

American Rescue Plan Act of 2021 Update for Educators

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The American Rescue Plan Act of 2021 (“ARP” Act) provides funding for K-12 private (independent) schools, as well as students in colleges and universities. These funds are focused on students with economic need.

Higher Education

The ARP Act allocates almost \$40 billion for the Higher Education Emergency Relief Fund. This allocation includes \$3 billion for historically Black colleges and universities, tribal colleges, and other institutions of higher learning serving minority students. Under the ARP, a non-profit institution of higher education receiving ARP funds must spend at least 50% of their allocation on emergency financial-aid for students. Only 1% of the \$40 billion will go to for-profit institutions. The ARP also contains provisions which help college students on an individual basis. A student who receives federal student loan forgiveness between December 31, 2020 and January 2, 2026 will not be taxed on the forgiven debt. The law also provides that students 17 years and older who qualify as dependents are eligible for the same relief check (up to \$1,400) as the tax filer receives.

Private Schools

The ARP Act allocates \$2.75 billion for private schools, which will be available through the Emergency Assistance for Non-Public Schools Program (“EANS Program”). These funds are intended to provide relief to those private schools serving significant numbers of low-income students and those schools most impacted by COVID-19. Under the ARP Act, independent schools receiving EANS funds will be able to use the funds to purchase Covid-protective gear and cleaning supplies, improve school ventilation, create physical barriers for social distancing and perform Covid testing and contact tracing. The funds may also be used toward educational technology for remote and hybrid learning and services that will address learning loss during the pandemic.

Special Education

Since last spring, the federal government has provided K-12 public schools with just over \$200 billion (approximately \$4,000 per student) in funding to address the impact of COVID-19. This has been allocated by the CARES Act (\$13.2 billion), the Coronavirus Response and Relief Supplemental Appropriations (\$54.3 billion) and a few weeks ago, by the American Rescue Plan Act (“ARPA”).

The ARPA provides a total of \$170.3 billion in funding for education. This unprecedented federal investment may fuel a movement to ensure that schools are capable of delivery of true remote learning, expanding learning past the school day and school year, and enhanced social/emotional as well as academic supports to students. The funding provides the public school system with the chance to make services superior to pre-pandemic services.

This ARPA funding includes more than \$125.4 billion for state K-12 public education programs as well as \$7.2 billion in funding for the federal E-Rate program, which will be extended to provide devices and connectivity to students, educators, and patrons of public libraries. Governors will also receive \$2.75 billion in funding to assist private schools that “enroll a significant percentage of low-income students and are most impacted by the qualifying emergency.” The funds must be used in addition to, not in lieu of, state and local education funding. States must use at least 20% of the funds received (\$22 billion) to address lost learning time.

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The ARPA total includes \$122.8 billion to the Elementary and Secondary School Emergency Relief Fund (ESSER). As with the prior two federal rescue packages were distributed, this fund will also be distributed based on their relative Title I, Part A funding (for lower income students). The first \$800 million of ESSER funding must be used by states to provide services to homeless students. After that allocation, the remaining funds will be distributed as follows:

- \$109.8 billion to State Local Education Agencies, to be distributed to districts based upon their relative share of Title I, Part A funding.
 - \$6.1 billion (5% of states' ESSER funding) "to address learning loss by supporting the implementation of evidence-based interventions, such as summer learning, extended day, comprehensive afterschool programs, or extended school year programs."
 - \$1.2 billion (a minimum of 1% of funding) to after school programs that address students' academic, social and emotional needs, and the same amount to summer enrichment programs.
 - \$610 million (up to .5% of funding) to administer the programs.
 - Over \$3 billion for the Individuals With Disabilities Education Act (IDEA) purposes. This includes \$2.58 billion supporting IDEA grants for school-age children with disabilities, \$200 million for IDEA preschool grants, and \$250 million in grants to support infants and toddlers with disabilities.
 - \$3.049 billion (remaining funds) to be used for any of the allowable uses of the ARPA (which include any educational expense allowed under the Elementary and Secondary Education Act, the Perkins Career and Technical Education Act, and the Individuals with Disabilities Education Act) plus a number of other specific allowable uses.

The good news for parents: "We don't have the money for that" is not a credible response. For parents of students with disabilities, it's notable that the legal requirement that public schools provide a free appropriate public education (FAPE, as defined by IDEA) to them was not waived during the pandemic. These students - in particular - have been impacted by the effects of remote and disrupted learning, and now there's funding to help recoup their learning losses. Those students are entitled to compensatory education as needed and may push for supplemental learning opportunities like extended school attendance. Look for summer enrichment and after-school programs beginning soon in your state. Seek legal representation if children didn't receive FAPE by making meaningful progress towards their educational and living skills goals during the pandemic. Counsel may negotiate a program of compensatory education, including payment for private tutoring.



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