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Summary & Submission Instructions

LAURENS CSD

470801040000

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SUMMARY

On March 11, 2021, the President signed into law the American Rescue Plan Act of 2021 (ARP). ARP makes available $122.8 billion nationally in a third round of Elementary and Secondary School Emergency Relief (ESSER) funds. New York State has been allocated nearly $9 billion under the ARP Act's Elementary and Secondary School Emergency Relief (ESSER) Fund. The ARP Act requires that a minimum of $8.09 billion (90 percent) be allocated to LEAs, including charter schools and Special Act School Districts that are LEAs. Pursuant to the terms of the ARP Act, LEA allocations have been calculated using the relative shares of grants awarded under Title I, Part A of the ESEA for the most recent federal fiscal year (2020). Each eligible LEA's ARP-ESSER allocation may be found HERE.

Under section 2001(d)(2) of ARP Act of 2021, each State Educational Agency (SEA) must make ARP-ESSER allocations to LEAs in an expedited and timely manner and, to the extent practicable, not later than 60 days after the SEA receives its ARP-ESSER funds. The first portion of ARP-ESSER Funds was awarded to states on March 24, 2021, and 60 days from that day is May 24, 2021. The U.S. Department of Education (USDE) has taken the position that an SEA makes allocations when it authorizes the LEA to begin to obligate funds in accordance with its needs. To enable New York State's LEAs to begin to obligate ARP-ESSER funds by USDE's May 24, 2021 deadline, the application for LEA 90% base ARP-ESSER allocations will be administered by NYSED as a two-part application process:

- ARP-ESSER Application – Part 1: The first step is for each LEA to submit signed assurances to NYSED by no later than **May 24, 2021**. Upon receipt of signed LEA assurances, NYSED will provide an email notice to the LEA of substantially approvable application status. Upon receipt of such notice, LEAs may begin obligating their allocation of 90% base ARP-ESSER funds.
- ARP-ESSER Application – Part 2: The second step will be the submission of a full application and budget by the LEA. NYSED will issue a Grant Award Notice (GAN) to the LEA after the LEA's application is fully reviewed and approved by NYSED. Part 2 will address several of the plan-related assurances an LEA must provide in Part 1 of the application process.

The ARP Act requires LEAs to reserve at least 20% of their 90% ARP-ESSER allocation to address learning loss through the implementation of evidence-based interventions, such as summer learning or summer enrichment, extended day, comprehensive afterschool programs, or extended school year programs, and ensure that such interventions respond to students' academic, social, and emotional needs and address the disproportionate impact of the coronavirus on economically disadvantaged students, children with disabilities, English learners, racial and ethnic minorities, migrant students, students experiencing homelessness, and children and youth in foster care. For your information, the minimum 20% reservation for each LEA may be found HERE.

SUBMISSION INSTRUCTIONS

The ARP-ESSER Application: Part 1 is due by **May 24, 2021.**

OBLIGATION OF FUNDS:

Upon receipt of the assurances detailed in ARP-ESSER Application: Part 1, NYSED will generate a determination of a substantially approvable application status consistent with 34 CFR §76.708 of Uniform Grants Guidance (UGG) which provides specific regulations regarding when subgrantees may begin to obligate funds (UGG states that subgrantees may not obligate funds until the date that the applicant submits its application to the State in substantially approvable form for formulaic grants). Those LEAs that do submit signed assurances to NYSED by May 24, 2021 will be able to start obligating ARP-ESSER funds upon receipt of the notice from NYSED of substantial application approval.

ALLOWABLE USES OF ARP-ESSER FUNDS

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USDE has published a fact sheet comparing the ESSER 1 fund under the CARES Act, the ESSER 2 fund under the CRRSA Act, and the ARP-ESSER fund, which is available at: https://oese.ed.gov/files/2021/03/FINAL_ARP-ESSER-FACT-SHEET.pdf.

