

Congress of the United States
Washington, DC 20515

April 16, 2021

The Honorable Miguel Cardona
Secretary
U.S. Department of Education
400 Maryland Avenue SW
Washington, D.C. 20202

Dear Secretary Cardona:

We have worked to secure over \$19 billion in Elementary and Secondary School Emergency Relief (ESSER) funds for Texas schools to provide students the support needed to overcome multiple COVID-19 pandemic challenges. These funds were intended to help schools address learning loss, meet mental health challenges with the increase of youth suicide, provide tutoring and remedial assistance, close the digital divide, improve ventilation and a host of other locally determined needs. But due to bad faith denial and delay of these funds by Governor Abbott, not a single dollar of the already-approved ESSER funds have reached Texas schools. Aware that you share our concern that our schools receive the federal support they need to reopen safely, we urge the Department of Education to overcome this obstruction by strictly enforcing the maintenance of effort (MOE) requirements outlined in the Coronavirus Response and Relief Supplemental Appropriation Act (CRRSA), and the maintenance of effort and maintenance of equity provisions in the American Rescue Plan.

The maintenance of effort requirements for all three ESSER funds were established so that these federal resources could supplement state education funding, not replace it. Unfortunately, the CARES Act MOE provision was insufficient. Governor Abbott is one of only two governors in the country to grab 100% of the ESSER funds approved in the CARES Act, denying Texas schools direct access to \$1.2 billion. These resources were desperately needed for pandemic-related expenses incurred during the last school year. Federal pandemic relief is intended to help our schools, not simply to enrich the State coffers as Governor Abbott has done with CARES Act funds and is apparently now pursuing with ESSER II and III funds. The letter, which Governor Abbott sent to you on February 22, offered a multitude of excuses for denying funds to our schools by requesting that you waive the maintenance of effort requirements of the Coronavirus Response and Relief Supplemental Appropriation Act (CRRSA).

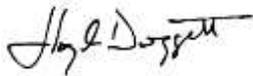
The maintenance of effort requirements in CRRSA and the American Rescue Plan, evaluated by the Department respectively for K-12 and higher education, were strengthened by requiring that states continue to fund both K-12 and higher education at the same proportion of the state budget compared to pre-pandemic levels. The American Rescue Plan also included an important maintenance of equity provision to ensure that high-need school districts are protected from state spending cuts. If the Department waives these requirements by granting Texas a MOE waiver, the Governor may offer some nominal support for education but will likely capitalize on this opportunity to swap state funds for federal funds, with no regard for our high-need schools, in order to use state funds for noneducational uses. Texas schools cannot afford to have this happen a second and third time. They need all of the outstanding \$17.9 billion funds, and they need it now.

The Governor's resistance to supporting our schools is particularly egregious in view of the estimated \$16.7 billion separately provided to Texas for general use through the American

Rescue Plan. This generous assistance more than makes up for any asserted state budgetary shortfall of less than one billion estimated previously by the Texas Comptroller.

Governor Abbott has failed to provide Texas schools either the \$5.5 billion in ESSER II funds, which became available January 6 or the \$12.4 billion from the American Rescue Plan, two thirds of which became available March 24. We cannot accomplish the important goal, which we share with the Administration, of reopening schools safely when the ten percent of America's school-aged children living in Texas are denied access to essential federal assistance. We look forward to working with the Department to hold our Governor accountable for complying with federal maintenance of effort and equity requirements. We urge the Department to act clearly on behalf of Texas students by ensuring that federal dollars reach our schools.

Sincerely,



Lloyd Doggett
Member of Congress



Veronica Escobar
Member of Congress



Filemon Vela
Member of Congress



Marc Veasey
Member of Congress



Henry Cuellar
Member of Congress



Lizzie Fletcher
Member of Congress



Sheila Jackson Lee
Member of Congress



Joaquin Castro
Member of Congress



Vicente Gonzalez
Member of Congress



Al Green
Member of Congress



Eddie Bernice Johnson
Member of Congress



Colin Allred
Member of Congress



Sylvia R. Garcia
Member of Congress