Frequently Asked Questions

Outlying Areas Education Stabilization Fund and American Rescue Plan Programs for State Educational Agencies & Outlying Areas Education Stabilization Fund Governors Program

U.S. Department of Education

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Education Stabilization Fund Governors Program

Purpose of the Document

The purpose of this document is to answer Frequently Asked Questions about how funding under the Education Stabilization Fund State Educational Agency (ESF-SEA) Fund, Education Stabilization Fund Governors (ESF-Governor) Fund, and the American Rescue Plan-Outlying Areas State Educational Agencies (ARP-OA SEA) Fund may be used in response to the impact of the coronavirus disease 2019 (COVID-19) pandemic on students in pre-K–12 education.

Under ESF-SEA, established in the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136 (March 27, 2020), and further funded under the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, 2021, Pub. L. No. 116-260 (December 27, 2020), and under ARP-OA SEA, funded under the American Rescue Plan (ARP) Act of 2021, Pub. L. No. 117-2 (March 11, 2021), the U.S. Department of Education (Department) awarded grants to State educational agencies (SEAs) in the Outlying Areas for the purpose of providing emergency relief funds to address the impact the COVID-19 pandemic has had, and continues to have, on elementary and secondary schools across the Nation.

Under ESF-Governor, established in the CARES Act and further funded under the CRRSA Act, the Department awarded grants to Governors for the purpose of providing local educational agencies (LEAs), institutions of higher education (IHEs), and other education-related entities with emergency support as a result of the COVID-19 pandemic. ESF-Governor funds for an LEA are intended to support its ability to continue to provide educational services to its students and to support the ongoing functionality of the LEA.

Other than statutory and regulatory requirements included in the document, such as those pursuant to the authorizing statute and other applicable laws and regulations, the contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. In addition, it does not create or confer any rights for or on any person.

This document contains examples of resources that are provided for the user's convenience. The inclusion of these resources is not intended to reflect their importance, nor is it intended to endorse any views expressed, or products or services offered, by these entities. These resources may include materials that contain the views and recommendations of various subject-matter experts as well as hypertext links, contact addresses and websites to information created and maintained by other public and private organizations. The opinions expressed in any of these materials do not necessarily reflect the positions or policies of the Department. The Department does not control or guarantee the accuracy, relevance, timeliness, or completeness of any outside information included in the materials that may be provided by these resources.

The Department may provide additional or updated information as necessary on the Department's website for ESF and ARP for the Outlying Areas: https://oese.ed.gov/offices/education-stabilization-fund/outlying-areas/.

If you have questions that are not answered in this document, please e-mail ESF.Outlying@ed.gov.

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Introduction

The CARES Act, CRRSA Act, and ARP Act provide vital support to the Outlying Areas, as they work to reopen schools safely, maximize in-person instructional time, and address the impact of the COVID-19 pandemic on students, educators, and families. These Frequently Asked Questions (FAQs) are intended to clarify allowable uses of funds and describe how these funds may be used to implement actionable strategies to meet the urgent needs of students and educators as the Outlying Areas work to return to and safely sustain in-person instruction, address the educational inequities that have been exacerbated by the COVID-19 pandemic, and address students' social, emotional, mental health, and academic needs.

The document is divided into the following sections:

A. Overview of ESF-SEA, ESF-Governor, and ARP-OA SEA funds.
B. Reopening schools safely and promoting the health and safety of students, staff, and the school community.
C. Advancing educational equity in COVID-19 response.
D. Using ESF-SEA, ESF-Governor, and ARP-OA SEA funds to support educators and other school staff.
E. Additional fiscal considerations.

The Department encourages SEAs and Governors to use the funds described in this document to safely reopen schools, maximize in-person instructional time for all students, and provide opportunities to address the impacts of lost instructional time resulting from the COVID-19 pandemic. When making decisions about how to use ESF-SEA, ESF-Governor, and ARP-OA SEA funds, SEAs and Governors are encouraged to take into consideration how the funds can be used to address inequities, including focusing supports and services on students from low-income families, students of color, students with disabilities, English learners, students experiencing homelessness, children and youth in foster care, migratory students, children who are incarcerated, and other underserved students who have been disproportionately impacted by the pandemic.

> The **July 2023** update notes the questions that have been updated and those which are new. Not noted are some small technical and editorial changes that have been made to other questions, including updated links to resources that have become available since the November 2021 Use of Funds FAQs were issued. The July 2023 update also includes a new Appendix A FAQs focused on common uses of ESF-SEA and ESF-Governor funds. Other useful information on the ESF-SEA and ESF-Governor programs, including Outlying Areas' certifications and agreements, allocation amounts, State plans, and Fact Sheets, can be found on the Outlying Areas [website](). Finally, we want to highlight that while ESF-SEA or ESF-Governor funds may continue to be used to maintain safe, in-person learning for all students, some strategies and approaches for doing so have changed over time as recommendations have evolved. This document continues to reflect permitted uses of funds over the course of the ESF-SEA and ESF-Governor programs and provide transparency to help stakeholders, including parents, understand the use of ESF-SEA and ESF-Governor funds starting on March 13, 2020, and going forward.

A. Overview of ESF-SEA, ESF-Governor, and ARP-OA SEA Funds

Generally, in determining whether an activity is an allowable use of funds, an SEA or Governor must determine:

- Is the use of funds intended to prevent, prepare for, or respond to the COVID-19 pandemic, including its impact on the social, emotional, mental health, and academic needs of students?
- Does the use of funds fall under one of the authorized uses of ESF-SEA, ESF-Governor, or ARP-OA SEA funds?
- Is the use of funds permissible under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance, 2 CFR Part 200)? In particular, is it necessary and reasonable for the performance of the ESF-SEA, ESF-Governor, or ARP OA-SEA award?

These Federal emergency resources are available for a wide range of activities to address diverse needs arising from or exacerbated by the COVID-19 pandemic, or to emerge stronger post-pandemic, including responding to students' social, emotional, mental health, and academic needs and continuing to provide educational services as SEAs, LEAs, and schools respond to and recover from the pandemic. Some uses of these funds may be directly focused on health and safety—such as improving ventilation and implementing prevention strategies that are, to the extent practicable, consistent with the Centers for Disease Control and Prevention (CDC) guidance. Other allowable uses may be focused on meeting the social, emotional, mental health, and academic needs of students. That could be through preventing teacher layoffs; providing accelerated learning opportunities; implementing rigorous curricula; funding additional school counselors, school nurses, and school psychologists; increasing the number of full-service community schools; conducting any activities allowed under a number of Federal education programs (see FAQ A-3); and implementing many other allowable uses as illustrated in this document.

Allocating resources in ways that advance equity and ensuring they are adequate for providing the opportunities and supports students need to succeed are particularly important as we recover from the disproportionate impact of the COVID-19 pandemic on communities of color and communities experiencing poverty. Addressing the many dimensions of resource equity—including equitable and adequate school funding; access to a well-rounded education; well-prepared, effective, and diverse educators and staff; and integrated support services—can begin to mitigate the impact of COVID-19 on schools and students and can close long-standing gaps in educational opportunity.

A-1. What funds are covered in these FAQs?

These FAQs address the following funds made available to the Outlying Areas to prevent, prepare for, and respond to the COVID-19 emergency:

- "ESF I-SEA": The ESF grants awarded to SEAs from funds made available under the CARES Act.
- "ESF II-SEA": The additional funding awarded to SEAs for ESF from funds made available under the CRRSA Act.
- "ESF I-Governor": The ESF grants awarded to Governors from funds made available under the CARES Act.
- "ESF II-Governor": The additional funding awarded to Governors from funds made available under the CRRSA Act.
- "ARP-OA SEA": The ARP grants awarded to SEAs from funds made available under the ARP Act.

For purposes of this document, references to ESF-SEA apply to ESF I-SEA and ESF II-SEA. References to ESF-Governor apply to ESF I-Governor and ESF II-Governor.

Please note that ESF-Governor funds may be used for childcare, pre-K-12 education, adult education, and higher education support. However, these FAQs are mainly focused on the use of ESF-Governor funds for pre-K-12 education.

ESF-SEA Formula Funds to LEAs

A-2. How may an Outlying Area use ESF-SEA funds?

An Outlying Area may use ESF-SEA funds for any of the following activities listed in section 18003(d) of the CARES Act:

1. Any activity authorized by the Elementary and Secondary Education Act of 1965 (ESEA), including the Native Hawaiian Education Act and the Alaska Native Educational Equity, Support, and Assistance Act (20 U.S.C. 6301 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) (IDEA), the Adult Education and Family Literacy Act (20 U.S.C. 1400 et seq.), the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) (the Perkins Act), or subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (McKinney-Vento) (42 U.S.C. 11431 et seq.).
2. Coordination of preparedness and response efforts of LEAs 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.
3. Providing principals and others school leaders with the resources necessary to address the needs of their individual schools.
4. 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.
5. Developing and implementing procedures and systems to improve the preparedness and response efforts of LEAs.
6. Training and professional development for staff of the LEA on sanitation and minimizing the spread of infectious diseases.
7. Purchasing supplies to sanitize and clean the facilities of a LEA, including buildings operated by such agency.
8. Planning for and coordinating during long-term closures, including for how to provide meals to eligible students, how to provide technology for online learning to all students, how to provide guidance for carrying out requirements under IDEA (20 U.S.C. 1401 et seq.) and how to ensure other educational services can continue to be provided consistent with all Federal, State, and local requirements.
9. Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the LEA that aids in regular and substantive educational interaction between students and their classroom instructors, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment.
10. Providing mental health services and supports.
11. 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, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care.
12. Other activities that are necessary to maintain the operation of and continuity of services in LEAs and continuing to employ existing staff of the LEA.

In determining how to prioritize its funds, Outlying Areas should consider how to use those funds to safely reopen schools for full-time instruction for all students, maintain safe in-person operations, advance educational equity, and build capacity. An Outlying Area may provide services directly, subgrant funds to an LEA, or enter into an agreement (e.g., a contract or interagency agreement consistent with procurement requirements or otherwise legally authorized) for allowable activities under ESF-SEA.

A-3. How may an Outlying Area use ARP-OA SEA funds?

An SEA, or an LEA that receives a subgrant, may use ARP-OA SEA funds for any of the following activities listed in section 2001(e) and (f) of the ARP Act:

1. 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 the student subgroups described in section 1111(b)(2)(B)(xi) of the ESEA (20 U.S.C. 6311(b)(2)(B)(xi)), students experiencing homelessness, and children and youth in foster care.

2. Any activity authorized by the ESEA.
3. Any activity authorized by the IDEA.
4. Any activity authorized by the Adult Education and Family Literacy Act (AEFLA).
5. Any activity authorized by the Perkins Act.
6. Coordination of preparedness and response efforts of LEAs 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.
7. 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.
8. Developing and implementing procedures and systems to improve the preparedness and response efforts of LEAs.
9. Training and professional development for staff of the LEA on sanitation and minimizing the spread of infectious diseases.
10. Purchasing supplies to sanitize and clean the facilities of a LEA, including buildings operated by such agency.
11. 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 IDEA and ensuring other educational services can continue to be provided consistent with all Federal, State, and local requirements.
12. Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the LEA 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.
13. Providing mental health services and supports, including through the implementation of evidence-based full-service community schools.
14. 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.
15. Addressing the academic impact of lost instructional time[1] 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 LEA, including by—
    a. 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;
    b. Implementing evidence-based activities to meet the comprehensive needs of students;
    c. Providing information and assistance to parents and families on how they can effectively support students, including in a distance learning environment; and
    d. Tracking student attendance and improving student engagement in distance education.
16. 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.
17. 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.
18. Developing strategies and implementing public health protocols including, to the greatest extent practicable, policies in line with guidance from the CDC for the reopening and operation of school facilities to

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[1] For the purposes of this guidance document, the term "academic impact of lost instructional time" is used in place of "learning loss" experienced by students as a result of the COVID-19 pandemic, as referenced in the ARP Act and the CRRSA Act.

effectively maintain the health and safety of students, educators, and other staff.

19. Other activities that are necessary to maintain the operation of and continuity of services in LEAs and continuing to employ existing staff of the LEA.
20. A reasonable and necessary amount for administrative costs and emergency needs, as determined by the SEA, to address issues responding to coronavirus.

A-4. Are there any new requirements for use of ARP-OA SEA funds that did not apply to ESF-SEA funds?

Yes. A portion of ARP-OA SEA funds must be used to address the academic impact of lost instructional time and to support evidence-based summer enrichment and afterschool programs, as follows:

- **Use of ARP-OA SEA Funds to Address the Academic Impact of Lost Instructional Time**. The SEA will use not less than 20 percent of its ARP-OA SEA allocation to carry out, directly or through subgrants to LEAs or through contracts, activities to address the academic impact of lost instructional time 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' social, emotional, mental health, and academic needs and address the disproportionate impact of COVID-19 on underrepresented student subgroups (each major racial and ethnic group, economically disadvantaged students, children with disabilities, English learners, gender, migrant students), students experiencing homelessness, and children and youth in foster care, including by providing additional support to LEAs, as applicable, to fully address such impacts.

- **Use of ARP-OA SEA Funds for Evidence-Based Summer Enrichment Programs.** The SEA will use a portion of its ARP-OA SEA allocation to carry out, directly or through subgrants to LEAs or through contracts, the implementation of evidence-based summer enrichment programs, and ensure such programs respond to students' social, emotional, mental health, and academic needs and address the disproportionate impact of COVID-19 on underrepresented student subgroups (each major racial and ethnic group, economically disadvantaged students, children with disabilities, English learners, gender, migrant students), students experiencing homelessness, and children and youth in foster care.

- **Use of ARP-OA SEA Funds for Evidence-Based Comprehensive Afterschool Programs.** The SEA will use a portion of its ARP-OA SEA allocation to carry out, directly or through subgrants to LEAs or through contracts, the implementation of evidence-based comprehensive afterschool programs, and ensure such programs respond to students' social, emotional, mental health, and academic needs and address the disproportionate impact of COVID-19 on underrepresented student subgroups (each major racial and ethnic group, economically disadvantaged students, children with disabilities, English learners, gender, migrant students), students experiencing homelessness, and children and youth in foster care.

- **SEA Plan for Use of ARP-OA SEA Funds**. The SEA, within 30 days of receiving ARP-OA SEA funds, will develop and make publicly available on its website a plan for the safe return of in-person instruction and continuity of services consistent with the LEA plan required in section 2001(i) of the ARP.

A-4.a. Should SEAs periodically review their ARP-OA SEA safe return to in-person instruction and continuity of services plans? *(New July 2023)*

Yes. The Department encourages SEAs to regularly review and, as appropriate, revise their safe return to in-person instruction and continuity of services plans.

A-4.b. In meeting the ARP-OA SEA requirement to use a portion of its ARP-OA SEA allocation to address

the academic impact of lost instructional time and address the disproportionate impact of COVID-19 on underserved populations, may an SEA include the costs associated with implementing an evidence-based strategy that advances this purpose? *(New July 2023)*

Yes, the cost of providing services to students to address the academic impact of lost instructional time and address the disproportionate impact of COVID-19 on underserved populations may include reasonable and necessary activities to help implement an evidence-based strategy for advancing this purpose. For example, such costs might include expenses associated with professional development, cleaning the space where a program is held, providing snacks or meals to students who are staying at school late to participate in the enrichment activity, or transportation.

A-5. Is there a deadline by which an SEA must obligate ESF-SEA funds?

Yes. The ESF I-SEA funds must be obligated by the SEA and its subrecipients by September 30, 2022. The ESF II-SEA funds must be obligated by the SEA and its subrecipients by September 30, 2023. The Department encourages each SEA to award ESF-SEA funds within one year of receipt.

A-6. May an SEA limit an LEA's use of ESF-SEA or ARP-OA SEA funds, or may an Outlying Area's legislature limit an SEA's or LEA's use of ESF-SEA or ARP-OA SEA formula funds?

No. Section 18003(d) of the CARES Act and section 2001(e)(2) of the ARP Act permit the use of funds for a broad range of allowable activities. Each section authorizes use of funds "for any of the following" activities. Accordingly, neither an SEA nor an Outlying Area legislature has the authority to limit use of ESF-SEA or ARP-OA SEA formula funds.

A-7. May an SEA or an Outlying Area legislature limit how long the SEA or an LEA has to access or spend its ESF-SEA formula funds?

No. The SEA and its LEAs are authorized to obligate funds throughout the period of availability of those funds and, consistent with cash management requirements (e.g., the Cash Management Improvement Act (CMIA) and the Uniform Guidance requirements), draw down funds in accordance with their needs.

ESF-SEA Funds Reserved at the SEA Level

A-8. Must an SEA reserve any ESF-SEA funds for the SEA's use?

No, there are no required reservations for SEA use. However, an SEA, or an LEA that receives subgrants, may reserve a reasonable and necessary amount of its total ESF I-SEA and ESF II-SEA allocations for administrative costs, including both direct and indirect administrative costs.

A-9. Must an SEA reserve any ARP-OA SEA funds for the SEA's use?

Yes. An SEA is required to use a certain amount of ARP-OA SEA funds for three SEA-level reservations for evidence-based activities and interventions that respond to students' social, emotional, mental health, and academic needs and address the disproportionate impact of COVID-19 on students underrepresented student subgroups (each major racial and ethnic group, economically disadvantaged students, children with disabilities, English learners, migratory students, gender, migrant students), students experiencing homelessness, and children and youth in foster care. See FAQ A-4 for more details about this reservation of funds. The SEA may also reserve a reasonable and necessary amount of its ARP-OA SEA allocation for administrative costs and emergency needs as determined by the SEA to address issues related to COVID-19.

A-10. What does it mean for a program to be evidence-based?

The ARP Act defines the term "evidence-based" as having the meaning in section 8101(21) of the ESEA. Accordingly, "evidence-based" includes several tiers of evidence. Specifically, "evidence-based," when used with respect to a State, LEA, or school activity, means an activity, strategy, or intervention that:

- Demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on—
    - Strong evidence from at least one well-designed and well-implemented experimental study ("tier 1");
    - Moderate evidence from at least one well-designed and well-implemented quasi- experimental study ("tier 2"); or
    - Promising evidence from at least one well-designed and well-implemented correlational study with statistical controls for selection bias ("tier 3"); or

- Demonstrates a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes and includes ongoing efforts to examine the effects of such activity, strategy, or intervention ("tier 4").

Given the novel context created by the COVID-19 pandemic, an activity need not have generated such evidence *during the COVID-19 pandemic* to be considered evidence-based. The Department's What Works Clearinghouse (available at https://ies.ed.gov/ncee/wwc/) identifies the tier of evidence that reviewed studies meet, as applicable. As part of the "demonstrates a rationale (tier 4)" level of evidence, grantees may develop and use approaches that are novel, if they are consistent with theoretical and empirical findings from research and the grantee will continue to review the effects of the practice to build the evidence base. Developing a logic model can help to demonstrate a rationale. Logic model resources are available at https://ies.ed.gov/ncee/edlabs/regions/pacific/elm.asp. SEAs can also review the Department's guidance on using evidence, which can be found here: https://www2.ed.gov/policy/elsec/leg/essa/guidanceuseseinvestment.pdf. Finally, SEAs should make use of the federally funded Comprehensive Center network.

Other Provisions

A-11. Do the requirements in the Uniform Guidance apply to ESF-SEA, ESF-Governor and ARP-OA SEA Funds?

Yes. The requirements in the Uniform Guidance apply to expenditures of ESF-SEA, ESF-Governor, and ARP-OA SEA funds. Below are some important Uniform Guidance requirements to keep in mind.

Cost Principles. Specific uses of ESF-SEA, ESF-Governor, or ARP-OA SEA funds must comply with the Cost Principles in subpart E of 2 CFR Part 200 of the Uniform Guidance. This requires, among other things, that every grant expenditure be necessary and reasonable to carry out the performance of the award. (See 2 CFR §§ 200.403-200.404.) Consistent with requirements in the Cost Principles, all expenditures must be properly documented. (See 2 CFR § 200.403(g).)

Pre-award Costs. The Uniform Guidance at 2 CFR § 200.458 specifies that pre-award costs, i.e., those costs incurred prior to the effective date of the Federal award or subaward, are only allowable with prior written approval. The Department has authorized (i.e., provided prior written approval) that ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used for pre-award costs dating back to March 13, 2020, when the national emergency was declared.

Time Distribution Records. The Uniform Guidance requirements related to documenting personnel expenses at 2 CFR § 200.430(i) apply. Except as described in the paragraph below, this would mean that an LEA maintains the records it generally maintains for salaries and wages, including for employees in leave status, as long as payments to employees in leave status are made consistent with grantee policies and procedures that apply to all employees, whether they are paid with Federal or other funds. (For more information on paying employees in leave status, see the Department Fact Sheet at: https://www2.ed.gov/documents/coronavirus/factsheet-fiscal- questions.pdf.)

An SEA or LEA must maintain time distribution records (sometimes called "time and effort" reporting) only if an individual employee is splitting his or her time between activities that may be funded under ESF-SEA, ESF-Governor, or ARP-OA SEA and activities that are not allowable under the applicable program. However, it is likely there will be very few situations in which an employee of an LEA would perform multiple activities where some are not allowable under ESF-SEA, ESF-Governor, or ARP-OA SEA, and thus would be required to maintain time distribution records, given that an SEA or LEA is authorized to use funds on "activities that are necessary to maintain the operation of and continuity of services in [an SEA or LEA] and continuing to employ existing staff of the [SEA or LEA]" in order to "prevent, prepare for, and respond to" the COVID-19 pandemic.

