

The Council of Chief State School Officers (CCSSO) has received many questions from states about how federal documentation requirements for personnel expenses apply to ESSER. In particular, states have asked whether they and their subgrantees need “time and effort” records like semi-annual certifications and personnel activity reports for each employee compensated with ESSER funds. With support from the Federal Education Group, PLLC, this document reviews U.S. Department of Education (ED) guidance on the topic. This is not legal advice. If you have additional questions, please consult your legal counsel. Chiefs and SEA staff also may contact Peter.Zamora@ccsso.org for additional information and supports.

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Summary of Documentation Rules for ESSER-Funded Employee Compensation

What Constitutes Employee Compensation?

Employee compensation includes all payments to an employee for services rendered.¹ This could include salaries, wages, bonuses, stipends, incentives, and benefits.²

State educational agencies (SEAs) and local educational agencies (LEAs) must keep records that meet certain federal standards to support the use of ESSER funds for employee compensation. In general, SEAs and LEAs can use existing payroll, accounting, and related systems to meet these requirements.

In most cases, SEAs and LEAs **do not** need “time distribution” records, sometimes also called “time and effort” records, like semi-annual certifications or personnel activity reports to support ESSER employee compensation charges.

The reasons why are explained in more detail in the sections below.

¹ [2 CFR § 200.430\(a\)](#).

² Fringe benefits are addressed in [2 CFR § 200.431](#).

A Note About Terminology

People use many terms to describe the records SEAs and LEAs must keep when using federal funds to pay employee compensation including “time distribution records” and “time and effort records.” Sometimes people use those terms interchangeably and sometimes not.

Neither of those terms is used in current federal regulations, but they are referenced in this document because they are used prevalently in the field and in ED nonregulatory guidance. To understand their use in this document, it can be helpful to think about two categories of federally required records to support employee compensation charges:

1. **Records to support the work an employee performed**,³ which are required in all cases federal funds, including ESSER, are used for employee compensation, and
2. **Records to support the distribution of an employee’s compensation to appropriate funding sources**,⁴ which are only required when an employee works on activities that must be charged to more than one “cost objective.”⁵ It is this second category that people commonly call either “time distribution” or “time and effort” records, so this document uses those terms in that context.

Federal Documentation Requirements for Employee Compensation

If an SEA or LEA uses federal funds to compensate an employee, it must maintain records to reflect the work the employee performed.⁶ This requirement comes from a set of federal regulations known as the [Uniform Grant Guidance](#) (UGG), which applies to most federal grant programs including ESSER.⁷ The purpose of these records is to verify employees worked on the program or programs supporting their compensation.

Importantly, the UGG’s rules for supporting employee compensation charges changed in 2014.

Previously, employees paid with federal funds were (usually) required to certify the time they spent working on federal programs through records known as “semi-annual certifications” and “personnel activity reports.” These records were often called “time and effort” records because they documented the time employees spent

³ These are the records referenced in [2 CFR § 200.430\(i\)\(1\)\(i\)-\(v\)](#).

⁴ These are the records referenced in [2 CFR § 200.430\(i\)\(1\)\(vii\)](#).

⁵ A “cost objective” is an activity that needs to be tracked separately for funding purposes. For more information, please see the text box beginning on page 7.

⁶ [2 CFR § 200.430\(i\)](#). Please note this document focuses on SEAs and LEAs, but the same rules apply to all entities that use federal funds for employee compensation.

⁷ [2 CFR § 200.101](#). See also U.S. Department of Education, [Frequently Asked Questions Elementary and Secondary School Emergency Relief Programs Governor’s Emergency Education Relief Programs](#), May 2021, A-16 (this will be referred to as *ED May 2021 ESSER and GEER FAQs* for the rest of this document).

working on federal programs. They were also called “time distribution” records because they documented how an employee who worked on more than one program distributed their time across the programs.

