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November 29, 2021

**RE: Elementary and Secondary School Emergency Relief Fund Recipient Data  
Collection Form**

**Docket No.: ED–2021–SCC–0096**

PRA Coordinator of the Strategic Collections and

Clearance Governance and Strategy Division

U.S. Department of Education

400 Maryland Ave. SW

LBJ, Room 6W208D

Washington, DC 20202-8240

The Council of the Great City Schools, the coalition of the nation's largest central city school districts, submits comments in opposition to the Education Department's massive new ESSER data collection proposed in the October 29, 2021, Federal Register, revising the Department's July 2, 2021 initial ESSER data collection proposal. As highlighted in numerous public comments by state and local educational agencies on the initial July 2<sup>nd</sup> ESSER data collection, as well as the October 5<sup>th</sup> Maintenance of Equity data collection proposals, much of this data is not currently available, collected, or aggregated for a large segment of the nation's schools and school districts. Yet, the Department continues to move forward with data demands that are disconnected from the actual school operations.

**Two Million Hours of State and Local Staff Burden**

The Council is extremely concerned with 2 million hours of additional staff burden being proposed in this revised ESSER data collection. The Council and other K-12 entities continue to point out that estimates of federal requirement burdens are frequently understated. The newly proposed LEA-level staff burden that increases from 5 hours for the initial ESSER data collection to 140 estimated hours for the revised data collection – a 2700 percent increase – is operationally overwhelming. Instead of just over a half day of staff time previously required for the July 2<sup>nd</sup> collection, the proposed ESSER revised data demands would consume three and a half (3 ½) weeks of staff time for every school district in the nation. For SEAs, the staff time burden would jump from 10 hours to 140 hours – a 1350 percent burden increase for SEA staff.

**Much of the New Data Burden is Imposed by Agency Discretion**

The Department's Supporting Statement acknowledges that at least half of the new data collection burden (988,860 hours) is based on "agency discretion" (Supporting Statement page 9). This stands in sharp contrast to the state and local data reporting and dissemination in the recent Every Student Succeeds Act [ESEA section 1111(h)] which enumerates and restricts the data sets with specific statutory authority. The Council remains puzzled why the Department is not similarly concerned about the additional staff burden they are proposing for already overextended school districts and states. In short, this data collection amasses a vast amount of K-12 information that the Department clearly would like to gather and analyze but is not required to collect.

### \$95 Million in Additional Federally Imposed Costs on SEAs and LEAs

The cost estimate for this federally imposed data collection is \$95 million. This added cost for school districts is particularly troubling as schools struggle with staff shortages, continuing COVID-related costs, learning deficits, and social/emotional issues resulting from the pandemic and return to in-person schooling. Moreover, public school districts have experienced a decline in enrollment due to the pandemic, and this additional financial burden will strain district budgets -- alleviating constraints on district budgets should be a priority.

### Disconnected from the Reality of School Operations

While the U.S. Department of Education is imposing this additional federal paperwork and reporting, school districts are struggling to maintain health and safety protocols, recoup learning losses, address social readjustment to the learning environment, respond to staff shortages and burnout, and strategically redeploy administrative, central office, and instructional staff across uncovered classrooms, lunchrooms, and other operational areas. School districts are taking unusual steps to provide additional paid leave for staff; expand teacher planning time; eliminate central office-imposed administrative tasks and reporting; reduce the number of meetings, required training sessions, and non-academic duties; and curtail new programs and curricular initiatives. These local staffing-related actions are designed to allow a greater focus on instruction and support services needed by students and lessen staff workloads and personnel turnover in the continuing pandemic environment. Unfortunately, the Education Department is proceeding in the opposite direction with this and other massive national data collection mandates. Again, the Department appears unusually disconnected from actual school operations.

### Unavailable Data Being Required

Numerous comments from state and local educational agencies on the July 2<sup>nd</sup> initial ESSER data collection and the October 5<sup>th</sup> Maintenance of Equity data collection and reporting requirements explain that many of the proposed data sets are not currently available, collected, or aggregated across many states, school districts, and schools.

These prior public comments from SEAs and LEAs exemplify the practical problems with the previous ESSER initial federal data demands, including:

- Inability to track school-level data in the detail and in the categories being proposed;
- Failure to align the proposed data collection and reporting categories with existing state and local expenditure codes;
- Inability to effectively categorize the vast range of allowable ESSER expenditures (15 enumerated use of funds as well as cross- references to four other federal K-12 statutory authorities);
- Lack of school-level data by student or subgroup;
- Lack of school-level data by student for specific program activities (e.g., high dose tutoring);
- ESSER school-level expenditures not tracked to high poverty schools;
- School-level staffing data, including hiring and retention, not collected;
- Access to specific categories of staff not collected;
- Lack of clarity on how to categorize or allocate IT and support services expenditures indirectly connected to learning loss interventions.

