

SUBCOMMITTEE NO. 1

Agenda

Senator John Laird, Chair
Senator Dave Min
Senator Rosilicie Ochoa Bogh



Wednesday, May 5th, 2021
9:00 a.m. State Capitol - Room 3191

Consultant: Elisa Wynne

AGENDA

<u>Item</u>	<u>Department</u>	<u>Page</u>
6100	Department of Education	
Issue 1	School Nutrition Priorities and Options	2
Issue 2	Statewide Student Assessments	7
Issue 3	State Operations	12
Issue 4	Education Funds under the American Rescue Plan	14
	Public Comment	

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6100 DEPARTMENT OF EDUCATION**Issue 1: School Nutrition Priorities and Options****Panel:**

- Sara Cortez, Legislative Analyst's Office
- Elly Garner, Department of Education
- Kim Frinzell, Department of Education
- Deborah Ortiz, Classified Food Service Employee, Roseville City School District
- Jennifer LeBarre, Executive Director, Student Nutrition Services, San Francisco Unified School District
- Andrew Cheyne, Director of Government Affairs, California Association of Food Banks,

Background:**School Nutrition Programs (SNP)**

Local Educational Agencies are required to provide meals to students who are eligible for free and reduced price meals under California's education code.

Education Code Section 49550 requires school districts and county offices of education (COE) to provide nutritionally adequate meals to pupils who are eligible for free and reduced-price (F/RP) meals every school day. Education Code Section 47613.5 extends this requirement to charter schools. Charter schools offering nonclassroom-based instruction must also offer at least one nutritionally adequate meal for eligible pupils on any school day that the pupil is scheduled for educational activities lasting two or more hours at a school site, resource center, meeting space, or other satellite facility operated by the charter school.

Section 34 of the 2020 Budget Act established Education Code Section 43503 that adds distance learning as an instructional model and requires school districts, COEs, and charter schools to provide nutritionally adequate meals for eligible pupils during schooldays in which those pupils participate in distance learning. This requirement allows flexibility in how food is distributed as long as students eligible for F/RP meals have access to a nutritionally adequate meal during each school day.

A nutritionally adequate meal (breakfast and lunch) must meet the federal meal pattern requirements and qualify for federal reimbursements.

Types of Meal Programs

The California Department of Education (CDE) administers school meal programs overseen by the United States Department of Agriculture (USDA). The main programs are as follows:

National School Lunch Program (NSLP) – The National School Lunch Program is a federally funded program that assists schools and other agencies in providing nutritious lunches to children at reasonable prices. In addition to financial assistance, the program provides donated commodity foods to help reduce lunch program costs. The National School Lunch Program is operated on a

reimbursement basis, with agencies paid on the number of meals served. Agencies that participate in the program are reimbursed from two sources: the USDA and the State of California. State reimbursement is paid for all free and reduced price meals. Federal reimbursement is paid for all free, reduced price, and paid meals. The National School Lunch Program (NSLP) also offers reimbursement to schools serving nutritious snacks to children participating in after-school care programs.

School Breakfast Program – Local Educational Agencies may also choose to participate in the School Breakfast Program. The School Breakfast Program is a federally funded USDA program which assists schools and other agencies in providing nutritious breakfasts to children at reasonable prices. Similar to the National School Lunch program, the School Breakfast Program must be open to all enrolled children. If a child already qualifies for free or reduced-price lunches, then the child would also qualify for free or reduced-price breakfasts. The School Breakfast Program is operated on a reimbursement basis, with agencies paid on the number of meals served multiplied by the appropriate reimbursement rate. State reimbursement is paid for all free and reduced price meals. School sites may qualify for higher reimbursement rates if they are designated to be in severe need (if, two years prior, 40 percent or more of the lunches served at the site were free or reduced-price). Sites must annually re-establish their eligibility for the Severe Need Breakfast Reimbursement.

Summer Food Service Program - The Summer Food Service Program (SFSP) is a U.S. Department of Agriculture (USDA) federally funded program that reimburses sponsors for administrative and operational costs to provide meals for children 18 years of age and younger during periods when they are out of school for fifteen (15) or more consecutive school days. Sponsors may operate the SFSP at one or more sites, which are the actual locations where meals are served and children eat in a supervised setting. Eligible sites are those that serve children in low-income areas or those that serve specific groups of low-income children. Sponsors must provide documentation that proposed sites meet the income eligibility criteria required by law. There are three common types of sites: open sites, camps (residential and nonresidential), and closed enrolled sites.

