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November 29, 2021

Ms. Juliana Pearson
Strategic Collections and Clearance, Governance and Strategy Division
Office of the Chief Data Officer
U.S. Department of Education
400 Maryland Ave. SW, LBJ, Room 6W208D
Washington, DC 20202-8240

RE: Docket ID Number ED-2021-SCC-0096 (Education Stabilization Fund-Elementary and Secondary School Emergency Relief Fund (ESSER I/ESSER II/ARP ESSER Fund) Recipient Data Collection Form)

Dear Ms. Pearson,

I am writing to provide the comments of the New York State Education Department (NYSED) on the United States Department of Education's (USDE) proposed Elementary and Secondary School Emergency Relief (ESSER) Fund Recipient Data Collection Form.

NYSED shares USDE's belief that the administration of ESSER funds in a manner that ensures timely deployment of resources to Local Education Agencies (LEAs) in a transparent manner is crucial. Further, NYSED believes that effective data collection should help facilitate effective practice sharing and contribute towards accountability towards ESSER goals.

However, NYSED believes that data collection should not be onerous or overly broad, which could divert attention and resources away from supporting students. The proposed data collection form, as currently constructed, will create a significant burden on schools, districts, and State Educational Agencies (SEAs). Much of the requested data is not feasible to collect in the short term, as current systems for data collection and reporting either do not gather the data requested or do not do so in the manner requested. Additionally, several of the proposed data collection elements go beyond the scope of the underlying legislation, such as the elements that focus on allocations to specific schools – in particular, the requirement to provide the per pupil allocation of ESSER funds to high-poverty schools and non-high poverty schools – or how SEA reserve funds are allocated to students most impacted by the COVID-19 pandemic. Finally, some of the proposed questions could be misinterpreted as imposing spending limits on available funds.

Specific comments from NYSED are provided below in two sections:

- In Section 1, NYSED addresses the specific topics for which USDE has indicated it would like to obtain input from data submitters and stakeholders. In this section, NYSED has included the Directed Question raised by USDE and the NYSED's response to each of those questions.
- In Section 2, NYSED provides recommendations to address specific issues and areas of concern related to USDE's proposed ESSER Fund Recipient Data Collection Form.

1. Elementary and Secondary School Emergency Relief Fund (ESSER I, ESSER II, and ARP ESSER) Data Collection Form: Directed Questions

Directed Question 1:

Is this collection necessary to the proper functions of the Department?

NYSED Response:

ESSER funds were not designed to create new data systems but rather to create programs and supports for students impacted by the pandemic. NYSED does not collect data on the use of funds categories the Department is requesting, and the proposed data collection will result in a significant burden for NYSED to create a data reporting system to collect this information and for LEAs to interpret and report.

Much of the requested data is not feasible to collect in the short term, as current systems for data collection and reporting either do not gather the data requested or do not do so in the manner requested.

The USDE proposed data collection document comprises 38 pages of over 200 extremely detailed data elements that would be required to be separately reported for each of New York State's approximately 1,000 local educational agencies (LEAs), for each of the three tranches of federal COVID education response funding – the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act and the American Rescue Plan (ARP) Act.

Directed Question 2:

Will this information be processed and used in a timely manner?

NYSED Response:

There are multiple data requests for the planned uses of remaining funds that will not result in meaningful data due to the many factors that will dictate how the funding will ultimately be spent. The planned uses requests will also be burdensome for the LEAs and is unnecessary based on the proposed reporting periods that include actual expenditure data on an annual basis.

Directed Question 3:

Is the estimate of burden accurate?

NYSED Response:

The Data Collection Form will pose a significant reporting burden on LEAs and SEAs that will be well above the estimated 140 hours due to the number of data elements and the timing of such requests. The proposed reporting categories are not from the CARES, CRRSA, or ARP statutes but rather are USDE developed categories proposed twenty months after ESSER was first enacted. NYSED and our LEAs have not been tracking spending this way – rather, we have been using existing grants management and accounting systems to administer ESSER funds. Under the USDE proposal, SEAs and LEAs will have to attempt to retroactively assign spending to these new USDE developed categories, which, if even possible, will be a lengthy and burdensome process.

Directed Question 4:

How might the Department enhance the quality, utility, and clarity of the information to be collected?

NYSED Response:

Many activities will cross spending categories that will require SEAs and LEAs to subjectively decide where to report certain expenditures within the proposed data collection tool. The proposed reporting periods align to the federal fiscal year, which is not the same as New York's fiscal year or the NYSED grant cycle for education funds. LEAs can move eligible costs within open grant periods and CARES, CRRSA, and ARP ESSER funds can all be used for the same expenses. The data will not be current by the time the report is filed several months later and might not provide an accurate spending picture. We hope the Department will help to explain this to auditors, reporters and stakeholders, so they understand what the report does and does not show.

Directed Question 5:

How might the Department minimize the burden of this collection on the respondents, including through the use of information technology?

NYSED Response:

Eliminate the data elements that are outside the scope of the CARES, CRRSA and ARP statutes, eliminate the data requests for the planned uses of remaining funds and eliminate the redundancy within the data request form where multiple tables are requesting the same or very similar information. Ideally, the data reporting requirements would be reduced to the minimum required to be reported to demonstrate compliance with the underlying legislation.