And now under this revised ESSER data collection, major new data requirements will exacerbate state and local data collection burdens with a substantial increase in the number of data items, including for the newly required MoEq school-level per pupil expenditures; participant counts disaggregated by activity and intervention; school-level allocations for high poverty and non-high poverty schools; school staffing by special job categories with FTE detail; correlations with the impact of COVID; and correlations with ESEA allocations to Title I eligible schools and non-Title I schools (Supporting Statement page 9). The Department's acknowledgement that components of proposed ESSER data for the initial reporting year would be deferred until the second reporting year is of limited help, given the full scope of this new 2-million-hour federal data mandate.

Tracking, Collecting, and Reporting Student-Level Data on ESSER-funded Services Received by 10 Demographic Characteristics is Unrealistic. SEAs and LEAs do not generally track specific type of services received by individual students through ESSER funds or for most other federal education funds by student subgroups. While some federal programs with specified eligible criteria (e.g., ESEA Title III – ELLs, IDEA – students with disabilities, McKinney-Vento – homeless, etc.) targeted a specific demographic group, they often do not break out multiple other demographic characteristics. Yet some proposed ESSER survey questions require the data by a minimum of 10 specific demographic groups to be tracked and reported. Unless a particular program activity is purposefully targeted to a particular group of students, for example, recoupment services for certain students with disabilities or after-school enrichment at a specific homeless shelter, detailed demographic information would typically not be available by subgroup. Further, school district data systems also are not set up to disaggregate numbers of students across 10 subgroups using technology purchased with ESSER funds (see ESSER Reporting Form Section 4, Subsection B, vvv). These new federal demands would require most every school district in the nation to create new data systems capable of disaggregated reporting. All such data sets should be eliminated from the revised ESSER data collection, except in cases where program activities are specifically designed to target distinct subgroups.

School Districts Do Not Determine Which Demographic Groups Are Disproportionately Affected by COVID-19

Despite the statutory 20% learning loss set-aside in the ESSER authorization stating that LEAs must ensure that the needs of student subgroups disproportionately affected by COVID-19 are addressed through evidenced-based intervention, LEAs generally do not determine the health status or risk profiles of population subgroups within their jurisdiction. Such determinations are made by state and local health authorities and have little practical relationship to individual student-level instructional and support services decisions in schools. The COVID impact questions in the proposed data collection, therefore, provide little operationally relevant information about learning loss or which students are targeted for specific interventions. In the alternative, the Department could use national CDC information to identify which population subgroups will be deemed to be disproportionately affected by COVID for ESSER purposes -- with the caveat that LEAs could add other populations groups from their community if warranted. All such data sets, including narrative descriptions, should be revised and streamlined to reflect such a CDC-based national subgroup COVID determination.

25 Categories of ESSER Expenditures Do Not Align Existing Data Collection Expenditure Categories for SEAs and LEAs. SEAs and LEAs would have to establish entirely new tracking and reporting systems to comply with the revised ESSER data collection requirements and its 25 expenditure categories. Any categorization across the 25 frequently overlapping expenditure categories will be imprecise at best. The three broad categories of expenditure (Physical Health and Safety; Academic, Social-Emotional and Mental Health; and Operational Continuity and Other Allowable Uses) provide a more appropriate and workable categorization.

SEAs and LEAs Generally Do Not Track Expenditures and Staffing by Job Category. In its response to comments on the July 2<sup>nd</sup> ESSER data collection, the Department acknowledges that detailed staffing data is not collected by many school districts and states. The Department, therefore, decided not to require such data in year one. Nonetheless ignoring the limited availability of such staffing data, the Department has decided to require this ESSER data for year two and beyond, in addition to the staffing data sets required in the October 5<sup>th</sup> MoEq proposed data collection.

Data Reporting Based on Title I School Eligibility is Not Required in the CARES, CRRSA, or ARP Emergency Legislation and is an Unnecessary Data Requirement

The ESSER statutes do not require allocations to be made to individual schools or categories, including Title I schools. Similarly, there is nothing in these COVID-related legislative measures that references any overlap between ESSER funding and Title I funding. The Title I data sets proposed by the Department are unrelated and not relevant to ESSER purposes. Requiring collection and reporting of ESSER expenditures per pupil in Title I schoolwide program schools, Title I Targeted Assistance Schools, Title I eligible-but-not-participating schools, and Non-Title I Schools is clearly unnecessary and excessive. All such data sets should be eliminated.