Open sites are meal sites where meals are available to any child from the community. Open sites are located in needy areas where 50 percent or more of the children residing in the area are eligible for free or reduced-price (F/RP) school meals, enrollment in a program is not required. Meals are made available to all children in the area on a first-come, first-serve basis. Camp sites are those that offer regularly scheduled food service along with organized activities for enrolled residential or day campers. The camp receives reimbursement only for meals served to enrolled children who qualify for F/RP meals. Closed sited are open only to enrolled children or to an identified group of children, as opposed to the community at large. Closed enrolled sites must also establish their eligibility through the individual income eligibility of the children attending the site.

LEAs may also choose to operate a Seamless Summer Option through the National School Lunch (NSLP) or School Breakfast Programs (SBP). School Food Authorities (SFA) follow the same meal service rules and claiming procedures used during the regular school year. Meals served are reimbursed at the NSLP and/or SBP “free” rates.

Eligibility:

Under federal USDA school meal programs, all school-aged children in income-eligible households are eligible for school meal benefits regardless of a child’s immigration status. The family-size income levels are prescribed annually by the Secretary of Agriculture for determining eligibility for free and

reduced price meals and free milk. The free guidelines are 130 percent of the Federal poverty guidelines. The reduced price guidelines are 185 percent of the Federal poverty guidelines.

LEAs may identify eligible children in a few different ways. They must notify all families of free and reduced price meals and provide applications for families to complete. In addition, LEAs may directly certify student eligibility by using information from other means-tested programs, including Supplemental Nutrition Assistance Program (SNAP) and Temporary Assistance for Needy Families (TANF) or by determining that a child is eligible due to identification as homeless, runaway, migrant, or foster child, or enrollment in federal Head Start or comparable state program. LEAs must provide households with notification of direct certification or provide an application.

Community Eligibility Provision (CEP) - The CEP was implemented by the Healthy, Hunger-Free Kids Act of 2010. The CEP allows high-poverty schools to eliminate the administrative burden of school meal applications and still serve breakfast and lunch at no charge to all students. Schools that have implemented the CEP have experienced striking increases in school meal participation, and many reported improved attendance. The CDE highly encourages participation in the CEP for a school or group of schools with an Identified Student Percentage (ISP) over 40 percent, and can include directly certified children.

Identification of children for free and reduced price meals is also important as the data is used as a proxy for low income in the state's school funding formula, the Local Control Funding Formula (LCFF) and generates additional education funding.

Related School Nutrition Legislation:

The Child Hunger Prevention and Fair Treatment Act (**SB 250, Hertzberg, Ch. 726, Stats. 2017**) and its subsequent amendments (**Hertzberg, Ch. 785, Stats. 2019**) required that all LEAs serve all students a fully reimbursable meal, whether or not they brought money to school that day. This was only a change as it relates to students who are not enrolled in free or reduced-price meals, as existing law already required LEAs to provide meals to reduced-price students regardless of whether they brought money that day. After the Child Hunger Prevention and Fair Treatment Act of 2017, LEAs are required to serve students and are responsible for the full price of the meal, regardless of whether their parents pay –or ever pay. This resulted in some LEAs generating debt in nutrition programs that was not collectible and is absorbed by the LEAs' operating budgets.

In addition, pending legislation, **SB 364 (Skinner)** proposes:

- (1) Commencing with the 2022–23 school year and contingent upon an appropriation, require school districts, county offices of education, and charter schools to provide two free school meals each schoolday, regardless of the pupil's eligibility for free or reduced-price meals;
- (2) require the CDE to administer a noncompetitive grant to LEAs to cover costs incurred by those agencies in purchasing food produced or grown in California;
- (3) require the CDE to award grants of up \$30,000 per schoolsite every year on a competitive basis to school districts, county superintendents of schools, or entities approved by the CDE for nonrecurring expenses incurred, in order to increase the number of meals that can be prepared freshly and served to pupils; and

(4) establish the BOOST Nutrition EBT Program to prevent child hunger during regularly scheduled school breaks or any school campus closure caused by a declared state of emergency.

COVID -19 Related Changes during the 2020-21 Fiscal Year

Typically an LEA must operate under specific rules related to the meal programs they are participating in to receive reimbursement. This means that during the school year, LEAs participating in school meals program provide meals at specified times, sites, and settings. During the summer, when school is out of session, LEAs may continue to participate in meal programs that allow for more flexibility in the methods of food distribution as described above. During the current pandemic, the USDA has issued nationwide waivers, that now extend through June 30, 2021, to allow non-congregate feeding and meal service time flexibility during the school year, consistent with flexibilities typically allowable under summer meal programs.

