



**Education Stabilization Funds
Desk Review Monitoring
New York State Education Department
Office of ESSA-Funded Programs
Room 320 EB
89 Washington Avenue
Albany, NY 12234**

Education Stabilization Funds Desk Review Monitoring: Indicators and Evidence

The New York State Education Department (SED, or “The Department”) uses the process of Desk Review Monitoring to review local educational agencies (LEAs) for compliance with programmatic and fiscal requirements under the Elementary and Secondary School Emergency Relief (ESSER) Fund, the Governor’s Emergency Education Relief (GEER) Fund, the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, and the American Rescue Plan (ARP). This work follows up on the applications that LEAs submitted to fund programs under the Education Stabilization Funds (ESF), including ESSER I, GEER I, CRRSA/ESSER II, GEER II, ARP ESSER, and ARP ESSER State Level Reserves (SLR) between 2020 and 2022. Through the monitoring process, the Department seeks to verify that the LEA is following the programmatic and fiscal plans submitted in the ESF applications and maintaining compliance with the assurances embedded within the applications.

The LEA should present evidence demonstrating compliance with each section of this form. This form identifies evidence that should be submitted in order to meet each indicator. Please note the evidence list is not exhaustive; the LEA may have additional and/or alternate documentation that may satisfy a particular indicator.

The LEA should upload all documents to the secure business portal by the requested due date. This will allow for ample review prior to the scheduled review meetings. For some indicators, compliance will be assessed through the review of the ESF grant applications, in addition to staff interviews and document uploads.

Please note: If the LEA does not have documentation for a particular indicator, the LEA may provide an explanation in the comment box and/or check the box requesting technical assistance.

Section I – Programmatic Compliance

General Programmatic Compliance Requirements

Stakeholder Engagement

INDICATOR	EVIDENCE
<p>1. The ESF plans are developed with timely and meaningful consultation with appropriate stakeholders, including but not limited to 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.</p> <p>ARP ESSER Interim Final Requirement (IFR)(2)(b)(i-ii)</p>	<ul style="list-style-type: none">• Provide a combination of several pieces of evidence that demonstrate a discussion of the ARP ESSER and ARP ESSER State Level Reserves.• The evidence below must include stakeholder engagement for each ARP ESSER grant the LEA received funds:<ul style="list-style-type: none">○ ARP ESSER○ ARP ESSER State Level Reserves• Evidence for consultation regarding ARP ESSER/ State Level Reserves Plans may include:<ul style="list-style-type: none">○ Meeting notifications○ Minutes○ Sign-in sheets with the stakeholder groups identified○ Agendas or presentations with the programs listed○ Content provided at stakeholder meetings (handouts, presentations, etc.)○ Email exchanges○ Surveys and sample responses○ A list of the roles of stakeholders that provided input on the ARP ESSER plan (ex. 3 principals, 75 parents, 20 students, etc.)
<p>2. The LEA engaged in ongoing and meaningful consultation with stakeholders throughout the implementation of the ARP ESSER and ARP ESSER State Reserves plans. The LEA consulted stakeholders when making changes to the ARP ESSER and ARP ESSER State Reserves plans, including any amendments (FS-10A) to the ARP ESSER and ARP ESSER State Reserves plans.</p> <p>IFR(2)(b)(i)(A-B)</p>	<ul style="list-style-type: none">• Provide a combination of several pieces of evidence that demonstrate discussion of the ARP ESSER plan and list the specific stakeholders. Evidence for ongoing consultation regarding ARP ESSER may include:<ul style="list-style-type: none">○ Meeting notifications○ Minutes○ Sign-in sheets with the stakeholder groups identified○ Agendas or presentations with the ARP ESSER listed