Cash Management. ESF-SEA, ESF-Governor, and ARP-OA SEA grantees, in their role as stewards of Federal funds, must comply with the requirements under the CMIA (implementing regulations at 31 CFR Part 205) and the Uniform Guidance (2 CFR Part 200). In particular, the CMIA requires that a State "limit the amount of funds transferred to the minimum required to meet the [Outlying Area's] actual and immediate cash needs." (See 31 CFR § 205.11(b).) In addition, subgrantees, including Outlying Areas, must minimize the time elapsing between the transfer of funds from the SEA or Governor and disbursement by the subgrantee. (See 2 CFR § 200.305(b).)

Construction. Approved construction projects must comply with applicable Uniform Guidance requirements, as well as the Department's regulations regarding construction at 34 CFR § 76.600. As is the case with all remodeling or construction contracts using laborers and mechanics financed by Federal education funds, an SEA or LEA that uses ESF-SEA, ESF-Governor, or ARP-OA SEA funds for minor remodeling, renovation, repair, or construction contracts over $2,000 must meet all Davis-Bacon prevailing wage requirements and include language in the contracts that all contractors or subcontractors must pay wages that are not less than those established for the locality of the project (prevailing wage rates). (See 20 U.S.C. 1232b Labor Standards.) (See also FAQ B-5.)

Prior Approval. In addition to pre-award costs discussed above, the Uniform Guidance at 2 CFR § 200.407 requires prior written approval from either the Department or the Outlying Area (Governor or SEA, as applicable) for certain costs, such as the purchase of real property; equipment and other capital expenditures; entertainment costs; and travel costs.

A-12. May ESF-SEA, ESF-Governor, and ARP-OA SEA funds be used in combination with ("braided with") other funding?

Yes. ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used in combination with, but not blended with, funding under the ESEA, IDEA, AEFLA, Strengthening Career and Technical Education for the 21st Century Act (Perkins V), and McKinney-Vento, or any other education funds. Therefore, an SEA or LEA may use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to expand participation in an activity or services it is currently conducting or plans to conduct under these programs.

"Braiding" funds occurs when different funding streams are used together to leverage the support provided for different needs for educators and students while maintaining documentation to support the charging and allocation of costs to multiple separate funding streams or programs. As specified in the Uniform Guidance at 2 CFR § 200.405(d), if a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the programs or activities based on the proportional benefit. Additionally, each funding stream maintains its identity and continues to be subject to the relevant statutory requirements, including eligibility criteria and scope of authorized activities.

A-13. Is there a "supplement not supplant" requirement for ESF-SEA, ESF-Governor, and ARP-OA SEA funds?

No, there is no "supplement not supplant" requirement that applies to the ESF-SEA, ESF-Governor, or ARP-OA SEA funds.

A-14. Is there a "maintenance of effort" requirement for ESF-SEA, ESF-Governor, and ARP-OA SEA funds?

Yes. For ESF-SEA and ESF-Governor funds, Outlying Areas must comply with the maintenance of effort requirement in section 18008 of the CARES Act. For assistance in implementing the MOE requirement, Outlying Areas are encouraged to refer to the "Frequently Asked Questions on the Maintenance-of-Effort Requirements Applicable to the CARES Act Programs," available here:
https://oese.ed.gov/files/2020/06/CARES-Act-Programs-Maintenance-of-Effort-FAQ.pdf

For ARP-OA SEA funds, Outlying Areas must comply with the maintenance of effort requirement in section 2004(a)(1) of the ARP Act.

A-15. Do CARES Act funds need to be obligated prior to obligating CRRSA Act and ARP Act funds?

No. All three funding streams are available now to meet the needs of students; however, grantees should be mindful that each funding stream has a different period of fund availability. (See FAQs E-1 and E-2.)

A-16. Do the Buy American Act provisions apply to ESF-SEA, ESF-Governor, and ARP-OA SEA?

No. However, awards made under the CRRSA Act and ARP Act (i.e., ESF II-SEA, ESF II-Governor, and ARP-OA SEA awards) are subject to 2 CFR § 200.322, a new regulation that applies to Federal grants made after November 12, 2020. It establishes domestic preferences for procurements under Federal grants that are subject to the Uniform Guidance. The text of the regulation follows:

2 CFR § 200.322 Domestic preferences for procurements.
  (a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
  (b) For purposes of this section:
> (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
> (2) "Manufactured products" means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

A-17. May ESF-SEA, ESF-Governor, and ARP-OA SEA funds be used to improve cybersecurity?

Yes. If a grantee or subgrantee is improving cybersecurity to better meet educational and other needs of students related to preventing, preparing for, or responding to COVID-19, it may use ESF-SEA, ESF-Governor, or ARP-OA SEA funds. For example, if an SEA or LEA needs to increase its use of technology, such as for potential temporary shifts to hybrid learning if COVID-19 cases arise, expanded cybersecurity needs to facilitate that activity may also be addressed using these funds.

A-18. May an SEA or LEA use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to develop or implement an innovative approach to providing instruction to accelerate learning and mitigate the effects of lost instructional time for those students most impacted by the COVID-19 pandemic?

Yes. An SEA or LEA may use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to develop or implement an innovative approach to providing instruction to accelerate learning and mitigate the effects of lost instructional time for students most impacted by the COVID-19 pandemic.

A-19. Which disposition rules must Outlying Area Governors and SEAs follow for equipment and supplies purchased with ESF-SEA and ESF-Governor funds? (*New July 2023*)

What follows is general information regarding the disposition of supplies and equipment purchased with ESF-SEA or ESF-Governor funds. *Please note that all Outlying Areas are subject to the provisions of 2 C.F.R. 200.313, as applicable. However, those Outlying Areas subject to Department-wide specific conditions may also be required to follow certain provisions of this regulation, and should ensure compliance as appropriate.*

Definition of Equipment: Under 2 C.F.R. § 200.1, *equipment* is defined as tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or $5,000.

Definition of Supplies: Under 2 C.F.R. § 200.1, *supplies* is defined as all tangible personal property that is not equipment. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or $5,000, regardless of the length of its useful life.

Continued Use of Equipment or Supplies beyond the Period of Performance: Equipment and supplies purchased with ESF-SEA or ESF-Governor funds may be used by Governors and SEAs for the authorized purposes of the ESF-SEA or ESF-Governor program, respectively, during the period of performance (i.e., through September 30, 2022 for ESF-SEA and ESF-Governor; through September 30, 2023, for ESF II-SEA and ESF II-Governor; or September 30, 2024, for ARP-OA SEA) or until the equipment and supplies are no longer needed for the purposes of the ESF-SEA or ESF-Governor program. (See 2 C.F.R. §§ 200.313(a)(1), (c)(1) and 200.314(a)). If the equipment or supplies are no longer needed for purposes of the ESF-SEA or ESF-Governor program, a Governor or SEA may, in preferential order, continue to use the equipment and supplies to the extent they are needed for allowable purposes under another Federal education program in which the Governor or SEA participates, such as a program under the Elementary and Secondary Education Act of 1965 or the Individuals with Disabilities Education Act. The Governor or SEA may then use the equipment or supplies for a Federal program of another Federal awarding agency. (See 2 C.F.R. §§ 200.313(c) and 200.314(a)).

Disposition of *Equipment* that Is No Longer Needed by a Governor or SEA: For Governors and SEAs that used ESF-SEA or ESF-Governor funds to purchase equipment and find that the item is not needed for authorized purposes under ESF-SEA or ESF-Governor or for any of the Governor's or SEAs other Federal programs, a Governor or SEA must dispose of the equipment in accordance with local laws and procedures. (2 C.F.R. § 200.313(b)).

Disposition of *Equipment* that Is No Longer Needed by a Governor or SEA: Governors and SEAs that used ESF-SEA or ESF-Governor funds to purchase equipment and find that the item is not needed for authorized purposes under ESF-SEA or ESF-Governor or for any of the Governor's or SEA's other Federal programs, and where the equipment has a current per unit fair market value of $5,000 or less, may be retained, sold, or otherwise disposed of without additional responsibility to the Department. If an item of equipment has a current per unit fair market value in excess of $5,000, the Governor or SEA may retain or sell the equipment. In this case, the Department is entitled to an amount calculated by multiplying the current fair market value or proceeds from the sale by the Department's share or proportion of the cost of the original purchase. (2 C.F.R. § 200.313(e)).

Disposition of *Supplies* that Are No Longer Needed by a Governor or SEA: Supplies that cost less than $5,000 per unit vest in the Governor or SEA upon acquisition. If there is a residual inventory of supplies that are not needed and the unneeded supplies exceed $5,000 in total aggregate value, the Governor or SEA may retain or sell the supplies but, in either case, must compensate the Department for its share. The amount of compensation must

be computed in the manner required for equipment under 2 C.F.R. § 200.313(e)(2). The aggregate value of unneeded supplies is their fair market value at the time of disposition. Given that disposition may occur at different times (for example, some supplies may be needed longer than others, a Governor or SEA may calculate the total aggregate value when disposition occurs—e.g., at the end of each year for which supplies are disposed.

A Governor or SEA must make a good faith effort to sell unneeded supplies purchased with ESF-SEA or ESF-Governor funds in accordance with 2 C.F.R. § 200.314(a) and document its efforts. If a Governor or SEA cannot find a buyer and cannot use the supplies itself, the Governor or SEA has no further obligation to the Department.

Using ESF-SEA and ESF-Governor Administrative Funds to Support Disposition Costs: ESF-SEA or ESF-Governor funds reserved by a Governor or SEA for administrative activities may support costs associated with the disposition of supplies and equipment (e.g., storage units to house ESF-SEA or ESF-Governor equipment and supplies that are unneeded) during the program period. However, ESF-SEA and ESF-Governor administrative funds are not available beyond the period of performance as noted above. As a result, there are no ESF-SEA or ESF-Governor funds available to pay for disposition costs after the period of performance ends.

A-20. May a subrecipient award subgrants with ESF-SEA and ESF-Governor funds? *(New July 2023)*

No. There is no authority in the CARES, CRRSA, or ARP Acts for a subrecipient to award subgrants with their ESF-SEA or ESF-Governor funds. Only the SEA (for ESF-SEA) or the Governor (for ESF-Governor) is authorized to award subgrants.

B. Reopening Schools Safely and Promoting the Health and Safety of Students, Staff, and the School Community

B-1. What resources are available to support the safe reopening and sustained operations of schools?

ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used to develop strategies and implement public health protocols including, to the greatest extent practicable, policies in line with guidance from the CDC for the reopening and operation of school facilities to effectively maintain the health and safety of students, educators, and other staff. CDC's operational strategy can be found at: https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/operation-strategy.html. Volume 1 of the Department's COVID-19 Handbook on school reopening can be found at: https://www2.ed.gov/documents/coronavirus/reopening.pdf.[2] Volume 2 of the Department's COVID-19 Handbook on school reopening and meeting all students' needs can be found at: https://www2.ed.gov/documents/coronavirus/reopening-2.pdf.

In addition, the Federal Emergency Management Agency (FEMA) is offering reimbursement for work conducted to safely open and operate Public Assistance-eligible facilities under the COVID-19 emergency and major disaster declarations from January 21, 2021, to September 30, 2021. Eligible work includes: face coverings and personal protective equipment (PPE); cleaning and disinfection; COVID-19 diagnostic testing, screening and temperature scanning; and signage for social distancing. More information about FEMA's Safe Opening and Operation policy can be found here. FEMA has also developed a COVID-19 Education Resource Roadmap, and other topical resource roadmaps, to help school systems address challenges and identify funding solutions for delivering educational services during the COVID-19 pandemic. The resource roadmaps can be accessed at: https://www.fema.gov/media-collection/resource-roadmaps.

B-2. Is COVID-19 testing for students and SEA and LEA staff an allowable use of ESF-SEA, ESF-Governor, and ARP-OA SEA funds?

Yes. Because ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used for public health protocols including, to the greatest extent practicable, policies in line with guidance from the CDC for the reopening and operation of school facilities to effectively maintain the health and safety of students, educators, and other staff, providing COVID-19 testing is an allowable use of these funds.

SEAs and LEAs should consult with Outlying Area health officials to ensure the adequacy of any SEA or LEA COVID-19 testing program and that testing procedures comply with all applicable laws and requirements including those related to privacy, including the Family Educational Rights and Privacy Act (FERPA) and Protection of Pupil Rights amendment (PPRA), and the confidentiality of information requirements under Part B and Part C of the IDEA.

B-3. May ESF-SEA, ESF-Governor, and ARP-OA SEA funds be used to provide COVID-19 vaccinations to LEA teachers, staff, and eligible students?

Yes. Because ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used to implement public health protocols including, to the greatest extent practicable, policies in line with guidance from the CDC for the reopening and operation of school facilities to effectively maintain the health and safety of students, educators, and other staff, providing COVID-19 vaccinations is an allowable use of these funds. Allowable vaccination outreach efforts in general could include activities to

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[2] As more information becomes available, both the CDC and the Department will be updating documents. Therefore, SEA, LEA, and school officials are encouraged to periodically visit the CDC website at: https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/index.html and the Department's website at: https://www.ed.gov/coronavirus/documents to check for new and revised resources that can assist in safely reopening schools.

create awareness and build confidence, facilitate clinics, and provide incentives such as paid time off for staff to get vaccinated. In cases where administrative fees are required to obtain a vaccination, these funds may be used to offset the cost as long as the cost is reasonable.

B-4. May ESF-SEA, ESF-Governor, and ARP-OA SEA funds be used for personal protective equipment (PPE), cleaning and sanitizing materials, and related supplies necessary to maintain school operations during and after the COVID-19 pandemic?

Yes. Purchasing PPE, cleaning and sanitizing materials, portable air purifiers, and emergency supplies necessary to adequately respond to COVID-19 are allowable uses of ESF-SEA, ESF-Governor, and ARP-OA SEA funds. These costs are consistent with the purposes of the programs "to prevent, prepare for, and respond to" COVID-19.

B-5. May ESF-SEA, ESF-Governor, and ARP-OA SEA funds be used for construction?

Yes. Construction is authorized under Title VII of the ESEA (Impact Aid) and therefore is an allowable use of ESF-SEA, ESF-Governor, and ARP-OA SEA funds under section 18003(d)(1) of the CARES Act and section 2001(e)(2) of the ARP Act. The broad Impact Aid definition of "construction" includes new construction as well as remodeling, alterations, renovations, and repairs under which many activities related to COVID-19 would likely fall.[3]

However, the Department discourages grantees from using these funds for new construction because this use of funds may limit a grantee's ability to support other essential needs or initiatives. Extensive remodeling, renovation, and new construction are often time-consuming, which may not be workable under the shorter timelines associated with ESF-SEA and ESF-Governor funds. These types of activities are also subject to a number of additional Federal requirements, as detailed below.

While construction is generally allowable, it is the responsibility of a Governor, SEA, or other subgrantee to assure that individual costs:

1) comply with the Cost Principles in 2 CFR Part 200, subpart E (e.g., the cost must be "necessary and reasonable" (2 CFR §§ 200.403-200.404));
2) meet the overall purpose of the CARES Act, CRRSA Act, or ARP Act programs, which is "to prevent, prepare for, and respond to" COVID-19; and
3) are consistent with the proper and efficient administration of those programs.

Under these general principles, any construction activities, including renovations or remodeling, that are necessary for an LEA to prevent, prepare for, and respond to COVID-19 could be permissible, though the burden remains on grantees and subgrantees to maintain the appropriate documentation that supports the expenditure.

As noted above, a grantee or subgrantee using these funds for remodeling, renovation, and new construction must comply with additional Federal requirements. For example, these projects require prior written approval by an LEA's Governor or SEA (or the Department for Outlying Area projects). (See Title VII of the ESEA and 2 CFR § 200.439(b).) Approved construction projects (i.e., remodeling, renovation, and new construction) also must comply with applicable Uniform Guidance requirements, Davis-Bacon prevailing wage requirements,[4] and all of the Department's applicable regulations

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[3] The Impact Aid program statute defines "construction" as "(A) the preparation of drawings and specifications for school facilities; (B) erecting, building, acquiring, altering, remodeling, repairing, or extending school facilities; (C) inspecting and supervising the construction of school facilities; and (D) debt service for such activities." ESEA section 7013(3), 20 U.S.C. § 7713(3).

[4] As is the case with all construction contracts using laborers and mechanics financed by Federal education funds, a grantee that uses ESF-SEA, ESF-Governor, or ARP-OA SEA funds for minor remodeling, renovation, repair, or construction contracts over $2,000 must

regarding construction at [34 CFR §§ 76.600](#) and [75.600-75.618](#). Some of the relevant part 75 requirements that must be considered before a new construction project is initiated include:

1) Has the grantee completed an environmental impact assessment before initiating the construction and fully considered any potential environmental ramifications before proceeding with the project ([34 CFR § 75.601](#));
2) Has the grantee considered the probable effects of proposed construction on any district, site, building, or structure that is included or eligible for inclusion in the National Register of Historic Places ([34 CFR § 75.602](#))
3) Does the grantee have title or other interest in the site, including right of access, that is sufficient to ensure that the grantee will have use and possession of the facility for 50 years or the useful life of the facility, whichever is longer ([34 CFR § 75.603](#));
4) Can the grantee begin the approved construction in a reasonable time period and have the final plans been approved before the construction is advertised or placed on the market for bidding ([34 CFR § 75.605](#));
5) Can a grantee complete the project in a reasonable time period and consistent with the approved plans and specifications ([34 CFR § 75.606](#));
6) Is the construction functional, economical, and not elaborate in design or extravagant in the use of materials as compared to other facilities in the State or other applicable geographic area ([34 CFR § 75.607](#));
7) Do the grantee's plans and designs for the facilities comply with applicable Federal, State and local health and safety standards, as well as Federal requirements regarding access by persons with disabilities. ([34 CFR §§75.609 and 75.610](#)); and
8) Does the grantee have sufficient operational funds to operate and maintain the facility once the construction is complete and will the grantee operate and maintain the facility in accordance with all applicable Federal, State, and local requirements ([34 CFR §§ 75.614 and 75.615](#)).
9) Has the grantee filed a notice of Federal interest that must be executed on property when ESF-SEA or ESF-Governor funds are used to purchase land, construct a building, or make improvements to a building on leased property (OMB Standard Form 424D)?

A Governor or SEA may use other Outlying Areas agencies (such as Public Works or similar offices) to assist with approvals and management of ongoing projects. However, ultimately as the grantee, a Governor or SEA is responsible for ensuring that its SEA and LEA grantees are meeting all applicable requirements that are detailed in [34 CFR §§ 75.600-75.618,](#) as well as in OMB Standard Forms 24B and D (Assurances for Non-Construction and Construction Programs [https://apply07.grants.gov/apply/forms/sample/SF424D- V1.1.pdf](#)), including the assurances relating to labor standards; flood hazards; historic preservation; health and safety, energy conservations, and coastal barrier resources.) (See FAQ A-11 for additional Uniform Guidance information.)

Finally, if ESF-SEA, ESF-Governor, and ARP-OA SEA funds are used for construction, grantees and subgrantees should also be aware that real property and equipment acquired or improved under a Federal award must be appropriately insured and grantees must consult with the Department on disposition instructions in the event that the property or equipment is no longer needed. See, e.g., [2 CFR §§ 200.310-200.313](#).

B-5.a. May an Outlying Area determine the process for granting prior approval to use ESF-SEA or ESF-Governor funds for capital expenditures? *(New July 2023)*

Yes. As noted in FAQ B-6, capital expenditures projects require prior written approval by an Outlying Area's SEA or Governor in situations where the SEA or Governor is the pass-through entity. Where the SEA or Governor is the entity proposing to make the capital expenditures, they must seek prior written approval from the Department. ([2](#)

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meet all [Davis-Bacon](#) prevailing wage requirements and include language in the contracts that all contractors or subcontractors must pay wages that are not less than those established for the locality of the project (prevailing wage rates). (See 20 U.S.C. 1232b Labor Standards.)

CFR § 200.439(b).) Neither the Department nor the Uniform Guidance specifies an Outlying Area's process for granting prior approval to use ESF-SEA funds for capital expenditures. Therefore, the Outlying Area has the flexibility to establish its own reasonable and expeditious process that ensures expenditures meet applicable statutory and regulatory requirements, including those in subpart E of the Uniform Guidance (2 CFR part 200). For example, the Outlying Area could:

- Use or modify existing prior approval procedures from other Federal programs;
- Consider using a building expert (e.g., engineer, inspector, architect) who knows applicable Federal, State, and local requirements to assist with its review of prior approval requests. The expert could be acquired on a limited basis through procurement or an agreement with another local agency with authority over facilities;
- Develop a checklist of items that an entity seeking prior approval should provide, which could include:
  - How the need for the repair, construction, or modernization prevents, prepares for, or responds to the COVID-19 pandemic;
  - The name of the school facility to be repaired, constructed, or modernized;
  - Identification of the entity's interest in, or authority over, the school facility involved, such as an ownership interest or a lease arrangement;
  - Sources and amounts of funds available for the proposed project;
  - A statement signed by an appropriate, independent local official affirming that:
    - The renovation or construction project meets applicable Federal, State, and local requirements with respect to health and safety, environmental standards, Historic Preservation, and other requirements (see FAQ B-6 and 34 CFR part 75); and
    - The renovation or construction is necessary (e.g., any deficiency associated with the renovation or construction threatens the health and safety of facility occupants or prevents the use of the facility).
    - An appropriate local official may include a local building inspector, a licensed architect, or a licensed structural engineer.
  - A cost estimate and other details needed to support the reasonableness and allowability of the expenditure under the applicable statute (e.g., ARP Act) and cost principles in the Uniform Guidance (e.g., the original construction date and the dates and descriptions of any other major renovations of the facility); and
  - Applicable assurances and certifications (see FAQ B-6 for applicable requirements that must be met for any renovation or construction project).