As reimbursement based programs, school meal programs rely on the scale of meals served to generate revenues to cover program costs, food, labor, and equipment/operations. During the initial shut down of schools starting in mid-March 2020, LEAs reported significant drops in meals served as they struggled to adjust to serving meals to students in new formats. Many LEAs began to serve more meals during the summer and into the fall, but most have not reached the levels served during the regular school year in 2019-20.

In response to the concerns that LEAs' nutrition programs were struggling to cover costs, the 2020-21 budget provides \$192 million in one-time Federal Elementary and Secondary Schools Emergency Relief for LEA school meal reimbursements during summer break and COVID-19 school closures through August 30, 2020, at a rate of up to an additional 75 cents per meal. It also allowed state reimbursement funds from 2019-20 to be used for disaster relief for LEAs who did, or attempted to, serve student meals during the school closure period.

More recently, on January 26, 2021, the USDA released a policy memo announcing a special emergency reimbursement funding for Child Nutrition Programs for March- June 2020. The intent of this funding is to help address lost meal reimbursement and increased operational costs due to COVID-19. Funding will be based on a specific formula that accounts for the difference in meal claims in March, April, May and June 2019 compared to the same months in 2020. The difference in meals served is then multiplied by 55 cents to determine the reimbursement amount for each eligible sponsor. Once USDA approved a state plan for the funds (due April 2021) reimbursement funds will be allocated to the CDE to distribute. The USDA expects state agencies to begin releasing the funding by June 2021. CDE notes that while these funds will provide some relief to LEAs, they only cover costs through June 2020 and not the remainder of the pandemic.

Recent 2021-22 School Year Federal Waivers:

Recently the USDA released additional school nutrition related waivers for the summer of 2021 and the 2021-22 school year.

- Allows for a waiver to allow schools to operate the National School Lunch Program Seamless Summer Option (SSO) when school is open during the regular school year, through June 30, 2022. This would mean that an LEA would be able to provide lunches to students regardless of eligibility status, eliminating the need for fee collections, and allow flexibility is where meals

are served, including in smaller and outdoor settings. In addition, the federal reimbursement rate under the SSO is higher than that of the NSLP. Without this waiver, LEAs would be eligible to use the SSO only during breaks or summer recess.

Essentially in 2021-22, this new waiver allows for LEAs participating in the NSLP program to offer meals to all students regardless of income eligibility and receive federal reimbursement at the free rate. Under current law, the state would continue to provide an additional state reimbursement rate for the free and reduced price meals served.

Nutrition Proposals:

In April of 2020, the Senate Democratic Caucus released: Senate Democrats Budget Priorities for 2021-22 and Beyond, which included broad outlines for budget priorities. School nutrition is a top priority for the Senate Democrats, including making progress on the following:

- Providing universal meals (breakfast and lunch to all students)
- Continuing to maximize federal meal reimbursements and build off the waivers currently authorized by the USDA.
- Reducing child hunger during school holiday breaks and summer breaks.
- Reducing or eliminating school meal debt for LEAs
- Increasing the nutritional content of meals and increase locally-grown foods in school lunches
- Stabilizing and supporting the classified staff who provide the food service at schools.

Suggested Questions:

- What has the fiscal impact of the pandemic been to school nutrition programs, and how does this impact a school's budget?
- What are some of the barriers to increasing CEP participation?
- Why do schools choose not to participate in the NSLP?
- What has the experience of food service employees been during the pandemic and what challenges are faced in meeting the needs of students in the coming school year?
- How do school districts staff summer meal programs?

Staff Recommendation:

Information Only

Issue 2: Statewide Student Assessments**Panel:**

- Michelle Valdivia, Department of Finance
- Elly Garner, Departments of Education
- Brooks Allen, State Board of Education

Background

Students' grasp of academic content is measured by a statewide student assessment system. Under state law and the federal Every Student Succeeds Act, California must administer annual statewide tests for reading/language arts and mathematics to all students in grades three through eight and once in high school as well as statewide tests for science at least once in each of the grade spans three through five, six through nine, and ten through twelve. In addition, state and federal law require that local educational agencies (LEAs) administer an annual summative state test of English language proficiency (ELP) to eligible students in kindergarten through grade twelve (K–12).