<p>IFR: <i>Given the unique circumstances in each State, we believe each SEA is best situated to determine what additional requirements to include in the LEA ARP ESSER plan.</i></p>	<ul style="list-style-type: none"> ○ Email exchanges
<p>3. The LEA publicly posted the ARP ESSER and ARP ESSER State Reserves plans, including the FS-10, Budget Narrative, FS-10As, and the FS-25F.</p> <p>IFR(2)(a)(i-iv)</p> <p>Title VI of the Civil Rights Act of 1964</p> <p>Americans with Disabilities Act</p>	<ul style="list-style-type: none"> • Provide the link where the LEA has posted the ARP ESSER plan, including the FS-10, Budget Narrative, FS10As, and the FS-25F OR • Evidence of how the LEA makes the plans publicly available via non-electronic means • And, if applicable, evidence of how the ARP ESSER plan is made accessible to parents with limited English proficiency or individuals with disabilities.
<p>4. The LEA provided opportunities for public input and feedback on the ARP ESSER and ARP ESSER State Reserves plan.</p> <p>IFR(2)(b)(ii)</p>	<ul style="list-style-type: none"> • Provide a combination of several pieces of evidence that demonstrate the LEA provided opportunities for public input and feedback. Evidence for public feedback opportunities may include: <ul style="list-style-type: none"> ○ Meeting notifications ○ Minutes ○ Agendas or presentations with the ARP ESSER State Reserve grants listed ○ Survey opportunities ○ Survey results ○ Email exchanges
<p>5. The LEA has conducted a comprehensive needs assessment that examined the social, emotional, mental health, and academic needs of students, 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.</p> <p>ARP 2001(f)(1-3)</p>	<ul style="list-style-type: none"> • Documentation of a comprehensive needs assessment and the associated data analysis to inform the development of the ARP ESSER State Reserves grants: <ul style="list-style-type: none"> ○ 5% Lost Instructional Time ○ 1% Comprehensive After School Programming ○ 1% Summer Learning and Enrichment

Return to In-Person Instruction

INDICATOR	EVIDENCE
<p>1. The LEA developed and publicly posted a reopening/ return to in-person learning plan.</p> <p>ARP Section 2001(i)(1)</p>	<p>Provide the link where the LEA has posted the reopening/ return to in-person instruction plan.</p>
<p>2. The LEA's plan describes how it will maintain the health and safety of students, educators, and other school and LEA staff, including policies that align with CDC recommendations including:</p> <ul style="list-style-type: none"> • universal and correct wearing of masks; • modifying facilities to allow for physical distancing (e.g., use of cohorts/podding); • handwashing and respiratory etiquette; • cleaning and maintaining healthy facilities, including improving ventilation; • contact tracing in combination with isolation and quarantine in collaboration with the State, local, territorial, or the health departments of Native American Nations; • diagnostic and screening testing; • efforts to provide vaccinations to school communities; • appropriate accommodations for children with disabilities with respect to health and safety policies; • and coordination with State and local health officials. <p>ARP Act Section 2001(i)(1) IFR(3)(a-d)</p>	<ul style="list-style-type: none"> • The LEA reopening/ return to in-person instruction plan. • Any published updates to the plan.
<p>3. The LEA periodically, no less frequently than every six months through September 30, 2023, reviewed and, as appropriate, revised its reopening/return to in-person instruction plan. Any revisions to the plan meet CDC recommendations.</p>	<ul style="list-style-type: none"> • Provide a combination of several pieces of evidence that demonstrate a discussion of the reopening/return to in-person learning plan, no less frequently than every six months through 9/30/2023, which may include: <ul style="list-style-type: none"> ○ Meeting notifications ○ Minutes

ARP Act Section 2001(i)(2) IFR (3)(b)(i)	<ul style="list-style-type: none">○ Sign-in sheets○ Agendas or presentations with the reopening/return to in-person learning plan listed○ Email exchanges
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ARP ESSER Lost Instructional Time and State Level Reserves

INDICATOR	EVIDENCE
<p>1. The LEA reserved not less than 20% of their ARP ESSER allocation to address learning loss through the implementation of evidence-based interventions.</p> <p>ARP Act 2001(e)(1)</p>	<ul style="list-style-type: none"> • Expenditure reports, payroll records and purchase orders that demonstrate at least 20% of the ARP ESSER allocation was used for evidence-based interventions to address learning loss. • Evidence demonstrating implementation of evidence-based interventions, including but not limited to: <ul style="list-style-type: none"> ○ lesson plans ○ student participation data ○ time and effort reports ○ summer school or afterschool activity schedules
<p>2. The LEA ensures that interventions under the 20% Lost Instructional Time reserve address the disproportionate impact of the coronavirus on the student subgroups described in section 1111(b)(2)(B)(xi) of the Elementary and Secondary Education Act of 1965 (20 U.S.C.. 6311(b)(2)(B)(xi), students experiencing homelessness, and children and youth in foster care.</p> <p>ARP Act 2001(e)(1)</p>	<ul style="list-style-type: none"> • Evidence that the LEA ensures interventions addressed the disproportionate impact of the coronavirus on student subgroups, such as: • Notes from data meetings where needs, progress monitoring, or evaluation were discussed • Presentations (slides/video) that provide an overview of data used to identify needs, share progress, or evaluate the program/intervention

Evidence-Based Requirements:

Under the ARP ESSER Lost Instructional Time Reserve and the ARP ESSER State-Level Reserves, LEAs were required to implement evidence-based interventions to address the academic impact of lost instructional time.