Now, any type of record can be used to support employee compensation charges if it meets the following six UGG criteria. The record must:

1. Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated,
2. Be incorporated into the SEA’s or LEA’s official records,
3. Reasonably reflect the total activity for which the employee is compensated by the SEA or LEA, not exceeding 100% of compensated activities,
4. Encompass federally-assisted and all other activities compensated by the SEA or LEA on an integrated basis, but may include the use of subsidiary records as defined in the SEA’s or LEA’s written policy,
5. Comply with the SEA’s or LEA’s established accounting policies and practices, and
6. Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one federal award; a federal award and non-federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity.⁸

In other words, employee certifications are no longer required if an SEA or LEA has other records that can satisfy the criteria above.⁹ SEAs and LEAs may continue to use employee certifications, but the UGG now allows for more options. If an SEA’s or LEA’s systems create records that meet the above criteria, then no additional documentation is required under the UGG (outside of the records needed to satisfy federal labor law).¹⁰

The first of the UGG’s five criteria listed above can usually be satisfied through payroll, accounting, and related systems.

The last UGG criterion – supporting the distribution of salaries and wages – can be harder for existing systems to generate. This criterion, however, only applies when an employee has time to distribute. As described in more detail below, most employees compensated with ESSER funds will not have time to distribute, therefore, SEAs and LEAs usually will not need records to satisfy this criterion.

⁸ [2 CFR § 200.430\(i\)\(1\)\(i\)-\(vii\)](#).

⁹ [2 CFR § 200.430\(i\)\(8\)](#).

¹⁰ [2 CFR § 200.430\(i\)\(2\)](#). To satisfy federal labor law, SEAs and LEAs must maintain records indicating the total number of hours worked each day to support charges for the salaries and wages of nonexempt employees. [2 CFR § 200.430\(i\)\(3\)](#).

Application of Time Distribution Rules to ESSER

As laid out in its May 2021 nonregulatory guidance [Frequently Asked Questions Elementary and Secondary School Emergency Relief Programs Governor’s Emergency Education Relief Programs](#), ED takes the position that to satisfy the UGG’s [sixth criterion](#):

An LEA must maintain time distribution records . . . only if an individual employee is splitting his or her time between activities that may be funded under ESSER or GEER and activities that are not allowable under the applicable program. However, it is likely there will be very few situations in which an employee of an LEA would perform multiple activities where some are not allowable under ESSER or GEER, and thus would be required to maintain time distribution records, given that an LEA is authorized to use funds on “activities that are necessary to maintain the operation of and continuity of services in [an LEA] and continuing to employ existing staff of the [LEA]” in order to “prevent, prepare for, and respond to” the COVID-19 pandemic.¹¹

This is consistent with the federal government’s most recent guidance for auditors which states:

The requirements in the Uniform Guidance apply to expenditures of ESSER funds, including the requirements related to documenting personnel expenses in 2 CFR section 200.430(i). This would mean, for example, that an LEA maintains the records it generally maintains for salaries and wages, including for employees in leave status as permitted under CARES Act Section 18003(d)(12), except that an LEA must maintain time distribution records (sometimes called “time and effort” reporting) if an individual employee is splitting their time between activities that may be funded under ESSER or GEER and activities that are not allowable under ESSER or GEER. However, there are very few situations when an employee of an LEA would perform multiple activities that are not allowable under ESSER or GEER, and thus would be required to maintain time distribution records, given that an LEA is authorized to use funds on “activities that are necessary to maintain the operation of and continuity of services in [an LEA] and continuing to employ existing staff of the [LEA]” in order to “prevent, prepare for, and respond to” the COVID-19 pandemic (Section 18003(d)(12)).¹²

¹¹ [ED May 2021 ESSER and GEER FAQs](#), A-16, p. 19.

¹² Entities that spend more than \$750,000 in federal funds in a year must obtain an audit of their federal programs known as a single audit. Each year the Office of Management and Budget (OMB), with input from federal agencies including ED, develops a document for auditors conducting single audits known as the Compliance Supplement. OMB originally released the [2021 Compliance Supplement](#) in August but updated the guidance for Education Stabilization Funds, including ESSER, in a December 2021 addendum. Office of Management and Budget, [2021 Compliance Supplement Addendum 1 for the Education Stabilization Fund](#), December 3, 2021. Importantly, the addendum updates the language on time distribution clarifying that time distribution records are only required when an employee works on allowable and unallowable ESSER activities. [2021 Compliance Supplement Addendum 1](#), p. 4-84.425-ESF-13.