Statewide student assessments are aligned to the California Common Core State Standards in English language arts (ELA) and mathematics, California English Language Development Standards and California Next Generation Science Standards (NGSS). Under the California Assessment of Student Performance and Progress (CAASPP) System, the state has participated in the multi-state Smarter Balanced Assessment Consortium (SBAC) for access to computer-based, standards-aligned ELA and mathematics. For the non-consortium assessments such as the science test, the primary language assessment, and the alternative assessments for ELA, math and science, the state develops these assessments. In addition, the state develops the English Language Proficiency Assessments for California (ELPAC). The state contracts with Educational Testing Service (ETS) to develop, administer, score, and report CAASPP and ELPAC assessments.

California Assessment of Student Performance and Progress (CAASPP)**1) English Language Arts and Math Assessments**

The 2014-15 school year was the first operational year for the ELA and mathematics assessments aligned to the common core state standards were used by the state. These assessments are computer-based and include a computer-adaptive test section as well as performance tasks. These assessments require access to computing devices and internet connectivity through a secure browser for the assessments to be administered and are given to students in grades three through eight and grade eleven, including students with disabilities and English learners. These assessments include accessibility resources such as universal tools, designated supports, and accommodations for students based on need.

2) Science Assessments

The Next Generation Science Standards (NGSS) for California public schools for grades kindergarten through 12 were adopted by the SBE in September of 2013. Under federal law, students must be assessed in science at least once in each of the following grade spans: 3-5, 6-9,

and 10-12. The California Science Test (CAST), aligned with the California Next Generation Science Standards (CA NGSS), is administered to all eligible students in grades five and eight and once in high school (i.e., grade ten, eleven, or twelve), including students with disabilities and English learners. The initial version of the CAST blueprint (provides for the test items and score determinations) was approved in 2017 by the SBE to measure performance. The grade five assessment assesses the CA NGSS from grades three through five, including the foundational standards in K-2; grade eight assesses the CA NGSS from grades six through eight; high school assesses the CA NGSS from grades nine through twelve. All of the CA NGSS Performance Expectations, grades three through grade twelve, will be assessed over a three year period.. In January 2020, following the results of the 2018–2019 analyses and studies conducted by ETS, the SBE approved the revision of the CAST blueprint to be implemented in the 2020–2021 school year. Due to the cancellation of statewide testing in spring 2020 amid the COVID-19 threat, the CDE planned to reuse the 2019–2020 CAST test forms in 2020–2021 and delay the implementation of the January 2020 revised blueprint until the 2021–2022 administration of the CAST. The CAST also includes accessibility resources such as universal tools, designated supports, and accommodations for students based on need.

3) Assessments for Students with the Most Significant Cognitive Disabilities

Federal regulations also require the inclusion of students with the most significant cognitive disabilities who cannot participate in the general statewide assessment system and this has been met through the California Alternate Assessments (CAAs) for ELA, mathematics, and science. For the past several years, the CAA for Science has been under development and the 2019-2020 CAA for Science administration was intended to be its first operational assessment. The data collected from the 2019-2020 administration was to be used in standard setting as one of the final steps in assessment development, however, data is not yet available to set standards based on the low numbers of students who completed the assessment before school closures.

4) Primary Language Assessment

California has also historically provided for a primary language assessment for students to demonstrate mastery of reading/language arts standards. The state currently has a primary language assessment only in Spanish, called the California Spanish Assessment.

Assessment of English Language Proficiency. The state currently develops and administers an annual assessment to determine the progress of English learners in developing English language proficiency. The current assessment for this purpose is the English Language Proficiency Assessments for California (ELPAC). The ELPAC includes an assessment for initial identification of English learners and an annual assessment to gauge a student’s progress towards English proficiency. The initial ELPAC moved from paper/pencil to a computer-based version in August of 2020. In addition, the window for completing the 2019–2020 ELPAC summative assessment was extended into the fall of 2020.

Other Assessments. The CDE also maintains a variety of other assessment contracts such as the California High School Proficiency Exam, the High School Equivalency Test, the GED, the Physical Fitness Test, the National Assessment of Educational Progress as well as other outreach and technical reporting contracts.

COVID -19 Related Changes

During the 2019–2020 school year, all CAASPP and ELPAC summative testing was suspended. Some LEAs had already started the testing process, and a small number had completed testing their students when LEAs closed in March 2020. Subsequently, a federal waiver was requested and approved to waive the federal 2019–2020 student assessment requirements.

In response to nationwide school closures, the Smarter Balanced Assessment Consortium allowed access to interim assessments to be administered remotely without the need for a secure browser. The CDE and ETS provided this option to LEAs to use these assessment tools during distance learning to support teaching and learning.