Backtracking Expenditures of CARES, CRRSA, and ARP Funds to New Data Reporting Categories is Unrealistic

Much of the CARES and CRRSA funds have been expended in prior state and local fiscal years and have been reported based on prior requirements and expenditure codes. Some expenditures go back as far as three fiscal years ago. Requiring the reporting of data from prior fiscal years in new data sets is time consuming, costly, unwarranted, and in some instances impossible. Requesting LEA FTE staffing data back to SY 2017-18 appears similarly unnecessary. Such data sets should be eliminated, or alternatively allowing an “unavailable” response.

Broad-based Narrative Questions and Responses are of Little Practical Use

Except in instances where a narrative explanation describes an “other” response, a 3000-character narrative description from every school district in the nation will likely provide little useful information on most ESSER activities. As previously stated, local data is generally not broken out by the multiple subgroups of students receiving services, so any narrative will be broad, imprecise, and oversimplified. Adding the additional factor of “disproportionate impact of COVID-19” adds even further generalization. Virtually all such narrative responses should be eliminated.

Inadequate Justification for Costly Data Collection.

The Department repeated justifications for its 2 million hours of data collection are inadequate and unavailing. The justifications cite a need for federal program monitoring and compliance,

public information and transparency, as well as addressing the impact of the COVID-19 virus on students and schools (Supporting Statement pages 2 and 3). However, state monitoring protocols for compliance with federal programs are already in place, in addition to single audit requirements. States have been monitoring compliance with emergency COVID legislation since March of 2020. This newly revised “2-million-hour” data collection is unlikely to produce any better compliance than processes in place since 2020. And the wide range of allowable expenditures make any noncompliance unlikely at best. Local expenditure decisions will be dictated by changing local-level needs for health and safety expenditures and learning and support services – not after-the-fact federal reports or publications.

The Department further suggests that the data collection and public posting of voluminous school-by-school expenditure and staff information is necessary public information on the allocation and use of funds. However, the proposed data requests go far beyond the allocation and use of ESSER funds into other school district expenditures and school-by-school staffing determinations. And only an infinitesimal proportion of parents and families will ever access the proposed data sets or even differentiate this information from multiple other data indicators that similarly are reported publicly. Moreover, the attempt to tie ESSER activities to the disproportionate COVID impact upon differing demographic groups is generalized and imprecise.

These ESSER data justifications also appear to mask the Department’s attempt to create a massive school-level data base on school expenditures and staffing across some 90,000 public schools, which would be primarily used by Education Department analysts, advocacy groups, and social science researchers -- absent any statutory authority to do so. Such excessive data collection efforts have been proposed and rejected by Congress as recently as the 2015 ESSA authorization.

The Council further notes that similar data is collected under the CRDC initiative of OCR or by NCES, raising questions about the need for many of the revised data sets. The Council disagrees with any suggestion that the 2-million-hour data burden for schools, school districts, and state agencies is outweighed by the benefit of public information and transparency.

#### In sum

Multiple commenters will undoubtedly detail the unavailability and technical problems at the school-, district-, and state levels resulting from the October 29<sup>th</sup> ESSER revision data collection proposal. The Council again underscores the 2-million-hour staff burden at the school, district, and state level from this unprecedented expansion of federal K-12 data collection, as the nation’s public school systems try to emerge from the vestiges of the pandemic.

The Council and other comments raised identical issues in the July 2<sup>nd</sup> proposed ESSER data collection and again in the October 5<sup>th</sup> proposed data requirements and request for information pertaining to ARP maintenance of equity provisions. The Department’s unresponsiveness to prior public comments on similar data collection proposals remains troubling.

Finally, the Department cites purported authority for this data collection based on the Secretary’s general authority to establish rules and regulations for administration, management, and operational purposes, and to collect data to determine program effectiveness [20 USC 1221e-3,

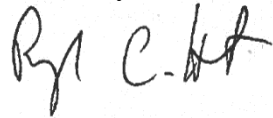
1231a, and 3474 – see Supporting Statement page 2]. Yet most of the required data sets do not address program effectiveness and are not regulatory in nature. The Department refers to separate data collection authority from each of the COVID legislative measures (Supporting Statement page 2) but fails to cite the actual statutory authority. Two million hours of federally mandated state and local data collection should have a solid foundation in statute, which this data collection does not.

Recommendations:

- The Department should withdraw this data collection proposal, and if necessary, propose a significantly scaled-back ESSER data request for new public comment.
- In the alternative, the Council recommends that the Department contract for an ESSER Program Evaluation examining the use of ESSER funds across a small cross-section of SEAs and LEAs.

Please contact the Council if there are questions regarding these comments at [rhart@cgcs.org](mailto:rhart@cgcs.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Ray C. Hart", with a stylized flourish at the end.

Raymond Hart  
Executive Director