B-5.b. What information does the Department need in order to consider an Outlying Area's prior approval request for an Outlying Area's capital expenditures? *(New July 2023)*

As noted above, an Outlying Area (SEA or Governor) as the pass-through agency is responsible for granting prior approval to subgrantees for capital expenditures. However, if an Outlying Area is using ESF-SEA or ESF-Governor funds it reserves at the State level for a capital expenditure, the State, under the Uniform Guidance, must seek prior approval from the Department for its expenditures. In general, for State projects, an Outlying Area's prior approval request should include detailed information on the project or capital equipment purchase; how the project or purchase will prevent, prepare for, or respond to COVID-19; a timeline for the project; and a budget. An Outlying Area must obtain prior approval of the final working drawings and specifications from the Department before a construction project is advertised or placed on the market for bidding (34 CFR § 75.605). Outlying Area prior approval requests should be submitted to the Department at ESF.Outlying@ed.gov.

B-6. May ESF-SEA, ESF-Governor, and ARP-OA SEA funds be used for renovation, including for such projects as making improvements to a school facility to improve indoor air quality (such as heating, ventilation, and air conditioning (HVAC) systems), and projects that would promote social distancing and safe in-person instruction? (*Update July 2023*)

Yes. ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used to make necessary improvements, for example to improve air quality and support social distancing, so that teachers and students may safely return to and continue in-person instruction. As is the case with all activities charged to these funds, costs must be reasonable and necessary to meet the overall purpose of the program, which is "to prevent, prepare for, and respond to" COVID-19. (See 2 CFR §§ 200.403-200.404.) Therefore, renovation or remodeling activities that are necessary for a grantee or subgrantee to prevent, prepare for, and respond to COVID-19 would be permissible. This might include renovations that would permit an SEA or LEA to clean effectively (e.g., replacing old carpet with tile that could be cleaned more easily) or create a learning environment that could better sustain social distancing (e.g., bringing an unused wing of a school into compliance with fire and safety codes in order to reopen it to create more space for students to maintain appropriate social distancing). This might also include, for example, as noted in section 2001(e)(2)(O)-(P) of the ARP Act:

- School facility repairs and improvements to enable schools to reduce the 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. Please see the Department's July 2021 guide to Improving Ventilation in Schools, Colleges, and Universities to Prevent COVID-19 for additional guidance.

As noted in FAQ B-5, these projects are also subject to prior written approval by a Governor or SEA (or the Department for Outlying Area projects) and applicable Uniform Guidance requirements, Davis-Bacon prevailing wage requirements and all of the Department's applicable regulations regarding construction at 34 CFR §§ 76.600 and 75.600-75.618. In implementing any allowable activity, a grantee or subgrantee must follow all applicable Federal, State, and local standards and policies (e.g., building codes or specifications for HVAC systems, which may be consistent with standards identified by the EPA, CDC, or World Health Organization). If an SEA or LEA uses funds for HVAC systems, the Department's regulation at 34 CFR § 75.616(c) requires the use of American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) standards. An Outlying Area, SEA, or LEA might also consider using ESF-SEA, ESF-Governor, or ARP-OA SEA funds to establish a program for assessing and improving HVAC systems. Such a program could also require verification that proper ventilation is occurring, such as through the use of carbon dioxide (CO_2) monitors.

Please note that the Environmental Protection Agency (EPA) has a variety of publications that can assist education leaders in improving the indoor air quality in schools. EPA resources on indoor air quality in schools can be accessed at: https://www.epa.gov/iaq-schools. The EPA has information available at: https://www.epa.gov/coronavirus/air-cleaners-hvac-filters-and-coronavirus-covid-19 on some indoor air filtration devices that use bipolar ionization technology, which has the potential to create ozone. EPA states that ozone generators should not be used in occupied spaces. If choosing to use a device that incorporates bipolar ionization technology, EPA recommends using a device that meets UL 2998 standard certification (Environmental Claim Validation Procedure (ECVP) for Zero Ozone Emissions from Air Cleaners) and notes that there are many air cleaning devices that do not use bipolar ionization. In addition, the CDC provides information on improving ventilation in schools at: https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/ventilation.html and in buildings at: https://www.cdc.gov/coronavirus/2019-ncov/community/ventilation.html.

B-7. May an SEA or LEA use ESF-SEA, ESF-Governor, or ARP-OA SEA funds to purchase trailers or modular units?

Yes. Under 2 CFR § 200.33, "equipment" means "tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the

capitalization level established by the non-Federal entity for financial statement purposes, or $5,000." Generally, a trailer or modular unit meets this definition. Accordingly, an SEA or LEA may use ESF-SEA, ESF-Governor, or ARP-OA SEA funds to purchase trailers or modular units if such purchases are necessary to create additional safe learning spaces due to the COVID-19 pandemic (e.g., for more effective social distancing consistent with CDC guidance) (see section 2001(e)(2)(Q) of the ARP Act). In addition, the use of grant funds to purchase equipment is subject to 2 CFR § 200.439(b), which requires the SEA or LEA to obtain prior written approval from the Governor or SEA. As with all costs, they must be reasonable and necessary. In the case of such large purchases, it may be beneficial for the SEA or LEA to do a cost analysis under 2 CFR § 200.318(d) comparing the cost of buying trailers and modular units with the cost of leasing, for example.

When selecting which students will receive services in trailers or modular units, an SEA or LEA should ensure that decisions are made consistent with applicable civil rights requirements and that certain subgroups are not disproportionately educated in trailers or modular units, especially if being educated in the trailers or modular units limits access to other students, activities, or services within the school or in any way contributes to tracking or within-school segregation.

B-8. May an SEA or LEA use ESF-SEA and ESF-Governor funds to renovate, remodel, or construct athletic facilities, such as swimming pools, playing fields, or sports stadiums? *(New July 2023)*

This would not be an allowable use of funds unless there is a connection between the expenditure and preventing, preparing for, or responding to COVID-19, considering the specific facts and circumstances of a project. Expenditures of ESF-SEA or ESF-Governor funds must meet the overall purpose of the CARES, CRRSA, or ARP Act programs. In addition, the Department discourages SEAs and LEAs from using these funds for new construction, as this use of funds limits an SEA or LEA's ability to meet other, more pressing needs related to the pandemic's impact on learning and the emotional and mental health and well-being of our children and youth. It is the responsibility of the grantee and subgrantee to ensure that, among other Federal requirements, any project is targeted to the overall purpose of the ESF-SEA or ESF-Governor program, which is "to prevent, prepare for, and respond to" COVID-19. It is unclear, for example, how constructing a swimming pool is related to the pandemic or otherwise allowable under the CARES, CRRSA, or ARP Act.

B-9. May ESF-SEA and ESF-Governor funds be used to mitigate flood, tornado, and other natural disaster-related damage, including damage to buildings/infrastructure, technology, and equipment, to ensure that schools can open and safely remain open? *(New July 2023)*

Yes, in limited circumstances, if such use is consistent with the primary purpose of ESF-SEA and ESF-Governor funds to assist Outlying Areas, SEAs, and LEAs in preventing, preparing for, and responding to COVID-19. However, the Outlying Areas, SEAs and LEAs may want to take advantage of any available funding, including through FEMA's Public Assistance program or the Department's Project SERV. Many, if not all, costs incurred following a natural disaster may be covered by insurance or with funding received through FEMA's Public Assistance program. To the extent there are activities that are necessary to meet students' needs in response to the pandemic, including needs exacerbated by a recent natural disaster, ESF-SEA or ESF-Governor funds may be used to cover the costs consistent with the ESF-SEA or ESF-Governor allowability considerations (i.e., allowable under the statute and consistent with the Uniform Guidance). For example, ARP-OA SEA specifically provides that an SEA or LEA may use ESF-SEA funds for "school facility repairs and improvements to reduce risk of virus transmission and exposure to environmental health hazards, and to support student health needs" (section 2001(e)(2)(O) of the ARP Act). To the extent that a natural disaster has caused damage to school infrastructure and buildings that would increase the risk of virus transmission or impact in-person learning, such as flood or fire damage, then ESF-SEA or ESF-Governor funds may be used to cover the costs of activities to reduce that risk. It is important for Outlying Areas, SEAs, and LEAs to maintain documentation and written justification as to how uses of ESF-SEA or ESF-Governor funds are related to the COVID-19 response, particularly where costs are closely associated with damage from a natural disaster.

B-10. May ESF-SEA and ESF-Governor funds be used to support costs for utilities or gasoline? *(New July 2023)*

Generally, ESF-SEA or ESF-Governor funds may be used to support activities that are necessary to maintain the operation

and continuity of services in the SEA or LEA as schools and students recover from the pandemic. For example, there may be instances where the use of funds to support this type of cost would be acceptable, such as in a case where an SEA or LEA has incurred additional expenses for utilities due to efforts related to improving indoor air quality. The costs must be reasonable and otherwise consistent with the Uniform Guidance (2 CFR §§ 200.403-200.405).

B-11. May ESF-SEA and ESF-Governor funds be used to pay student fees for activities such as art, music, and theater classes? *(New July 2023)*

Yes, under certain circumstances. Because ESF-SEA or ESF-Governor funds may be used to support activities addressing the unique needs of students from low-income backgrounds, students with disabilities, English learners, students of color, students experiencing homelessness, and children and youth in foster care, and help students recover from the pandemic, the ESF-SEA and ESF-Governor funds may be used to pay fees, including outstanding balances, to help ensure equitable access to programs that meet students' social, emotional, mental health, and academic needs. Alternatively, the funds could be used to support such activities for all students, such that no fee is charged.

B-12. May ESF-SEA and ESF-Governor funds be used to provide students with safe, healthy, and supportive learning environments? *(New July 2023)*

The primary purpose of ESF-SEA and ESF-Governor funds is to assist Outlying Areas, SEAs, and LEAs in preventing, preparing for, and responding to the COVID-19 pandemic. To the extent there are safety and supportive measures and activities that are necessary to meet students' health and well-being and other needs in response to the pandemic, ESF-SEA or ESF-Governor funds may be used to cover the costs consistent with allowable uses of ESF-SEA and ESF-Governor funds under the statutes and consistent with the Uniform Guidance, as noted earlier in these FAQs. As with all uses of funds, the grantee is responsible for ensuring that the use of funds supports the overall purpose of the CARES, CRRSA, or ARP Act programs, which is "to prevent, prepare for, and respond to" COVID-19.

In all cases, the Department strongly recommends that Outlying Areas, SEAs, and LEAs focus on evidence-based practices that promote safe, healthy, and supportive learning environments. A comprehensive approach should include efforts specific to:

- Implementing Multi-Tiered Systems of Support (e.g., Positive Behavioral Interventions and Supports), and other early intervention strategies.
- Providing integrated behavioral and mental health supports to educators and staff (e.g., hiring certified mental health professionals and behavior specialists).
- Working collaboratively with a diverse multidisciplinary team trained in youth development to create emergency plans and training exercises.
- Increasing professional development opportunities for faculty, staff, and community partners, particularly around trauma-informed care and culturally and linguistically inclusive responses. Ensuring that prevention, protection, mitigation, response, and recovery activities consider the evidence base and are implemented in ways that respond to underserved students, protect students' rights, and demonstrate respect for students' dignity and potential.

In supporting efforts to address the mental health needs of students, we suggest Outlying Areas, SEAs and LEAs review the effective strategies that the Department has identified in our guidance on Supporting Child and Student Social, Emotional, Behavioral, and Mental Health Needs, in Strategies for Using American Rescue Plan Funding to Address the Impact of Lost Instructional Time, in Volume 2 of the ED COVID-19 Handbook, or on the fact sheet regarding Supporting the Mental Health Needs of All Students with American Rescue Plan Funds.

B-13. May ESF-SEA and ESF-Governor funds be used for the cost of purchasing and installing video systems for security purposes? *(New July 2023)*

There may be limited circumstances where purchasing and installing such a system, consistent with applicable law, is permissible, since ESF-SEA or ESF-Governor funds may be used by an SEA or LEA for the purpose of promoting safe and secure schools. As with all uses of funds, the grantee is responsible for ensuring that the use of funds supports the overall purpose of the CARES, CRRSA, or ARP Act programs, which is to prevent, prepare for, and respond to COVID-19.

To the extent that video systems capture student and staff behavior, whether intentionally or incidentally, there may be additional requirements and considerations as discussed below.

Privacy Considerations. SEA or LEA officials are regularly asked to balance the interests of safety and privacy for students, consistent with applicable law. For example, while the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR part 99) generally prohibits educational agencies and institutions from disclosing personally identifiable information from a student's education records absent written consent from parents or eligible students (age 18 or older or attending a postsecondary institution at any age), there are exceptions to the general consent requirement that can help schools, SEAs, and LEAs to take steps to maintain school safety. Images of students captured on video systems that are maintained by a school official may or may not be considered "education records" subject to FERPA. For more information, *see* "FAQs on Photos and Videos under FERPA" at https://studentprivacy.ed.gov/faq/faqs- photos-and-videos-under-ferpa. Images of students captured on video systems that are maintained by the school's law enforcement unit are generally not considered "education records" under FERPA, and, therefore, may not be subject to FERPA's requirements. For more information, *see* "School Resource Officers, School Law Enforcement Units, and the Family Educational Rights and Privacy Act (FERPA)" at https://studentprivacy.ed.gov/sites/default/files/resource_document/file/SRO_FAQs.pdf.

The use of video systems may raise other privacy concerns. Accordingly, the SEA or LEA should consider several questions before deciding to use video systems, including where the cameras are SEAs and LEAs should only collect, use, and retain the minimum amount of personally identifiable information that is relevant and necessary to accomplish an authorized purpose. SEA and LEA officials should consult with their legal counsel to determine whether any Federal or State laws may be applicable.

Further, consideration needs to be given to the places in which individuals would enjoy a reasonable expectation of privacy to avoid violating such expectations. Applicable State law should be considered because the use of video systems may give rise to legal obligations regarding access to and disclosure of any recordings, as well as their retention and disposition. These issues should be considered in advance of developing a policy on the use of video systems. For example, it would be helpful to consider whether images of individuals can be blurred or redacted before providing access to or disclosing any recordings to protect the privacy of those individuals.

Civil Rights Considerations. Federal civil rights laws enforced by the Department's Office for Civil Rights require an SEA or LEA that receives Federal financial assistance not to discriminate based on race, color, national origin, sex (including sexual orientation and gender identity), disability, and age in their programs and activities.[17] An SEA or LEA's nondiscrimination obligations apply to the conduct of school staff and other persons with whom the school has a contractual or other arrangement, including security staff, private security, and school law enforcement officers. The SEA or LEA has a responsibility not to discriminate when conducting surveillance and other security or safety activities using video systems.

Specifically, SEAs and LEAs must ensure nondiscrimination in decisions to obtain and use such equipment, including where to place such devices to ensure such surveillance does not treat students unnecessarily differently on the basis of race, color, national origin, sex, disability or age or have an unjustified discriminatory impact on these bases; and must ensure the videos and related information are not used in a discriminatory manner.

Additional Policy Considerations. If an SEA or LEA chooses to use a video system, it should have a clearly established policy on the use of video systems on school property. As a best practice, the SEA or LEA should develop the policy surrounding the use of video systems in consultation with students, their families, and school-based staff, so that uses of the video systems are widely understood and privacy concerns are more fully considered in the development of the policy.

The policy should effectively address privacy and civil liberties issues and provide fair notice to students and their families, staff, and visitors that on-campus video systems are in place. At a minimum, the policy should: (a) describe the purposes for which video systems are used on school property (b) address the placement of the cameras to ensure that cameras are not placed in any areas where there is a reasonable expectation of privacy; (c) notify staff and students through staff and student/parent handbooks and signage (in accessible formats) that on-campus video systems may be present on school property and on vehicles used for school-provided transportation, along with the purposes of the surveillance equipment, as set forth above; and (d) state whether the video recordings may become a part of a student's education record or a staff member's personnel record and under what conditions, the process for disputing the inclusion of such recordings as part of any record, and, if applicable, how it is maintained consistent with local, State, and Federal laws such as FERPA.

SEAs and LEAs must comply with all applicable laws related to record maintenance and retention. The SEAs and LEAs' policies should also include reasonable procedures intended to preserve data related to a known incident that involves injury to students, staff, or members of the public or damage to property, or that involves any potential violation of the law or the policies, procedures, or rules of conduct of the SEA or LEA. Depending on relevant facts, the use of video systems in classrooms may raise concerns regarding the potential application of other Federal or State laws. SEA and LEA officials should consult with their counsel to determine whether any such laws are applicable.

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[17]These Federal laws include: Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, or national origin; Title IX of the Education Amendments of 1972, which prohibits sex discrimination; Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, which prohibit disability discrimination (the U.S. Department of Education shares responsibility with the U.S. Department of Justice for enforcing Title II, which applies to public entities, regardless of whether they receive Federal financial assistance); and the Age Discrimination Act of 1975, which prohibits age discrimination. Applicable State laws may prohibit discrimination in additional areas.

C. Advancing Educational Equity in COVID-19 Response

Overall Equity Considerations

C-1. What should each Outlying Area consider in order to ensure that ESF-SEA, ESF-Governor, and ARP-OA SEA funds are equitably allocated among schools?

The Outlying Areas should establish practices that ensure all students are provided resources that establish equitable opportunities to learn. Resource equity means that schools serving larger proportions of historically underserved groups of students—including students from low-income families, students of color, English learners, students with disabilities, and students experiencing homelessness—require more funding, depending upon the needs of the students at a particular school. In addition, resource allocation decisions should recognize that certain student populations and school communities have been disproportionately impacted by the pandemic and ensure resource equity, including through allocating funding to provide more intensive social, emotional, mental health, and academic services as needed on return to in-person learning.

C-2. How may an Outlying Area use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to support students who have lost instructional time due to the COVID-19 pandemic?

Outlying Areas must reserve a portion of their ARP-OA SEA funds to address the academic impact of lost instructional time. Specifically, SEAs must reserve (1) not less than 20 percent of their ARP-OA SEA allocation to carry out, directly or through subgrants or contracts, activities to address the academic impact of lost instructional time by supporting the implementation of evidence-based interventions; (2) a portion of their ARP-OA SEA allocation to carry out, directly or through subgrants to LEAs or through contracts, the implementation of evidence-based summer enrichment programs; and (3) a portion of their ARP-OA SEA allocation to carry out, directly or through subgrants to LEAs or through contracts, the implementation of evidence-based comprehensive afterschool programs.

Please note that these reserves are only minimum requirements; spending a larger share of funds for these purposes is allowable and may be necessary to address the needs of students.

The interventions implemented through these reservations must be evidence-based (see FAQ A-10) and may include such activities as summer learning or summer enrichment, extended day, comprehensive after-school programs, tutoring, extended school year programs, and innovative approaches to providing instruction to accelerate learning. Further, the Outlying Areas must ensure that the interventions implemented respond to students' social, emotional, mental health, and academic needs and address the disproportionate impact of the COVID-19 pandemic on students from low-income families, students of color, children with disabilities, English learners, migratory students, students experiencing homelessness, and children and youth in foster care.

ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used to provide a variety of activities and supports to help improve the achievement of students to address the impact of lost instructional time due to the COVID-19 pandemic. For example, funds may be used for costs associated with evidence-based approaches to accelerating learning, high-dose tutoring, leveraging technology to provide embedded assessment and differentiated instruction, diagnostic and curriculum-embedded assessments, and extending the school day or year to provide additional time for student learning, enrichment, and support. These costs may include supplementing the salaries of educators and other qualified personnel to perform additional services.

ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used to support the costs associated with hiring additional teachers and teacher aides to provide intensive support to students. These funds may further be used to provide professional development to educators on research-based strategies for meeting students' academic, social, emotional, mental health, and college, career, and future readiness needs, including strategies to accelerate learning without remediation or tracking.

For more information on using funds to address the academic impact of lost instructional time for students with disabilities eligible under IDEA, see FAQ C-5.

Effective strategies to address lost instructional time are further described in Volume 2 of the Department's COVID-19 Handbook, which is available at: https://www2.ed.gov/documents/coronavirus/reopening-2.pdf.

C-3. How may an Outlying Area use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to support students' social, emotional, mental health, and academic needs, including by hiring support personnel such as nurses, counselors, and social workers?

An Outlying Area may use ESF-SEA, ESF-Governor, and ARP-OA SEA funds, including the 20 percent of ARP-OA SEA funds set aside to address the academic impact of lost instructional time, to support students' social, emotional, mental health, and academic needs, including by implementing school-wide strategies that enhance supports and interventions for students as well as targeted assistance for students who need such supports. For example, an SEA might hire additional personnel to prioritize student well-being and health by increasing student access to teachers, nurses, guidance counselors, social workers, and other support personnel (including teachers' aides and paraprofessionals). An SEA might also address the needs of students arising from the COVID-19 pandemic by using these funds to implement or expand arts programs, such as music programs, including purchasing instruments; expand sports programming so more students can participate; or initiate clubs, such as a robotic or STEM club.

The Outlying Areas should also work to ensure that schools are implementing instructional practices that are culturally responsive and that incorporate trauma-informed pedagogy in response to the COVID-19 pandemic. These funds may be used to support implementation of curriculum, including related professional development.

As noted in FAQs A-4 and A-9, in implementing evidence-based strategies to address the academic impact of lost instructional time through the ARP-OA SEA required reservation of funds, Outlying Areas must respond to students' social, emotional, mental health, and academic needs and address the disproportionate impact of the COVID-19 pandemic on students from low-income families, students of color, English learners, children with disabilities, migratory students, students experiencing homelessness, and children and youth in foster care.

Effective strategies to support student social, emotional, mental health, and academic development are further described in Volume 2 of the Department's COVID-19 Handbook available at: https://www2.ed.gov/documents/coronavirus/reopening-2.pdf.

Focusing on Student Groups Most Impacted by the Pandemic

Please note that the following FAQs provide examples of allowable uses of ESF-SEA, ESF-Governor, and ARP-OA SEA funds for specific groups of students. To the extent that these groups are also served by other Federal education programs, uses of funds under those programs, which are governed by specific programmatic requirements, may be more restrictive. The examples provided below with respect to one student group may also be implemented with respect to other student groups if the SEA or LEA determines it is necessary and reasonable to do so.

