Nicely
Chief Deputy Superintendent of Public Instruction

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Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE CALIFORNIA DEPARTMENT OF EDUCATION

To provide clarity and perspective, we are commenting on Education's response to our audit. The numbers below correspond to the numbers we have placed in the margin of the department's response.

Although Education indicated that it concurs with our recommendation, its proposed actions are not consistent with those that we recommended. As we state on page 19, Education has not adequately assessed LEAs' spending data to identify those that are not on track to spend their allocations before the deadlines. In fact, Education did not provide us with any such analysis during our audit despite our requests that it do so. As such, we cannot confirm the validity of the spending projections that Education refers to in its response. However, we note that Education's claimed projections include allocations from the State's General Fund that had a spending deadline of June 2021 and all federal COVID-19 funds, including those from the CRF that had a spending deadline of May 2021. As we state on page 17, because of the earlier spending deadlines, LEAs prioritized spending their allocations from the State's General Fund and the CRF over ESSER and GEER funds. Further, by including the spending for these funds in its projections, Education overstates LEAs' ability to spend ESSER and GEER funds before their spending deadlines. As we recommend on page 25, we believe that it is more appropriate for Education to track and project spending for each program to identify LEAs that may be at risk of not spending all funds for that program.

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We are concerned that Education does not plan to take a more proactive and timely approach to ensuring that LEAs spend their ESSER I and GEER I funds before the deadline. As we discuss on pages 16 and 17, some LEAs spent less than 20 percent of their ESSER I and GEER I allocations as of June 30, 2021. At their current pace of spending, we project that as much as \$55 million in GEER I funds and more than \$100 million in ESSER I funds will revert to the federal government by the January 30, 2023, spending deadline. As a result, we believe Education must take steps now to ensure that LEAs spend funds effectively and expediently. In the absence of such timely actions, some LEAs may miss the opportunity to use these funds to address student and staff needs.

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- ③ Education misrepresents its current practice by stating that it identifies and provides best practices to LEAs to help them spend their ESSER and GEER funds appropriately and effectively. As we explain on page 11, the guidance Education has issued to LEAs has focused on compliance with ESSER and GEER requirements and not best practices. Education did not provide any evidence during the audit to demonstrate that it has identified and provided best practices to LEAs on how to quickly and effectively spend ESSER and GEER funds.
- ④ We disagree with Education's rationale for not establishing a policy that specifies the number of LEAs it will select for monitoring reviews. As we state on page 20, Education selected only 15, or less than 1 percent, of LEAs to monitor during fiscal year 2020–21. We acknowledge on page 21 that Education has increased the number of LEAs it plans to monitor in fiscal year 2021–22. However, we believe that establishing a policy that specifies the number of LEAs to monitor each year will help Education ensure that it consistently reviews an adequate number of LEAs to gain greater assurance that LEAs use ESSER and GEER funds appropriately. This policy is especially important considering that LEAs will receive additional—and in most cases, significantly larger—allocations of ESSER and GEER funds, generally starting in fiscal year 2021–22. Thus, we stand by our recommendation.
- ⑤ We are disappointed that Education does not believe LEAs' reporting of significant expenditures in the Other Activities category could be a useful criterion for informing its monitoring of LEAs for compliance with ESSER requirements. Education does not require LEAs to provide documentation to support the spending data they report. As a result, Education lacks assurance that LEAs actually use the Other Activities category for its intended purpose. As we describe on page 22, although LEAs may have appropriately included costs in this category, some LEAs' large amounts of reported spending in the Other Activities category may indicate that they are unaware of how to categorize their spending properly or that they are using ESSER I funds for unallowable purposes. As we describe on page 22, LEAs have a number of categories to report their expenditures in; however, as of June 30, 2021, LEAs had collectively reported 40 percent, or \$438 million, of their \$1.1 billion in ESSER I spending in the Other Activities category. In fact, as we describe on page 22, some of the items and activities that one LEA we contacted—Los Angeles Unified School District—included in the Other Activities category met the criteria for other distinct spending categories, such as purchase of cleaning supplies. As we state on page 22, miscategorized spending hinders Education's and U.S. ED's ability to accurately evaluate how LEAs are spending the funds and what results to expect from such spending.

Education mischaracterizes our recommendation. We do not recommend that Education limit its monitoring of expenditures to the Other Activities category. In fact, we recommend on page 25 that Education incorporate a selection and review of transactions that LEAs have reported in the Other Activities category as part of its existing monitoring efforts.

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