2. Education Stabilization Fund- Elementary and Secondary School Emergency Relief Fund (ESSER I/ESSER II/ARP ESSER Fund) Recipient Data Collection Form

The following issues with the proposed data collection form should be addressed to ensure that SEAs and LEAs are able to provide USDE with required data needed to oversee the use of ESSER funds, spend the appropriate amount of time to prepare the submission, and remain focused on best supporting students:

Annual Reporting Timeline

Recommendation: NYSED recommends that USDE revise the annual reporting timeline. NYSED cannot publish a tool to the field to collect this data until final rules are developed. NYSED strongly encourages USDE to provide states with the final data collection form no less than 4 months from the due date. If SEAs are not able to obtain the final data form requirements quickly, NYSED asks that USDE extend the due date.

Section 2 - ESSER SEA Reserve

- Subsection 2: ESSER I, ESSER II and ARP ESSER SEA Reserve

Recommendation: NYSED recommends that USDE eliminate the requirement to separately report the ESSER I and ESSER II SEA reserve award data from the mandatory subgrant data. This will be

confusing for LEAs who may not be aware of the degree to which their allocation under each respective program is from the SEA reserve or the mandatory subgrants and will be burdensome for LEAs to separate after the fact.

- Subsections 2.5b, 2.5c, 2.5e, and 2.5f

Recommendation: NYSED recommends using narrative responses to address the “Other” uses of funds that currently require entry into a tabular format to provide clarity.

Section 3- Mandatory Subgrants to LEAs

- Subsection B – ESSER Mandatory Subgrants to LEAs – Use of Funds Detail

Recommendation: To avoid confusion, NYSED recommends that the format be consistent and modeled after the application used in 3.b2 ESSER Funds to Provide Internet Access. The current Form has many inconsistent data request formats, including tabular entries by LEA with detailed expenditure data by specific funding type; general requests where no expenditure data is required; and uncertainty of need for specific LEA response due to a lack of tabular format.

- Subsection C – LEA Equitable Allocation to Title I Schools

Recommendation: NYSED recommends that this entire section be eliminated. As stated in the instructions of the 3.c data request, this information is beyond the scope of the statutory requirements to allocate ESSER funds and is also redundant to the Maintenance of Equity reporting requirements that are separate from this data collection tool. The language for questions b-e requests information regarding the “average amount expended per pupil at or on behalf of” students at various schools. It is unclear how “per pupil at or on behalf of” is defined. Many types of district-level activities benefit individual schools, and it is unclear how USDE expects LEAs to derive school-level per pupil expenditure numbers in this section.

- Subsection D – ESSER Mandatory Subgrants to LEAs, 20% Reserve to Address Impact of Lost Instructional Time (“Learning Loss”)

Recommendation: The 20% set-aside requirement only applies to ARP ESSER funds, but the form is not clear if recipients are to report CARES, CRRSA, and ARP ESSER expenditures into a single response, or if only ARP ESSER expenditures are to be reported. This will cause confusion among SEAs and LEAs when they report this information since all other data prompts in this document are disaggregated by funding stream. It is also unclear if this information is being requested per LEA and therefore should be in a tabular format. NYSED recommends that this question be clarified.

- Subsection E – Overall ESSER Expenditures

Recommendation: This section includes data collection tables that are redundant to the information and data already requested by the USDE in Subsection B and are outside the scope of the statute. Therefore, NYSED recommends that this question be removed.

Section 4 - Equitable Support for Learning Recovery and/or Acceleration

- Subsection B: Equitable Support for Learning Recovery: Activities by Subpopulations

Recommendation: While the instructions include all ESSER funding, the reporting is only being

requested for annual ARP ESSER performance reporting. This will cause confusion among SEAs and LEAs when they report this information since all other data prompts in this document are disaggregated by funding stream. It is also unclear which school year(s) this request is related to which would need to be defined for LEAs. The current table has two sections (g. Mental health services and supports and h. Social emotional learning training for staff) that do not follow consistent formatting as the rest of the table. This is likely to cause confusion and incomplete or incorrect data reporting. NYSED recommends this data request be modified to address the issues noted and simplified to eliminate the extensive detail that LEAs will need to report.

- Subsection C. Equitable Access to Key Staff, SY 2020-21

Recommendation: It appears that this section is outside the scope of ESSER requirements and will likely create significant burden to LEAs. Access to key staff members, while vitally important to providing students with appropriate supports, is not a statutory requirement under any of the programs, nor was it addressed in ARP-ESSER state plans. Therefore, NYSED recommends that these questions be removed.

Section 5- Full-Time Equivalent (FTE) Positions


Recommendation: NYSED does not collect the requested data for the specified reporting dates in this question. NYSED does not have the capacity to change the date of data collection. Therefore, NYSED recommends that this question be reworded to allow for SEAs to utilize data systems currently in place to use in reporting this data.

Burden Statement

Recommendation: The public reporting burden for this collection of information was estimated by the USDE to average 140 hours per SEA Response and 140 hours per LEA. We find that this estimate is not realistic and that, given the large number of questions and level of detail requested, completing this data reporting requirement will consume significantly more time. This requirement will detract from LEA and SEA efforts to support students and NYSED urges the USDE to scale back these data reporting requirements.

Thank you for the opportunity to provide comments on the ESSER Recipient Data Collection Form. We look forward to your revisions.

Sincerely,



Phyllis D. Morris
Chief Financial Officer