

# U.S. Department of Education

## Application for Funding

### Emergency Assistance to Non-Public Schools (EANS) Program under the American Rescue Plan Act of 2021 (ARP Act)

CFDA Number: 84.425V



OMB Number: 1810-0741  
Expiration Date: Jan. 31, 2022

#### Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The OMB control number for this information collection is 1810-0741. The time required to complete this information collection is estimated to average 2 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, D.C. 20202-4537. If you have comments or concerns regarding the status of your individual submission of this form, write directly to: [EANS@ed.gov](mailto:EANS@ed.gov).

## PROGRAM BACKGROUND INFORMATION

### Purpose

Under the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA Act), Pub. L. No. 116-260 (December 27, 2020), Congress first authorized the Emergency Assistance to Non-Public Schools (EANS) program as part of the Governor's Emergency Education Relief (GEER II) Fund to provide emergency services or assistance to non-public schools in the wake of the Coronavirus Disease 2019 (COVID-19). The American Rescue Plan Act of 2021 (ARP Act), Pub. L. No. 117-2 (March 11, 2021), authorized a second round of funding (ARP EANS) to provide services or assistance to non-public schools. With two exceptions, the requirements of ARP EANS are the same as those in section 312(d) of the CRRSA Act. The two exceptions are: (1) a State educational agency (SEA) may only provide services or assistance under ARP EANS to non-public schools that enroll a significant percentage of students from low-income families<sup>1</sup> and are most impacted by the novel Coronavirus Disease 2019 (COVID-19) emergency and (2) an SEA may not use ARP EANS funds to provide reimbursements to any non-public school for costs the school incurred to address the impact of COVID-19 emergency.<sup>2</sup>

### Eligibility

The Governor in each of the 50 States and the Commonwealth of Puerto Rico, as well as the Mayor of the District of Columbia, is eligible to apply.

### Funding

Congress appropriated \$2,750,000,000 for the ARP EANS program. The U.S. Department of Education (Department) will award funds to a Governor with an approved application based on the State's relative share of children aged 5 through 17 who are from a family at or below 185 percent of the poverty level and who are enrolled in a non-public school. The amount each State is eligible to receive is indicated in the allocation table in Appendix D.

By accepting an ARP EANS award from the Department, a Governor automatically designates the SEA to administer the ARP EANS program. An SEA will be the payee or fiscal agent in the Department's grants management system (G5) for purposes of accessing Federal funds.

### Timeline

A Governor must apply for funding under the ARP EANS program by **September 9, 2021**. The Department intends to make an award to a Governor within 15 days of receiving an approvable application. An SEA, as the agency designated to administer the ARP EANS program, must make an application available to non-public schools no later than 30 days after receipt of the funds and approve or deny an application from a non-public school no later than 30 days after receiving it. The SEA must, to the extent practicable, obligate all funds for services or assistance to non-public schools in the State in an expedited and timely manner, but not later than six months after receiving the funds. (An SEA is considered to have received ARP EANS funds on the date the Department makes the grant award to the Governor.) An SEA that complies with its responsibilities under the

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<sup>1</sup> Under these final requirements, "students from low-income families" has the same meaning as "low-income students" under section 2002(a) of the ARP Act. "Students from low-income families" is a term used in section 312(d) of the Coronavirus Response and Relief Supplemental Appropriations Act, 2021.

<sup>2</sup> Reimbursement to a non-public school for costs the school incurred to address the impact of COVID-19 was a previously authorized service under section 312(d)(4)(M) of the CRRSA Act.

ARP EANS program but has unobligated funds remaining six months after receiving those funds must return them to the Governor for any authorized use under the GEER II Fund. Before the SEA returns ARP EANS funds to the Governor, it should notify the Department.

#### **Types of Services or Assistance**

A non-public school may receive services or assistance under the ARP EANS program to address educational disruptions resulting from the COVID-19 emergency for:

- A. supplies to sanitize, disinfect, and clean school facilities;
- B. personal protective equipment (PPE);
- C. improving ventilation systems, including windows or portable air purification systems to ensure healthy air in the non-public school;
- D. training and professional development for staff on sanitation, the use of PPE, and minimizing the spread of infectious diseases;
- E. physical barriers to facilitate social distancing;
- F. other materials, supplies, or equipment to implement public health protocols, including guidelines and recommendations from the Centers for Disease Control and Prevention (CDC) for the reopening and operation of school facilities to effectively maintain the health and safety of students, educators, and other staff during the COVID-19 emergency;
- G. expanding capacity to administer coronavirus testing to effectively monitor and suppress coronavirus, to conduct surveillance and contact tracing activities, and to support other activities related to coronavirus testing for students, teachers, and staff at the non-public school;
- H. educational technology (including hardware, software, connectivity, assistive technology, and adaptive equipment) to assist students, educators, and other staff with remote or hybrid learning;
- I. redeveloping instructional plans, including curriculum development, for remote learning, hybrid learning, or to address learning loss;
- J. leasing of sites or spaces to ensure safe social distancing to implement public health protocols, including guidelines and recommendations from the CDC;
- K. reasonable transportation costs; and
- L. initiating and maintaining education and support services or assistance for remote learning, hybrid learning, or to address learning loss.

