

BUDGET & FINANCE

Auditors Are on the Hunt for ESSER Fraud. 5 Things to Know



By [Mark Lieberman](#) — July 20, 2023 ⌚ 6 min read



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Two states and a handful of school districts have been the subject of audits and federal watchdog reports that have raised concerns about their COVID relief spending.

On the whole, however, school districts appear to have spent federal COVID relief dollars prudently, according to a prominent auditor who's helped examine dozens of districts nationwide.

That's in stark contrast to other federal programs like loans for small businesses, where as much as 17 percent of funds appear to have been fraudulently spent, according to a [recent report](#) from the Small Business Administration's inspector general.

Some districts, however, have failed to follow proper procedures for documenting or tracking investments, said Eric Russell, an auditor who currently works with ENJ, an accounting firm that serves school districts and municipalities across the country.

The Sept. 30 deadline for districts to make spending commitments for the second of three rounds of relief funds is [rapidly approaching](#). And districts are looking ahead to the deadline to commit the money they received from the third round of funds, which must be spent by roughly the end of calendar year 2024.

[Meanwhile, scrutiny of spending](#) is in full force. Audit reports have begun trickling out from districts as well as states and the inspector general for the U.S. Department of Education.

Among the findings:

- State education leaders in Oklahoma and West Virginia have come under fire over concerns about improper education spending.
- A superintendent in Kansas [resigned](#) over concerns about the district's procurement process for a new school bus paid for with federal COVID relief aid.
- A school employee in Montana [stole \\$5,000](#) of her district's federal K-12 aid for personal use; she has since returned it, and is facing criminal charges.

Here's what we know so far about the scale of misspending of federal COVID relief aid.

Scandals over spending federal dollars on schools have erupted in two states.

The highest-profile scandal so far is in Oklahoma. The state auditor there [recently highlighted \\$29 million](#) of improperly spent federal COVID relief dollars.

For more than \$6.5 million that went to families in the form of private school tuition scholarships, the state gave certain private schools preferential treatment to enroll recipients, according to the audit report. Meanwhile, \$1.7 million meant for parents to buy educational supplies instead paid for ineligible items like entertainment and kitchen tools.

Both of those investments came from a pot of education spending dollars sent to each state's governor to use at their discretion. Oklahoma received \$39 million in total for these funds. The state auditor, Cindy Byrd, has contested the spending of roughly 20 percent of those funds.

Byrd's report also raises issues with the state's move in the summer of 2020 to outsource decisionmaking for the private school scholarship program to Ryan Walters, then the executive director of the conservative nonprofit Every Kid Counts. Oklahoma Gov. Kevin Stitt appointed Walters later that year to serve as secretary of education, a position in the governor's cabinet. And Walters was elected state superintendent of public instruction last year.

In West Virginia, meanwhile, David Roach, the state superintendent of education since 2022, resigned last month amid controversy over improper spending by the Upshur County district. Roach's deputy in the state education department, Sara Lewis-Stankus, served as superintendent there between 2018 and 2022.

A state-mandated review of the district's COVID relief spending found hundreds of thousands of dollars that went to ineligible expenses like staff travel and food and beverages. The 4,000-student district received nearly \$17 million in federal COVID relief aid, or \$4,276 per student.

Fraud findings have been few and far between so far

Despite these notable issues, fraudulent COVID relief spending appears to be a much smaller problem in K-12 education than in other areas.

"I am not seeing instances of what you would consider criminal fraud," Russell said.

That's in contrast the scale of improper spending of COVID relief aid for small businesses.

The Small Business Administration's federal watchdog found \$200 billion in federal funds that were defrauded by organizations taking improper advantage of the generous loans offered to small businesses during the early days of the pandemic.

All told, the Associated Press recently found that roughly 10 percent of the federal government's total spending on COVID relief aid was lost to theft or misspending.

Thus far, the scale of fraud and misspending in education spending appears to be of a smaller magnitude, Russell said.

That's true even when considering the legal definition of fraud, which is more expansive than what many laypeople assume.

The term "fraud" brings to mind embezzlement and corruption. But in school districts, it more often looks like "errors or omissions" that leave unanswered questions about where dollars went or who oversaw their movement. These often come as a result of staffers who simply don't understand or don't have the bandwidth to absorb every detail of the regulations.

"We're looking at management of federal dollars, and if there's a loss or harm done to the government as a result of intentional act," Russell said. "If you fail to detect instances of noncompliance or harms to the government, that may lead one to report to the legal counsel and to the government a potential fraud."

Construction spending has been particularly tricky for districts to manage.

Many districts have used a portion of their ESSER dollars to fund new building projects or long-needed repairs. To comply with the law, they have to follow a range of protocols, including prioritizing materials produced in America and complying with federal wage and benefit standards for construction workers.

Russell said he's seen many districts failing to meet some of those requirements. In some cases, he said, district leaders may not realize that a small-scale renovation project counts as "construction" as a whole new building would.

The unprecedented surge in federal funds to districts also led to a wider-than-usual range of district personnel getting involved in spending decisions.

Some people who were investing federal COVID relief funds probably lacked experience handling large amounts of federal money and familiarity with following proper spending procedures, Russell said. Those leaders should seek out or receive more training in the future so they can avoid auditor headaches later on, he said.

Next up for oversight: What are the outcomes of districts' spending decisions?

Russell said auditors' oversight of federal spending will soon shift toward a sharper focus on outcomes. Did districts spend money in ways that made a meaningful difference for students and staff? Did they implement procedures to track the outcomes of their spending decisions? Are they able to easily demonstrate to auditors how they arrived at their conclusions?

He also anticipates auditors focused on school spending will soon be paying closer attention to schools' spending of federal COVID relief dollars from programs other than ESSER, such as the American Rescue Plan funds designated for local governments.



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