C-4. How may an Outlying Area use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to support English learners (also referred to as multilingual learners)?

In order to address the needs of English learners these funds may be used to address the impact of lost instructional time and services, support culturally responsive instruction, and support family engagement activities.

To address the impact of lost instructional time, an Outlying Area may use these funds for a variety of activities, including:

- Extended-day and/or extended-year activities designed to recover lost instructional time as a result of the pandemic, including costs associated with transportation services to support English learners' access to these services.
- Providing language accommodations for English learners to increase their access to content, and/or their participation in programs and services.
- Activities that respond to the social and emotional learning needs of English learners, including professional development for teachers to support English learners—e.g., how to provide a welcoming, nurturing, and supportive learning environment whatever the learning mode; and strategies that increase student collaboration and enhance classroom community.
- Hire additional bilingual staff (including certified bilingual education teachers) to address the social, emotional, mental health, and academic needs of English learners.

To address and promote culturally responsive practices that leverage the assets of English learners and provide the essential scaffolds and supports, an Outlying Area may use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to provide professional development for staff (including administrators, teachers, guidance counselors, and other student services staff) that is focused on meeting the unique needs of English learners. For example, an SEA may use these funds to provide professional learning:
- For content teachers on implementation of strategies to provide meaningful access to the content, to promote English language development, and to offer language accommodations during instruction in a variety of modes;
- For all teachers on formative assessment strategies to monitor the progress of English learners in content and language instruction;
- For guidance counselors and student service staff on asset-based scheduling practices that support meaningful access to core content classes;
- For administrators and teachers on vertical articulation and collaboration practices to support the successful transition of English learners in critical stages such as grades K-1, 5-6, and 8-9;
- Technology specifically focused on helping English learners access remote instruction or other tools that will help them better access the curriculum and provide enrichment; and
- PPE that helps facilitate language instruction (i.e., transparent masks).

To address and promote family engagement and dual capacity building for staff and families of English learners, an Outlying Area may use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to provide:
- Outreach to families of English learners during the COVID-19 pandemic that includes them as partners in education. For example, an SEA might provide support to help parents navigate online platforms, track student progress, and seek help/resources when needed. This may also include using these funds for translation and interpretation services. The Department's Fact Sheet: Providing Services to English Learners During the COVID-19 Outbreak is a helpful tool that outlines States and Outlying Areas' responsibilities to English learners and their parents.
- Translation services to assist with communication regarding the COVID-19 pandemic, for example related to effective prevention and mitigation strategies, test screening, remote learning, and opportunities to address lost instructional time.

C-4.a. In addition to the approaches described in FAQ C-4, how may ESF-SEA and ESF-Governor funds support multilingual learners? *(New July 2023)*

ESF-SEA or ESF-Governor funds may be used to support social, emotional, and academic needs of multilingual learners or immigrant children or youth in response to and recovery from the COVID-19 pandemic. In addition, funds may be used to address long-standing inequities that have been exacerbated by the pandemic, Funds may be expended for a wide range of activities including:
- Supporting the development or expansion of multilingual instructional programs, including programs that provide instruction in Native American languages.
- Supporting an increase in available learning and enrichment time, such as through extended day, week, or

year programs, or additional out-of-school time (e.g., during school breaks).
- Supporting services to meet increased needs of immigrant children or youth including by providing a whole child approach.
- Assessing individual student needs and tailoring supports to unique circumstances.
- Providing professional development to educators and others who provide additional supports, such as tutors, to ensure instruction and enrichment are evidence-based and culturally and linguistically responsive, including by ensuring students learn listening, speaking, reading, and writing skills in an integrated manner in all languages they are studying.
- Supporting collaboration between teachers and others providing additional instruction to integrate multilingual learners' experiences or to ensure continuity of instruction between the regular school day and any additional out-of-school learning time.
- Recruiting, preparing, and developing multilingual educators and staff, including through pathway programs such as high-quality residencies, grow your own programs, and registered apprenticeships.
- Providing teacher candidates with additional financial support such as stipends, loan forgiveness, and service scholarship programs.
- Supporting existing educators and staff in adding bilingual or other specialized certifications that support multilingual learners, including by covering the costs associated with earning those additional certifications.
- Supporting or expanding programs that offer a seal of biliteracy to recognize students who demonstrate proficiency in multiple languages.[18]
- Supporting the development or expansion of digital literacy programs for multilingual students, families, and caregivers.

C-4.b. In addition to the approaches described in FAQ C-4 and C-4.a., how may ESF-SEA and ESF-Governor funds support family engagement for multilingual learners? *(New July 2023)*

In addition to the approaches described in FAQ C-4 and C-4.a, ESF-SEA or ESF-Governor funds may support family engagement for multilingual learners or immigrant children or youth as part of the effort to address the impact of lost instructional time and to address the unique needs of multilingual learners arising from the pandemic. Such investments may help families of multilingual learners become more fully aware of the range of programs, courses of study, and supports that can help their students overcome obstacles created and exacerbated by the pandemic and succeed in academic coursework. For example, ESF-SEA or ESF-Governor funds may be used to expand outreach and community engagement with local organizations that serve multilingual learners and to expand an SEA or LEA's multilingual social media and online presence to ensure families have accurate, up-to-date information about learning opportunities. As described in FAQ C-4, ESF-SEA or ESF-Governor funds may also be used to provide translation and interpretation services.

In establishing or expanding such programs, SEAs, LEAs, and schools should engage communities to support needs assessment, program design and development, and implementation, all of which may be allowable uses of ESF-SEA and ESF-Governor funds. ESF-SEA or ESF-Governor funds may also be used to assist families in understanding their students' linguistic development in each language and how they can support multilingual learning at home.

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[18] To further align with statewide biliteracy efforts, an SEA may amend its consolidated State plan under the ESEA to modify its School Quality or Student Success indicators under its statewide accountability and improvement system, consistent with the requirements under ESEA section 1111(c)(4)(B)(v), to include a new measure in its methodology that rewards schools for successful programs, such as a measure based on students earning a seal of multiliteracy

C-4.c. How may ESF-SEA and ESF-Governor funds support assessments for multilingual learners? (New July 2023)

ESF-SEA or ESF-Governor funds may be used to develop, improve, and administer assessments for English learners, including formative, diagnostic, interim, and summative assessments as part of a school, SEA, or

LEA's efforts to quantify and address the impact of lost instructional time that resulted from the pandemic. This may include developing assessments in a language and form most likely to yield accurate and reliable information on what students know and can do, consistent with ESEA section 1111 and 34 CFR § 200.6,[19] and may also include developing and administering assessments in a Native American language.[20] ESF-SEA or ESF-Governor funds may support development of assessments for multilingual learners or immigrant children or youth that include projects, portfolios, and extended performance tasks that measure a full range of higher-order thinking skills and that are culturally and linguistically responsive in their design and implementation.[21]

ESF-SEA or ESF-Governor funds may also be used to ensure families understand the results of any assessments, such as by ensuring score reports and other information are available in an accessible language and format consistent with 34 CFR § 200.8.

C-5. How may an Outlying Area use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to support the needs of children with disabilities under the IDEA?

As described in FAQs A-3 and A-14 these funds may be used for any activity authorized by the IDEA.[5] Outlying Areas should consider what services are needed to meet the needs of children with disabilities, including children with disabilities who are English learners. In an Office of Special Education Programs (OSEP) question and answer document issued on September 30, 2021, OSEP reiterated the Department's long-standing position that under Part B of the IDEA, no matter what primary instructional delivery approach is chosen, SEAs, LEAs, and individualized education program (IEP) Teams remain responsible for ensuring that a FAPE[6] is provided to all children with disabilities. The Outlying Areas may use ESF-SEA, ESF-Governor, or ARP-OA SEA funds to provide additional instruction and services to children with disabilities, often referred to as compensatory services,[7] to address lost instructional time. A child's IEP Team would be required to make an individualized determination whether and to what extent compensatory services may be needed, consistent with applicable requirements, including to make up for any skills that may have been lost. See OSEP's questions and answers document issued on March 12, 2020. Similarly, Outlying Areas may use these funds to make available early intervention services to those who were not provided such services consistent with a child's individualized family services plan (IFSP) as a result of disruptions in services due to the COVID-19 pandemic.[8]

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[5] IDEA, 20 U.S.C. § 1400 et seq., consists of three parts: IDEA Part B includes requirements for formula grants to assist States and Outlying Areas in making available a free appropriate public education (FAPE) in the least restrictive environment to eligible children with disabilities in mandatory age ranges. Entitlement to FAPE begins at a child's third birthday and could last until the 22nd birthday, depending on State or Outlying Area law or practice. IDEA Part B consists of the Grants to States Program authorized by IDEA section 611(f) for children with disabilities aged three through 21 and the Preschool Grants Program authorized by IDEA section 619(g) for children with disabilities aged three through five. IDEA Part C consists of the Grants for Infants and Families Program authorized by IDEA section 643(c) for making formula grants to assist States and Outlying Areas in providing early intervention services to infants and toddlers from birth through age two and their families (and at the State's option beyond age three until the school year following the child's third, fourth, or fifth birthday). IDEA Part D sections 650 through 682 includes provisions for making discretionary grants to support State personnel development, technical assistance and dissemination, technology, and parent-training and information centers.

[6] FAPE is defined in 34 CFR § 300.17 as special education and related services that: (a) are provided at public expense, under public supervision and direction, and without charge; (b) meet the standards of the SEA, including the requirements of IDEA Part B; (c) include an appropriate preschool, elementary school, or secondary school education in the State involved; and (d) are provided in conformity with an IEP that meets the requirements of 34 CFR §§ 300.320 through 300.324. See also 20 U.S.C. § 1401(9).

[7] These services are sometimes called "recovery services" due to the COVID-19 pandemic, although IDEA does not use this term.

[8] State lead agencies other than SEAs may also use ESF-SEA, ESF-Governor, and ARP-OA SEA funds through an interagency agreement or other written method with the SEA or Governor's office.

In addition to the services outlined throughout this document, ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used for the following purposes consistent with the IDEA for children with disabilities. Please note that this is not an exhaustive list.

Services to support struggling learners under section 613(f) of IDEA Part B:

- Providing comprehensive coordinated early intervening services (CEIS) for children not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment, including:
  - Professional development (which may be provided by entities other than LEAs) for teachers and other school staff to enable such personnel to deliver scientifically based academic and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and
  - Providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.

Services to support children with disabilities age 3-21 under section 611 of IDEA Part B:

- Providing support and direct services for children with disabilities, including technical assistance, personnel preparation, and professional development and training;
- Implementing child find policies and procedures, including ensuring identification, location, and evaluation of children who may need special education and related services including underserved groups, such as children experiencing homelessness, migratory children, and highly mobile children;
- Eliminating evaluation backlogs;[9]
- Addressing the loss of instructional time and loss of skills for children with disabilities, and determining on an individual basis, in accordance with applicable requirements, by the IEP Team whether compensatory services may be needed for a child with a disability who was unable to receive FAPE as a result of school closures or other disruptions in services due to the COVID-19 pandemic;
- Providing extended-school-year services as determined on an individual basis by a child's IEP Team to be necessary to provide FAPE to the student;
- Monitoring, enforcement, complaint investigations, and the mediation process, including providing for the costs of mediators and support personnel;
- Providing positive behavioral interventions and supports and mental health services for children with disabilities;
- Improving the use of technology in the classroom and/or in a remote setting for children with disabilities to enhance learning;
- Supporting the use of technology, including technology with universal design principles and assistive technology devices, to maximize accessibility to the general education curriculum for children with disabilities;
- Implementing transition programs, including coordination of services with agencies involved in supporting the transition of children with disabilities to postsecondary activities;
- Assisting LEAs in meeting personnel shortages including by hiring additional personnel to provide special education and related services and reducing caseloads in key areas;
- Supporting capacity-building activities and improving the delivery of services by LEAs to improve results for children with disabilities;
- Developing programming for children with disabilities who have been expelled from school, children with disabilities in correctional facilities, children enrolled in State-operated or State- supported schools, and children with disabilities in charter schools; and
- Increasing the number of high-need children with disabilities funded under a State's high-cost fund.

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[9] Activities may include contracting with additional evaluators to address backlogs, or the implementation of valid assessment or evaluation tools and instruments that can be administered reliably using a virtual platform, if necessary.

Services to support preschoolers with disabilities age 3 through 5 under section 619 of IDEA Part B:

In addition to the activities listed above, as appropriate, ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used in:

- Implementing child find policies and procedures, including ensuring identification, location, and evaluation of children who may need special education and related services including underserved groups, such as children experiencing homelessness, addressing evaluation backlogs resulting from school closures, including eligibility determinations for children transitioning from the State's IDEA Part C program;
- Assisting LEAs in personnel shortages by hiring additional early childhood special education and related services providers;
- Assisting LEAs in meeting personnel training needs for preschool staff;
- Costs related to safely providing FAPE across a variety of preschool settings;
- Providing developmentally appropriate positive behavioral interventions and supports and mental health services for preschoolers with disabilities; and
- Implementing transition activities, including coordination with the Part C program on the transition of children exiting Part C, and planning of services with schools for preschoolers entering kindergarten.

Services under IDEA Part C:

- Providing early intervention services to infants and toddlers with disabilities and their families;
- Supporting IDEA Part C personnel including service coordinators through technical assistance, personnel preparation, use of alternative delivery methods, and professional development and training;
- Implementing the Outlying Area's child find system with a specific emphasis on addressing related issues of equity for historically underserved populations through outreach and coordination with child find partners, referral sources, and other Federal programs for infants and toddlers and expanding referral sources through training and education.
- To make available early intervention services to those infants and toddlers with disabilities and their families that were not provided such services consistent with a child's IFSP as a result of public agency closures and/or other disruptions in services as a result of the COVID-19 pandemic.
- Addressing any 45-day timeline backlogs including the child and family assessment and evaluation of the child to determine eligibility;
- Improving the use of technology to deliver IDEA Part C services and improve use of tele-intervention by early intervention service (EIS) providers;
- Providing developmentally appropriate positive behavioral interventions and supports and mental health services for infants and toddlers with disabilities and their families;
- Implementing early childhood transition, including coordinating with the Part B preschool program and the SEA;
- Assisting EIS providers and programs in meeting personnel training needs and provider shortages through hiring addition EIS and related service providers;
- Monitoring and enforcing IDEA requirements, and conducting dispute resolution (including complaint investigations and conducting mediations); and
- Conducting outreach to parents and families of infants and toddlers with disabilities.

Services under IDEA Part D:

Outlying Areas may choose to contract with existing IDEA Part D grantees to provide additional services, consistent with the scope of work funded under the specific grant program, to support children with disabilities. Examples include, but are not limited to, providing additional funding for:

- Outlying Area-specific services provided by the Outlying Area's Parent Training and Information Center or Community Parent Resource Center;

- Outlying Area-specific professional development services provided by the Outlying Area's State Personnel Development Grant, if applicable;
- Outlying Area-specific services provided by Part D technical assistance center grantees such as the Center on Positive Behavioral Interventions and Supports, the National Center on Intensive Intervention, the National Deaf Center;
- Personnel preparation programs focused on increasing the number of qualified special education teachers, related services providers, and faculty; and
- Additional Outlying Area-specific services provided by Part D technology centers to enhance access to instruction.

C-6. How may an Outlying Area use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to support students with disabilities who are not IDEA-eligible but who receive services in accordance with a Section 504 plan?

Under section 504 of the Rehabilitation Act of 1973 (Section 504), a recipient that operates a public elementary or secondary education program must provide FAPE to all qualified students with disabilities in the recipient's jurisdiction, regardless of the severity of the student's disability. See 34 CFR §§ 104.33-104.36. An appropriate education under Section 504 includes the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of nondisabled students are met and are based on adherence to requirements governing least restrictive setting, evaluation and placement, and procedural safeguards. Specialized instruction and services necessary to ensure FAPE under Section 504 must be provided at no cost to parents. ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used for the provision of required educational and related aids and services determined necessary to ensure the provision of FAPE to students with disabilities who are not eligible under IDEA but receive services in accordance with a Section 504 plan. In addition, these funds may be used to provide additional instruction and services to students with Section 504 plans who are not IDEA-eligible, often referred to as compensatory services, to make up for any skills that might have been lost if it is individually determined in accordance with respective applicable standards that the student was unable to receive FAPE as a result of the closure of school buildings or other disruption in services as a result of the COVID-19 pandemic.

C-7. How may ESF-SEA, ESF-Governor, and ARP-OA SEA funds be used to support students experiencing homelessness?

ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used for services and interventions specifically tailored to meet the needs of students experiencing homelessness,[10] including, for example:

- Outreach and service delivery;
- Mental health services and positive behavioral interventions and supports; and
- Planning and implementing summer learning and after-school programs addressing the needs of students experiencing homelessness.

These funds may be used to ensure that all students experiencing homelessness are identified and fully participate in school on the same basis as their peers through, for example, outreach, training, and community collaborations. For example, an SEA may use these funds for the following purposes:

- To increase the FTE hours of the homeless liaison designated under McKinney-Vento;
- To assign building-level contacts (particularly in highly impacted schools);
- To increase specialized support staffing, such as counselors, social workers, and others who are specifically trained in outreach and services for students experiencing homelessness; and

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[10] ESF-SEA and ESF-Governor funds may be used for activities authorized under McKinney-Vento. Similarly, ARP-OA SEA funds may be used for any activity allowable under the Impact Aid program under Title VII of the ESEA, which includes allowable activities under McKinney-Vento.

- To provide transportation services to ensure access to after-school or summer learning and enrichment programs.

Outlying Areas should coordinate the use of ESF-SEA, ESF-Governor, and ARP-OA SEA funds with other education funds used to support homeless students such as McKinney-Vento and part A of title I of the ESEA to ensure a comprehensive approach to meeting those students' needs.

Please note that these funds should be used to address the specific needs of students experiencing homelessness, just as they are intended to meet the needs of other underserved groups of students and other groups of students most impacted by the COVID-19 pandemic. The ARP Act also includes an additional $800 million to support the needs of students experiencing homelessness, and these resources should be additive to the supports and services provided under ESF-SEA, ESF-Governor, and ARP-OA SEA.

C-8. How may an Outlying Area use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to serve children and youth in foster care?

The COVID-19 pandemic has caused unique challenges for students in foster care and their caregivers. For example, the pandemic has caused increased disruptions in students' living placements and, as a result, school placements; students often have inconsistent access to schoolwork and classes, as foster and kinship caregivers often have limited access to and knowledge about the technology needed for virtual instruction; and schools face challenges in providing the supplemental education services required by students in foster care.

ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used broadly to address the needs of students in foster care during the COVID-19 pandemic. As a result, Outlying Areas have considerable flexibility in using ESF-SEA, ESF-Governor, and ARP-OA SEA funds to address the unique needs of students in foster care. While specific uses of funds depend on the local context and the unique needs of students and caregivers, ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used to support the following activities:

- Transporting students in foster care to their respective schools of origin where Outlying Areas are offering in-person learning, hybrid learning, or supplemental instruction/coaching opportunities;
- Purchasing technology (including laptops, Wi-Fi hotspots, or tablets) that enable students in foster care to consistently access instruction;
- Providing academic supports—including tutoring or supplemental instructional opportunities—to meet the unique learning needs of students in foster care;
- Helping students and/or caregivers meet their basic needs, including access to meals and hygienic supplies (such as masks or hand sanitizer); and
- Meeting mental health and behavioral needs (for example, contracting with community mental health providers to support students virtually and/or on-site at school).

Outlying Areas should coordinate with State and local child welfare agencies to identify and streamline, where possible, the supports provided to students in foster care and their caregivers. As always, intentional coordination between educational agencies and child welfare agencies remains essential to supporting students in foster care and their caregivers during the COVID-19 pandemic.

C-9. How may an Outlying Area use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to support migratory students?

ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used to address needs of migratory children by providing support such as:

- Supplemental instruction to address the academic impact of lost instructional time, provided through before- and after-school programs, weekend programs, or summer programs;
- Facilities for students to access a reliable internet connection needed for remote learning;
- Fees that might be required to access drop-in centers operated by community organizations;
- Transportation of migratory children to school or drop-in centers and other facilities where students may access necessary technology and/or instructional support;
- Staff to assist migratory students in their homes during school hours with schoolwork and provide technology support as needed;
- Staff to go to housing sites to provide high school equivalency instruction for migratory out-of-school youth;
- Provision of childcare and/or early childhood education programs for younger migratory children who would otherwise be cared for by older, school-age siblings during school hours due to their parent/guardian(s)'s employment as an essential worker;
- Providing information and assistance, including interpreters and translated information, to parents and families on how they can effectively support their migratory children, including in a distance-learning environment;
- Mental health services and other forms of social, emotional, and behavioral support for migratory children;
- Outreach and information for migratory families to help them access COVID-19 testing and vaccines, including provision of transportation, interpreters, and translated information; and
- Outreach activities to help ensure migratory children are enrolled in school, attend regularly, and are engaged in online learning.

C-10. How may ESF-SEA, ESF-Governor, and ARP-OA SEA funds support students who are in correctional facilities?