As noted above, pursuant to ARP EANS statutory requirements and unlike the EANS program authorized under section 312(d) of the CRRSA Act, an SEA may not use ARP EANS funds to provide reimbursements to any non-public school.

#### **SEA Identification of Non-Public Schools to be Served**

Under section 2002(a) of the ARP Act, services or assistance to non-public schools under the ARP EANS program are limited to “non-public schools that enroll a significant percentage of [students from low-income families] and are most impacted by the [COVID-19] emergency.” To clarify this and other requirements, the Department issued final requirements for the ARP EANS program on July 9, 2021.

The final requirements require a Governor, in his or her application for ARP EANS funds, to identify the significant poverty percentage and the factors demonstrating the impact of the COVID-19 emergency the State will use, after approval by the Secretary, to determine which non-public schools are eligible to receive services or assistance. In addition to meeting the definition of a non-

public school in section 316(6) of the CRRSA Act and the eligibility requirement in section 312(d)(9) of the CRRSA Act, a non-public school must meet or exceed the State's significant poverty percentage and be most impacted by the COVID-19 emergency.

A non-public school enrolls a significant percentage of students from low-income families if the percentage of students from low-income families enrolled in such school meets or exceeds--

- 40 percent; or
- An alternate significant percentage approved by the Secretary in the State's application that is based on circumstances in the State, which may be—
  - The State's average percentage of students from low-income families in public and non-public schools;
  - The average percentage of students from low-income families in non-public schools in the State that, for example, applied for or participated in the EANS program authorized by the CRRSA Act; or
  - Other factors that the State demonstrates support an alternate significant poverty percentage.

A non-public school is most impacted by the COVID-19 emergency based on one or more of the following factors:

- The number of COVID-19 infections per capita in the community or communities served by the non-public school;
- The number of COVID-19-related deaths per capita in the community or communities served by the non-public school;
- Data on the academic impact of lost instructional time<sup>3</sup> and the social, emotional, and mental health impacts on students attending the non-public school attributable to the disruption of instruction caused by the COVID-19 emergency; or
- The economic impact of the COVID-19 emergency on the community or communities served by the non-public school.

In addition to using one or more of these factors, an SEA may use other factors included in the State's approved application to determine that a non-public school is most impacted by the COVID-19 emergency.

Following the Secretary's approval of a State's application for EANS funding under the ARP Act, an SEA must publish on its website, on or before the date it makes applications for EANS services or assistance under the ARP Act available to non-public schools, the State's approved (1) minimum percentage to determine whether a non-public school enrolls a significant percentage of students from low-income families, (2) source(s) of poverty data to be used to determine counts of low-income families in a non-public school, and (3) factors to determine whether a non-public school is most impacted by the COVID-19 emergency.

#### **Determining Low-Income Counts**

To be counted as a student from a low-income family for purposes of the ARP EANS program, a student must be aged 5 through 17 from a family whose income does not exceed 185 percent of the

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<sup>3</sup> We note that section 312(d)(4)(1.) of the CRRSA Act specifically authorizes the use of EANS funds to address "learning loss," which the final requirements refer to as the "academic impact of lost instructional time."

2020 Federal poverty threshold. To obtain a count of students from low-income families enrolled in a non-public school, an SEA may use one or more of the following sources of data, provided the poverty threshold is consistent across sources:

- Data on student eligibility for free or reduced-price lunch under the Richard B. Russell National School Lunch Act (43 U.S.C. 1751 *et seq.*).
- Data from the E-rate program administered by the Federal Communications Commission (47 CFR 54.500, 54.505(b)).
- Data from a different source, such as scholarship or financial assistance data.
- Data from a survey developed by the SEA.

## APPLICATION INSTRUCTIONS

### GENERAL INSTRUCTIONS

To receive the State's allocation under the ARP EANS program, a Governor must submit a complete application, in PDF, by email, to the U.S. Department of Education (Department) at [EANS@ed.gov](mailto:EANS@ed.gov) no later than **September 9, 2021**. A complete application package must include the documents listed below. Please note that Parts A, C, and D require the signature of the Governor or an authorized representative in the Office of the Governor and the signature of the Chief State School Officer or an authorized representative of the SEA:

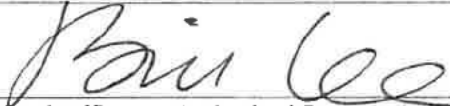

- A completed application cover sheet (*Part A*)
- Application requirements (*Part B*)
- Programmatic, fiscal, and reporting assurances (*Part C*)
- Other assurances and certifications (*Part D*)

