



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

CHIEF FINANCIAL OFFICER  
89 Washington Ave., Room 121, EB  
Albany, New York 12234

April 5, 2021

TO: BOCES District Superintendents  
School District Superintendents  
School District Business Officers  
Charter School Leaders  
Religious and Independent School Leaders

FROM: Phyllis D. Morris, Chief Financial Officer

**RE: Federal American Rescue Plan Act (ARPA) Funding**

Elementary and Secondary School Emergency Relief (ARP-ESSER) Funds

On March 11, 2021, the President signed into law the American Rescue Plan Act of 2021 (ARPA). ARPA makes available \$122.8 billion nationally in a third round of Elementary and Secondary School Emergency Relief (ARP-ESSER) funds, of which USDE must use \$800 million to provide homeless children and youth with wrap-around services and assistance to attend school and participate fully in school activities.

The remaining \$122 billion is to be granted to State Educational Agencies (SEAs) in the same proportion as each State received under part A of title I of the Elementary and Secondary Education Act of 1965 in the most recent federal fiscal year (2020). On March 24, 2021, U.S. Education Secretary Cardona notified all SEAs that USDE will withhold the release of one-third of a state's ARP-ESSER funds until the state submits an application to USDE with a plan for the use of the funds.

New York State's ARP-ESSER allocation is \$8.99 billion. A minimum of 90% of these funds (\$8.09 billion) must be allocated to local educational agencies (LEAs), including charter schools that are LEAs. ARPA does not require that a portion of the funds allocated to LEAs be made available for providing equitable services to students and teachers in non-public schools.

Individual LEA allocations will be calculated by NYSED using the relative shares of grants awarded under Title I, Part A of the Elementary and Secondary Education Act (ESEA) for the 2020 federal fiscal year. It has come to our attention that some LEAs may have received information or tools from certain organizations regarding the calculation of allocation amounts. Please be advised that NYSED will provide official allocation amounts to LEAs once the ARP-ESSER allocations are finalized.

The U.S. Department of Education (USDE) has developed a [fact sheet](#) comparing the ESSER 1 fund under the CARES Act with the ESSER 2 fund under the CRRSA Act and the ARP-ESSER fund.

### ARP-ESSER Application Process

NYSED is anticipating releasing LEA ARP-ESSER and ESSER 2 allocations under the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA Act) by the end of April 2021. When the application and LEA allocation amounts are final, NYSED will ask LEAs to submit separate applications for the ESSER 2 and ARP-ESSER funds using our online Application Business Portal.

### Emergency Assistance to Non-Public Schools

ARPA makes available \$2.75 billion nationally for allocations to Governors for a second Emergency Assistance to Non-Public Schools program to provide services or assistance to non-public schools that enroll a significant percentage of low-income students and are most impacted by the qualifying emergency. USDE has not yet released guidance or individual state allocations.

### Individuals with Disabilities Education Act (IDEA)

ARPA makes available an additional \$2.58 billion nationally in grants to State under part B of the Individuals with Disabilities Education Act (IDEA), of which New York State is projected to receive \$155.4 million. An additional \$200 million is made available nationally for section 619 IDEA preschool grants, of which New York State is projected to receive \$17.2 million. USDE has not yet released guidance on the way in which these funds are to be used for local grants, SEA discretionary purposes and/or SEA administration.

### Additional Information

Attached for your information, please find a detailed summary of the education and related provisions of the American Rescue Plan.

Thank you for everything you are doing for your students during this unprecedented time.

### Attachment

cc: Commissioner Betty Rosa  
John D'Agati  
Sharon Cates-Williams  
Kim Wilkins  
Sean Giambattista  
Jason Harmon  
Christina Coughlin  
Ed Lenart

## **Summary of Education and Related Provisions of the American Rescue Plan Act**

### Individuals with Disabilities Education Act (IDEA)

An additional \$2.58 billion is appropriated nationally in grants to State under part B of the Individuals with Disabilities Education Act (IDEA), of which New York State is projected to receive \$155.4 million. An additional \$200 million is appropriated nationally for section 619 IDEA preschool grants, of which New York State is projected to receive \$17.2 million. USDE has not yet released guidance on the way in which these funds are to be used for local grants, SEA discretionary purposes and/or SEA administration.