Interventions implemented by the LEA to address lost instructional time as part of the 20% Lost Instructional Time Reserve meet the criteria for evidence-based interventions based on ESEA Section 8101(21)(A):

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 1 well-designed and well-implemented experimental study;

moderate evidence from at least 1 well-designed and well-implemented quasi-experimental study; or

promising evidence from at least 1 well designed and well-implemented correlational study with statistical controls for selection bias; or

(ii) 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.

ARP Act 2001(e)(1)

Evidence May Include:

- Links to or citations corresponding to evidence/research that demonstrates the intervention(s) outlined in the ARP ESSER application [if using one of the evidence-based interventions specified by the USDE (e.g., summer learning, summer enrichment, extended day), citations/links are not required].
- Evidence demonstrating implementation of evidence-based interventions, including but not limited to:
 - lesson plans
 - student participation data
 - time and effort reports
 - summer school or afterschool activity schedules

Monitoring and Evaluation:

The LEA periodically monitored and evaluated interventions under the 20% Lost Instructional Time reserve and the ARP ESSER State Level Reserves to ensure that such interventions respond to students' academic, social, and emotional needs. **ARP Act 2001(e)(1)**

Evidence may include:

- Evidence demonstrating the LEA periodically monitored and evaluated interventions under the 20% Lost Instructional Time Reserve, such as;
- Data reports from those sources listed in the ARP ESSER plan, Question 3
- Meeting minutes that describe the LEA process and results of the monitoring and evaluation
- Presentations to the Board of Education or other stakeholder groups on the results of the interventions

ARP ESSER Lost Instructional Time Reserve

In the chart below, please include those activities/programs funded under the ARP ESSER 20% Lost Instructional Time Requirement. Please click “Add Row” to add as many rows as needed to fully encompass the ARP ESSER Lost Instructional Time requirement. **The LEA is not required to submit the evidence base unless requested by NYSED reviewer.**

Activity/Program	Tier of Evidence (if Tier IV, please provide evidence of the LEA study of the effects and the results of the study.	Investment (\$)	Method(s) of Evaluation	Results	Evidence Base (if requested by NYSED)
	DROP DOWN with Tiers or Checkboxes				

ARP ESSER State Reserves

In the chart below, please include those activities/programs funded under the ARP ESSER State Reserves. Please click “Add Row” to add as many rows as needed to fully encompass the ARP ESSER State Reserves. **The LEA is not required to submit the evidence base unless requested by the NYSED reviewer.**

State Level Reserves - 5% Lost Instructional Time

Activity/Program	Tier of Evidence (if Tier IV, please provide evidence of the LEA study of the effects and the results of the study.	Investment (\$)	Method(s) of Evaluation	Results	Evidence Base (if requested by NYSED)

State Level Reserves - 1% After-School Enrichment

Activity/Program	Tier of Evidence (if Tier IV, please provide evidence of the LEA study of the effects and the results of the study.	Investment (\$)	Method(s) of Evaluation	Results	Evidence Base (if requested by NYSED)

State Level Reserves - 1% Summer Learning and Enrichment

Activity/Program	Tier of Evidence (if Tier IV, please provide evidence of the LEA study of the effects and the results of the study.	Investment (\$)	Method(s) of Evaluation	Results	Evidence Base (if requested by NYSED)

Sustainability

In the chart below, please describe the LEA plan for sustainability of ESF programs/activities after the grant period has ended, including which programs/activities the LEA intends to continue and how the LEA will continue to fund these activities. Please click “Add Row” to add as many rows as needed to fully encompass the programs/activities that the LEA intends to continue. If the LEA is using other funding sources for these programs/activities, please include the name of the funding source in the “other” field.