### APPENDICES

Appendix A – ARP Act EANS Requirements  
Appendix B – CRRSA Act EANS Requirements  
Appendix C – Final Requirements  
Appendix D – State Allocation Data

**ARP EMERGENCY ASSISTANCE TO NON-PUBLIC SCHOOLS PROGRAM**

**PART A: APPLICATION COVER SHEET  
(CFDA No. 84.425V)**

DUNS Number Office of the Governor:	DUNS Number: 879016251 State Educational Agency (SEA): Tennessee Department of Education
Contact Information for Governor's Office  Legal Name:  Office of the Governor, State of Tennessee  Governor's Name/Authorized Representative's Name and Title:  Address: State Capitol, 1st Floor, 600 Charlotte Ave, Nashville, TN 37243  Telephone: (615) 741-2001  Email: Bill.Lee@tn.gov	Contact Information for SEA  Legal Name:  Tennessee Department of Education  Chief State School Officer's Name/SEA Authorized Representative's Name and Title:  Dr. Penny Schwinn  Address: 710 James Robertson Parkway, 9 <sup>th</sup> floor Nashville, TN 37243  Telephone: 615-741-8457  Email: Commissioner.Schwinn@tn.gov
SEA Financial Institution Name: (b) (4)	Last 4-Digits of Account Number: (b) (4)
To the best of my knowledge and belief, all of the information in this application is true and correct. I acknowledge and agree that the failure to comply with all Assurances and Certifications in this Agreement and all relevant statutory and regulatory requirements may result in liability under the False Claims Act, 31 U.S.C. § 3729 <i>et seq.</i> ; OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485; 18 U.S.C. § 1001, as appropriate; and other enforcement actions.	
Governor or Authorized Representative of the Governor in the Office of the Governor (Typed Name): Bill Lee	
Signature: 	Date: 9/9/2021
Chief State School Officer or Authorized Representative of the SEA (Typed Name): Dr. Penny Schwinn	
Signature: 	Date: 9/7/2021

## ARP EMERGENCY ASSISTANCE TO NON-PUBLIC SCHOOLS PROGRAM

### PART B: APPLICATION REQUIREMENTS

1. Identify the threshold the State will use to determine if a non-public school enrolls a significant percentage of students from low-income families that meets or exceeds (check one of the following).
  - 40 percent; or
  - An alternate significant percentage, contingent on approval by the Secretary, that is based on circumstances in the State, which may be--
    - (1) The State's average percentage of students from low-income families in public and non-public schools;
    - (2) The average percentage of students from low-income families in non-public schools in the State that, for example, applied for or participated in the EANS program as authorized by the CRRSA Act; or
    - (3) Other factors that the State demonstrates support an alternative significant poverty percentage.
  
2. If you selected an alternate significant percentage, please respond to the following:
  - A. What alternate significant percentage are you proposing?  
33%
  - B. What is the basis for the proposed alternate significant percentage (check and enter text for one or more of the following)?
    - The State's average percentage of students from low-income families in public and non-public schools. *If selected, please identify the average percentage and provide an explanation of how these data justify the proposed alternate significant percentage.*  
Click here to enter text.
    - The average percentage of students from low-income families in non-public schools in the State that, for example, applied for or participated in the EANS program as authorized by the CRRSA Act. *If selected, please identify the average percentage and provide an explanation of how these data justify the proposed alternate significant percentage.*  
The average percentage of students from low-income families in non-public schools that applied for and participated in the EANS program authorized by the CRRSA Act (CRRSA EANS) was 33%. Using this percentage is justified based on the following: 1) This is the most current data available on the percentage of students from low-income families in non-public schools; and 2) the non-public schools that applied for and participated in CRRSA EANS are the schools most likely to participate in ARP EANS, as they have already benefited from the EANS program and are already set up in the state systems.



- Other factors that the State demonstrates support an alternate significant poverty percentage. *If selected, please identify the measure(s) and associated data and explain how these data support the proposed alternate significant percentage.*  
Click here to enter text.

3. Identify the factor or factors the State will use to determine which non-public schools are most impacted by the COVID-19 emergency (check one or more of the following).

- The number of COVID-19 infections per capita in the community or communities served by the non-public school.
- The number of COVID-19 related deaths per capita in the community or communities served by the non-public school.
- Data on the academic impact of lost instructional time and the social, emotional, and mental health impacts on students attending the non-public school attributable to the disruption of instruction caused by the COVID-19 emergency.
- The economic impact of the COVID-19 emergency on the community or communities served by the non-public school.

4. Identify any additional factors the State will use to determine which non-public schools are most impacted by the COVID-19 emergency.

Attendance data from the 2020-21 school year would be extremely relevant to determining schools that are most impacted by the COVID-19 emergency. A high percentage of excused absences would indicate a significant impact on the non-public school by COVID-19.