On April 21, 2021, USDE issued Interim Final Requirements (IFR) that include examples of ways in which an LEA may use its ARP-ESSER funds for a wide variety of activities related to educating students during the COVID-19 pandemic and addressing the impacts of the COVID-19 pandemic on students and educators. USDE's IFR also references the ARP statutory requirement that an LEA receiving ARP ESSER funds must reserve at least 20 percent of the funds to measure and address the academic impact of lost instructional time on all students through the implementation of evidence-based interventions, including but not limited to interventions implemented through summer learning or summer enrichment, extended day, comprehensive afterschool programs, or extended school year programs. Moreover, USDE's IFR states that the LEA must also ensure that such interventions respond to students' academic, social, emotional, and mental health needs and address the impact of the COVID-19 pandemic on groups of students disproportionately impacted by the pandemic.

USDE has indicated that additional guidance on allowable uses of ARP-ESSER funds will be forthcoming. NYSED will ensure all LEAs are provided such guidance upon receipt.

APPLICATION PROCESS FOR LEA ALLOCATIONS OF ARP-ESSER SEA RESERVE FUNDS

The federal ARP statute requires SEAs to reserve:

- not less than 5 percent of the total amount of grant funds awarded to the State ($449.4 million) to carry out activities to address the impact of lost instructional time by supporting the implementation of evidence-based interventions;
- not less than 1 percent ($89.9 million) to carry out the implementation of evidence-based summer enrichment programs; and
- not less than 1 percent to carry out the implementation of evidence-based comprehensive afterschool programs.

The 2021-22 enacted state budget directs that these required SEA set-asides be allocated as grants to specified school districts. Each eligible district's allocation of SEA reserve funds may be found HERE. NYSED will inform school districts under separate cover when the application process for school district allocations of ARP-ESSER SEA set-aside funds has been published in the SED Monitoring and Vendor Reporting System.

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American Rescue Plan (ARP) Act - Assurances

1. **The LEA assures that ESSER funds are used for activities allowable under section 2001(e) of the ARP Act, 18003(d) of the CARES Act and 313(d) of the CRRSA Act.**

   ☑ YES, the LEA provides the above assurance.

2. **The LEA assures that it will comply with all reporting requirements at such time and in such manner and containing such information as the Commissioner may reasonably require, including on matters such as but not limited to:**

   1. data on each school's mode of instruction (remote, hybrid, in-person), including student attendance data (disaggregated by student subgroup) for each modality;
   2. LEA uses of funds to meet students' social, emotional, and academic needs, including through summer enrichment programming and other evidence-based interventions, and how they advance equity for underserved students;
   3. **LEA uses of funds to sustain and support access to early childhood education programs;**
   4. **impacts and outcomes (disaggregated by student subgroup) through use of ARP ESSER funding (e.g., quantitative and qualitative results of ARP ESSER funding, including on personnel, student learning, and budgeting at the school and district level);**
   5. **student data (disaggregated by student subgroup) related to how the COVID-19 pandemic has affected instruction and learning;**
   6. **requirements under the Federal Financial Accountability Transparency Act (FFATA); and**
   7. **additional reporting requirements as may be necessary to ensure accountability and transparency of ARP ESSER funds.**

   ☑ YES, the LEA provides the above assurance.

3. **The LEA assures that records pertaining to the ARP ESSER award under 2 C.F.R. § 200.334 and 34 C.F.R. §76.730, including financial records related to use of grant funds, will be retained separately from other grant funds, including but not limited to funds that an LEA receives under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA Act).**

   ☑ YES, the LEA provides the above assurance.

4. **The LEA assures that the LEA will cooperate with any examination of records with respect to such funds by making records available for inspection, production, and examination, and authorized individuals available for interview and examination, upon the request of (i) the Department and/or its Inspector General; or (ii) any other federal agency, commission, or department in the lawful exercise of its jurisdiction and authority.**

   ☑ YES, the LEA provides the above assurance.