<i>Activity/Program</i>	<i>Please select all applicable funding sources being used for this activity/program currently.</i>	Total Investment (\$) across all funding sources	Please list the funding sources the LEA will use to sustain this program/activity after the grant period has ended.
	<ul style="list-style-type: none"> ○ ESSER I ○ GEER I ○ CRRSA/ESSER II ○ GEER II ○ ARP ESSER ○ ARP ESSER State Level Reserves ○ Title Funds ○ Other Federal Funds ○ Other _____ 		

Section II- Equitable Services to Private Schools Compliance

ESSER I / GEER I (CARES Act) Equitable Services

INDICATOR	EVIDENCE
<p>1. The LEA engaged in timely, meaningful, and ongoing consultation with appropriate private school officials with the goal of reaching an agreement about the use of funds, and provided the equitable calculation of the private schools' allocation.</p> <p>CARES Section 18005(a)</p>	<ul style="list-style-type: none">• Evidence of initial and ongoing consultation with private schools, such as meeting minutes, emails, call logs, letters, and presentation materials regarding the use of services funded by ESSER I / GEER I• Signed affirmations of consultation• Other evidence to demonstrate ongoing consultation on services provided throughout the year• Surveys provided to non-public schools to assess their needs <p>Note: Consultation topics can be found on the Written Affirmation of LEA Consultation with Private School Officials Form.</p>
<p>2. The public school district retains control and administration of program funds at all times. Non-consumable supplies/materials and equipment are appropriately labeled with the district's name, the funding source that purchased the item, and the program year in which they were purchased.</p> <p>ESEA Section 1117(d)(1) and ESEA Section 8501(d)(1)</p>	<ul style="list-style-type: none">• Requisition form and/or related purchase orders and invoices for ESSER I / GEER I• Inventory tracking list or picture of equipment with proper label purchased under ESSER I / GEER I
<p>3. Services, such as professional development, were delivered by employees of a public agency or through contract by the public agency with an individual, association, agency, organization, or other entity.</p>	<ul style="list-style-type: none">• Third-party vendor contracts for ESSER I / GEER I• Expenditure reports, purchase orders, or invoices identifying the vendors for ESSER I / GEER I

Section III – Fiscal Compliance

Use of Funds

ESSER I / GEER I

INDICATOR	EVIDENCE
<p>1. The LEA activities and expenditures align with those described in the approved ESF applications and are in compliance with the appropriate grant act.</p> <p>ESSER I/GEER I <i>All activities and expenditures align with those described in the approved ESSER I application and are in compliance with CARES Act Sec. 18003(d)(1-12).</i></p>	<ul style="list-style-type: none">• Expenditure detail reports that demonstrate the use of funds for allowable activities described in the application for funds submitted to and approved by NYSED.• Payroll Records• Receipts• Invoices• Purchase orders
<p>2. LEA activities and expenditures are necessary, reasonable, and allocable to the funding source, meaning the funded activities or expenditures were made necessary as a result of the COVID-19 pandemic and were necessary in order for the LEA to respond to, prepare for, or prevent the spread of COVID-19.</p>	<ul style="list-style-type: none">• Expenditure detail reports that demonstrate the use of funds for allowable activities described in the application for funds submitted to and approved by NYSED.• Payroll Records• Receipts• Invoices• Purchase orders

CRRSA/ESSER II / GEER II

INDICATOR	EVIDENCE
<p>1. The LEA activities and expenditures align with those described in the approved ESF applications and are in compliance with the appropriate grant act.</p> <p>CRRSA/GEER II</p>	<ul style="list-style-type: none">• Expenditure detail reports that demonstrate the use of funds for allowable activities described in the application for funds submitted to and approved by NYSED.• Payroll Records• Receipts• Invoices

<i>All activities and expenditures align with those described in the approved ESSER II application and are in compliance with CRSAA Sec. 313(d)(1-15).</i>	<ul style="list-style-type: none"> • Purchase orders
2. LEA activities and expenditures are necessary, reasonable, and allocable to the funding source, meaning the funded activities or expenditures were made necessary as a result of the COVID-19 pandemic and were necessary in order for the LEA to respond to, prepare for, or prevent the spread of COVID-19.	<ul style="list-style-type: none"> • Expenditure detail reports that demonstrate the use of funds for allowable activities described in the application for funds submitted to and approved by NYSED. • Payroll Records • Receipts • Invoices • Purchase orders