5. Identify the source(s) of poverty data the State will use to determine counts of students from low-income families<sup>4</sup> in non-public schools, provided that the poverty threshold is consistent across sources (check one or more of the following).

- Data on student eligibility for free or reduced-price lunch under the Richard B. Russell National School Lunch Act (43 U.S.C. 1751 et seq.).
- Data from the E-rate program administered by the Federal Communications Commission (47 CFR 54.500, 54.505(b)).
- Data from a different source, such as scholarship or financial assistance data.
- Data from a survey developed by the SEA.

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<sup>4</sup> To be counted as a student from a low-income family for the purposes of the ARP EANS program, a student must be aged 5 through 17 from a family whose income does not exceed 185 percent of the 2020 Federal poverty level.



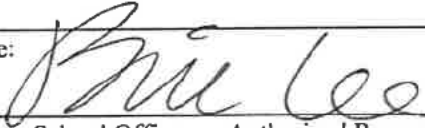
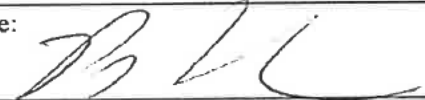
## ARP EMERGENCY ASSISTANCE TO NON-PUBLIC SCHOOLS PROGRAM

### PART C: PROGRAMMATIC, FISCAL, AND REPORTING ASSURANCES

The Governor or his/her authorized representative assures the following:

- Funds will be used to provide services or assistance to non-public schools to address educational disruptions resulting from the COVID-19 emergency consistent with Section 2002 of the American Rescue Plan Act of 2021 (ARP Act), applicable provisions of Section 312(d) of the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA Act), and all other applicable requirements. Consistent with Section 2002(b) of the ARP Act, funds may **not** be used to provide reimbursements to any non-public school.
- By accepting an ARP EANS award from the Department, the Governor designates the State educational agency (SEA) to administer the ARP EANS program and to draw down funds from the Department's Grants Management System (G5). The SEA will distribute information about the ARP EANS program to non-public schools and make an application easily available no later than 30 days after receipt of the ARP EANS funds, which is also the same time as the Governor receives the grant award. The SEA will process each non-public school application promptly but no later than 30 days after the SEA receives the application from a non-public school.
- The SEA will ensure that services or assistance are provided only to eligible non-public schools that enroll a significant percentage of students from low-income families and are most impacted by the COVID-19 emergency, consistent with the final requirements. To be eligible, a non-public school must--
  - be a non-public school that meets the definition of a non-public school in section 316(6) of the CRRSA Act and the eligibility requirement in section 312(d)(9) of the CRRSA Act;
  - submit an application that meets the requirements under Section 312(d)(3)(B) of the CRRSA Act; and
  - request allowable services or assistance consistent with Section 312(d)(4) of the CRRSA Act and Section 2002(b) of the ARP Act.
- The SEA will, to the extent practicable, obligate all ARP EANS funds in an expedited and timely manner, but not later than six months after receiving the funds.
- The SEA will ensure the control of funds for the services or assistance provided to a non-public school, and title to materials, equipment, and property purchased with ARP EANS funds will be in a public agency and a public agency will administer such funds, services, assistance, materials, equipment, and property.
- The SEA will ensure that all services or assistance provided under the ARP EANS program, including materials, equipment, and any other items, will be secular, neutral, and non-ideological.
- The SEA will not use ARP EANS funds to provide direct or indirect financial assistance to scholarship-granting organizations or related entities for elementary or secondary education or to provide or support vouchers, tuition tax credit programs, education savings accounts, scholarships, scholarship programs, or tuition-assistance programs for elementary or secondary education, except for students who receive or received such assistance under the Governor's Emergency Education Relief (GEER 1) Fund under the Coronavirus Aid, Relief, and Economic Security (CARES) Act for the 2020-2021 school year, and only for the same assistance provided such students.

- The Governor will comply with all reporting requirements at such time and in such manner and containing such information as the Secretary may reasonably require. (Sec also 2 CFR 200.328-200.329).
- The SEA and any entity providing services of assistance under the ARP EANS program will cooperate with any examination of records by making records available for inspection, production, and examination, and authorized individuals available for interview and examination, upon the request of (i) the Department and/or its Inspector General; or (ii) any other Federal agency, commission, or department in the lawful exercise of its jurisdiction and authority.
- The Governor will return to the Secretary any funds received under the ARP EANS program that the Governor does not award or obligate within one year of receiving such funds.
- The Governor has consulted with the SEA on the application, particularly the assurances herein.