The COVID-19 pandemic has presented unique challenges in providing educational services in secure correctional facilities. ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used in a variety of ways to support these students, just as they may be used in regular school settings. For example, ESF-SEA, ESF-Governor, and ARP-OA SEA funds could be used to support distance learning through technology and broadband improvements, and professional development for educators on the effective use of technology. Funds could also support technology to allow youth to meet virtually with family and meet with personnel to address students' academic, social, emotional, behavioral, and mental health needs due to the COVID-19 pandemic; to improve on-site library resources; and provide instructional supports that address lost instructional time, such as high-quality tutoring or leveraging technology for formative and diagnostic assessment and differentiated instruction. Funds could be used for materials and services that support postsecondary education access and career development and job placement, which might also have been impacted due to the COVID-19 pandemic. ESF-SEA, ESF-Governor, and ARP-OA SEA funds could also be used for materials and services that support adult and career and technical education in correctional facilities. This includes integrated education and training programs, career pathway initiatives, pre-apprenticeships, apprenticeships, postsecondary education access and career development and job placement, which all might have been impacted due to the COVID-19 pandemic.

Interventions and Strategies for Consideration

C-11. How may an Outlying Area use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to address chronic absenteeism?

ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used to implement data-driven strategies to address chronic absenteeism that has increased as a result of the COVID-19 pandemic. Allowable uses include outreach to students and families; accelerating learning for students with significant amounts of lost instructional time during the COVID-19 pandemic; and other intensive social, emotional, mental health, and academic supports.

ESF-SEA or ESF-Governor funds may be used to support efforts to locate and reengage students who are

chronically absent and to work with students and families to address underlying needs or barriers that are causing chronic absenteeism as schools recover from the pandemic. This may include personal outreach by educators and support staff and providing linguistically inclusive information at community sites and online. ESF-SEA or ESF-Governor funds may support stipends or other additional compensation for teachers who spend time outside their regular working hours to locate and reengage students who are chronically absent. ESF-SEA or ESF-Governor funds may further support students experiencing homelessness, such as by increasing support for liaisons who support the population. Similarly, ESF-SEA or ESF-Governor funds may augment support for students from migratory families; for example, program staff who work with these students may need flexible work hours during the week, weekends, nights, and in the summer to canvas the community in search of agricultural workers and to visit families in their homes. ESF-SEA or ESF-Governor funds may also be used to match students with mentors and rapidly contact families to identify and overcome barriers to regular attendance.

These funds may not be used to provide direct monetary rewards to students or families for school attendance; however, ESF-SEA or ESF-Governor funds may be used to develop and pay for recognition programs that encourage student attendance (e.g., rewarding strong or improved attendance through eligibility to participate in special events for a class) (see FAQ C-23.a). ESF-SEA or ESF-Governor funds may be used to build community partnerships with homeless shelters, local social service agencies, and local media and transit authorities, which can help students attend school regularly and disseminate reminders about the importance of regular attendance. These and other approaches may be especially important in supporting students experiencing homelessness. For additional resources on addressing chronic absenteeism among students experiencing homelessness, please see the National Center for Homeless Education's resources on the topic. Effective strategies to address chronic absenteeism and reengage students are further described in Volume 2 of the Department's COVID-19 Handbook available at: https://www2.ed.gov/documents/coronavirus/reopening-2.pdf.

ESF-SEA or ESF-Governor funds may also be used to address the impacts of chronic absenteeism and to help leaders take action to reduce it. For example, ESF-SEA or ESF-Governor funds may be used to provide additional social, emotional, mental health, and academic support during school breaks or before and after school. Actions to address chronic absenteeism may include tiered practices such as:
- Foundational strategies that support the entire school community and make schools welcoming learning environments;
- Practices to prevent absenteeism, such as predictable routines and clear communication;
- Actions that support students at greater risk of chronic absenteeism or who meet the lower boundaries of the definition of chronically absent, such as individualized outreach and support or home visits; and
- Case management and related supports for students who have missed the most instruction.

In addition, to guide Outlying Area strategic decision-making, ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used to develop data quality systems that will assist with such activities as:

- Establishing a common definition of what constitutes a day of attendance across all modes of instruction, including in-person, remote, virtual synchronous, and asynchronous;
- Tracking daily attendance and determining whether absences occur during in-person, synchronous, or asynchronous settings;
- Monitoring and publishing disaggregated data on the number of students who are absent 10 percent or more of the time;
- Conducting research and analyzing data to determine which attendance metrics are associated with lower academic performance in distance or hybrid learning; and
- Creating early warning systems based on key student indicators, including chronic absenteeism, credit accumulation, course grades, and discipline rates, to identify students who are at risk of dropping out of school.

C-11.a. How may ESF-SEA, ESF-Governor, ARP-OA SEA funds be used to support early warning indicator

systems? *(New July 2023)*

ESF-SEA or ESF-Governor funds may be used to develop and implement early warning indicator (EWI) systems, which can track attendance, assignment or course completion and credit accumulation, grades, and discipline rates. These data can be examined frequently (e.g., monthly) and used to inform targeted engagement strategies in response to these data. When viewed at the classroom and student level, these data can strengthen a school's ability to provide specific, timely interventions (including support for educators where needed), which is crucial to addressing the impact of lost instructional time due to the pandemic.

Outlying Area governments, SEAs, and LEAs may also collect data on the successful transitions of students from pre-school to elementary school, elementary school to middle school, middle school to high school, and high school to postsecondary education. For example, schools may use on-track indicators to assess how well students transition into high school so that the schools may provide additional supports as needed. Using information from the EWI, schools may want to consider implementing or enhancing multi-tiered systems of support that typically include: (1) school-wide supports; (2) progress monitoring; (3) tiered systems of academic and social, emotional, and behavioral interventions; and (4) evidence-based instructional and behavioral interventions.

These funds may be used to create well-designed student surveys, which can be particularly helpful when used in advance of and during these transitions. Survey results can be incorporated into the EWI to provide important information to educators on how students are feeling about these transitions and where additional support might be needed. Note that surveys must be utilized in compliance with the Protection of Pupil Rights Amendment (PPRA). Funds can also be used to provide professional development to educators on how to analyze and use the data to identify the appropriate intervention and monitor its effectiveness.

C-12. How may an Outlying Area use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to improve its data systems and its transparency when reporting to the public?

It is important that parents, educators, and the public have accurate and meaningful information about how students are learning during and after the pandemic and what learning opportunities are available. In addition to their primary purposes of ensuring that schools can reopen safely and addressing students' social, emotional, mental health, and academic development, ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used for data collection and the creation of Outlying Area SEA- or LEA-level data dashboards that provide public reporting when the reporting is related to the COVID-19 pandemic (e.g., establishing new collections or dashboards that specifically address lost instructional time)— disaggregated to the greatest extent possible by race/ethnicity, economic status, English learner status, disability status, homelessness status, and other factors—on critical measures including:

- School instructional offerings by modality (e.g., open full-time in-person for all students, remote option available for all students);
- Student enrollment rates by school and by instructional modality (open for full-time in-person instruction, open for hybrid instruction, and fully remote learning);
- Student attendance rates by school and by instructional modality;
- Chronic absenteeism rates by school and by instructional modality;
- Rate of student participation logging into remote learning for students in fully remote or hybrid learning environments by school;
- The average number of hours of live instruction by grade span (for students in fully remote or hybrid learning environments) by school by month;
- A measure of students and educators who have adequate technology (devices and high-speed internet access) for remote instruction;
- A measure of the distribution of school meals by school;
- Reporting on impacts of the COVID-19 pandemic on Outlying Areas' collection of data for the State Performance

Plans and Annual Performance Reports as required by section 616 of the IDEA;

- Other opportunity-to-learn indicators such as discipline rates, access to advanced coursework, teacher turnover and quality data (e.g., experience, certification, access to professional learning); and access to guidance counselors, social workers, psychologists, and nurses; and
- Student learning across multiple measures, including assessments.

Outlying Areas may also use administrative funds for this purpose.

C-13. How may an Outlying Area use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to support full-service community schools?

Outlying Areas may use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to provide services and supports to students and families through evidence-based, full-service community schools. The ARP Act defines a full-service community school as it is defined in section 4622 of the ESEA: a public elementary school or secondary school that (A) participates in a community-based effort to coordinate and integrate educational, developmental, family, health, and other comprehensive services through community-based organizations and public and private partnerships; and (B) provides access to such services in school to students, families, and the community, such as access during the school year (including before-and after-school hours and weekends), as well as during the summer. Evidence-based community school approaches include integrated student supports, active family and community engagement, expanded learning time opportunities, and collaborative leadership and practices. Using ESF-SEA, ESF-Governor, and ARP-OA SEA funds to support full-service community schools can help support students' social, emotional, mental health, and academic development and other basic needs. Additionally, Outlying Areas may utilize funds in the development or expansion of in-school student support centers that provide mentoring, counseling, and social and emotional learning supports to students in individual or group sessions.

C-14. How may an Outlying Area use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to support mental health services for students and educators facing COVID-19 pandemic-related trauma?

Addressing the mental health needs of students is an important goal of these programs. ESF-SEA, ESF-Governor funds and ARP-OA SEA funds may be used to provide mental health services and supports for students and their families, educators, and staff who have mental health needs related to or exacerbated by the COVID-19 pandemic. The Department recognizes the widespread impact of the COVID-19 pandemic on mental health, and the particularly extensive effects of COVID-19 on youth mental health (see, for example, the Surgeon General's Advisory on Protecting Youth Mental Health at https://www.hhs.gov/sites/default/files/surgeon-general-youth-mental-health-advisory.pdf and the CDC's study on youth mental health threats at https://www.cdc.gov/media/releases/2022/p0331-youth-mental- health-covid-19.html).

These funds may therefore support mental health services in three key areas: (1) improving access to high-quality mental health care; (2) improving communication and transparency about mental health supports with the wider school community; and (3) implementing and integrating evidence-based approaches to social, emotional, and mental well-being.

Specific strategies within each of these three categories are discussed below:

Improve Access to High-Quality Mental Health Care

- **Create a positive, accessible process** for students, educators, and staff to seek help and support. This process may include increasing mental health resources and support on school campuses and awareness of those resources and services. Taking a whole-school approach to wellness can also create a more positive process for seeking support and services. Mental health literacy training for educators and staff can also be effective in helping them facilitate students obtaining mental health supports inside school buildings and in the community.
- **Use early intervention strategies**. Early interventions conducted by mental health staff are associated

with [positive academic and developmental outcomes,](#) including fewer disciplinary encounters, increased engagement, and elevated graduation rates.

- Ensure there is **sufficient access to high-quality mental health staff** (e.g., psychologists, counselors, social workers, and well-trained behavior specialists) within school buildings. ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used to **hire additional staff**, develop plans for leveraging multiple Federal and State funding streams to increase access to mental health staff, prioritize activities that build local capacity to sustain services, and develop comprehensive evaluation plans for adjusting supports based on data. ESF-SEA, ESF-Governor, and ARP-OA SEA funds may also be used to establish processes and systems to bill Medicaid for health services, as eligible, including hiring or contracting with staff to do this work.
- **Reduce negative attitudes and beliefs** associated with seeking mental health support by providing more information on mental health challenges and supports available, investing in professional development of school staff, offering tele-mental health options, actively engaging students in health decisions, and actively engaging the wider school community (e.g., holding regular meetings about resources and making practice changes based on community feedback).
- Provide students **equitable access to mental health services that are welcoming and inclusive** with regard to race, ethnicity, culture, language, disability, and for students who identify as LGBTQI+. This can include increasing the number of professionals who can provide services in languages in addition to English and the diversity of school counselors, mental health professionals, social workers, psychologists, nurses, and other integrated support staff in a manner consistent with applicable law, including the civil rights laws enforced by the Department. ESF-SEA, ESF-Governor, and ARP-OA SEA funds may support efforts to increase diversity in school-based mental health services providers by offering loan forgiveness or service scholarships, creating career pathways (including beginning in high schools), and creating or strengthening SEA and LEA partnerships with Historically Black Colleges and Universities (HBCUs), Tribal Colleges and Universities (TCUs), and Minority Serving Institutions (MSIs).

Improve Communication and Transparency about Mental Health Supports with the Wider School Community

- **Use accessible language** and ensure that all school materials and mental health personnel communicate in a language understood by multilingual families and students and accessible to persons with disabilities. Public schools are obligated to ensure meaningful communication with parents with limited English proficiency (LEP) in a language they can understand.[28] Public schools must also ensure that communications with families and students with disabilities are as effective as communications with others. [29] Accessibility for a person with a disability also extends to a public school's web content, as discussed in the [Department of Justice's recent](#) [guidance on web accessibility.](#) Schools may use ESF-SEA, ESF-Governor, ARP-OA SEA funds to meet or go beyond these legal obligations to ensure all students and families are able to access mental health resources at school.
- **Establish a home visit program and provide support** and time for educators and/or mental health professionals to perform home visits and meetings with families and guardians.
- **Increase awareness of available school, SEA and LEA human resources support** for all staff, including where to find mental health support and who to contact and when.
- **Leverage local wellness resources** from local health departments, community partners, or others to provide services to students, teachers, and staff remotely or in person.

Implement and Integrate Evidence-Based Approaches to Social, Emotional, and Mental Well-Being

- **Administer and analyze [school climate and other surveys](#)** to determine areas of improvement for educators, students, families, and communities and monitor progress in areas of need.
- **Analyze and use existing data** on attendance, academic success, and discipline to identify students in need of additional supports and guide improvements.

- **Create student-teacher advisory groups** and provide professional development to educators leading these groups. School leaders can build time into the schedule for these groups to regularly meet to build strong teacher-student relationships and improve school engagement.
- **Implement and integrate evidence-based practices within a Multi-Tiered System of Support (MTSS).** An MTSS approach, including professional development, can help create a positive, safe, affirming, and welcoming school environment; build strong relationships between students and staff; establish consistent routines; promote and reinforce positive expectations; inform rigorous, engaging, and culturally and linguistically inclusive instruction; and provide clear and supportive feedback to students.
- **Develop and implement fair discipline policies that emphasize preventive practices and strategies** that help address social, emotional, and mental health needs, such as restorative justice programs that are culturally and linguistically responsive and support the social and emotional well-being of all students.
- **Provide professional development to all staff** on how they can support the well-being of students within their specific roles, recognize and value student diversity, and specifically affirm populations who have experienced inequities to ensure mental health supports build on students' strengths and are welcoming and inclusive.
- **Expand full-service community schools,** which provide and better integrate academic, social, and health care services for students and students' family members.

ESF-SEA, ESF-Governor, and ARP-OA SEA funds may also be used to evaluate students who may have a disability under IDEA and Section 504, including those who have mental health-related needs as a result of their disability, or to provide equipment, services, and supports that are individually determined as necessary to provide FAPE to an eligible student (commonly referred to as related services)[30] under IDEA or Section 504, as applicable. Please also refer to section I in volume 2 of the Department's COVID-19 Handbook.

Additional information about supporting student mental health is available at https://www2.ed.gov/documents/students/supporting-child-student-social-emotional-behavioral-mental- health.pdf. More information on providing safe and supportive learning environments, including addressing student and educator mental health, is available from the National Center on Safe and Supportive Learning Environments at https://safesupportivelearning.ed.gov. More information on improving school climate and school safety through the implementation of positive behavioral interventions and supports is available from the Center on Positive Behavioral Interventions and Supports at https://www.pbis.org/.

C-15. How may an Outlying Area use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to support evidence-based literacy programs?

As noted in FAQs A-4 and A-9, Outlying Areas must implement evidence-based strategies to address the academic impact of lost instructional time through the required ARP-OA SEA reservation of funds. Many parents and educators are

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[28] Title VI of the Civil Rights Act of 1964 requires school districts to ensure English learner students can meaningfully participate in all programs and activities of the school district, including counseling services, to ensure meaningful communication with LEP parents in a language they can understand, and to adequately notify LEP parents of information about any program, service, or activity of a school district or SEA that is called to the attention of English Speaking parents. See e.g., U.S. Department of Education and U.S. Department of Justice, "Dear Colleague Letter: English Learner Students and Limited English Proficient Parents," (Jan. 7, 2015), https://www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf.

[29] Section 504 of the Rehabilitation Act of 1973 protects qualified individuals with disabilities from discrimination on the basis of disability by entities that receive Department Federal financial assistance. Subtitle A of Title II of the Americans with Disabilities Act protects qualified individuals with disabilities from discrimination on the basis of disability in services, programs, and activities provided by State and local government entities, regardless of whether or not those entities receive Federal financial assistance.

especially concerned about the loss of in-person instructional time on students' early literacy skills. ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used to support comprehensive State and local literacy programs that are needed due to the COVID-19 pandemic (e.g., to address loss of literacy skills as a result of the pandemic). It is important that Outlying Areas invest in evidence-based practices to support learners, including in early literacy, whether they are learning remotely or in person. Outlying Areas may also use ESF-SEA, ESF-Governor, and ARP-OA SEA funds for multi-tiered systems of support for English learners and to provide specially designed instruction for students with disabilities for literacy development and language acquisition. Funds may also be used for parent training and family literacy services in the use of early learning strategies that bring in the child's environment and experiences to promote literacy skills. Effective strategies to support student learning are further described in Volume 2 of the Department's COVID-19 Handbook available at: https://www2.ed.gov/documents/coronavirus/reopening-2.pdf.

C-16. May an SEA or LEA use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to provide meals for students? (*Updated July 2023*)

Yes, under certain circumstances. Typically, an SEA or LEA has other means of providing-food services, such as through the U.S. Department of Agriculture (USDA) or other Federal programs. As a result, the Department encourages SEA and LEAs to use those Federal funds with the specific purpose of providing food services to students prior to using ESF-SEA, ESF-Governor, and ARP-OA SEA funds for this purpose. However, if such funding is not available, or additional funds are necessary, an SEA or LEA may use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to provide meals if the need arises from or relates to recovery from the pandemic. For example, ESF-SEA, ESF-Governor, ARP-OA SEA funds could be used to increase food service staff capacity; cover additional labor costs associated with serving meals to students during the pandemic; or support COVID-19 pandemic-related expenses, such as school meal service equipment/supplies, meal packaging, and transportation services.

Please note that, since 2020, the USDA has provided nationwide flexibilities and waivers consistent with its existing authority and new legislation, including the recent Keep Kids Fed Act of 2022, which extends certain flexibilities to summer 2022 and through school year 2022-2023. Using this flexibility, USDA will be able to provide temporary, higher reimbursement rates for school lunches and breakfasts served, as well as meals and snacks served in the Child and Adult Care Food Program.[31]

C-16.a. May ESF-SEA, ESF-Governor, and ARP-OA SEA funds be used to cover the costs of waiving the outstanding school meals balance of a student from low-income backgrounds? *(New July 2023)*

To the extent a low-income family's ability to pay for school meals has been impacted by the COVID-19 pandemic, an SEA or LEA may use ESF-SEA, ESF-Governor, ARP-OA SEA funds to cover the student's school lunch balance. As noted in FAQ C-16, the Department encourages the SEA or LEA to first utilize funding and flexibilities provided by USDA in addressing the costs associated with providing school meals.

C-17. How may an Outlying Area use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to specifically support high school seniors?

ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used to assist high school seniors with post-high school planning, including the additional costs to schools of providing these supports to students in a fully in-person, hybrid, or remote environment. For example, ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used to pay college application fees for low-income students or to support the salaries of additional

guidance counselors to assist students with exploring options for careers and postsecondary study, navigating the college application process, completing the Free Application for Federal Student Aid (FAFSA), and conducting parental and student information sessions. Funds may also be used for stipends or incentives for educators taking on additional responsibilities to provide post-high school planning for high school seniors, consistent with 2 CFR § 200.430(f) (i.e., incentive pay is given pursuant to an established plan, which could be established in response to the COVID-19 pandemic). Funds may also be used to support summer bridge programs to help students make the successful transition to postsecondary education, training, pre-apprenticeship, registered apprenticeship, or other career pathway programs. Finally, ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used for transition services for high school seniors with an IEP to facilitate their transition from school to post-school activities.

C-18. May an Outlying Area use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to support students who graduated high school in the class of 2020 or 2021 who have not yet successfully transitioned to college or careers?

Yes. Consistent with Perkins V, an LEA may use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to support former students who graduated high school in the class of 2020 or 2021 (i.e., during the pandemic) but have not yet successfully transitioned to college or careers. For example, an LEA may provide college or career counseling, assistance with college applications or entry into job training programs, job training, post-secondary counseling and related services, including for associate and baccalaureate degree programs, and financial literacy.

C-19. May an Outlying Area use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to support distance learning, including the purchase of educational technology for student use?

Yes. Outlying Areas may use ESF-SEA, ESF-Governor, and ARP-OA SEA for activities that support distance education and promote long-term improvements in technology infrastructure and operations and their effective use. These activities might include providing online learning to all students, including students with disabilities, English learners, students experiencing homelessness, and students in foster care; and training educators in the effective implementation of online learning. To support the continuity of learning, Outlying Areas may use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to purchase educational technology for student and educator use, including:

- Mobile technology devices such as tablets and laptops;
- Providing off-campus access to reliable, high-speed internet for students and teachers through the purchase of internet-connected devices/equipment, mobile hotspots, wireless service plans, or installation of Community Wi-Fi Hotspots, especially in underserved communities;
- Teleconferencing applications or programs;
- Software/online/virtual programs, screen capture/recording software, online/virtual cultural curriculum/programs, online/virtual tutoring curriculum/programs, learning management systems;
- Technology accessories, such as headphones, speakers, laptop cameras; and
- Assistive technology devices,[11] such as dedicated communication devices and applications for text-to-speech, graphic organizers, or word prediction.

Supporting distance learning requires the effective use of technology by educators. Funding may also be used to provide professional development, including through professional learning communities, to support educators in effectively using technology to provide meaningful learning opportunities for students that are aligned with grade-level expectations. Funds may also be used to support other school personnel such as

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[11] IDEA defines "assistive technology device" as any item, piece of equipment, or product system, whether acquired commercial off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device. 34 CFR § 300.5.

speech therapists, guidance counselors, and social workers, to effectively provide student services virtually as needed.

C-20. May an Outlying Area use ESF-SEA, ESF-Governor, and ARP-OA SEA funds for a pre-kindergarten or other early childhood education program?