2020–2021 Assessments

Given the challenges created by the pandemic, and the variety of different instructional formats that LEAs have been working in during the 2020–2021 school year, it was clear that additional flexibility was needed in planning for statewide assessments in the spring 2021. As part of this consideration, the state took steps to approve a shortened version of the Smarter Balanced Summative Assessments for ELA and mathematics and allow for the offering of remote administration for LEAs for ELPAC and CAASPP assessments, except the CAAs for ELA, math and science, which were recommended to be administered in person following local health and safety guidelines.

Much of the student assessment requirements are tied to federal requirements and guidance from the U.S. Department of Education (ED) on February 22, 2021, outlined flexibilities that are available to states in order to satisfy the federal assessment, and the availability of waivers from certain accountability and reporting requirements for the 2020–2021 academic year as a result of the pandemic. The ED also expressly stated that it is not inviting states to apply for blanket waivers that would allow states to opt out of annual testing altogether.

In their February and March 2021 meetings, the State Board of Education (SBE) met to deliberate and take action that would be consistent with the ED’s letter and to explore additional flexibilities as requested by stakeholder groups. The SBE approved the following:

- Directed CDE to prepare a waiver, consistent with the federal template, regarding the flexibilities offered by ED for accountability and school identification.
- Extend the 2020–21 test administration window for both the CAASPP and ELPAC through July 30, 2021, as applicable.
- Direct CDE to prepare a general waiver of the California Science Test for the 2020–21 school year.
- Create a policy that allows, for the 2020–21 school year, for LEAs be allowed to use the most viable option for assessment in their local context, including the Smarter Balanced Summative Assessments and CAAs for ELA and mathematics, or other diagnostic, benchmark, or interim assessments that:
 - Are aligned with California Common Core State Standards for ELA and mathematics.
 - Are available to assess students in grades three through eight and grade eleven.
 - Are uniformly administered across a grade span, school, or district.

- Provide results that can be reported to parents/guardians, educators about individual students, and to the public by school and by district and are disaggregated by student group.

The CAST, the CAA for Science, and the California Spanish Assessment will continue to be available for any LEA to use during the 2020-21 school year.

Per state and federal statutes, LEAs will still be required to publicly report, disaggregated by student group, in the School Accountability Report Card (SARC) and the Local Educational Agency Report Card (LARC) the performance of students by assessment and the number and percentage of students tested and not tested.

Assessment Funding.

Statewide assessments have historically been split-funded between federal Title VI funds and Proposition 98 General Fund. The CAASPP and ELPAC contracts were competitively procured, separately, in 2015. At that time, the CAASPP contract encompassed the technology infrastructure. In 2018, the ELPAC was integrated into the CAASPP contract, which included the development and administration of both the CAASPP and the ELPAC through the 2021–2022 school year. The current assessment contract has been awarded to ETS. The assessment contract covers the administration of the assessments, including technology, scoring, reporting, and development of non-consortium assessments. California’s membership in the SBAC allows access to the Smarter Balanced Summative and Interim Assessments as well as formative assessment resources in Tools for Teachers for ELA and mathematics. In 2020, CDE facilitated two multi-day workshops with California science educators to develop science resources that were added to the Tools for Teachers.

In addition to contract costs, the state provides LEA’s with a per-pupil apportionment amount to cover the costs of administering assessments. Apportionments are paid one year in arrears, so the apportionments for the Spring of 2021 assessments are budgeted for in the 2021-22 budget. The proposed budget for assessments in 2021-22 (Governor’s budget) is summarized below, however, adjustments to these amounts may be made in the May Revision as final contract costs are known and as adjustments are made for the amount of available federal funding:

Governor’s Budget Proposal:

Governor's Budget Proposed 2021-22 Statewide Assessment Costs			
(In Thousands)			
Assessment Activity	Prop 98 Funds Projected Costs	Federal Funds Projected Costs	Total Projected
Other Assessment-Related Contracts	\$1,553	\$848	\$2,401
English Language Development Assessment	\$9,640	\$13,565	\$23,205
California Student Assessment System	\$81,580	\$5,397	\$86,977
Assessment Apportionments	\$25,304	\$0	\$25,304
California High School Proficiency Examination	\$1,244	\$0	\$1,244
<i>Reimbursements for High School Proficiency Exam</i>	<i>(\$1,244)</i>	<i>\$0</i>	<i>(\$1,244)</i>
Totals	\$118,077	\$19,810	\$137,887

Suggested Questions:

- Does DOF/ CDE anticipate significant revisions to the statewide assessments budget at the May Revision? Specifically, will the funds for per student apportionments be reduced to reflect an updated estimate of the number of test takers in the Spring of 2021 administration of assessments given the flexibility provided to LEAs?
- Were there significant apportionment savings from the Spring of 2020 administrations of assessments? Were funds provided to LEAs based on the numbers of students who started and completed testing? How are LEAs providing information to claim these funds?
- Several assessments and changes have been scheduled to be made during the past few assessment cycles, what significant delays have there been to assessment development?

