

PUBLICATION

COVID-19 Relief: New Funding Available for Schools

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COVID-19 relief is on the way to schools. On March 17, 2021, the Department of Education announced each state's allocation of American Rescue Plan (ARP) Elementary and Secondary School Emergency Relief (ESSER) funds. Though the ESSER funds represent the vast majority of ARP funding available to educational institutions, the ARP also provides an additional \$39 billion in funding for higher education, through the ARP Higher Education Emergency Relief (HEER) fund, and nearly \$3 billion in funding for non-public schools, through the ARP Emergency Assistance to Non-Public Schools (EANS) fund. In all, the Education Stabilization Fund contains approximately \$165 billion earmarked to help students and educators safely return to the classroom.

The DOE's announcement is coupled with the welcome news that the Department of Health and Human Services will provide \$10 billion in funding to provide COVID-19 testing for teachers, staff, and students through the Centers for Disease Control and Prevention (CDC). In this alert, we will be focusing on the ESSER and EANS funds, and how they may affect K-12 schools.

I. Elementary and Secondary School Emergency Relief Fund

The ESSER fund provides \$121.9 billion directly to state education agencies (SEAs), with each state receiving between \$308 million and \$15 billion, to help schools reopen safely and provide additional support to students most impacted by the COVID-19 pandemic. An additional \$800 million is set aside for the Secretary of Education to assist homeless youth. The Department of Education announced that the funds will be available by March 31, 2021. The Secretary of Education [urged states and school districts](#) to utilize the funds "with the same commitment that families and educators have to getting students back in classrooms for in-person instruction safely."

The ARP [requires](#) each state to award not less than 90 percent of its total ESSER funds to local educational agencies (LEAs) based upon the share of Elementary and Secondary Education Act (ESEA) Title I-A grants received by each LEA in proportion to the total grants awarded by that state in the prior fiscal year. LEAs receiving ESSER funds must reserve not less than 20 percent of its funds to "address learning loss through the implementation of evidence-based interventions and ensure that those interventions respond to students' social, emotional, and academic needs and address the disproportionate impact of COVID-19 on underrepresented student subgroups."

The remaining funds may be used to address a variety of issues stemming from the COVID-19 pandemic including:

- Investing in resources to implement [CDC's K-12 operational strategy](#) for in-person learning to keep educators, staff, and students safe; improving ventilation; purchasing personal protective equipment (PPE); and obtaining additional space to ensure social distancing in classrooms.
- Avoiding devastating layoffs and hiring additional educators to address learning loss, providing support to students and existing staff, and providing sufficient staffing to facilitate social distancing.

- Implementing strategies to meet the social, emotional, mental health, and academic needs of students hit hardest by the pandemic, including through evidence-based interventions and critical services like community schools.
- Funding crucial summer, afterschool, and other extended learning and enrichment programs.
- Hiring additional school personnel, such as nurses and custodial staff, to keep schools safe and healthy.
- Providing for social distancing and safety protocols on buses.
- Funding for Wi-Fi hotspots and devices for students without connectivity for remote learning and supporting educators in the effective use of technology; and
- Additional uses as allowed in the [statute](#) related to enhancing educational experiences.

Unlike the ESSER funds in the CARES Act, the ARP ESSER funds cannot be awarded to non-public schools.¹ Therefore, it is imperative that independent schools act quickly to obtain the EANS funding discussed below.

II. Emergency Assistance to Non-Public Schools

The EANS program, which was established by the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, received an additional \$2.75 billion to aid non-public schools. Based on the [criteria](#) used to award funding in the CRRSA, funds will be awarded to SEAs based upon the proportional share of children ages 5-17 from families with incomes at or below 185% of poverty. The SEA must then award these funds to aid non-public schools that "enroll a significant percentage of low-income students and are most impacted" by the COVID-19 pandemic.

Eligible institutions may not use EANS funds for reimbursement of past expenditures, rather funding must be used for expenses that **will be** incurred by non-public schools related to safely reopening schools. Qualified expenses include:

- Cleaning educational facilities
- Obtaining PPE
- Improving ventilation systems
- Training and professional development to help educators implement new safety practices
- Physical barriers to facilitate social distancing
- Coronavirus testing and contact tracing
- Educational technology
- Redeveloping instructional plans
- Leasing additional space to ensure safe social distancing
- Transportation costs
- Supports for remote and hybrid learning
- Remediating learning loss
- Other coronavirus-related costs.

Independent schools should consult an attorney to discuss permissible uses of EANS funding in connection with their budget planning for the school year and to determine whether forthcoming EANS funding could be used to defray COVID-19 related expenses.

III. COVID-19 Screening Support for K-12 Schools

As part of the Biden administration's focus on COVID-19 testing, the CDC announced an additional \$10 billion of funding to support COVID-19 testing for teachers, staff, and students. Funds can be used to provide tests to

symptomatic teachers, students, and staff, as well as asymptomatic individuals who may have been exposed to an infectious person. There is also a focus on providing serial screening testing to help schools identify infected individuals without symptoms. The administration's focus on widespread testing is part of the CDC's operational strategy for K-12 schools. Using the funding mechanisms of the ARP, the administration will provide funds to each state through the CDC. The allocation of funding for this \$10 billion testing plan was released by the Department of Health and Human Services on March 17, 2021.

We continue to monitor the rapidly shifting landscape of COVID-19 funding and relief in the education sector. Please contact the authors or any member of the [Baker Donelson Education Team](#) with any questions.

¹ Under the CARES Act, an LEA receiving CARES Act ESSER funding was required to provide equitable services to non-public schools in the same manner as provided in Title I of the ESEA. The ARP, like its predecessor the CRRSA Act, includes a separate Emergency Assistance for Non-Public Schools fund.