Accordingly, time distribution records are only required in the “very few situations” where an employee works on both allowable and unallowable ESSER activities. Because ESSER is an expansive program that can support a wide range of activities, it will likely be rare for an employee to work on unallowable ESSER activities.¹³

For instance, consider the following hypothetical:

Example 1. An employee spends part of their time coordinating an LEA’s COVID-19 testing program and part of their time fundraising for the LEA. ESSER can pay for the time the employee spends on testing,¹⁴ but likely not on fundraising (which generally cannot be supported with federal funds due to UGG restrictions).¹⁵ If the LEA wants to pay part of the employee’s salary with ESSER funds, it must have records that reflect the amount of time the employee spends on testing coordination versus fundraising.

If the employee spends 90% of their time on testing coordination, the LEA could charge up to 90% of the employee’s salary to ESSER. The remaining 10% would have to be charged to another funding source. The LEA would need time distribution records to verify ESSER was only charged for the time spent on allowable activities.

According to ED, however, such situations involving a combination of allowable and unallowable activities will be rare. Instead, most employees compensated with ESSER funds will work on activities that could all be charged to ESSER should the SEA or LEA choose to. **When an employee works entirely on allowable ESSER activities – that is, when ESSER could pay for all of the activities an employee works on – SEAs and LEAs do not need to distinguish between activities and ED guidance states no time distribution records are required.**¹⁶

¹³ ESSER can be used to maintain operations and for any activity that would be allowed under the Elementary and Secondary Education Act’s Impact Aid program, which, in general, allows districts to use funds “in whatever manner they choose in accordance with their local and State requirements.” U.S. Department of Education [Impact Aid program website](#). Please note all activities charged to ESSER must be consistent with the goal of preventing, preparing for, and responding to COVID, and must satisfy other regulatory requirements like UGG spending rules. (Under the UGG, for example, all expenses paid with federal funds must be necessary and reasonable for the performance of the federal program.)

¹⁴ [ED May 2021 ESSER and GEER FAQs](#), B-2. See also U.S. Department of Education, [Frequently Asked Questions Elementary and Secondary School Emergency Relief \(ESSER\) Fund and Governor’s Emergency Education Relief \(GEER\) Fund Use of Funds for COVID-19 Vaccinations and Testing](#), July 2021.

¹⁵ [2 CFR § 200.442\(a\)](#).

¹⁶ [ED May 2021 ESSER and GEER FAQs](#), A-16, p. 19.

For instance:

Example 2. An LEA uses ESSER funds to pay a bonus to a teacher. The teacher’s underlying salary is paid with state or local funds. Even though the teacher’s compensation is split funded, no time distribution records are needed. ESSER can support the bonus¹⁷ and could also have supported the teacher’s underlying salary had the LEA chosen to charge it to ESSER,¹⁸ so there is no need to distinguish between allowable versus unallowable ESSER activities.¹⁹ In other words, the LEA need not have paid both the salary and the bonus with ESSER funds. As long as both activities are allowable under ESSER, no time distribution records are required. (Please see box on page 7-8 for more about this.)

Example 3. An LEA uses ESSER funds to hire additional nurses to support COVID-19 testing, contact tracing, and other school-based health care needs. Even though the nurses are working on both COVID-specific activities (testing and contact tracing) and other general activities (school-based health care supports) no time distribution records are needed because ESSER could support all of the activities.²⁰

Example 4. An SEA uses ESSER funds to hire temporary staff to improve its data collection and reporting systems so it can better report ESSER and COVID-related data. Even though the improved data systems will also benefit other programs in the long term, no time distribution records are needed because improving data systems is an allowable use of ESSER funds and ESSER may pay for the entire cost.²¹

Time Distribution and the Role of Employee Certifications

In the rare circumstance an employee works on both allowable and unallowable ESSER activities, as in [Example 1](#) above, the SEA or LEA must have some way to satisfy the UGG’s sixth criterion: records to support the distribution of the employee’s time. Employee certifications such as “semi-annual certifications” and “personnel

¹⁷ [ED May 2021 ESSER and GEER FAQs](#), D-6.

¹⁸ As noted by ED, LEAs can use ESSER funds to continue employing existing staff. [ED May 2021 ESSER and GEER FAQs](#), A-16, p. 19.

