

Date: March 31, 2025

To: Association of State Executives

From: AASA Advocacy Team

Re: Changes to ESSER Late Liquidation policy

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On Friday, U.S. Secretary of Education Linda McMahon [sent a letter to States](#) informing them that their additional time to spend COVID relief money had run out. Specifically, the Department would no longer grant any reimbursement requests for planned ESSER expenditures by districts. “Extending deadlines for COVID-related grants, which are in fact taxpayer funds, years after the COVID pandemic ended is not consistent with the Department’s priorities and thus not a worthwhile exercise of its discretion.” Therefore, if districts were to continue providing contracted services, continuing construction projects or spending down funds for ESSER projects, they would risk doing so without any reimbursement from the U.S. Department of Education.

Interestingly, the Department acknowledged they would run a separate “approval process” on a project-by-project basis that could allow some districts to be approved for additional time but only if the State forwards their requests and participates in the alternative process. To obtain an extension, the State would need to submit a statement explaining (1) how a particular project’s extension is necessary to mitigate the effects of COVID on American students’ education, and (2) why the Department should exercise its discretion to grant their request.

As [recently as February](#), the department told 41 states and the District of Columbia they had another year to spend down the rest of the \$122 billion for schools awarded in the 2021 [American Rescue Plan](#). Some states are looking at tens of millions of dollars of planned district projects that will no longer be reimbursed. The latest drawdown information as to the funding that districts will not be reimbursed for is available [here](#).

Congressional offices are eager to hear from districts that were counting on the reimbursement. Several stories [like this one](#) recount how districts planned to spend these dollars and will now be forced to stop their programs and contracted services.

We have been made aware that several State Attorneys Generals are discussing filing litigation against the U.S. Department of Education’s change in policy and feel confident that they are on strong legal ground to argue that their letter is “arbitrary and capricious.”

For the moment this is what districts that were expecting to exercise late liquidation flexibility must decide:

1. Whether to stop their contracted services today and for the remainder of the year/timeline allocated and assume no more reimbursement from the Department.
2. Whether to stop their contracted services today and hope that the Department of Education is found to have illegally acted and they will be able to resume contracted services post-litigation.
3. Whether to continue their contracted service while litigation advances in the hopes that it will be reimbursable post-litigation.
4. Whether to continue their contracted services and plan to pay for their these services with local funds.
5. Whether to urge their State to apply for a special extension and continue their contracted projects in the interim.
6. Whether to urge their State to appl for a special extension and stop their contracted projects in the interim.

We realize this is a confusing issue and encourage districts to contact AASA directly with their questions.