### Higher Education

\$39.6 billion is appropriated nationally for a third Higher Education Emergency Relief (HEER) Fund for allocations to institutions of higher education. IHEs must use at least 50 percent of their allocation to provide emergency financial aid grants to students. These funds are provided directly by USDE to IHEs and do not flow through NYSED.

### Non-Public Schools

\$2.75 billion is appropriated nationally for allocations to Governors for a second Emergency Assistance to Non-Public Schools program to provide services or assistance to non-public schools that enroll a significant percentage of low-income students and are most impacted by the qualifying emergency. ARPA states that these funds shall not be used to provide reimbursements to any non-public school. USDE has not yet released guidance or individual state allocations.

### E-Rate

\$7.171 billion is appropriated nationally, to remain available until September 30, 2030, to an eligible school or library<sup>1</sup>, for the purchase during a COVID–19 emergency period of eligible equipment<sup>2</sup> or advanced telecommunications and information services (or both), for use by:

- in the case of a school, students and staff of the school at locations that include locations other than the school; and
- in the case of a library, patrons of the library at locations that include locations other than the library.

The Federal Communications Commission shall reimburse 100 percent of the costs associated with the eligible equipment, advanced telecommunications and information services, or eligible equipment and advanced telecommunications and information services, except that any reimbursement of a school or library for the costs associated with any eligible equipment may

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<sup>1</sup> The term “eligible school or library” means an elementary school, secondary school, or library (including a Tribal elementary school, Tribal secondary school, or Tribal library) eligible for support under paragraphs (1)(B) and (2) of section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)).

<sup>2</sup> The term “eligible equipment” means the following: Wi-Fi hotspots, modems, routers, devices that combine a modem and router, and connected devices (i.e., laptop computer, tablet computer, or similar end-user device that is capable of connecting to advanced telecommunications and information services.

not exceed an amount that the Commission determines, with respect to the request by the school or library for the reimbursement, is reasonable.

### Institute of Museum and Library Services

Appropriates \$200 million nationally to the Institute of Museum and Library Services for fiscal year 2021, to remain available until expended, for necessary expenses to carry out museum and library services. The Director of the Institute of Museum and Library Services shall award not less than 89 percent of such funds to State library administrative agencies by applying the formula in section 221(b) of the Museum and Library Services Act. New York State is projected to receive \$6.2 million.

### Elementary and Secondary Education:

Appropriates \$122.8 billion nationally in a third round of Elementary and Secondary School Emergency Relief (ESSER) funds, to remain available through September 30, 2023 (the Tydings amendment should extend this timeframe to September 30, 2024), of which USDE must use \$800 million to provide homeless children and youth with wrap-around services in light of the challenges of COVID-19 and assistance needed to enable homeless children and youth to attend school and participate fully in school activities.

The remaining \$122 billion will be granted to SEAs in the same proportion as each State received under part A of title I of the Elementary and Secondary Education Act of 1965 in the most recent fiscal year (FY 2020). New York State's allocation is \$8.99 billion. On March 24, 2021, U.S. Education Secretary Cardona notified all SEAs that USDE will not release one-third of a state's ARP-ESSER funds until after the state submits an application to USDE with a plan for the use of the funds.

At least 90% (\$8.09 billion) must be allocated to LEAs (including charter schools that are LEAs) in proportion to the amount of funds each LEA received under part A of title I of the Elementary and Secondary Education Act of 1965 in the most recent fiscal year. LEA allocations are to be made, to the extent practicable, within 60 days after receipt.

### LEAs must:

- Reserve at least 20% of their allocation to address learning loss through the implementation of evidence-based interventions, such as summer learning or summer enrichment, extended day, comprehensive afterschool programs, or extended school year programs, and ensure that such interventions respond to students' academic, social, and emotional needs and address the disproportionate impact of the coronavirus on economically disadvantaged students, children with disabilities, English learners, racial and ethnic minorities, migrant students, students experiencing homelessness, and children and youth in foster care; and
- Shall use the remaining funds for any of the following:
  - Any activity authorized by the Elementary and Secondary Education Act of 1965.
  - Any activity authorized by the Individuals with Disabilities Education Act.
  - Any activity authorized by the Adult Education and Family Literacy Act.