Yes. Because an early childhood education program is an allowable use of funds under the ESEA and IDEA, it is allowable under ESF-SEA, ESF-Governor, and ARP-OA SEA. An "early childhood education program" is (1) a Head Start program or an Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.), including a migrant or seasonal Head Start program, an Indian Head Start program, or a Head Start program or an Early Head Start program that also receives Outlying Area local funding; (2) an Outlying Area licensed or regulated child care program; or (3) a program that serves children from birth through age six that addresses the children's cognitive (including language, early literacy, and early mathematics), social, emotional, and physical development; and is either: an Outlying Area prekindergarten program; a program authorized under section 619 or Part C of the IDEA (see FAQ C-5); or a program operated by an Outlying Area. (See section 8101(16) of the ESEA.) In addition, ESF-SEA funds may be used for other activities that are necessary to maintain the operation of and continuity of services in Outlying Areas and continuing to employ existing staff. As a result, ESF-SEA funds could be used to prevent layoffs or service cuts to existing Outlying Area early childhood education programs.

C-21. May ESF-SEA, ESF-Governor, and ARP-OA SEA funds be used to serve adults, including English learners, who are eligible to be served under the Adult Education and Family Literacy Act?

Yes. Outlying Areas may use ESF-SEA, ESF-Governor, and ARP-OA SEA funds for any activity authorized by the AEFLA, which is Title II of the Workforce Innovation and Opportunity Act. These activities could include:

- Conducting outreach activities to re-enroll eligible adults who may have discontinued their attendance due to the COVID-19 pandemic;
- Providing career counseling for eligible adults who suffered job loss as a result of the COVID-19 pandemic;
- Purchasing technology (including laptops, Wi-Fi hotspots, or tablets) that enable adult learners to access virtual instruction;
- Professional development for adult education instructors in the effective implementation of online learning;
- Providing instruction to improve digital literacy of adult learners, including English learners, to improve digital access and inclusion;
- Assessing the skills and educational progress of adult learners using virtual assessment tools; and
- Accessing PPE and cleaning and disinfecting classrooms used during the regular school day so that they may be used for adult education and literacy activities in the evening.

C-22. May ESF-SEA, ESF-Governor, and ARP-OA SEA funds be used for career and technical education?

Yes. Outlying Areas may use ESF-SEA, ESF-Governor, and ARP-OA SEA funds for any activity authorized by Perkins V. These activities could include, for example:

- Updating the comprehensive local needs assessment required by section 134(c) of Perkins V to reflect changes in the labor market caused by the COVID-19 pandemic;
- Providing ridesharing services to transport students to shared-time area career and technical education centers or work-based learning opportunities;
- Adjusting curriculum to account for the academic impact of lost instructional time or to cover technical skills that could not be addressed during remote instruction;

- Providing professional development on the delivery of remote classroom instruction and virtual or remote work-based learning opportunities;
- Purchasing remote test-proctoring services so that students can participate remotely in assessments for industry-recognized credentials;
- Implementing simulated work-based learning or school-based enterprises to replace work-based learning opportunities that are no longer available in the community due to the COVID-19 pandemic;
- Providing support to low-income students for college application fees; and
- Supporting students who graduated high school in the class of 2020 or 2021 (i.e., during the pandemic) but have not yet successfully transitioned to college or careers by providing, for example, college or career counseling, assistance with college applications, entry into job training programs, and financial literacy.

C-23. May ESF-SEA, ESF-Governor, and ARP-OA SEA funds be used to re-engage students who have not been able to participate in in-person and/or remote instruction during the COVID-19 pandemic?

Yes. Outlying Areas should identify opportunities to re-engage students whose schools have not been successful in engaging them during the COVID-19 pandemic. Outlying Areas may use indicators such as chronic absenteeism (during in-person and/or remote instruction) to identify students in need of targeted support and services, as well as more generally identifying which students have lost the greatest number of in-person instructional days since the beginning of the COVID-19 pandemic. ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used to provide academic, social, emotional, behavioral, and in particular, mental health supports to address the impacts of isolation during this period. In addition, ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used to conduct child find activities to identify, locate, and evaluate students who are suspected of having disabilities and need special education and related services under the IDEA. ESF-SEA, ESF-Governor, and ARP-OA SEA funds may also support broader activities that re-engage disconnected youth and reduce community violence in places where the COVID-19 pandemic has exacerbated inequities, leading to increases in the number of disconnected youth and violence. This may include summer learning and enrichment programming targeted towards the needs of high school students most likely to be impacted by community violence.

C-23.a. May ESF-SEA, ESF-Governor and ARP-OA SEA funds be used to provide incentive payments directly to parents and students to encourage students to attend school? *(New July 2023)*

No. Using ESF-SEA, ESF-Governor, ARP-OA SEA funds to pay students or families for undertaking a mandatory activity, such as attending school, or to pay family members to ensure the students attend school, is not an allowable use of ESF-SEA or ESF-Governor funds. However, there are many possible uses of ESF-SEA, ESF-Governor, and ARP-OA SEA funds to support programs intended to help students stay in school and/or transition to postsecondary education, including many outlined in these FAQs (e.g., FAQs C-11 and C-23).

C-24. May ESF-SEA, ESF-Governor, and ARP-OA SEA funds be used to implement community violence intervention strategies?

Yes. Community violence intervention (CVI) strategies address students' social, emotional, mental health, and academic development and are especially important in the context of the disproportionate impact of the COVID-19 pandemic on previously underserved groups of students.

Purposeful strategies to re-engage disconnected youth through youth violence reduction programs, mentorship, and strengthening youth skills through workforce engagement and training also have the potential to reduce community violence. Effective strategies are further described in Volume 2 of the Department's COVID-19 Handbook available at: https://www2.ed.gov/documents/coronavirus/reopening-2.pdf.

Additional information on CVI strategies and investments is included in the Administration's Fact Sheet available at: https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/07/fact-sheet-more-details-on-the-biden-harris-administrations-investments-in-community-violence-interventions/.

Summer Learning and Enrichment

C-25. What kinds of summer programs may ESF-SEA, ESF-Governor, and ARP-OA SEA funds support?

ESF-SEA, ESF-Governor, and ARP-OA SEA funds may provide broad support for summer learning and enrichment programs. Given that this summer affords students a critical opportunity, Outlying Areas should consider a variety of options for procuring summer services with ESF-SEA, ESF-Governor, and ARP-OA SEA funds, including programs run by non-profit or community organizations as well as those run by the Outlying Area. Effective summer programming can address students' social, emotional, mental health, and academic needs through a combination of activities that include strong partnerships with community-based organizations and other summer providers, including summer camps. These partnerships can help to sustain these programs and can also support programs in rural and remote communities. Outlying Areas should maximize enrollment in summer programs, with a particular focus on underserved students and students most impacted by the COVID-19 pandemic, including providing transportation and meal services. Programs should target students of all ages, including high school students, and can include work-based or service-learning opportunities or summer bridge programs to support successful educational transitions.

Moreover, an SEA must reserve a portion of its total ARP-OA SEA allocation for evidence-based summer enrichment programs and at least 20 percent of its ARP-OA SEA funds to address the academic impact of lost instructional time through the implementation of evidence-based interventions, which may include summer programs, particularly to address the disproportionate impact of the COVID-19 pandemic on underserved student subgroups.

Evidence-based summer learning and enrichment programs are further described in Volume 2 of the Department's COVID-19 Handbook available at: https://www2.ed.gov/documents/coronavirus/reopening-2.pdf.

C-26. May ESF-SEA, ESF-Governor, and ARP-OA SEA funds be used for summer job or service-learning programs for high school students?

Yes. As part of Outlying Area efforts to mitigate lost instructional time due to the COVID-19 pandemic, ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used to support summer learning and enrichment programs that provide training, work-based learning, and jobs to high school students. Funds may be used both to support the training that high school students receive and to supplement the pay provided to students by employers that participate in the summer jobs program. Funds may also be used to support service learning or other volunteer opportunities for high school students.

C-27. Do Federal procurement requirements permit noncompetitive procurements, if necessary, to enable an Outlying Area to use ARP-OA SEA funds to operate a summer enrichment program?

Yes. Under the Uniform Guidance in 2 CFR § 200.317, an SEA, "[w]hen procuring property and services under a Federal award, must follow the same policies and procedures it uses for procurements from its non-Federal funds." Thus, an SEA is authorized under the Uniform Guidance to use any authority provided for in its own procurement policies and procedures that allows for noncompetitive procurements. For example, if an SEA has flexibility under its procurement procedures to allow a sole source contract, particularly during an emergency such as the COVID-19 pandemic, the SEA may procure contracts with ARP-OA SEA funds in

accordance with that flexibility.

Note: If an Outlying Area is instead required under the terms of Department-wide specific conditions to follow the procurement requirements in 2 CFR § 200.318-200.327, then it would follow the noncompetitive procurement requirement in 2 CFR § 200.320(c).

Under the Uniform Guidance, all other non-Federal entities, including LEAs, must follow the procurement provisions in 2 CFR §§ 200.318 through 200.327. Under 2 CFR § 200.320(c), an LEA may, to the extent doing so is consistent with its policies and procedures, use noncompetitive procurement if any of the following conditions are met:

1) The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold ($50,000);
2) The item is available only from a single source;
3) The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;
4) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or
5) After solicitation of a number of sources, competition is determined inadequate.

Consistent with 2 CFR § 200.320(c)(3), an Outlying Area may determine that its response to the COVID-19 pandemic qualifies as a public exigency or emergency that does not permit the delay that would result from competitive bidding. Under these circumstances, and to the degree doing so is consistent with its own policies and procedures, an Outlying Area could use noncompetitive procurement. The LEA should consult with its SEA before using this authority. Also, under 2 CFR § 200.320(c)(4), an SEA, to the extent doing so is consistent with its own procurement policies and procedures, may authorize an LEA to use noncompetitive procurement in response to a written request. In the alternative, the Department may grant similar flexibility.

D. Using ESF-SEA, ESF-Governor, and ARP-OA SEA Funds to Support Educators and Other School Staff

D-1. May ESF-SEA, ESF-Governor, ARP-OA SEA funds be used to stabilize and support the educator workforce? (*Updated July 2023*)

Yes. ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used to stabilize and support the educator workforce, including implementation of both short- and long-term strategies to address educator shortages to help ensure continuity of operations. Funds may also be used to hire and expand student access to a well-prepared, diverse educator workforce. Examples of specific strategies that could be employed to stabilize and support the educator workforce include:

- **Increasing educator and staff compensation** by offering hiring and retention bonuses, working toward permanent salary increases, providing premium pay, and leveraging flexibilities to bring retired educators back to the classroom or retain current staff eligible for retirement.[33]
- **Building and maintaining a cadre of high-quality substitute teachers** by strengthening recruitment and training programs and increasing compensation. To create stability and certainty and promote learning recovery, substitute teachers can be assigned to a single school for a full school year. ESF-SEA, ESF-Governor, and ARP-OA SEA funds may also be used to remove barriers so that retirees or those licensed in another state can serve as substitutes or paraprofessionals.
- **Expanding and improving support for educator and staff well-being** by providing supported time for debrief sessions and peer-to-peer support, increasing access to mental health supports and communicating the availability of those mental health supports, reducing educator workloads by ensuring staff planning time is scheduled into work hours, and using flexible and creative scheduling to promote educator collaboration. Supporting educators also means acknowledging the extraordinary workload presented by the pandemic and pandemic recovery efforts; SEAs and LEAs can respond by using ESF-SEA, ESF-Governor, and ARP-OA SEA resources to increase the availability of qualified adults and personnel to support educators, students, and staff. For example, SEAs and LEAs can partner with institutions of higher education, community-based organizations, nonprofit organizations, and businesses to provide additional support for educators and students through teaching candidates and well-trained volunteers and other additional staff. The Department launched the National Partnership for Student Success, a public-private partnership, to help increase the number of tutors, mentors, student success coaches, postsecondary transition coaches and integrated student support coordinators to help students get back on track, which can help stabilize and support the educator workforce while building the pipeline of future teachers. ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used to meet AmeriCorps matching requirements; AmeriCorps members may in turn serve as tutors, mentors and student success coaches, assist with additional administrative responsibilities resulting from the pandemic, and provide creative enrichment opportunities.

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[33] The Internal Revenue Service issued FAQs clarifying that, in some instances, retirees can return to work and still receive their pensions or remain on the job and begin receiving pension payments, where pension plans permit such approaches (pension plans can also be amended to create these incentives). For additional information, please see https://www.irs.gov/newsroom/coronavirus-related-relief-for-retirement-plans-and-iras-questions-and-answers.

For more information on using Department funds to meet AmeriCorps matching requirements, please see https://www2.ed.gov/policy/fund/guid/americorps-matching-letter.pdf?src=grants-page. In addition, the Department launched the Engage Every Student initiative to help expand high- quality out-of-school time learning opportunities, which ESF-SEA, ESF-Governor, and ARP-OA SEA can support.

- **Investing in the educator pipeline** through loan forgiveness, grants, a variety of educator preparation programs (e.g., grow-your-own initiatives, teacher residency programs, teacher apprenticeships), or service scholarship programs to support pathways into the profession and encouraging newly certified teachers to commit to teaching in high-need areas and subjects. In so doing, State, SEA, LEA, and higher education leaders can answer the Call to Action to use pandemic relief funds to grow the education profession and help students recover. ESF-SEA, ESF-Governor, and ARP-OA SEA funds, alone or in combination with Higher Education Emergency Relief funds, can support partnerships with educator preparation programs to expand opportunities for extensive clinical experience to teaching candidates, including leveraging candidates to provide additional support to students and address the impact of lost instructional time.

ESF-SEA, ESF-Governor, and ARP-OA SEA funds may also be used to recruit, hire, and retain a diverse school staff, including through high-quality induction, and mentoring programs ESF-SEA, ESF-Governor, and ARP-OA SEA funds may also be used to provide teachers professional learning opportunities on strategies for learning recovery.

In using these funds, SEAs and LEAs should consider how to build short- and long-term capacity and sustain its efforts after the funding is no longer available.

Additional information on evidence-based approaches to stabilizing the educator workforce are described in Volume 2 of the Department's COVID-19 Handbook available at: https://www2.ed.gov/documents/coronavirus/reopening-2.pdf, at https://www2.ed.gov/documents/coronavirus/arp-teacher-shortages.pdf, and in Secretary Cardona's December 2021 letter on the topic at https://oese.ed.gov/files/2021/12/21-0414.DCL_Labor-Shortages.pdf.

D-1.a. How may ESF-SEA, ESF-Governor, and ARP-OA SEA funds be leveraged with funding and initiatives of other Federal agencies to promote education workforce stability? *(New July 2023)*

In general, ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used in combination with other Federal funds, so long as separate documentation and cost allocation is maintained for separate funding streams or programs. For additional information on using ESF-SEA, ESF-Governor, and ARP-OA SEA funds along with other Federal funds, see FAQ A-12.

Steps taken by other Federal agencies to promote education workforce stability include:
- As described above in FAQ D-1, the Internal Revenue Service issued FAQs clarifying that, in some instances, retirees can return to work and still receive their pensions or remain on the job and begin receiving pension payments, where pension plans permit such approaches (pension plans can also be amended to create these incentives). For additional information, please see https://www.irs.gov/newsroom/coronavirus-related-relief-for-retirement-plans-and-iras-questions- and-answers.
- The Department of Labor recently approved the first registered apprenticeship programs for teaching, which expand options for "grow your own" and residency programs that allow candidates to be paid while they gain clinical experience and complete coursework leading to

full certification. ESF-SEA, ESF-Governor, and ARP-OA SEA funds may support the development and implementation of such programs.

- To stabilize the school bus driver workforce, ESF-SEA or ESF-Governor funds could be used to recruit, train, and pay for commercial licensing of new school bus drivers.

D-2. May an Outlying Area use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to hire additional health support staff?

Yes. Funds may be used to hire new counselors, nurses, social workers, and other health support staff to help students and staff with their emotional and physical well-being and help students and staff deal with the impact of the COVID-19 pandemic. Outlying Areas should consider how to use the funds in ways that will build their short- and long-term capacity and be sustained after the funding is no longer available.

D-3. Must an entity that receives ESF-SEA or ESF-Governor funds under the CARES Act or CRRSA Act continue to pay employees and contractors, to the greatest extent practicable, during the period of any disruptions or closures related to COVID-19?

Yes. SEAs, LEAs, and any other entity that receives ESF-SEA or ESF-Governor funds must assure that they will continue to pay employees and contractors during COVID-19 pandemic-related disruptions or closures to the greatest extent practicable. There is no similar requirement in the ARP Act; however, ARP-OA SEA funds may be used to continue to pay employees and contractors. In addition, ESF-SEA and ESF-Governor funds may be used to hire new staff and to avoid staff layoffs. See FAQ A-11 for information on requirements related to documentation for personnel expenses in the Uniform Guidance (2 CFR § 200.430(i)).

D-4. May an Outlying Area use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to pay overtime to its salaried custodians and other staff in order to prepare for a safe reopening of schools and sustain safe school operations?

Yes. Paying custodians or other staff overtime to safely reopen schools and to keep the schools safely open is allowable under ESF-SEA, ESF-Governor, and ARP-OA SEA.

D-5. May an Outlying Area use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to provide childcare services or instructional supervision to the children of teachers and other staff in order to enable them to return to their teaching or other school responsibilities?

Yes. Outlying Areas may use ESF-SEA, ESF-Governor, and ARP-OA SEA funds for the costs associated with providing childcare and instructional supervision to children of teachers and staff, so long as certain conditions are met. For example, an Outlying Area might contract with a daycare provider to make spaces available for teachers with young children whose regular daycare services are unavailable due to the COVID-19 pandemic so that those teachers can continue to provide educational services to students. An Outlying Area might also provide a retention incentive to teachers with young children that could offset the cost for childcare in order to retain those teachers, which is an allowable use of funds under part A of title II of the ESEA, if teacher retention is a challenge due to the COVID-19 pandemic.

D-6. May an Outlying Area use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to provide "premium pay" or other additional compensation for teachers, principals, and other school personnel, including school nutrition staff and custodians?

Yes. Premium pay must be reasonable and necessary and consistent with 2 CFR § 200.430(f), and given pursuant to an established plan (which could be established in response to the COVID-19 pandemic), consistent with applicable collective bargaining agreements and other relevant policies and requirements.

D-7. May an Outlying Area that has experienced significant, unbudgeted increases in unemployment costs use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to pay for those costs?

Yes. Outlying Areas may use ESF-SEA, ESF-Governor, and ARP-OA SEA funds to pay for unemployment costs if necessary. However, Outlying Areas may want to consider alternate sources of funding for the unemployment expenses, and use ESF-SEA, ESF-Governor, and ARP-OA SEA funds for more traditional education uses to prevent, prepare for, or respond to the COVID-19 pandemic. Additionally, as with all grant activities, the use of funds must meet all applicable Uniform Guidance requirements, and be reasonable and necessary to meet the purpose of the programs.

E. Additional Fiscal Considerations

Timelines for Obligating Funds

E-1. What is the timeline for a Governor, SEA, or LEA to obligate funds under ESF-SEA and ESF-Governor? (*Updated July 2023*)

A Governor, SEA, or LEA, as applicable, has until September 30, 2022, to obligate ESF-SEA and ESF-Governor I funds; this includes the 12-month Tydings Amendment period. (Note that the timeline for obligating funds is distinct from the timeline for an Outlying Area to award funds within one year of receipt or return them to the Department for reallocation (sections 18002(d) and 18003(f) of the CARES Act).) For additional information on awarding and obligating funds, please see Question 5 in the ESF-SEA FAQs available at: https://oese.ed.gov/files/2020/09/ESF-SEA-Final-FAQs.pdf and Question A-8 in the ESF-Governor FAQs available at: https://oese.ed.gov/files/2020/09/ESF-Governor-Final-FAQs.pdf. Although funds must be obligated by September 30, 2022, grant activities carried out through a valid obligation of funds may continue beyond that date. Under 2 CFR § 200.344(a), ESF-SEA and ESF-Governor funds must be liquidated within 120 calendar days of the end of the performance period. See FAQ E-3.d. for more information.

E-2. What is the timeline for a Governor, SEA, or LEA to obligate funds under ESF II-SEA and ESF II-Governor? (*Updated July 2023*)

A Governor, SEA, or LEA, as applicable, has until September 30, 2023, to obligate ESF II-SEA and ESF II-Governor funds; this includes the 12-month Tydings Amendment period. For additional information on awarding and obligating funds, please see Question 5 in the ESF-SEA FAQs available at: https://oese.ed.gov/files/2020/09/ESF-SEA-Final-FAQs.pdf and Question A-8 in the ESF-Governor FAQs available at: https://oese.ed.gov/files/2020/09/ESF-Governor-Final-FAQs.pdf. Although funds must be obligated by September 30, 2023, grant activities carried out through a valid obligation of funds may continue beyond that date. Under 2 CFR § 200.344(a), ESF-SEA and ESF-Governor funds must be liquidated within 120 calendar days of the end of the performance period. See FAQ E-4.b. for more information.

E-3. What is the timeline for an SEA or LEA to obligate funds under ARP-OA SEA? (*Updated July 2023*)

An SEA, or LEA, as applicable, has until September 30, 2024, to obligate ARP-OA SEA funds; this includes the 12-month Tydings Amendment period. For additional information on ARP-OA SEA, please see the American Rescue Plan Outlying Areas State Educational Agencies Fund Fact Sheet available at: https://oese.ed.gov/files/2021/11/ARP-OA-SEA-Fact-Sheet-FINAL.pdf. Although funds must be obligated by September 30, 2024, grant activities carried out through a valid obligation of funds may continue beyond that date. Under 2 CFR § 200.344(a), APR-OA SEA funds must be liquidated within 120 calendar days of the end of the performance period. See FAQ E-4.b. for more information.

