

Federally Funded Leave Payout

Guidance Verbiage

2 CFR 200.431(b) states,

“Leave. The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, family-related leave, sick leave, holidays, court leave, military leave, administrative leave, and other similar benefits, are allowable if all of the following criteria are met:

- (1) They are provided under established written leave policies;
- (2) The costs are equitably allocated to all related activities, including Federal awards; and,
- (3) The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the non-Federal entity or specified grouping of employees.
 - (i) When a non-Federal entity uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an employee retires or terminates employment are allowable in the year of payment.
 - (ii) The accrual basis may be only used for those types of leave for which a liability as defined by GAAP exists when the leave is earned. When a non-Federal entity uses the accrual basis of accounting, allowable leave costs are the lesser of the amount accrued or funded.”

To be considered allowable then, an LEA **must**, at a minimum:

1. Have an existing leave policy for payment of annual and/or sick leave taken during the normal course business that describes when various types of leave is earned and when it can be taken.
2. Be based on an activity focused allocation method (i.e. – person funded 50% federal and 50% nonfederal can only have 50% of the leave taken charged to federal)
3. Include within that policy, specific language about types and amounts of leave that may be “banked” and if and when that leave gets paid out (i.e. – retirement, termination, etc.)
4. Maintain sufficient documentation that, when reviewed under monitoring or under audit, the calculations can be supported.

Three Main Scenarios

If your LEA’s situation does not fit into one of the examples below, reach out to the CDE Fiscal Monitoring Team at GFMU_Monitoring@cde.state.co.us for a determination on whether leave payout is allowable. Note, these scenarios apply to any federal award; CDE has used ESSER in these examples for simplicity. They also assume the entity has an established leave policy effective for the duration of the grant.

1. The employee was hired under ESSER and fully funded by ESSER. Their employment ends prior to the end of the ESSER period of performance (e.g., no later than 9/30/24 for ESSER III). In this case, 100% of the accrued leave can be charged to ESSER. This assumes the leave was earned under the established leave policy for the entity and the ESSER funded leave payout happens prior to the end of the ESSER liquidation period.

2. The employee was hired under ESSER and is funded 75% from ESSER and 25% from Title I. Their employment ends prior to the end of the ESSER period of performance (e.g., no later than 9/30/24 for ESSER III). In this case, only 75% of the accrued leave can be charged to ESSER and the other 25% must be charged to Title I. This assumes the leave was earned under the established leave policy for the entity and the ESSER funded leave payout happens prior to the end of the ESSER liquidation period.
3. The employee was hired prior to the start of ESSER, and based on new activities, becomes 15% funded by ESSER on 7/1/2020. Their employment ends prior to the end of the ESSER period of performance (e.g., no later than 9/30/24 for ESSER III). In this case, only 15% of the accrued leave earned by this employee since 7/1/2020 can be charged to ESSER. All other accrued leave must be paid from other sources of funding based on how the employee was funded when leave was earned. This assumes the leave was earned under the established leave policy for the entity and the ESSER funded leave payout happens prior to the end of the ESSER liquidation period.

Note, regardless of when an employee was hired or how much they are funded from ESSER, if their employment will continue beyond the end of the ESSER period of performance (e.g., 9/30/24), none of the accrued leave can be paid from ESSER.