

April 23, 2021

The Honorable Secretary Cardona
U.S. Secretary of Education
400 Maryland Ave., S.W.
Washington, D.C. 20202

Dear Secretary Cardona:

On behalf of the sixteen undersigned national education, disability and secular organizations, we write to respond to the invitation to comment on the American Rescue Plan's (ARP) Emergency Assistance to Non-Public Schools (EANS) program. Our comments are premised on two driving realities: First, a student in poverty is a student in poverty, whether they are enrolled in a public or non-public school. Second, to the extent federal policy appropriately supports and prioritizes federal funding for the neediest of students, the mechanisms of identifying, counting and reporting students in poverty should look the same for both public and non-public schools.

Language in the ARP requires EANS program dollars to be targeted toward private schools whose student population is significantly low-income. This is a statutory change from the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) EANS, which simply required the non-public school to educate a few low-income students. As the U.S Department of Education (USED) and States move forward with implementing this poverty-centric approach, it is critical they utilize an apples-to-apples approach when comparing the make-up of low-income students in public and non-public schools to ensure this funding is appropriated as Congress intended.

Specifically, non-public schools must be required to report poverty directly to State and to the U.S. Department of Education using information collected directly from families and State databases just like public schools. We do not believe proxy data or extrapolated data is sufficient for this extraordinarily large level of federal funding. The same certification process public schools use—submitting school meals application forms or certifying that a child belongs to a household that participates in Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), or Medicaid—for verifying poverty or low-income status should be required of private schools.

We suggest that the maximum poverty threshold to define low-income used for students in a non-public school setting should be the same as the maximum poverty threshold used in a public school; specifically, children in private schools should be considered low-income if the household income is up to 185% of the federal poverty line.

On the question of how to target funding to a “significant percentage of low-income students” we strongly recommend that the U.S. Department of Education define significant as 75% of students in the non-public school are eligible for free or reduced-price lunch (FRPL). Relying on a definition of 75% FRPL aligns the EANS program with Title I of ESSA since 75% is the threshold for mandatory participation in

Title I¹ and also matches the “high poverty school” definition from National Center on Education Statistics which is defined as a school where more than 75% of the students are eligible for FRPL.²

In terms of awarding funding to non-public schools, we recommend the following guardrails:

- States must take into consideration how much funding a private school has already received and ensure they have not received funding under the Paycheck Protection Program when determining appropriate award amounts.
- Per-pupil funding for non-public schools from EANS should not exceed the per-pupil funding for public schools from ARP ESSER in the state.
- U.S. Department of Education should issue guidance outlining steps a State can take if only a small number of private schools in a state meet the “significant percentage” criteria. Specifically, the guidance should direct States on how funding in the EANS program can be returned to the GEER program and what limitations the Governor has in allocating the funding to public and non-public schools as well as education-related entities.
- Any guidance released to help States and Governors determine how to incorporate these factors in identifying which non-public schools receives services or assistance should include a tiered approach where poverty rate is prioritized as the primary factor for distribution of funding, with COVID infection rate a distant secondary factor.

If you have any questions or concerns, please reach out to Sasha Pudelski, Advocacy Director at AASA at spudelski@aasa.org.

Thank you for considering our views.

AASA, The School Superintendents Association
African American Ministers In Action
American Atheists
American Federation of State, County, and Municipal Employees
American Federation of Teachers
Association of Educational Service Agencies
Association of Latino Administrators and Superintendents
Council of Administrators of Special Education
EDGE Consulting Partners
National Association of Elementary School Principals
National Association of Secondary School Principals
National Association of State Directors of Special Education
National PTA
National Superintendents Roundtable
Network for Public Education
Secular Coalition for America

¹(ESEA 1113 (a)(3)(A))

² National Center for Education Statistics. "Concentration of public school students eligible for free or reduced-price lunch." (2019).