E-4. When must ESF-SEA, ESF II-SEA, ESF-Governor, ESF II-Governor, and ARP-OA SEA funds be liquidated? *(New July 2023)*

Grantees and subgrantees, by regulation, must liquidate funds within 120 calendar days after the program's obligation date (see FAQs E-1, E-2, and E-3) per 2 CFR § 200.344(b). If ESF-SEA, ESF-Governor funds were properly obligated by September 30, 2022 and ESF II-SEA and ESF II-

Governor funds are properly obligated by September 30, 2023, but liquidation becomes an issue after the obligation deadline, the Department may approve liquidation extension requests on a case-by-case basis upon written request of an SEA or Governor grantee, in accordance with 2 CFR § 200.344(b). If approved, an ESF-SEA, ESF II-SEA, ESF-Governor, or ESF II-Governor grantee may have up to 18 months beyond the end of the obligation period to liquidate funds, although longer requests may be considered for construction or extraordinary circumstances. Under a liquidation extension, the delivery of goods and some services may continue through the end of the liquidation period, so long as a timely and valid obligation had been made pursuant to 34 CFR § 76.707. Because ARP-OA SEA obligation period does not end until September 30, 2024, the Department strongly encourages Outlying Areas, SEAs, and LEAs to obligate and liquidate ARP-OA SEA funds with urgency on activities that will support students' academic recovery and mental health needs. The Department will determine any process for submitting a Liquidation Extension Request for ARP-OA SEA funds at a later date.

E-4.a. What happens to ESF-SEA, ESF-Governor, and ARP-OA SEA funds that are unobligated at the end of the Tydings Amendment deadline? *(New July 2023)*

The Department is not able to extend the statutory obligation deadline. Therefore, if the grantee (SEA or Governor) or any subgrantee is unable to obligate ESF-SEA, ESF-Governor, and ARP-OA SEA funds by the obligation deadline for each program (see FAQs E-1, E-2, and E-3 for the obligation deadlines), then the grantee will not be able to liquidate these funds. These unobligated funds will no longer be available to the grantee or subgrantee and will lapse and return to the U.S. Treasury.

E-4.b. How long may ESF-SEA, ESF-Governor, and ARP-OA SEA-funded activities continue after the liquidation period? *(New July 2023)*

As a preliminary matter, grantees and subgrantees should keep in mind that these funds are emergency funds that are intended to be utilized in a timely manner to carry out activities to prevent, prepare for, or respond to COVID-19, including its impact on students. Further, a grantee or subgrantee must obligate ESF-SEA ESF-Governor, and ARP-OA SEA funds within the period of availability and must liquidate those obligations within 120 days of the end of the period of availability (2 C.F.R. § 200.344(b) (or within the approved period for a liquidation extension).

Generally, it is not good stewardship of Federal funds or prudent business practice to prepay for services that will extend many years into the future. However, under limited circumstances where a grantee or subgrantee timely obligates ESF-SEA, ESF-Governor, and ARP-OA SEA funds, ESF-SEA, ESF-Governor, and ARP-OA SEA -funded activities may continue for a reasonable time beyond the liquidation period (including an approved late liquidation period).

Factors impacting how long ESF-SEA, ESF-Governor, and ARP-OA SEA -funded activities may extend past the liquidation period include:
- Whether the funds were properly obligated and liquidated in a timely manner;
- Whether the activities would be allowed to extend beyond the liquidation period under applicable State and local procurement rules (i.e., an Outlying Area or SEA must follow the same policies and procedures it uses for procurements from its non-Federal funds) (see 2 CFR §§ 200.317 through 200.327, 200.403(c));
- Whether the extended activities constitute a reasonable and necessary use of Federal funds; and
- Whether prudent business practices (2 CFR § 200.404(b) & (d)) and internal controls (which generally limit prepayment) would support the continued activities for the length of time proposed.

Grantees and subgrantees must obligate funds by each program's deadline, which means that if a grantee or subgrantee enters into a contract for activities that continue past the date of obligation and the contractor does not provide the services, the grantee or subgrantee may not enter into a new contract or obligate those funds for a different allowable use. Instead, those funds that were obligated for services that were not delivered will remain unused and will be returned to the U.S. Treasury.

Because ESF-SEA, ESF-Governor, and ARP-OA SEA are State-administered programs, the SEA or Governor determines whether activities extending past the liquidation period are allowable under the circumstances. For example, an SEA may determine that it is reasonable and necessary under 2 CFR §§ 200.403-200.404 for an LEA to enter into a multi-year software licensing contract with a vendor during the period of availability of ARP-OA SEA funds and to pay for the entirety of the software license within the liquidation period. However, under the contract, the vendor would continue to provide the services (i.e., software and technical support) for some time after the funds had been liquidated.

Please note that the SEA, LEA, or subgrantee would be responsible for returning to the Federal government the cost of any services that were paid with Federal funds but not received. **Under no circumstances may services extend beyond the date on which funds revert to the U.S. Department of Treasury (31 USC § 1552), which occurs four years after the obligation deadlines referenced in FAQs E-1, E-2, and E-3.** However, nothing prevents an SEA or LEA from continuing successful activities or services with non-ESF-SEA/ESF-Governor funding.

Administrative Funds and Indirect Costs

E-5. May a Governor or SEA reserve and use ESF-SEA, ESF-Governor, or ARP-OA SEA funds for administrative costs?

Yes. A grantee may reserve a reasonable and necessary amount of its total ESF-SEA, ESF-Governor, or ARP-OA SEA allocation for administrative costs, including both direct and indirect administrative costs.

Administrative costs include costs (direct and indirect) involved in the proper and efficient performance and administration of the program. However, to maximize the funds available for services to students and the public, the Department encourages each grantee to minimize the amount of administrative costs charged to the program.

E-6. May a Governor or SEA determine what constitutes a reasonable and necessary amount of funds necessary for an LEA to effectively administer the program?

Yes. As part of its oversight of the ESF-SEA, ESF-Governor, or ARP-OA SEA funds, a Governor or SEA may determine the amount of ESF-SEA, ESF-Governor, or ARP-OA SEA funds an LEA may use for administration. For example, an SEA or Governor may establish a maximum percentage of funds that an LEA may use to administer the program, absent a demonstration by the LEA that it needs additional funds for administration.

E-7. May an Outlying Area charge indirect costs to its ESF-SEA, ESF-Governor, or ARP-OA SEA Fund subgrant?

Yes. Indirect costs and rates must comply with the Uniform Guidance and the Department's administrative regulations. (See 34 CFR §§ 76.560-76.563 on indirect costs.) Because the ESF-SEA, ESF-Governor, and ARP-OA SEA funds do not have a supplanting prohibition, an LEA may use its unrestricted indirect cost rate.

E-8. How might ESF-SEA, ESF-Governor, or ARP-OA SEA funds affect an Outlying Area's indirect cost recoveries?

To obtain indirect cost recoveries, an Outlying Area is allowed to apply its currently negotiated indirect cost rate to obligations incurred under ESF-SEA, ESF-Governor, or ARP-OA SEA. The negotiated indirect cost rate for the current fiscal year is based on actual cost information from a prior fiscal year. Therefore, applying the currently negotiated indirect cost rate to the increased funding under ESF-SEA, ESF-Governor, or ARP-OA SEA (which was not considered in the indirect cost rate calculation) could result in an over-recovery of indirect costs in the current period. Such an over-recovery will be adjusted in a future fiscal year, thereby reducing indirect cost recoveries during that future period. To avoid a future compounding effect of fewer program dollars and reduced indirect costs, the Department recommends that an Outlying Area closely monitor the potential impact of ESF-SEA, ESF-Governor, and ARP-OA SEA funds on its indirect cost recoveries and consider making appropriate adjustments during the current period (i.e., by potentially recovering less funding for indirect costs in the current period). Those adjustments will reduce the dollar impact in future years and allow for stability in future budgets.

Revenue Loss

E-9. May an Outlying Area use ESF-SEA, ESF-Governor, or ARP-OA SEA funds to supplement or restore its "rainy day" fund rather than use the funds for specific purposes?

No. An SEA's or LEA's transfer of ESF-SEA, ESF-Governor, or ARP-OA SEA funds to its "rainy day" fund would not constitute an "obligation" of the funds. The Outlying Area must obligate ESF I-SEA and ESF I-Governor funds for specific allowable activities by September 30, 2022. Similarly, the Outlying Area must obligate ESF II-SEA and ESF II-Governor funds for specific allowable activities by September 30, 2023 and must obligate ARP-OA SEA funds for specific allowable activities by September 30, 2024.

E-10. May ESF-SEA, ESF-Governor, and ARP-OA SEA funds be used to make up local revenue losses?

Any use of ESF-SEA, ESF-Governor, or ARP-OA SEA funds must be "to prevent, prepare for, and respond to" the COVID-19 pandemic. This means that ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used to bridge budget shortfalls if the deficit is related to the COVID-19 pandemic and the ESF-SEA, ESF-Governor, and ARP-OA SEA funds are needed for education-related expenses.

However, the CARES Act[12] and ARP Act include detailed provisions requiring grantees to maintain effort for elementary and secondary education and higher education, which are designed to keep grantees from substantially reducing their support for K–12 education and higher education (see the Department's FAQs on maintenance of effort).

Additionally, Outlying Areas should be mindful that existing maintenance of effort requirements for other Federal programs, such as Title VIII of the ESEA and IDEA, continue to apply. (See E-12.) As with other Federal funds, ESF-SEA, ESF-Governor, and ARP-OA SEA funds are excluded from these maintenance of effort calculations.

E-10.a. May ESF-SEA, ESF-Governor, and ARP-OA SEA funds be used to support local matching requirements under other Federal programs? *(New July 2023)*

Generally, no. Federal funds may not be used to meet a matching requirement unless the Federal statute authorizing those funds specifically provides that they may be applied to matching or cost-sharing

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[12] For purposes of ESF I-SEA, ESF II-SEA, ESF I-Governor, and ESF II-Governor, the maintenance of effort provisions in the CARES Act apply.

requirements of another Federal program. The CARES, CRRSA, and ARP Acts do not provide specific authority to use ESF-SEA, ESF-Governor, and ARP-OA SEA funds as a match for any other Federal programs. See the Uniform Guidance provision on matching at 2 C.F.R. § 200.306(b)(5). However, ESF-SEA, ESF-Governor, and ARP-OA SEA funds may be used for cost-sharing or matching for the AmeriCorps program because the AmeriCorps statute authorizes the use of Federal funds for the match; for more information, see: https://www2.ed.gov/policy/fund/guid/americorps-matching-letter.pdf?src=grants-page.

Fiscal Considerations for Other Programs

E-11. How does the use of ESF-SEA and ESF-Governor funds to make up for State and/or local revenue losses impact IDEA's LEA Maintenance of Effort (MOE) requirement?

IDEA contains an LEA MOE requirement in addition to the State MOE requirements in the CARES Act, CRRSA Act, and ARP Act, and the State and LEA maintenance of equity requirements in the ARP Act. Under section 613(a)(2)(A)(iii) of IDEA and 34 CFR § 300.203, an LEA must both: (1) budget, for the education of children with disabilities, at least the same amount as the LEA spent for that purpose from the same source (local funds on an aggregate or per capita basis) in the most recent fiscal year for which information is available; and (2) expend, for the education of children with disabilities, at least the same amount as the LEA spent for that purpose from the same source (local funds on an aggregate or per capita basis) for the preceding fiscal year. Under IDEA, these budget and expenditure requirements for LEA MOE are termed "eligibility" and "compliance" standards, respectively. While IDEA does not provide for MOE waivers, there are exceptions and an adjustment to the LEA MOE requirements that may allow an LEA to reduce its MOE budget and expenditures below the level of expenditures for the education of children with disabilities made by the LEA for the appropriate comparison year (the most recent fiscal year for which information is available (for the eligibility standard) and the preceding fiscal year (for the compliance standard)). (See 34 CFR §§ 300.204 and 300.205.)

For the purposes of the IDEA, CARES Act, CRRSA Act, and ARP Act funds are considered Federal funds and may not replace State and local funds in LEA MOE calculations. As a result, if an LEA uses CARES Act, CRRSA Act, or ARP Act funds to replace State or local funding for the education of children with disabilities, this may result in a failure of the LEA to meet the budget and/or expenditure requirements for LEA MOE under IDEA. If an LEA fails to meet the MOE budget requirement, the LEA is not eligible for an IDEA Part B subgrant. If the LEA fails to meet the MOE expenditure requirement, then the SEA is liable in a recovery action to return non-Federal funds to the Department in an amount equal to the amount of the LEA's MOE shortfall or the amount of the LEA's IDEA Part B subgrant in that fiscal year, whichever is lower. SEAs may, but are not required to, seek reimbursement from the LEA that failed to meet MOE.

OSEP funds a technical assistance center to assist Outlying Areas with the Outlying Area MOE reporting and underlying requirements, the Center for IDEA Fiscal Reporting (https://cifr.wested.org/resources/lea-moe/).

E-12. How does the use of ESF-SEA and ESF-Governor funds to make up for State revenue losses impact the IDEA's Maintenance of State Financial Support (MFS) requirement?

IDEA contains a separate State MFS requirement in addition to the maintenance of effort requirements in the CARES Act, CRRSA Act, and ARP Act. Under IDEA section 612(a)(18)(A), "a State must not reduce the amount of State financial support for special education and related services for students with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year." (34 CFR § 300.163(a).) For the purposes of IDEA, CARES Act, CRRSA Act, and ARP Act funds are considered Federal funds and may not replace Outlying Area local funds in MFS calculations. Replacing Outlying Area appropriations for special education and related services with CARES Act, CRRSA Act, and ARP Act funds could result in a reduction of the Outlying Area's amount of local financial support made available for special education and related services below the level for the

preceding fiscal year. This would likely trigger an MFS shortfall under IDEA and potentially result in a reduction of IDEA Part B funds in a future grant equal to the amount of the shortfall. (34 CFR § 300.163(b).)

Part B of the IDEA allows the Secretary to waive the MFS requirement for one year at a time under 34 CFR § 300.163(c)(1) if granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the Outlying Area.

OSEP funds a technical assistance center to assist Outlying Areas with the MFS reporting and underlying requirements, the Center for IDEA Fiscal Reporting.

Appendix A -- Related FAQs

Section 1: Vaccinations and Testing

Use of Funds for COVID-19 Vaccinations and Testing

Listed below are frequently asked questions about acceptable uses of ESF-SEA and ESF-Governor funds[43] to support COVID-19 vaccinations and testing.

Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

1. May ESF-SEA and ESF-Governor funds be used to provide COVID-19 vaccinations to teachers, staff, and eligible students?

Yes. Because ESF-SEA and ESF-Governor funds may be used to implement public health protocols, including, to the greatest extent practicable, policies in line with guidance 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, providing COVID-19 vaccinations is an allowable use of ESF-SEA and ESF-Governor funds. Allowable vaccination outreach efforts in general could include activities to create awareness and build confidence, facilitate clinics, and provide incentives such as paid time off for staff to get vaccinated. In cases where administrative fees are required to obtain a vaccination, ESF-SEA or ESF-Governor funds may be used to offset the cost as long as the cost is reasonable.

2. Is COVID-19 testing for students and school staff an allowable use of ESF-SEA and ESF-Governor funds?

Yes. Because ESF-SEA and ESF-Governor funds may be used for public health protocols, including, to the greatest extent practicable, policies in line with guidance from the CDC for the reopening and operation of school facilities to effectively maintain the health and safety of students, educators, and other staff, providing COVID-19 testing is an allowable use of ESF-SEA and ESF-Governor funds.

SEAs and LEAs should consult with State and local health officials to ensure the adequacy of any SEA or LEA COVID-19 testing program and that testing procedures comply with all applicable laws and requirements, including those related to privacy, including the Family Educational Rights and Privacy Act (FERPA) and Protection of Pupil Rights Amendment (PPRA), and the confidentiality of information requirements under Part B and Part C of the Individuals with Disabilities Education Act (IDEA). Please note that the Department of Health and Human Services separately provided $10 billion under the ARP Act to 64 recipients which included States, *Outlying Areas, and the Freely Associated States* as Epidemiology and Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases (ELC) Reopening Schools awards to support the implementation of COVID-19 testing programs, as recommended by the CDC, in K-12 schools. This funding was deployed quickly through State health departments in order to help LEAs safely reopen schools in the remaining months of school year 2020- 2021, during summer activities, and in the subsequent school year. State and local health departments will provide technical assistance to SEAs,

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[43] For purposes of this document, references to ESF-SEA and ESF-Governor funds include funds awarded under the Coronavirus Aid, Relief, and Economic Security (CARES) Act (ESF-SEA and ESF-Governor); the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act (ESF II-SEA and ESF II-Governor); and the American Rescue Plan (ARP) Act (ARP-OA SEA).

LEAs, and schools in establishing COVID-19 testing programs. More information on the program can be found at: www.cdc.gov/ncezid/dpei/pdf/guidance-elc-reopening- schools-508.pdf.

Section 2: COVID-19 Testing Incentives Fact Sheet

Fact Sheet: Using American Rescue Plan Act funding to provide incentives for participation in school-based COVID-19 screening testing

A state education agency (SEA) or local educational agency (LEA) may use American Rescue Plan Act Elementary and Secondary School Emergency Relief (ARP-OA SEA) funds to provide incentives to parents or guardians whose children participate in school-based COVID-19 screening testing.[44]

According to the Centers for Disease Control and Prevention (CDC), screening testing identifies infected people, including those with or without symptoms (or before development of symptoms) who may be contagious, so that measures can be taken to prevent further transmission. In K-12 schools, screening testing can help promptly identify and isolate cases, allow schools to quarantine those who may have been exposed to COVID-19 and who are not fully vaccinated, and identify clusters to reduce the risk of interruptions to in-person education.[45]

An SEA or LEA may use ARP-OA SEA funds—as well as other Federal pandemic recovery resources for early childhood, elementary, and secondary education in the Education Stabilization Fund[46]—to provide reasonable incentives to parents or guardians whose children participate in school-based COVID-19 screening testing in order to increase the number of participants in the program.

Providing reasonable incentives to parents or guardians whose children participate in school-based COVID-19 screening testing is an allowable use of funds because it is a strategy that an SEA or LEA may implement in alignment with CDC guidance on screening testing to promptly identify COVID-19 cases, clusters, and outbreaks, which will help reduce transmission within schools. Increasing the number of students who participate in school-based testing programs will increase the effectiveness and impact of these programs.

To the extent practicable, SEAs and LEAs should provide written information about COVID-19 testing incentives in a language that parents and guardians can understand. If it is not practicable to provide written translations to a parent or guardian with limited English proficiency, information about COVID-19 testing incentives should be orally translated for such parent or guardian. In addition, SEAs and LEAs should provide the information using auxiliary aids and services and in an alternative format accessible to a parent or guardian who is an individual with a disability under Section 504 of the Rehabilitation Act of 1973.

Any incentives that an SEA or LEA provides with ESF-SEA and Governor's Education Emergency Relief (ESF-Governor) funds must meet the requirements in 2 CFR Part 200, including the requirement that the amount of the incentive be reasonable and necessary, and any other applicable laws or requirements (e.g., incentives may not involve alcohol under 2 CFR § 200.423, may not violate applicable privacy and parental consent laws). For example, an SEA might provide a nominal gift card or any other allowable incentive that is reasonable in size and scope and likely to lead to an increase in the rate of participation by providing the incentive to each family that opts in or chooses not to opt out of a school-based COVID-19 testing program. ESF-Governor and ESF II-Governor funds may also support school-based COVID-19 screening testing efforts in State and local public pre-kindergarten programs that may include testing programs located in schools or community-based pre-kindergarten/early childhood education settings.

[44] Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

[45] See: www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-guidance.html.

[46] The Education Stabilization Fund includes Elementary and Secondary School Emergency Relief (ESF-SEA) and Governor's Emergency Education Relief (ESF-Governor) funds awarded under the Coronavirus Aid, Relief, and Economic Security (CARES) Act (ESF-SEA and ESF-Governor); the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, 2021 (ESF II-SEA and ESF II-Governor); and the ARP Act (ARP-OA SEA).

Section 3: Student Transportation

Use of Funds for Student Transportation

Listed below are frequently asked questions (FAQs) about allowable uses of ESF-SEA and ESF-Governor funds by State educational agencies (SEAs) and local educational agencies (LEAs) for transportation, including to address the current regional and national challenges with hiring and retaining a sufficient number of school bus drivers. These FAQs are intended to supplement the transportation related questions in the ESF-SEA and ESF-Governor Use of Funds Guidance published in May 2021, specifically FAQs C-4, C-7, C-9, and C-25.

Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

1. May an SEA or LEA use ESF-SEA or ESF-Governor funds to provide transportation for students to and from school?

Yes. Supporting or providing transportation services for students is an allowable use of funds under ESF-SEA and ESF-Governor as long as the need is related to COVID-19 (e.g., to support daily attendance at school to address the impact of lost instructional time) and the cost is reasonable and necessary. This could include, but is not limited to, transportation services provided directly by the school district; the cost of public transportation services (e.g., bus or subway fare); taxis, rideshare apps, or other driving services; or compensation to parents for providing transportation services for their children (see Question 4).

2. May an SEA or LEA use ESF-SEA or ESF-Governor funds to provide transportation for students participating in after-school learning and enrichment activities provided by the SEA or LEA?

Yes. If activities take place away from the school or after regular transportation home has occurred and are intended to address student needs related to COVID-19 (e.g., to address the impact of lost instructional time), and the cost is reasonable and necessary, transportation may be an allowable use of ESF-SEA or ESF-Governor funds. For example, an SEA may provide before- and after-school learning and enrichment activities for students including, for example, high dosage evidence-based tutoring to address the academic impact of lost instructional time, and other activities that address the social, emotional, mental health, and academic needs of students, including extended school year (ESY) or other compensatory and related services for eligible students under the Individuals with Disabilities Education Act. Reasonable and necessary costs of transportation to and from such activities would be an allowable use of ESF-SEA and ESF-Governor funds.