¹⁹ See U.S. Department of Education, [Actions to Ease the Burden of Time-and-Effort Reporting](#), September 2012, [Enclosure C](#) (this will be referred to as *ED 2012 Time and Effort Flexibility Guidance* for the rest of this document). Please note although this guidance is archived on ED’s website and is based on the prior version of the regulations governing time and effort which were more burdensome than the current regulations, ED has advised that the examples of flexibility described in the 2012 guidance are still valid. U.S. Department of Education, [Questions and Answers Regarding 2 CFR Part 200](#), June 2015, Question 7, p. 14.

²⁰ See [ED May 2021 ESSER and GEER FAQs](#), B-2, C-3, and D-2.

²¹ [ED May 2021 ESSER and GEER FAQs](#), C-11 and C-12.

activity reports” remain the most common way of documenting time distribution, but they are not required if an SEA or LEA has other records that satisfy all of the UGG criteria.²²

As described [earlier in this document](#), this is a change. Before 2014, federal regulations generally required employee certifications. Certifications for employees who worked on one “cost objective” were called semi-annual certifications and had to be signed every six months by either the employee or a supervisor with first-hand knowledge of the work performed. Certifications for employees who worked on multiple “cost objectives” were called “personnel activity reports” and had to be signed every month by the employee. (See below for more information about cost objectives.)

Under the UGG’s current rules, these certifications are no longer required. Other records are permitted if they meet the criteria listed at the beginning of this document. To date, ED has not provided any specific examples of records that might satisfy the UGG criteria, so many SEAs and LEAs continue to rely on employee certifications. This is a valid approach.

As discussed below, however, SEAs and LEAs might reassess the need for semi-annual certifications when an employee works on a single cost objective. When an employee works on a single cost objective there is no need to distribute their time among multiple cost objectives. In such cases, SEAs and LEAs must have records that satisfy the [first five UGG criteria](#) but likely would not need a separate time distribution record to satisfy [the sixth](#), which may help to alleviate administrative burdens.

Time Distribution, Single Cost Objectives, and Other ED Programs

As discussed above, time distribution records are needed when an employee works on multiple “cost objectives.” Time distribution records are not needed when an employee works on one “cost objective.” This is true for ESSER and all other ED programs governed by the UGG including programs under the Elementary and Secondary Education Act (ESEA), the Individuals with Disabilities Education Act (IDEA), and the Carl D. Perkins Career and Technical Education Act.

In general, a cost objective is an activity that needs to be tracked separately for funding purposes. Consider the following two scenarios.

²² See, for example, [2 CFR § 200.430\(i\)\(8\)](#), which authorizes a federal agency to require employee certifications if an entity does not have other records that satisfy the UGG criteria. In other words, employee certifications are only required when an entity needs them to satisfy the UGG criteria. If other records can satisfy the criteria, employee certifications are not required.

Scenario 1. A teacher spends all their time either delivering academic interventions to Title I students or mentoring other teachers that work with Title I students. Title I, Part A can support both activities, so there is no need to track how much time the teacher spends on teaching versus mentoring. This teacher works on one cost objective. For time and effort purposes, the LEA must maintain records that satisfy UGG [criteria 1 through 5](#) above but does not need time distribution records to satisfy UGG [criterion 6](#).

Scenario 2. An employee spends part of their time as a high school CTE coordinator and part of their time coordinating elementary school STEM programs. Perkins can pay for the high school activities but not the elementary school activities.²³ This employee works on two cost objectives. For time and effort purposes, the LEA must maintain records that satisfy UGG [criteria 1 through 5](#) above, and the LEA also needs time distribution records to satisfy UGG [criterion 6](#).

Please note that performing an activity that benefits more than one program, or charging an employee's salary to more than one funding source, does not necessarily mean an employee is working on multiple cost objectives.²⁴

Scenario 3. An SEA hires instructional coaches to support teachers who work with students with disabilities in its lowest performing districts. Their salaries could be supported entirely with Title II, Part A funds, entirely with IDEA, Part B funds, or with a combination of the two. Because either grant could pay the employees' salaries, there is no need to distinguish between "Title II" activities vs. "IDEA" activities. These employees work on one cost objective even if the SEA splits their salaries among the two grants. For time and effort purposes, the LEA must maintain records that satisfy UGG [criteria 1 through 5](#) above but does not need time distribution records to satisfy UGG [criterion 6](#).

²³ Perkins funds cannot support activities before grade 5.

²⁴ [ED 2012 Time and Effort Flexibility Guidance, Enclosure C](#)