



June 8, 2021

Client Alert

**PDE RELEASES NEW GUIDANCE AND RESOURCES ON AMERICAN RESCUE PLAN (ARP)
ELEMENTARY AND SECONDARY SCHOOL EMERGENCY RELIEF (ESSER) FUNDS**

On June 4, 2021, the Pennsylvania Department of Education (PDE) released guidance, updated FAQs, and template documents concerning ARP ESSER funds and the various requirements imposed on school districts and charter schools under the ARP Act.

School districts and charter schools that received federal Title I-A funds in fiscal year 2020-2021 and intend to apply for and receive ARP ESSER funding must develop, post to the school entity's public website, and submit a Safe Return to In-Person Instruction and Continuity of Services Plan approved by the school entity's governing body to PDE by July 30, 2021. PDE has released a template ARP ESSER Health and Safety Plan that covers necessary components under the ARP Act and U.S. Department of Education rules for school entities to reference and/or modify as necessary.

School entities will need to address continuity of services to students and staff and maintenance of mitigation policies and procedures during the period of the ARP ESSER grant as follows:

1. How the LEA will, to the greatest extent practicable, support prevention and mitigation policies in line with the most up-to-date guidance from the Centers for Disease Control and Prevention (CDC) for the reopening and operation of school facilities in order to continuously and safely open and operate schools for in-person learning;
2. How the LEA will ensure continuity of services, including but not limited to services to address the students' academic needs, and students' and staff members' social, emotional, mental health, and other needs, which may include student health and food services;
3. How the LEA will maintain the health and safety of students, educators, and other staff and the extent to which it has adopted policies, and a description of any such policy on each of the following safety recommendations established by the CDC:
 - a. Universal and correct wearing of masks;
 - b. Modifying facilities to allow for physical distancing (e.g., use of cohorts/podding);
 - c. Handwashing and respiratory etiquette;
 - d. Cleaning and maintaining healthy facilities, including improving ventilation;
 - e. Contact tracing in combination with isolation and quarantine, in collaboration with the State and local health departments;
 - f. Diagnostic and screening testing;
 - g. Efforts to provide vaccinations to school communities;
 - h. Appropriate accommodations for children with disabilities with respect to health and safety policies; and
 - i. Coordination with state and local health officials.

School entities may use current health and safety plans provided that the plan is updated to address the above elements and approved by the governing body. Administrators are advised to review the most recent guidance from the CDC concerning operational strategies for K-12 schools ([CDC K-12 School Operational Strategy](#)) in developing consistent mitigation plans.

School entities must review the approved health and safety plan at least every six (6) months during the grant to comply with the ARP Act, and complete updates to such plans whenever “there are significant changes to the CDC recommendations for K-12 schools.” Currently the CDC has not released updated guidance concerning recommendations for the 2021-2022 academic year, so school entities should anticipate revisions to health and safety plans submitted by the July 30, 2021 deadline. All revisions to health and safety plans must be reviewed and approved by the school entity’s governing body.

The above referenced guidance on the ARP ESSER Health and Safety Plan and FAQs concerning same can be found on PDE’s website.

Resources:

<https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/SchoolReopeningGuidance/ReopeningPreKto12/HealthSafetyPlans/Pages/default.aspx>

<https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/CARESAct/March2021/Pages/Answers-To-FAQs.aspx#>

As with all other Client Alerts, these guidelines/recommendations are subject to change on a daily or weekly basis depending on Orders from Governor Wolf, the Pennsylvania Department of Education or Pennsylvania Secretary of Health.

While the Beard Legal Group Client Alert is designed to provide information on topics of concern to Pennsylvania Public Schools, it is not legal advice and school districts should contact their Solicitor, Labor of Special Counsel for advice related to their specific circumstances.