3. May an SEA or LEA use ESF-SEA or ESF-Governor funds to address a shortage of school bus drivers due to the pandemic?

Yes. For example, an SEA may use ESF-SEA or ESF-Governor funds for retention bonuses for current bus drivers, for salary increases, or for the cost of hiring additional bus drivers to address the shortage of bus drivers due to the pandemic. Similarly, if an SEA is operating more bus routes due to physical distancing, funds may be used to hire additional bus drivers. In addition, funds may be used to pay for the costs associated with obtaining a commercial driver's license for new bus drivers, including the required training.

4. May an SEA or LEA facing a shortage of school bus drivers use ESF-SEA or ESF-Governor funds to compensate parents or guardians for transporting their students to and

from school?

Yes. ESF-SEA or ESF-Governor funds may be used to reimburse parents or guardians for transportation costs or to offer a stipend for transportation costs, as long as they are reasonable and necessary. This type of program may be appropriate to sustain in-person instruction if an SEA or LEA is experiencing challenges hiring and/or retaining the school bus drivers necessary to accommodate the SEA or LEA's transportation needs.

Before compensating parents or guardians for transportation costs, SEAs and LEAs must develop clear, objective procedures that, in addition to other relevant factors, consider: the number of days of transportation provided for in-person attendance; documentation of the travel costs to ensure that the compensation is used only for transportation-related expenses; and a process to account for any ESF-SEA or ESF-Governor funds that were paid to parents or guardians but not used for transportation costs.

Section 4: Promoting Public Safety

How American Rescue Plan Funds Can Prevent and Respond to Crime and Promote Public Safety

The American Rescue Plan (ARP) Act of 2021 includes nearly $850 million in resources for State educational agencies (SEAs) and local educational agencies (LEAs) through the ARP OA-SEA that can be used to address student needs resulting from and exacerbated by the pandemic. SEAs and LEAs may use these funds to return to and maximize in-person instructional time and address the social, emotional, mental health, and academic needs of students, including violence prevention and intervention in schools. Previous rounds of ESF-SEA relief funding included in the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, 2021, as well as Governor's Emergency Education Relief (ESF-Governor) funding, may also be used for this purpose.[47]

Outlying Areas, SEAs, and LEAs may use these funds, consistent with Federal civil rights laws, for a range of evidence- based strategies that increase public safety for young people. Young people—especially Black and Brown young people—are disproportionately injured and killed in acts of violence; gun violence, in particular, has risen since the coronavirus disease 2019 (COVID-19) pandemic began.[48] Investing in violence prevention and intervention strategies is particularly important given that so many students and their families have experienced trauma—whether through the death of a loved one, hunger, loss of income, homelessness, social isolation, or other stressors—over the course of the pandemic.

This document complements and should be read together with the Department's Frequently Asked Questions document on Education Stabilization Fund State Educational Agencies and Education Stabilization Fund-Governors, which provides more detailed information on the underlying requirements related to uses of funds under the ESF-SEA and ESF-Governor programs.

The Administration urges SEAs and LEAs to consider using their Federal resources on strategies to reduce violence and enhance public safety, as described below, to the benefit of their students, families, and communities, as part of their efforts to recover from the pandemic.

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[47] Other than statutory and regulatory requirements included in the document, such as those pursuant to the authorizing statute and other applicable laws and regulations, the contents of this document do not have the force and effect of law and are not meant to bind the public. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. In addition, it does not create or confer any rights for or on any person. This document contains examples of resources that are provided for the user's convenience. The inclusion of these resources is not intended to reflect their importance, nor is it intended to endorse any views expressed, or products or services offered, by these entities.

[48] Educational Fund to Stop Gun Violence and Coalition to Stop Gun Violence. (2021). A Public Health Crisis Decades in the Making: A Review of 2019 CDC Gun Mortality Data. Available: http://efsgv.org/2019CDCdata;
Rosenfeld, Richard, Thomas Abt and Ernesto Lopez. Pandemic, Social Unrest, and Crime in U.S. Cities: 2020 Year-End Update. Washington, D.C.: Council on Criminal Justice, January 2021, https://cdn.ymaws.com/counciloncj.org/resource/resmgr/covid_commission/Year_End_Crime_Update_Design.pdf; Rosenfeld, Richard and Ernesto Lopez. Pandemic, Social Unrest, and Crime in U.S. Cities: March 2021 Update. Washington, D.C.: Council on Criminal Justice, May 2021, https://covid19.counciloncj.org/2021/05/21/impact- report-covid-19-and-crime-4/.

Question: How may ARP-OA SEA and other ESF-SEA and ESF-Governor funds be used to prevent and respond to violence and to increase public safety this summer and beyond?

Within the parameters discussed below, ARP-OA SEA funds, as well as other ESF-SEA and ESF-Governor funds, may be used to help students and disconnected youth[49] through the following public safety strategies:

- ✓ Community violence intervention (CVI) programs
- ✓ Summer and year-round programs that provide job training and work-based learning experience for students, including formerly incarcerated students, and disconnected youth who live in communities most impacted by high levels of violence
- ✓ Summer education and enrichment programs, including summer camp
- ✓ Wraparound services—such as medical care, mental health and substance use disorder care, and nutrition support—for students and their families, including hiring support personnel for schools such as nurses, school counselors, and social workers
- ✓ Establishing or expanding full-service community schools
- ✓ Reengaging students who became disconnected from school during the pandemic to help them transition to career or postsecondary education programs

1. Community Violence Intervention

ESF-SEA and ESF-Governor funds may be used to implement CVI strategies, which address students' social, emotional, mental health, and academic development and are especially important in the context of the disproportionate impact of the COVID-19 pandemic on historically underserved groups of students (e.g., students from low-income families, students of color, students with disabilities, English learners, students experiencing homelessness, children and youth in foster care, migratory students, and children who are incarcerated). Purposeful strategies to re-engage disconnected youth through youth violence reduction programs, mentorship, and strengthening youth skills through workforce engagement and training also have the potential to reduce community violence.

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[49] As used in this document, the term "disconnected youth" means "out-of-school youth" as that term is defined in the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins V) (20 U.S.C. § 2302(35)). That section defines the term by reference to 29 U.S.C. § 3102, which in turn refers to 29 U.S.C. § 3164, which provides the following definition in paragraph (a)(1)(B):
The term "out-of-school youth" means an individual who is—
(i) Not attending any school (as defined under State law);
(ii)   Not younger than age 16 or older than age 24; and
(iii)   One or more of the following:
(I) A school dropout.
(II)   A youth who is within the age of compulsory school attendance, but has not attended school for at least the most recent complete school year calendar quarter.
(III)   A recipient of a secondary school diploma or its recognized equivalent who is a low-income individual and is— (aa) Basic skills deficient; or
(bb) An English language learner.
(IV)   An individual who is subject to the juvenile or adult justice system.
(V)   A homeless individual (as defined in section 12473(6) of title 34), a homeless child or youth (as defined in section 11434a(2) of title 42), a runaway, in foster care or has [1] aged out of the foster care system, a child eligible for assistance under section 677 of title 42, or in an out-of-home placement.
(VI)   An individual who is pregnant or parenting.
(VII)   A youth who is an individual with a disability.
(VIII)   A low-income individual who requires additional assistance to enter or complete an educational program or to secure or hold employment.

Examples of mentorship, counseling, and other relevant programs are described in Volume 2 of the Department's COVID-19 Handbook available at: https://www2.ed.gov/documents/coronavirus/reopening-2.pdf.

More details on the Administration's efforts to support CVI strategies can be found here: http://www.whitehouse.gov/briefing-room/statements-releases/2021/04/07/fact-sheet-more-details-on-the- biden-harris-administrations-investments-in-community-violence-interventions/.

2. Summer and Year-Round Work-Based Learning

ESF-SEA and ESF-Governor funds may be used for summer and year-round work-based or service-learning programs for high school students as part of Outlying Area, SEA, and LEA efforts to engage students, including disconnected youth. This includes programs that provide workforce readiness training, apprenticeship or pre-apprenticeship opportunities, internships, skills development, placement services, and/or coaching and mentoring. Funds may be used both to support the training that high school students receive and to supplement the pay (e.g., by providing stipends) to students who participate in the summer and year- round work-based learning program. Funds may also be used to support service- learning or other volunteer opportunities for high school students, including transportation and meals if not covered through U.S. Department of Agriculture (USDA) programs and flexibilities.

Summer and year-round programs that provide stipends for training and/or work-based learning experiences targeted primarily to students who are formerly incarcerated or otherwise involved in the criminal or juvenile justice system, or who live in communities experiencing high levels of violence, may also be supported with ESF-SEA and ESF-Governor funds.

3. Summer Enrichment Programs for Students

ESF-SEA and ESF-Governor funds may support summer learning and enrichment programs. Ensuring young people are connected to education and communities of support is critical to violence prevention. Given that this summer affords students a critical opportunity to reconnect with their peers and engage in learning, SEAs and LEAs should consider a variety of options for procuring summer opportunities with ESF-SEA and ESF-Governor funds, including programs run by non-profit or community organizations as well as those run by the SEA.

Effective summer programming can accelerate learning and address students' social, emotional, mental health, and academic needs through a combination of activities that include strong partnerships with community-based organizations and other summer providers, including summer camps. These partnerships can help to sustain these programs and can also support programs in rural and remote communities.

Consistent with the President's call for all communities to provide high-quality summer learning and engagement opportunities for their students, communities should maximize enrollment in summer programs, with a particular focus on underserved students and students most impacted by the COVID-19 pandemic, including providing transportation and meal services. Programs should target students of all ages, including high school students, and can include work-based internships or service-learning opportunities and/or summer bridge programs to support successful educational transitions. SEAs and LEAs should particularly identify opportunities to re-engage students whose schools have not been successfulin engaging them during the COVID-19 pandemic, and to specifically address the needs of students with disabilities in this context. SEAs and LEAs may use indicators such as chronic absenteeism (during in-person and/or remote instruction) to identify students in need of targeted support and services, as well as more generally identifying which students have lost the greatest number of in-person instructional days since the beginning of the COVID-19 pandemic.

Moreover, an SEA must reserve 20 percent of the total ARP-OA SEA allocation for the implementation of evidence-based interventions aimed specifically at addressing the impact of lost instructional l time , which may include summer programs, particularly to address the disproportionate impact of the COVID-19 pandemic on historically underserved student subgroups. [53]

Evidence-based summer learning and enrichment programs are further described in Volume 2 of the Department's COVID-19 Handbook available at:
https://www2.ed.gov/documents/coronavirus/reopening-2.pdf.

4. **Wraparound Support Services**

ESF-SEA and ESF-Governor funds may be used to provide social, emotional, mental health, and academic supports to address the impacts of isolation during the pandemic, which may include, for example, supports to address students' behavioral, medical, and other needs related to substance use disorder. ESF-SEA and ESF-Governor funds may also support broader activities that re-engage disconnected youth and reduce community violence in places where the COVID-19 pandemic has exacerbated inequities, leading to increases in the number of disconnected youth and incidents of violence. ESF-Governor funds may further be used to fund social, emotional, and mental health support activities determined to be essential by the Governor of each State.

Eligible uses of ESF-SEA and ESF-Governor funds include:

- Hiring support personnel in schools such as nurses, school counselors, and social workers. These funds may be used to support students' social, emotional, mental health, and academic needs, including by implementing school-wide strategies that enhance supports and interventions for students as well as targeted assistance for students who need such supports. This includes hiring support personnel such as nurses, school counselors, social workers, and other support personnel, which could include individuals trained in violence intervention and trauma-informed care as well as individuals trained in responding to substance use disorder.

- Implementing or expanding arts programs, such as music programs, including by purchasing instruments; expanding sports programming so more students can participate; and initiating clubs, such as a robotic or STEM club.

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[53] For the purposes of this guidance document, the term "academic impact of lost instructional time" is used in place of "learning loss" experienced by students as a result of the COVID-19 pandemic, as referenced in the ARP Act.

- Providing community-based mental health and substance use disorder programs to students and their families that deliver evidence-based psychotherapy, crisis support services, and/or recovery support.

- Ensuring that schools are implementing instructional practices that are culturally responsive and that incorporate trauma-informed pedagogy in response to the COVID-19 pandemic. For example, SEAs with high concentrations of English learners may hire additional bilingual staff to address the social, emotional, mental health, and academic needs of English learners. ESF-SEA and ESF-Governor funds may be used to support implementation of curriculum, including related professional development.

- Providing meals for students. Typically, an SEA has other means of providing for food services, such as through the USDA or other Federal programs. As a result, the Department encourages SEAs and LEAs to use those Federal funds with the specific purpose of providing food services to students prior to using ESF-SEA or ESF-Governor funds for this purpose. USDA has provided nationwide flexibilities and many flexibilities have been extended through school year 2021-2022 (see: https://www.fns.usda.gov/disaster/pandemic/cn-2021-22-waivers-and- flexibilities). Additionally, the ARP Act expands the Pandemic Electronic Benefit Transfer (P- EBT) program to any school year in which there is a public health emergency designation as well as during summer months.

In implementing evidence-based strategies to address the academic impact of lost instructional time through the ARP-OA SEA required reservation of funds, SEAs and LEAs must respond to students' social, emotional, mental health, and academic needs and address the disproportionate impact of the COVID-19 pandemic on students from low-income families, students of color, English learners, students with disabilities, migratory students, students experiencing homelessness, and children and youth in foster care.

Effective strategies to support student social, emotional, mental health, and academic development are further described in Volume 2 of the Department's COVID-19 Handbook available at: https://www2.ed.gov/documents/coronavirus/reopening-2.pdf.

5. Full-Service Community Schools

Community schools provide a range of services to students and their families, including through leveraging partnerships with non-profits and community-based organizations, that are effective parts of comprehensive community violence prevention strategies. An SEA or LEA may use ESF-SEA and ESF-Governor funds to provide services and supports to students and families through evidence-based, full-service community schools.

The ARP Act defines a full-service community school as it is defined in section 4622(2) of the Elementary and Secondary Education Act, as amended: a public elementary school or secondary school that (A) participates in a community-based effort to coordinate and integrate educational, developmental, family, health, and other comprehensive services (which could include nutritional services) through community-based organizations and public and private partnerships; and (B) provides access to such services in school to students, families, and the community, such as access during the school year (including before- and after-school hours and weekends), as well as during the

summer. Evidence-based community school approaches include integrated student supports, active family and community engagement, expanded learning time opportunities, and collaborative leadership and practices.

Using ESF-SEA or ESF-Governor funds to support full-service community schools can help support students' social, emotional, mental health, and academic development. Additionally, SEAs and LEAs may utilize funds in the development or expansion of in-school student support centers that provide mentoring, counseling, support for substance use disorders, and social and emotional learning supports to students in individual or group sessions.

6. **Connecting Young People with Careers and Postsecondary Education Opportunities**

ESF-SEA and ESF-Governor funds may be used to support students who graduated high school or left school in 2020 and 2021 who have not yet successfully transitioned to college or careers. Consistent with the Carl D. Perkins Career and Technical Education Act of 2006, as amended by the Strengthening Career and Technical Education for the 21st Century Act (Perkins V), an SEA may use ESF-SEA and ESF-Governor funds to support former students who graduated high school in the class of 2020 or who will graduate in 2021 (i.e., during the pandemic) but have not yet successfully transitioned to college or careers.

For example, consistent with the requirements of Perkins V, an SEA may provide postsecondary education counseling and related support services, including for associate and baccalaureate degree programs, financial literacy, summer bridge programs, and pre-apprenticeship or registered apprenticeship; assistance with college applications; career information, advising, and navigation supports; career exposure activities and career readiness preparation, including resume development, employability skills training, mock interviews, and other readiness strategies; subsidized or unsubsidized summer or year-round work-based learning experiences, such as job shadows, internships, and other job training programs; assistance with identifying, applying for, and entering job training programs; and subsidized job training and industry-recognized credentialing programs.

Section 5: Use of Funds to Prevent, Prepare for, or Respond to COVID-19

Use of Funds to Prevent, Prepare for, and Respond to the COVID-19 Pandemic

The below frequently asked question (FAQ) is about allowable uses of ESF-SEA and ESF-Governor funds by State educational agencies (SEAs) and local educational agencies (LEAs). This FAQ is intended to supplement the questions in the ESF-SEA and ESF-Governor use of funds guidance published in May 2021.

ESF-SEA and ESF-Governor funds offer schools and communities an opportunity to respond to the pandemic and ensure that our education system is even stronger than before. The U.S. Department of Education (Department) is committed to continuing to support SEAs and LEAs in deploying these resources to respond with urgency to meet a wide array of needs of the Nation's students.

Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

What does it mean for ESF-SEA and ESF-Governor funds to prevent, prepare for, and respond to the COVID-19 pandemic?

ESF-SEA and ESF-Governor funds are part of the Education Stabilization Fund established by Congress. The purpose of the Education Stabilization Fund generally is to "prevent, prepare for, and respond to" COVID-19. As described in greater detail in the ESF-SEA and ESF-Governor use of funds guidance, ESF-SEA and ESF-Governor funds may be used for a wide range of activities, including:

- Supporting physical health and safety, such as 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 (CDC)
- Meeting students' social, emotional, mental health, academic, and other needs; and
- Operational continuity and other allowed uses.

In response to the pandemic, ESF-SEA and ESF-Governor funds offer the opportunity to make educational systems better for students, educators, staff, schools, and their communities post-pandemic. The Department encourages SEAs and LEAs to think holistically about their response to COVID-19 in order to address the impact of lost instructional time from the pandemic on all students and to address pre-existing challenges that, if left unaddressed, will impede recovery from the pandemic.

As stated in the *Overview* of the ESF-SEA and ESF-Governor use of funds guidance: "These Federal emergency resources are available for a wide range of activities to address diverse needs arising from or exacerbated by the COVID-19 pandemic, or to emerge stronger post-pandemic, including responding to students' social, emotional, mental health, and academic needs and continuing to provide educational services as Outlying Areas, SEAs, LEAs, and schools respond to and recover from the pandemic" [emphasis added].

For example, the Department has advised that allowable approaches to prevent, prepare for, and respond to the pandemic could include, but are not limited to, the following activities:

- Addressing students' social, emotional, mental health, and academic needs, including addressing inequities that were worsened by the pandemic, through activities such as providing mental health services and supports to students (including those who experienced trauma before the pandemic), programs to re-engage students (including addressing factors that contributed to student disengagement before the pandemic), continuing to address issues of digital equity and access, and implementing rigorous curricula across P-12 schools.

- Ensuring that students have access to the teachers and other critical staff they need to support their success by hiring additional educators and school staff and improving compensation to recruit and retain educators and school staff.

- Sustaining and expanding existing summer learning and enrichment programming or early childhood education programs.

- Creating or improving existing data systems and collection to identify and respond in a timely manner to student needs in light of the pandemic.

- Supporting the needs of children with disabilities, including infants and toddlers with disabilities and children with disabilities who are English learners, under the Individuals with Disabilities Education Act, such as by eliminating evaluation backlogs and providing support and direct services for children with disabilities, including technical assistance, personnel preparation, and professional development and training.

- Providing educational and related services to students with disabilities under Section 504 of the Rehabilitation Act of 1973 who are not eligible for services under IDEA but receive services in accordance with a 504 plan. This includes, but is not limited to, providing additional instruction and services to students with disabilities under Section 504 of the Rehabilitation Act, often referred to as compensatory services, to make up for any skills that might have been lost if it is individually determined that the student was unable to receive a free appropriate education as a result of the closure of school buildings or other disruption in services as a result of the COVID-19 pandemic.

- Maintaining healthy facilities, which could include addressing pre-existing or new ventilation, roofing, and plumbing needs, or other needs that may inhibit healthy learning environments during full-time in-person learning. This might include roof repairs or replacement; reducing lead exposure in water; or mold, radon, and asbestos remediation, as well as facility updates (such as upgrading science labs) to address the impact of lost instructional time.

These and additional examples of allowable uses of funds may be found throughout Department resources, including:

- *American Rescue Plan (ARP-OA SEA) Fact Sheet*, available at: https://oese.ed.gov/files/2021/11/ARP-OA-SEA-Fact-Sheet-FINAL.pdf
- *Strategies for Using American Rescue Plan Funding to Address the Impact of Lost Instructional Time*, available at: https://www2.ed.gov/documents/coronavirus/lost-instructional-time.pdf.
- *COVID-19 Handbook Vol. 2: Roadmap to Reopening Safely and Meeting All Students' Needs*, available at: https://www2.ed.gov/documents/coronavirus/reopening-2.pdf.
- *Frequently Asked Questions: Using American Rescue Plan Funding to Support Full-Service Community Schools & Related Strategies*, available at: 21-0138-ARP-Community-Schools-OMB- and-OS-Approved-071421-1.pdf (English) and https://oese.ed.gov/files/2021/11/21-

0138-ARP- Community-Schools-OMB-and-OS-Approved-071421-1_SPA.508dh.pdf (Spanish).

- *How American Rescue Plan Funds Can Prevent and Respond to Crime and Promote Public Safety*, available at: https://oese.ed.gov/files/2021/06/21-0130-ARP-Public-Safety-ED-FAQ- 06-16- 2021.pdf.

- *Letter to Chief State School Officers and School Superintendents from Secretary Cardona About the Importance of Using ARP-OA SEA and Other Federal Resources to Address Educator Shortages,* available at: https://oese.ed.gov/files/2021/12/21-0414.DCL_Labor-Shortages.pdf.

ESF-SEA and ESF-Governor grantees are welcome to email their program officer with specific use of funds questions at ESF.Outlying@ed.gov.