5. **The LEA assures that the LEA will comply with all applicable assurances in OMB Standard Forms 424B and D (Assurances for Non-Construction and Construction Programs), including the assurances relating to the legal authority to apply for assistance; access to records; conflict of interest; merit systems; nondiscrimination; Hatch Act provisions; labor standards; flood hazards; historic preservation; protection of human subjects; animal welfare; lead-based paint; Single Audit Act; and the general agreement to comply with all applicable Federal laws, executive orders and regulations.**

☑ YES, the LEA provides the above assurance.

6. **The LEA assures that the LEA will have on file with the SEA a set of assurances that meets the requirements of section 442 of the General Education Provisions Act (GEPA) (20 U.S.C. 1232e).**

☑ YES, the LEA provides the above assurance.

7. **The LEA assures that the LEA will comply with the requirements of section 427 of GEPA (20 U.S.C. 1228a). The description must include information on the steps the LEA proposes to take to permit students, teachers, and other program beneficiaries to overcome barriers (including barriers based on gender, race, color, national origin, disability, and age) that impede equal access to, or participation in, the program.**

☑ YES, the LEA provides the above assurance.

8. **The LEA assures that the LEA is using ARP ESSER funds for purposes that are reasonable, necessary, and allocable under the ARP.**

☑ YES, the LEA provides the above assurance.

9. **The LEA assures that the LEA will comply with the provisions of all applicable acts, regulations and assurances; the following provisions of Education Department General Administrative Regulations (EDGAR) 34 CFR parts 76, 77, 81, 82, 84, 97, 98, and 99; the OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485; and the Uniform Guidance in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 34.**

☑ YES, the LEA provides the above assurance.

10. The LEA assures that federal grant recipients, sub recipients and their grant personnel are prohibited from text messaging while driving a government owned vehicle, or while driving their own privately owned vehicle during official grant business, or from using government supplied electronic equipment to text message or email when driving as per Executive Order 13513,“Federal Leadership on Reducing Text Messaging While Driving,” October 1,2009.

☑ YES, the LEA provides the above assurance.

11. **The LEA assures that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or renewal of Federal grants under this program.**

☑ YES, the LEA provides the above assurance.

12. **The LEA assures that:**

1. **the LEA will administer each program covered by the application in accordance with all applicable statutes, regulations, program plans, and applications;**
2. **control of funds provided to the LEA under each program, and title to property acquired with those funds, will be in a public agency and that a public agency will administer those funds and property;**
3. **the LEA will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and**

accounting for, Federal funds paid to that agency under each program;

4. **the LEA will make reports to the State agency or board and to the Secretary as may reasonably be necessary to enable the State agency or board and the Secretary to perform their duties and that the local educational agency will maintain such records, including the records required under section 1232f of this title, and provide access to those records, as the State agency or board or the Secretary deem necessary to perform their duties; and**
5. **the LEA will provide reasonable opportunities for the participation by teachers, parents, and other interested agencies, organizations, and individuals in the planning for and operation of each program.**

☑ YES, the LEA provides the above assurance.

13. **The LEA assures that:**

1. **any application, evaluation, periodic program plan or report relating to each program will be made readily available to parents and other members of the general public;**
2. in the case of any project involving construction—(A) the project is not inconsistent with overall State plans for the construction of school facilities, and (B) in developing plans for construction, due consideration will be given to excellence of architecture and design and to compliance with standards prescribed by the Secretary under section 794 of title 29 in order to ensure that facilities constructed with the use of Federal funds are accessible to and usable by individuals with disabilities;
3. **the local educational agency has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program significant information from educational research, demonstrations, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects; and**
4. **none of the funds expended under any applicable program will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization.**

☑ YES, the LEA provides the above assurance.

14. **The LEA assures that the LEA will comply with the maintenance of equity provision in section2004(c) of the ARP.**

☑ YES, the LEA provides the above assurance.