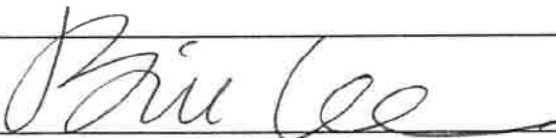

Governor or Authorized Representative of the Governor in the Office of the Governor (Typed Name): Bill Lee	
Signature: 	Date: 9/9/2021
Chief State School Officer or Authorized Representative of the SEA (Typed Name): Dr. Penny Schwinn	
Signature: 	Date: 9/7/2021

**ARP EMERGENCY ASSISTANCE TO NON-PUBLIC SCHOOLS PROGRAM**

**PART D: OTHER ASSURANCES AND CERTIFICATIONS**

The Governor or his/her authorized representative assures or certifies the following:

- The State will comply with all applicable assurances in OMB Standard Forms 424B and D (Assurances for Non-Construction and Construction Programs), including the assurances relating to the legal authority to apply for assistance; access to records; conflict of interest; merit systems; nondiscrimination; Hatch Act provisions; labor standards; flood hazards; historic preservation; protection of human subjects; animal welfare; lead-based paint; Single Audit Act; and the general agreement to comply with all applicable Federal laws, executive orders, and regulations.
- With respect to the certification regarding lobbying in Department Form 80-0013, no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or renewal of Federal grants under this program; and the State will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 CFR part 82, Appendix B).
- The State and other entities will comply with the provisions of all applicable acts, regulations, and assurances; the provisions of the Education Department General Administrative Regulations in 34 CFR parts 76, 77, 81, 82, 84, 86, 97, 98, and 99; the OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485; and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Governor or Authorized Representative of the Governor in the Office of the Governor (Typed Name): Bill Lee	
Signature: 	Date: 9/9/2021
Chief State School Officer or Authorized Representative of the SEA (Typed Name): Dr. Penny Schwinn	
Signature: 	Date: 9/7/2021

## **Appendix A: Section 2002 of the American Rescue Plan Act of 2021**

### **SEC. 2002. EMERGENCY ASSISTANCE TO NON-PUBLIC SCHOOLS.**

(a) **IN GENERAL.**—In addition to amounts otherwise available through the Emergency Assistance to Non-Public Schools Program, there is appropriated to the Department of Education for fiscal year 2021, out of any money in the Treasury not otherwise appropriated, \$2,750,000,000, to remain available through September 30, 2023, for making allocations to Governors under the 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.

(b) **LIMITATIONS.**—Funds provided under subsection (a) shall not be used to provide reimbursements to any non-public school.

## **Appendix B: Relevant Excerpts from Title III of the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA Act)**

### **Section 312(d) EMERGENCY ASSISTANCE TO NON-PUBLIC SCHOOLS. —**

#### **(1) PROGRAM AUTHORIZED.—**

(A) **IN GENERAL.**—With funds reserved under subsection (a)(2), the Secretary shall allot the amount described in subparagraph (B) to the Governor of each State with an approved application under paragraph (2) in order to provide services or assistance to non-public schools under this subsection. The Governor shall designate the State educational agency to administer the program authorized under this subsection.

(B) **AMOUNT OF ALLOTMENT.**—An allotment for a State under subparagraph (A) shall be in the amount that bears the same relationship to the total amount of the funds reserved under subsection (a)(2) as the number of children aged 5 through 17 at or below 185 percent of poverty who are enrolled in non-public schools in the State (as determined by the Secretary on the basis of the best available data) bears to the total number of all such children in all States.

#### **(2) APPLICATIONS FROM STATES. —**

(A) **APPLICATION REQUEST AND REVIEW.**—The Secretary shall—

- (i) issue a notice inviting applications for funds reserved under subsection (a)(2) not later than 30 days after the date of enactment of this Act; and
- (ii) approve or deny an application not later than 15 days after the receipt of the application.

(B) **ASSURANCE.**—The Governor of each State, in consultation with their respective State educational agency, shall include in the application submitted under this paragraph an assurance that the State educational agency will —

- (i) distribute information about the program to non-public schools and make the information and the application easily available;
- (ii) process all applications submitted promptly, in accordance with subparagraph (3)(A)(ii);
- (iii) in providing services or assistance to non-public schools, ensure that services or assistance is provided to any non-public school that,
  - (I) is a non-public school described in paragraph (3)(C);
  - (II) submits an application that meets the requirements of paragraph (3)(B); and
  - (III) requests services or assistance allowable under paragraph (4);
- (iv) to the extent practicable, obligate all funds provided under subsection (a)(2) for services or assistance to non-public schools in the State in an expedited and timely manner; and
- (v) obligate funds to provide services or assistance to non-public schools in the State not later than 6 months after receiving such funds under subsection (a)(2).

#### **(3) APPLICATIONS FOR SERVICES OR ASSISTANCE.**

(A) **APPLICATION REQUEST AND REVIEW.**—A State educational agency receiving funds from the Governor under this subsection shall—

- (i) make the application for services or assistance described in subparagraph (B) available to non-public schools by not later than 30 days after the receipt of such funds; and
- (ii) approve or deny an application not later than 30 days after the receipt of the application.