- Any activity authorized by the Carl D. Perkins Career and Technical Education Act of 2006.<sup>3</sup>
- Coordination of preparedness and response efforts of local educational agencies with State, local, Tribal, and territorial public health departments, and other relevant agencies, to improve coordinated responses among such entities to prevent, prepare for, and respond to coronavirus.<sup>4</sup>
- Activities to address the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including how outreach and service delivery will meet the needs of each population.
- Developing and implementing procedures and systems to improve the preparedness and response efforts of local educational agencies.
- Training and professional development for staff of the local educational agency on sanitation and minimizing the spread of infectious diseases.
- Purchasing supplies to sanitize and clean the facilities of a local educational agency, including buildings operated by such agency.
- Planning for, coordinating, and implementing activities during long-term closures, including providing meals to eligible students, providing technology for online learning to all students, providing guidance for carrying out requirements under the Individuals with Disabilities Education Act and ensuring other educational services can continue to be provided consistent with all Federal, State, and local requirements.
- Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the local educational agency that aids in regular and substantive educational interaction between students and their classroom instructors, including low income students and children with disabilities, which may include assistive technology or adaptive equipment.
- Providing mental health services and supports, **including through the implementation of evidence-based full-service community schools.**<sup>5</sup>
- Planning and implementing activities related to summer learning and supplemental afterschool programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low income students, children with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care.
- Addressing learning loss among students, including low-income students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children and youth in foster care, of the local educational agency, including by (i) administering and using high-quality assessments that are valid and reliable, to accurately assess students' academic progress and assist educators in meeting students' academic needs, including through differentiating instruction; (ii) implementing evidence-based activities to meet the comprehensive needs of students; (iii) providing information and assistance to parents and families on how they can effectively support students, including in a distance learning environment; and (iv) tracking student attendance and improving student engagement in distance education.

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<sup>3</sup>CARES and CRRSA included subtitle B of title VII of the McKinney-Vento Homeless Assistance Act.

<sup>4</sup> CARES and CRRSA included "Providing principals and other school leaders with the resources necessary to address the needs of their individual schools."

<sup>5</sup> Allowable uses in bold were not included in CARES or CRRSA.

- School facility repairs and improvements to enable operation of schools to reduce risk of virus transmission and exposure to environmental health hazards, and to support student health needs.
- Inspection, testing, maintenance, repair, replacement, and upgrade projects to improve the indoor air quality in school facilities, including mechanical and non-mechanical heating, ventilation, and air conditioning systems, filtering,
- purification and other air cleaning, fans, control systems, and window and door repair and replacement.
- **Developing strategies and implementing public health protocols including, to the greatest extent practicable, policies in line with guidance from the Centers for Disease Control and Prevention for the reopening and operation of school facilities to effectively maintain the health and safety of students, educators, and other staff.**
- Other activities that are necessary to maintain the operation of and continuity of services in local educational agencies and continuing to employ existing staff of the local educational agency.

*States:*

- shall reserve not less than 5 percent of the total amount of grant funds awarded to the State (\$449.4 million) to carry out, directly or through grants or contracts, activities to address learning loss by supporting the implementation of evidence-based interventions, such as summer learning or summer enrichment, extended day, comprehensive afterschool programs, or extended school year programs, and ensure that such interventions respond to students' academic, social, and emotional needs and address the disproportionate impact of the coronavirus on economically disadvantaged students, children with disabilities, English learners, racial and ethnic minorities, migrant students, students experiencing homelessness, and children and youth in foster care, including by providing additional support to local educational agencies to fully address such impacts;
- shall reserve not less than 1 percent of the total amount of grant funds awarded to the State (\$89.9 million) to carry out, directly or through grants or contracts, the implementation of evidence based summer enrichment programs, and ensure such programs respond to students' academic, social, and emotional needs and address the disproportionate impact of the coronavirus on economically disadvantaged students, children with disabilities, English learners, racial and ethnic minorities, migrant students, students experiencing homelessness, and children and youth in foster care;
- shall reserve not less than 1 percent of the total amount of grant funds awarded to the State (\$89.9 million) to carry out, directly or through grants or contracts, the implementation of evidence based comprehensive afterschool programs, and ensure such programs respond to students' academic, social, and emotional needs and address the disproportionate impact of the coronavirus on economically disadvantaged students, children with disabilities, English learners, racial and ethnic minorities, migrant students, students experiencing homelessness, and children and youth in foster care; and
- may reserve not more than one-half of 1 percent of the total amount of grant funds awarded to the State (\$44.9 million) for administrative costs and the remainder (\$224.7 million) for emergency needs as determined by the State educational agency to address issues responding to coronavirus, which may be addressed through the use of grants or contracts.