Staff Recommendation: Hold Open.

Issue 3: State Operations

Panel:

- Paula Fonacier-Tang, Department of Finance
- Amy Li, Legislative Analyst’s Office
- Elly Garner, Departments of Education

Governor’s Budget Proposal and Legislative Analyst’s Office Comments

Proposal	Positions	Funding	Recommendation and Rationale
Federal Funds			
Extend the implementation schedule for the Standardized Account Code Structure software replacement project by one year.	--	\$3,100	Approve. The extension is reasonable given the challenges associated with training districts to use the new software during the pandemic. In addition, the extension would facilitate additional testing and improvement of the software. Funding is one time.
Extend spending authority to fund violence prevention and mental health training programs for students and staff, and to provide state-level support on school safety and suicide prevention.	--	420	Approve. The extension is reasonable given the implementation challenges associated with training students and staff during the pandemic. Funding is one time.
Provide one additional position to meet workload demand related to new federal requirement that all schools report per-pupil expenditure data.	1	133	Approve. Helps CDE meet new federal reporting requirement. Funding is ongoing.
State Funds^a			
Backfill positions shifting to the Department of Social Services (DSS) to provide CDE with sufficient staff to administer the programs remaining at CDE.	83	12,598	Conform staffing actions to policy actions. Number of staff needed likely varies depending on decisions related to timing and programs that transition to DSS.
Fund Instructional Quality Commission (IQC) to complete updates to the mathematics curriculum framework.	--	206	Approve. Helps IQC complete pending work. Funding is one time.
Provide one position for CDE to develop and maintain a data collection system that tracks schools affected by emergencies.	1	136	Approve. Proposal would streamline existing data collection efforts and improve the state’s ability to assist schools during emergencies. Funding is ongoing.

Total	85	\$16,593	
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^a Funded by Non-Proposition 98 General Fund (ongoing), unless otherwise indicated.

Suggested Questions:

- Does the \$206,000 for the Instructional Quality Commission fund all of the currently anticipated workload for the 2021-22 year?
- The Governor’s Budget provides ongoing funds and 1.0 position for the school emergency data collection system. Does CDE anticipate additional resources needed in the future? Are current staffing levels in other divisions able to absorb workload related to responding to school emergencies, given the increasing natural disasters across the state in the last several years?
- The Governor’s Budget includes an extension of federal funds authority to continue trainings on violence prevention and mental health training programs for students and staff, and to provide state-level support on school safety and suicide prevention. According to the BCP this would allow for the training of 6,000 school staff in Youth Mental Health First Aid. Is there a need to further supplement federal funds and expand the reach of these programs?

Staff Recommendation: Hold Open.

Issue 4: Education Funding Under the American Rescue Plan**Panel:**

- Amy Li, Legislative Analyst's Office

Overview of Federal Relief for K-12 Education.

Since March 2020, the federal government has passed three relief packages that assist K-12 schools in their response to the coronavirus disease 2019 (COVID-19) pandemic.

- ***Coronavirus Aid, Relief, and Economic Security (CARES) Act.*** Signed into law on March 27, 2020, the CARES Act provided \$30.8 billion for a newly created Education Stabilization Fund. This fund is for higher education institutions, elementary and secondary schools, and states to cover costs related to the COVID-19 response in education. The legislation also established the Coronavirus Relief Fund (CRF), which can be used by states for a variety of activities that address the COVID-19 public health emergency. (As we describe later, California allocated a portion of its CRF funding to schools and child care.)
- ***Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA).*** Signed into law on December 27, 2020, the CRRSAA provided \$81.9 billion for a second round of funding for the Education Stabilization Fund. The CRRSAA made some minor changes to allowable uses, but generally had similar rules for how school funds were to be spent.
- ***American Rescue Plan (ARP).*** The ARP was signed into law on March 11, 2021 and provides the largest round of funding, totaling \$168.1 billion for K-12 and higher education. In contrast to the first two federal relief packages, ARP makes notable changes to both the grants to schools and funds available for statewide emergency needs.

In the following sections, we discuss the major elements of federal relief for K-12 education and child care and describe how the state has used some funds in 2019-20 and 2020-21.