15. The LEA assures the LEA will reserve not less than 20 percent of its total ARP ESSER allocation to address learning loss through the implementation of evidence-based interventions, such as summer learning or summer enrichment, extended day, comprehensive afterschool programs, extended school year programs, or other evidence-based interventions, and ensure that such interventions respond to students' academic, social, and emotional needs and address the disproportionate impact of COVID-19 on student subgroups (each major racial and ethnic group, children from low-income families, children with disabilities, English learners, gender, migrant students, students experiencing homelessness, and children and youth in foster care).

☑ YES, the LEA provides the above assurance.

16. The LEA assures that the LEA will develop and make publicly available on the LEA's website, not later than 30 days after

receiving ARP ESSER funds, a plan for the safe return to in-person instruction and continuity of services for all schools, including those that have already returned to in-person instruction. As part of this process, consistent with Section 2001(i)(2) of the ARP Act, the LEA seek public comment on the plan and take those comments into account in the development of the plan. Per section 2001(i)(3) of the ARP Act, an LEA that developed a plan for the safe return to in-person instruction and continuity of services prior to the date of enactment of the ARP Act will be deemed to have met the requirement to develop a plan under section 2001(i)(1) as long as the plan meets the statutory requirements (i.e., is publicly available on the LEA's website and was developed after the LEA sought and took into account public comment).

☑ YES, the LEA provides the above assurance.

17. **The LEA assures that the LEA will include in its application to the Department for ARP-ESSER funds a plan, in a format prescribed by the Commissioner, that describes the extent to which and how the funds will be used to implement prevention and mitigation strategies that are, to the greatest extent practicable, consistent with the most recent CDC guidance on reopening schools, in order to continuously and safely open and operate schools for in-person learning.**

☑ YES, the LEA provides the above assurance.

18. **The LEA assures that the LEA will include in its application to the Department for ARP-ESSER funds a plan, in a format prescribed by the Commissioner, that describes how the LEA will use the funds it reserves under section 2001(e)(1) of the ARP Act 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.**

☑ YES, the LEA provides the above assurance.

19. **The LEA assures that the LEA will include in its application to the Department for ARP-ESSER funds a plan, in a format prescribed by the Commissioner, that describes how the LEA will spend its remaining ARP ESSER funds consistent with section 2001(e)(2) of the ARP Act.**

☑ YES, the LEA provides the above assurance.

20. **The LEA assures that the LEA will include in its application to the Department for ARP-ESSER funds a plan, in a format prescribed by the Commissioner, that describes how the LEA will ensure that the interventions it implements, including but not limited to the interventions implemented under section 2001(e)(1) of the ARP Act to address the academic impact of lost instructional time, will respond to the academic, social, emotional, and mental health needs of all students, and particularly those students disproportionately impacted by the COVID-19 pandemic, including students from low-income families, students of color, English learners, children with disabilities, students experiencing homelessness, children in foster care, and migratory students.**

☑ YES, the LEA provides the above assurance.

21. **The LEA assures that the LEA will engage in meaningful consultation with stakeholders and give the public an opportunity to provide input in the development of the plan referenced above in Assurances #17-20. Specifically, an LEA will engage in meaningful consultation with students; families; school and district administrators (including special education administrators); and teachers, principals, school leaders, other educators, school**

staff, and their unions. Additionally, an LEA must engage in meaningful consultation with each of the following, to the extent present in or served by the LEA: Tribes; civil rights organizations (including disability rights organizations); and stakeholders representing the interests of children with disabilities, English learners, children experiencing homelessness, children in foster care, migratory students, children who are incarcerated, and other underserved students.

☑ YES, the LEA provides the above assurance.

22. **The LEA assures that its LEA ARP ESSER plan will be: in an understandable and uniform format; to the extent practicable, written in a language that parents can understand or, if not practicable, orally translated; and, upon request by a parent who is an individual with a disability, provided in an alternative format accessible to that parent.**

☑ YES, the LEA provides the above assurance.