(B) **APPLICATION REQUIREMENTS.**—Each non-public school desiring services or assistance under this subsection shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the

State educational agency may reasonably require to ensure expedited and timely provision of services or assistance to the non-public school, which shall include--

- (i) the number and percentage of students from low-income families enrolled by such non-public school in the 2019–2020 school year;
- (ii) a description of the emergency services authorized under paragraph (4) that such non-public school requests to be provided by the State educational agency; and
- (iii) whether the non-public school requesting services or assistance under this subsection received a loan guaranteed under paragraph (36) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)) that was made before the date of enactment of this Act and the amount of any such loan received.

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(4) TYPES OF SERVICES OR ASSISTANCE.—A non-public school receiving services or assistance under this subsection shall use such services or assistance to address educational disruptions resulting from the qualifying emergency for--

- (A) supplies to sanitize, disinfect, and clean school facilities;
- (B) personal protective equipment;
- (C) improving ventilation systems, including windows or portable air purification systems to ensure healthy air in the non-public school;
- (D) training and professional development for staff on sanitation, the use of personal protective equipment, and minimizing the spread of infectious diseases;
- (E) physical barriers to facilitate social distancing;
- (F) other materials, supplies, or equipment to implement public health protocols, including guidelines and recommendations 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 during the qualifying emergency;
- (G) expanding capacity to administer coronavirus testing to effectively monitor and suppress coronavirus, to conduct surveillance and contact tracing activities, and to support other activities related to coronavirus testing for students, teachers, and staff at the non-public school;
- (H) educational technology (including hardware, software, connectivity, assistive technology, and adaptive equipment) to assist students, educators, and other staff with remote or hybrid learning;
- (I) redeveloping instructional plans, including curriculum development, for remote learning, hybrid learning, or to address learning loss;
- (J) leasing of sites or spaces to ensure safe social distancing to implement public health protocols, including guidelines and recommendations from the Centers for Disease Control and Prevention;
- (K) reasonable transportation costs; [or]
- (L) initiating and maintaining education and support services or assistance for remote learning, hybrid learning, or to address learning loss.<sup>5</sup>

(5) ADMINISTRATION.—A State educational agency receiving funds under this subsection may reserve not more than the greater of \$200,000 or one-half of 1 percent of such funds to administer the services and assistance provided under this subsection to non-public schools.

(6) REALLOCATION.—Notwithstanding paragraph (1)(A), each State educational agency receiving funds under this subsection that complies with paragraph (2) but has unobligated funds remaining 6 months after receiving funds under this subsection shall return such

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<sup>5</sup> The Department has omitted the provision in section 312(d)(4)(M) of the CRSSA Act that authorizes reimbursement to non-public schools because the ARP Act does not permit reimbursement.



remaining unobligated funds to the Governor, to use for any use authorized under sub section(c).

**(7) PUBLIC CONTROL OF FUNDS. —**

**(A) IN GENERAL.—**The control of funds for the services or assistance provided to a non-public school under this subsection, and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds, services, assistance, materials, equipment, and property.

**(B) PROVISION OF SERVICES OR ASSISTANCE.—**

**(i) PROVIDER.—**The provision of services or assistance to a non-public school under this subsection shall be provided --

**(I) by employees of a public agency; or**

**(II) through contract by such public agency with an individual, association, agency, or organization.**

**(ii) REQUIREMENT.—**In the provision of services or assistance described in clause (i), such employee, individual, association, agency, or organization shall be independent of the non-public school receiving such services or assistance, and such employment and contracts shall be under the control and supervision of such public agency described in subparagraph (A).

**(8) SECULAR, NEUTRAL, AND NON-IDEOLOGICAL. --** All services or assistance provided under this subsection, including providing equipment, materials, and any other items, shall be secular, neutral, and non-ideological.

**(9) INTERACTION WITH PAYCHECK PROTECTION PROGRAM.—(A) IN GENERAL.—**In order to be eligible to receive services or assistance under this subsection, a non-public school shall submit to the State an assurance, including any documentation required by the Secretary, that such non-public school did not, and will not, apply for and receive a loan under paragraphs (36) or (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)(37)) that is made on or after the date of enactment of this Act.

**(B) ALLOWANCE.—**A non-public school that received a loan guaranteed under paragraph (36) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)) that was made before the date of enactment of this Act shall be eligible to receive services or assistance under this subsection.

**Section 312 (e) RESTRICTIONS.—**

**(1) Funds provided under this section shall not be used --**

**(A) to provide direct or indirect financial assistance to scholarship granting organizations or related entities for elementary or secondary education; or**

**(B) to provide or support vouchers, tuition tax credit programs, education savings accounts, scholarships, scholarship programs, or tuition-assistance programs for elementary or secondary education.**

**(2) EXCEPTION.—**Notwithstanding paragraph (1), a State may use funds provided under subsection (a)(1) to provide assistance prohibited under paragraph (1) only to students who receive or received such assistance with funds provided under section 18002(a) of division B of the CARES Act (20 U.S.C. 3401 note), for the 2020-2021 school year and only for the same assistance provided such students under such section.