Overview of Federal COVID-19 Relief Funding for K-12 Public Schools

California Allocations (In Millions)

	CARES Act	CRRSAA*	ARP**	Totals
ESSER				
Grants to schools	\$1,483	\$6,039	\$13,562	\$21,083
State flexible funds	165	671	1,507	2,343
Subtotals	(\$1,647)	(\$6,710)	(\$15,069)	(\$23,426)
GEER				
State flexible funds	\$355	\$154	—	\$509
Totals	\$2,003	\$6,864	\$15,069	\$23,935

*Does not include relief funding for private schools.

**Does not include relief funding for special education, private schools, homeless students, or education technology.

COVID-19 = coronavirus disease 2019; CARES = Coronavirus Aid, Relief, and Economic Security; CRRSAA = Coronavirus Response and Relief Supplemental Appropriations Act; ARP = American Rescue Plan; ESSER = Elementary and Secondary School Emergency Relief; and GEER = Governor's Emergency

CARES Act

Elementary and Secondary School Emergency Relief Fund (ESSER) Primarily Provided Funding With Broad Discretion. The CARES Act provided \$13.2 billion in federal relief for K-12 public schools through ESSER. This funding was allocated to states based on the Title I, Part A formula under the federal Every Student Succeeds Act (ESSA). (The Title I, Part A formula uses the number of low-income and disadvantaged children to allocate funding.) California received about \$1.6 billion. Of this amount, 90 percent (\$1.5 billion) was sent as grants to school districts and charter schools proportional to their Title I funding under ESSA. Up to 10 percent of the total amount (\$165 million) was available as statewide flexible funding for emergency needs in response to the COVID-19 outbreak. The state has one year to commit the funds and until September 30, 2022 to expend them.

Any expenses incurred after March 13, 2020—considered the start of the emergency—are eligible for reimbursement. Allowable uses for the local assistance grants are broad and include:

- **Activities Aligned With Existing Federal Programs.** Any activities consistent with existing federal education programs, such as special education services, career technical education, and supplemental services for disadvantaged student groups.
- **COVID-19 Response.** Coordinating, developing, and implementing COVID-19 response efforts, as well as purchasing supplies to clean facilities.
- **Distance Learning.** Planning for delivering instruction and meals during long-term school closures, purchasing education technology for students, providing mental health services, and providing supplemental learning opportunities for disadvantaged students.
- **Staff Resources.** Resources and training for staff to address the needs of their individual schools.

Governor’s Emergency Education Relief Fund (GEER) Gives Additional State Flexible Funds. In addition to relief funds earmarked for schools, the CARES Act provided states \$3 billion in flexible funds for education through GEER. Of this funding, 60 percent was allocated to states based on their population aged 5 through 24 and 40 percent was allocated based on the number of low-income and disadvantaged students counted under Title I, Part A of ESSA. California received \$355 million. This funding supports emergency grants to schools, higher education institutions, and other education-related entities considered most impacted by the outbreak. States have considerable discretion in deciding how to allocate funding. Similar to the requirements for ESSER funds, the state has one year to commit the funds and until September 30, 2022 to expend them.

States Are Expected to Maintain Education Funding at Recent Levels. As a condition of receiving a state allocation under ESSER and GEER funding, states are to maintain their support for education. Specifically, states must agree to maintain their support for K-12 education and higher education in fiscal years 2020 and 2021 at the average annual level they provided in the prior three fiscal years. The U.S. Secretary of Education may waive this requirement, however, for states that experience a “precipitous decline in financial resources.”

State Appropriated Flexible CARES Act Funds in 2020-21 Budget. The 2020-21 budget package used \$4.8 billion in CARES Act funding for learning loss mitigation. This included all \$355 million in GEER funding, as well as \$4.4 billion from the CRF. The flexible statewide ESSER funding was used to provide \$112 million for higher reimbursement rates for some school meals, \$45 million for a competitive grant to support implementation of the community schools model, \$6 million for teacher professional development to address student learning loss, and \$2 million for the California Department of Education (CDE) to administer the funds.

CRRSAA

CRRSAA Provided Second Round of ESSER Funding to Schools. CRRSAA provided \$54.3 billion in federal relief for K-12 public schools through a second round of ESSER funding. Funds were allocated to states using the same distribution formula as the CARES Act, based on Title I, Part A ESSA allocations. California received \$6.7 billion—a four-fold increase from the first round of ESSER funding. Of this funding, \$6 billion was sent directly to school districts and charter schools as grants proportional to Title I funding under ESSA. In addition to the activities allowed under the CARES Act, the CRRSAA explicitly allows ESSER funds to be used for three new activities: (1) addressing

learning loss among disadvantaged students, (2) repairing and improving school facilities, and (3) improving indoor air quality in schools. The remaining \$671 million in ESSER funding is available for statewide K-12 education priorities. The state has one year to commit the funding and until September 30, 2023 to expend funds.