Funds not awarded within one year of receipt will be returned to USDE and USDE shall reallocate the funds to other states.

#### *LEA Requirements*

- Within 30 days of receipt of funds, LEAs shall develop and make publicly available on the LEA's website, a plan for the safe return to in-person instruction and continuity of services. Before making the plan publicly available, the LEA shall seek public comment on the plan and take such comments into account in the development of the plan.
- If an LEA has previously developed a plan for the safe return to in-person that meets these requirements, such plan shall be deemed to satisfy the requirements of the Act.

#### *State Maintenance of Effort Requirements*

- A State shall maintain support for elementary and secondary education, and for higher education in each of fiscal years 2022 and 2023 at least at the proportional levels of such State's support for elementary and secondary education and for higher education relative to such State's overall spending, averaged over fiscal years 2017, 2018, and 2019.
- USDE may waive the MOE requirement for the purpose of relieving fiscal burdens incurred by States in preventing, preparing for, and responding to the coronavirus.

#### *State Maintenance of Equity Requirements*

- An SEA shall not, in fiscal year 2022 or 2023, reduce State funding (as calculated on a per-pupil basis) for any high-need LEA<sup>6</sup> by an amount that exceeds the overall per-pupil reduction in State funds<sup>7</sup>, if any, across all LEAs in such State in such fiscal year.
- An SEA shall not, in fiscal year 2022 or 2023, reduce State funding (as calculated on a per-pupil basis) for any highest poverty LEA<sup>8</sup> below the level of funding (as calculated on a per-pupil basis) provided to each such LEA in fiscal year 2019.

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<sup>6</sup> The Act defines the term "high-need local educational agency" as an LEA that is among the group of LEAs in the State that, in rank order, have the highest percentages of economically disadvantaged students in the State, on the basis of the most recent satisfactory data available from the Department of Commerce (or, for LEAs for which no such data are available, such other data as the Secretary of Education determines are satisfactory), and collectively serve not less than 50 percent of the State's total enrollment of students served by all LEAs in the State.

<sup>7</sup> The Act defines the term "overall per-pupil reduction in State funds" as, with respect to a fiscal year, the amount of any reduction in the total amount of State funds provided to all LEAs in the State in such fiscal year compared to the total amount of such funds provided to all LEAs in the State in the previous fiscal year; divided by the aggregate number of children enrolled in all schools served by all LEAs in the State in the fiscal year for which the determination is being made.

<sup>8</sup> The Act defines the term "highest poverty local educational agency" as an LEA that is among the group of LEAs in the State that, in rank order, have the highest percentages of economically disadvantaged students in the State, on the basis of the most recent satisfactory data available from the Department of Commerce (or, for LEAs for which no such data are available, such other data as the Secretary of Education determines are satisfactory); and collectively serve not less than 20 percent of the State's total enrollment of students served by all LEAs in the State.

### *LEA Maintenance of Equity Requirements*

An LEA shall not, in fiscal year 2022 or 2023:

- reduce per-pupil funding (from combined State and local funding) for any high-poverty school<sup>9</sup> served by such LEA by an amount that exceeds the total reduction in LEA funding (from combined State and local funding) for all schools served by the LEA in such fiscal year (if any); divided by the number of children enrolled in all schools served by the LEA in such fiscal year; or
- reduce per-pupil, full-time equivalent staff in any high-poverty school by an amount that exceeds the total reduction in full-time equivalent staff in all schools served by such LEA in such fiscal year (if any); divided by the number of children enrolled in all schools served by the LEA in such fiscal year.

These requirements shall not apply to an LEA that meets at least one of the following criteria:

- The LEA has a total enrollment of less than 1,000 students.
- The LEA operates a single school.
- The LEA serves all students within each grade span with a single school.
- The LEA demonstrates an exceptional or uncontrollable circumstance, such as unpredictable changes in student enrollment or a precipitous decline in the financial resources of such agency, as determined by the Secretary of Education.

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<sup>9</sup> The Act defines the term “high-poverty school” as, with respect to a school served by an LEA, a school that is in the highest quartile of schools served by such LEA based on the percentage economically disadvantaged students served, as determined by the State. In making such determination, a State shall select a measure of poverty established by the Secretary of Education and apply such measure consistently to all schools in the State.