**(3) RULE OF CONSTRUCTION.—**Nothing in this subsection shall be interpreted to apply any additional restrictions to funds provided in section 18002(a) of division B of the CARES Act (20 U.S.C. 3401 note).

**Section 312 (f) REALLOCATION.—**

Each Governor shall return to the Secretary any funds received under paragraph (1) or (2) of subsection (a) that the Governor does not award or obligate not later than 1 year after the date of receipt of such funds, and the Secretary shall reallocate such funds to the remaining States in accordance with subsection (b) for uses authorized under subsection (c).

**DEFINITIONS**

SEC. 316. Except as otherwise provided in sections 311 through 316 of this title, as used in such sections—

- (1) the terms “elementary education” and “secondary education” have the meaning given such terms under State law;
- (2) the term “institution of higher education” has the meaning given such term in title I of the Higher Education Act of 1965;
- (3) the term “Secretary” means the Secretary of Education;
- (4) the term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico;
- (5) the term “cost of attendance” has the meaning given such term in section 472 of the HEA.
- (6) the term “Non-public school” means a non-public elementary and secondary school that –
  - (A) is accredited, licensed, or otherwise operates in accordance with State law; and
  - (B) was in existence prior to the date of the qualifying emergency for which grants are awarded under this section;
- (7) the term “public school” means a public elementary or secondary school;
- (8) any other term used that is defined in section 8101 of the ESEA of 1965) shall have the meaning given the term in such section; and
- (9) the term “qualifying emergency” has the meaning given the term in section 3502(a)(4) of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136).

## Appendix C: Final Requirements

(a) In general. A State educational agency (SEA) must provide services or assistance under the Emergency Assistance to Non-Public Schools (EANS) program, as authorized by the American Rescue Plan Act of 2021 (ARP Act), in accordance with the requirements applicable to the EANS program under section 312(d) of division M of the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA Act), except that--

(1) An SEA may provide such services or assistance only to an eligible non-public school that enrolls a significant percentage of students from low-income families and is most impacted by the COVID-19 emergency; and

(2) An SEA may not use such funds to provide reimbursements to any non-public school.

(b) Determining non-public schools to be served.

(1) To provide services or assistance to a non-public school under paragraph (a), an SEA must determine, consistent with the State's approved application for EANS funding under the ARP Act, that the school--

(i) Enrolls a significant percentage of students from low-income families in accordance with paragraphs (b)(2) and (c) of this section; and

(ii) Is most impacted by the COVID-19 emergency in accordance with paragraph (b)(3) of this section.

(2) A non-public school enrolls a significant percentage of students from low-income families if the percentage of students from low-income families enrolled in such school meets or exceeds--

(i) 40 percent; or

(ii) An alternate significant percentage approved by the Secretary in the State's application for EANS funding under the ARP Act that is based on circumstances in the State, which may be--

(A) The State's average percentage of students from low-income families in public and non-public schools;

(B) The average percentage of students from low-income families in non-public schools in the State that, for example, applied for or participated in the EANS program as authorized by the CRRSA Act; or

(C) Other factors that the State demonstrates support an alternate significant poverty percentage.

(3)(i) A non-public school is most impacted by the COVID-19 emergency based on one or more of the following factors--

(A) The number of COVID-19 infections per capita in the community or communities served by the non-public school;

(B) The number of COVID-19-related deaths per capita in the community or communities served by the non-public school;

(C) Data on the academic impact of lost instructional time and the social, emotional, and mental health impacts on students attending the non-public school attributable to the disruption of instruction caused by the COVID-19 emergency; or

(D) The economic impact of the COVID-19 emergency on the community or communities served by the non-public school.

(ii) In addition to using one or more of the factors identified in paragraph (b)(3)(i), an SEA may use other factors included in the State's approved application for EANS funding under the ARP Act to determine that a non-public school is most impacted by the COVID-19 emergency.

(4) An SEA must publish on its website, on or before the date it makes applications for EANS services or assistance under the ARP Act available to non-public schools, the State's approved--

(i) Minimum percentage to determine whether a non-public school enrolls a significant percentage of students from low-income families;

- (ii) The source(s) of poverty data the State will use to determine counts of students from low-income families in a non-public school; and
- (iii) Factors to determine whether a non-public school is most impacted by the COVID-19 emergency.

(c) Determining low-income counts.

(1) To be counted as a student from a low-income family for purposes of this section, a student must be aged 5 through 17 from a family whose income does not exceed 185 percent of the 2020 Federal poverty level.