States Also Received Second Round of GEER Funding. CRRSAA provided \$4.1 billion for a second round of GEER funding. The first two rounds of GEER funding share many similarities, including the state allocation formula and allowable uses, with one difference related to private school funding. Specifically, CRRSAA reserves about \$2.8 billion in GEER funding for emergency assistance and services to private schools. These funds were allocated to states proportional to their share of low-income children aged 5 through 17 enrolled in private schools. Private schools that enroll low-income students and were most impacted by the pandemic receive priority for the funds. California received \$187 million in emergency assistance for private schools. CDE is responsible for developing an application process and awarding assistance and services to eligible private schools. The remaining GEER funds were allocated to states under the same formula as the CARES Act, proportional to population between the ages of 5 and 24 and student counts under Title I, Part A of ESSA. Similar to the CARES Act, the state can use these funds on emergency needs related to education. California received \$154 million for statewide emergency needs under GEER. Any private school funds remaining after six months also may be used for statewide emergency needs. The state has one year to commit the funding and until September 30, 2023 to expend funds. CRRSAA also requires states to maintain their support of K-12 education and higher education in fiscal year 2022 as a condition of receiving ESSER and GEER funding.

ARP

Significantly Greater ESSER Funding, With Additional Spending Requirements. ARP provides \$122 billion for a third round of ESSER funding. Similar to the first two federal packages, ARP allocates ESSER funding to states based on Title I allocations under ESSA. California will receive \$15.1 billion in total ESSER funds under ARP—more than twice the amount the state received under CRRSAA. States are required to send at least 90 percent of the total state allocation to school districts and charter schools. In California, \$13.6 billion will be provided to schools as ESSER grants. In contrast to prior rounds of funding, which provided broad discretion for use of ESSER funds, schools are required to spend at least 20 percent of their ESSER grants from ARP to address learning loss through activities such as summer school, after school programs, and additional instructional time. In deciding how to use its ESSER funds, schools are expected to consider student social-emotional needs and the student groups most impacted by COVID-19. Each school district or charter school must also make publicly available its plan for safe in-person instruction within 30 days of receiving ESSER funding.

Spending Requirements for State-Level ESSER Funds. Of California's ESSER allocation, \$1.5 billion is available for statewide K-12 education priorities. Similar to the spending requirements for schools, ARP sets greater restrictions on the use of statewide ESSER funds. Specifically, states must spend at least 5 percent of their total ESSER allocation on learning recovery, 1 percent on summer school, and 1 percent on comprehensive after school programs. State-level activities are expected to consider student social-emotional needs and the student groups most impacted by COVID-19. Altogether, these spending requirements apply to a total of \$1.1 billion in available statewide ESSER funds, with the remaining \$452 million available for other statewide education needs. The state has one year to commit the funding and until September 30, 2024 to expend funds.

Provides Additional Funding for Special Education, Private Schools, Homeless Students, and Education Technology. In addition to ESSER, ARP provides a \$3 billion one-time augmentation to federal special education funding under the Individuals with Disabilities Education Act. Of this funding, California will receive \$302 million. ARP also provides \$2.8 billion for emergency services and assistance to private schools that enroll a significant percentage of low-income students and were most impacted by the pandemic. California will receive \$181 million in private school funds. These funds are available through September 30, 2024. ARP additionally provides \$800 million for identifying and providing services to homeless students. California will receive \$99 million to support homeless students. Similar to the first two federal packages, ARP requires states accepting ESSER funds to maintain their support for K-12 education and higher education for fiscal years 2022 and 2023. Unlike the CARES Act or CRRSAA, ARP also limits funding reductions for school districts and schools with the most low-income students. Lastly, ARP provides \$7.2 billion for the federal government to reimburse certain costs for eligible schools and libraries to connect individuals (including students and school staff) to the internet during the pandemic.

Suggested Questions:

- Does the LAO have any recommended priorities for the Legislature in considering how to allocate available federal funds?
- With growing revenues since the 2020-21 budget, does the LAO anticipate California will have any issues with maintaining the MOE expenditure requirements on state expenditures for education?
- Given that timelines for many of the funds allow the state up to a year to allocate funds, does the LAO have any comments on the timelines that the Legislature might consider? Is there a need to ensure some flexibility for the state to react differently due to uncertainty arising from the pandemic recovery? Or do LEAs need additional funding immediately?

Staff Recommendation:

Information Only