(2) To obtain a count of students from low-income families enrolled in a non-public school under paragraph (c)(1), an SEA may use one or more of the following sources of data, provided the poverty threshold is consistent across sources--

- (i) Data on student eligibility for free or reduced-price lunch under the Richard B. Russell National School Lunch Act (43 U.S.C. 1751 et seq.);
- (ii) Data from the E-rate program administered by the Federal Communications Commission (47 CFR 54.500, 54.505(b));
- (iii) Data from a different source, such as scholarship or financial assistance data; or
- (iv) Data from a survey developed by the SEA.

## Appendix D: State Allocation Data

Section 2002 of the American Rescue Plan Act of 2021 (ARP Act) appropriated \$2,750,000,000 for a second round of allocations under the Emergency Assistance to Non-Public Schools (EANS) program authorized in section 312(d) of the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA Act). Section 312(d) of the CRRSA Act requires the Department to allocate EANS funds on the basis of each State's relative number of children aged 5 through 17 at or below 185 percent of poverty who are enrolled in non-public schools in the State. The Department used school enrollment and poverty data from the American Community Survey (ACS) 5-Year (2015-2019) Public Use Microdata Sample (PUMS) to determine the relative shares of such children in each State. Section 312(d)(5) of the CRRSA Act specifies that States receiving EANS funds may reserve not more than the greater of \$200,000 or one-half of 1 percent of such funds for administrative costs. The following table shows each State's ARP EANS allocation as well as the maximum reservation allowed for administration.

Note that while the EANS appropriation under the ARP Act is the same as under the CRRSA Act (\$2,750,000,000), the allocations below differ from the initial round of EANS allocations under the CRRSA Act. This is because the EANS allocations authorized under section 312(d) of the CRRSA Act were based on ACS PUMS private school enrollment and poverty data for the 2014-2018 5-year period. The ACS has since released updated school enrollment and poverty data for the 2015-2019 5-year period, and the Department determined that use of the updated data would be most consistent with the statutory requirements of the EANS program, which call for allocations to be based on the "best available data."

### State Allocation Table

STATE	ARP EANS Allocations	Maximum for ARP EANS Administration <sup>1</sup>
<b>TOTAL</b>	<b>2,750,000,000</b>	<b>17,022,858</b>
ALABAMA	44,895,780	224,479
ALASKA	5,882,303	200,000
ARIZONA	54,444,547	272,223
ARKANSAS	22,903,129	200,000
CALIFORNIA	181,312,003	906,560
COLORADO	28,709,729	200,000
CONNECTICUT	15,956,897	200,000
DELAWARE	3,889,481	200,000
DISTRICT OF COLUMBIA	4,533,977	200,000
FLORIDA	221,188,900	1,105,945
GEORGIA	75,408,050	377,040
HAWAII	10,365,129	200,000
IDAHO	21,961,960	200,000
ILLINOIS	83,246,346	416,232
INDIANA	78,874,005	394,370

STATE	ARP EANS Allocations	Maximum for ARP EANS Administration <sup>1</sup>
IOWA	23,744,042	200,000
KANSAS	25,069,862	200,000
KENTUCKY	42,665,620	213,328
LOUISIANA	55,674,204	278,371
MAINE	12,327,260	200,000
MARYLAND	39,248,769	200,000
MASSACHUSETTS	24,826,386	200,000
MICHIGAN	86,894,397	434,472
MINNESOTA	40,488,656	202,443
MISSISSIPPI	30,461,120	200,000
MISSOURI	68,641,868	343,209
MONTANA	12,063,324	200,000
NEBRASKA	18,618,767	200,000
NEVADA	18,180,919	200,000
NEW HAMPSHIRE	6,698,664	200,000
NEW JERSEY	70,947,730	354,739
NEW MEXICO	17,425,938	200,000
NEW YORK	252,458,198	1,262,291
NORTH CAROLINA	82,951,720	414,759
NORTH DAKOTA	4,151,371	200,000
OHIO	155,190,488	775,952
OKLAHOMA	31,482,084	200,000
OREGON	28,355,768	200,000
PENNSYLVANIA	152,741,404	763,707
PUERTO RICO	104,193,482	520,967
RHODE ISLAND	6,209,666	200,000
SOUTH CAROLINA	40,560,267	202,801
SOUTH DAKOTA	7,609,142	200,000
TENNESSEE	73,683,257	368,416
TEXAS	152,146,013	760,730
UTAH	26,428,418	200,000
VERMONT	3,877,205	200,000
VIRGINIA	46,344,360	231,722
WASHINGTON	45,744,877	228,724
WEST VIRGINIA	9,763,599	200,000
WISCONSIN	73,875,583	369,378
WYOMING	4,683,336	200,000

<sup>1</sup> A State educational agency receiving funds under this subsection may reserve not more than the greater of \$200,000 or one half of 1 percent of such funds to administer the services or assistance provided under this subsection to non-public schools.