ARP ESSER

INDICATOR	EVIDENCE
<p>1. The LEA activities and expenditures align with those described in the approved ESF applications and are in compliance with the appropriate grant act.</p> <p>ARP ESSER: <i>All activities and expenditures align with those described in the approved ARP-ESSER III application and are in compliance with ARP Act Sec. 2001(e)(1) and 2001(e)(2)(A-J).</i></p>	<ul style="list-style-type: none"> • Expenditure detail reports that demonstrate the use of funds for allowable activities described in the application for funds submitted to and approved by NYSED. • Payroll Records • Receipts • Invoices • Purchase orders
2. LEA activities and expenditures are necessary, reasonable, and allocable to the funding source, meaning the funded activities or expenditures were made necessary as a result of the COVID-19 pandemic and were necessary in order for the LEA to respond to, prepare for, or prevent the spread of COVID-19.	<ul style="list-style-type: none"> • Expenditure detail reports that demonstrate the use of funds for allowable activities described in the application for funds submitted to and approved by NYSED. • Payroll Records • Receipts • Invoices • Purchase orders

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ARP ESSER State Level Reserves

INDICATOR	EVIDENCE
<p>1. The LEA activities and expenditures align with those described in the approved ESF applications and are in compliance with the appropriate grant act.</p> <p>ARP ESSER State Reserves: <i>All activities and expenditures align with those described in the approved ARP ESSER State Reserves application and are in compliance with ARP ACT Sec. 2001(f)(1-3)</i></p>	<ul style="list-style-type: none"> • Expenditure detail reports that demonstrate the use of funds for allowable activities described in the application for funds submitted to and approved by NYSED. • Payroll Records • Receipts • Invoices • Purchase orders
<p>2. LEA activities and expenditures are necessary, reasonable, and allocable to the funding source, meaning the funded activities or expenditures were made necessary as a result of the COVID-19 pandemic and were necessary in order for the LEA to respond to, prepare for, or prevent the spread of COVID-19.</p>	<ul style="list-style-type: none"> • Expenditure detail reports that demonstrate the use of funds for allowable activities described in the application for funds submitted to and approved by NYSED. • Payroll Records • Receipts • Invoices • Purchase orders

General Fiscal Requirements

INDICATOR	EVIDENCE
<p>1. Payroll documentation in the LEA records are supported by a system of internal controls which provide reasonable assurance that the charges are accurate, allowable and properly allocated AND support the distribution of salary and wages where an</p>	<ul style="list-style-type: none"> • Evidence of how LEA “proves” the employee performed work in a federal program; at minimum, there must be a periodic documentation of work performed with employee and/or supervisor sign off for ESSER, GEER I,

<p>employee works on more than one cost objective or federal/state/local award.</p> <p>2 CFR 200.430(i)(i-vii)</p> <p>Contractual agreements [for Stimulus-funded services] are fulfilled as specified in the contract.</p> <p>2 CFR 200.318(b)</p>	<p>CRRSA/ESSER II, GEER II, ARP ESSER, and ARP ESSER State Level Reserves.</p> <ul style="list-style-type: none"> • As applicable, Employee Payroll Certifications (EPC)/Personal Activity Reports (PAR) for ESSER, GEER I, CRRSA/ESSER II, GEER II, ARP ESSER, and ARP ESSER State Level Reserves. • Third Party Contracts for ESSER, GEER I, CRRSA/ESSER II, GEER II, ARP ESSER, and ARP ESSER State Level Reserves. • Purchase orders, invoices, expenditure reports for ESSER, GEER I, CRRSA/ESSER II, GEER II, ARP ESSER, and ARP ESSER State Level Reserves.
<p>2. LEA has a written Procurement and Inventory Tracking Policy, indicating procedures to be followed.</p> <p>2 CFR 200.318</p>	<ul style="list-style-type: none"> • Written Procurement and Inventory Tracking Policy or Policies <p>Note: The policy should describe district procedures for the purchasing, requisitioning of supplies/materials, equipment, receiving, distribution, tracking, and disposal of said items, purchased with <u>any</u> federal education program funds. These would include any items tagged as “high-risk of loss”.</p>
<p>3. The LEA has documentation that all CRRSA/ESSER II, GEER II, ARP ESSER, and ARP ESSER State Level Reserves subawards, including all contracts and purchase orders, for work or products provided a preference, to the greatest extent practicable under a Federal award, for the purchase, acquisition, or use of goods, products, or materials produced in the United States.</p> <p><u>2 CFR 200.322</u></p>	<ul style="list-style-type: none"> • Invoices, purchase orders, and contracts as applicable to ESSER, GEER I, CRRSA/ESSER II, GEER II, ARP ESSER, and ARP ESSER State Level Reserves.

Allowable Activities

In this section, please indicate the amount the LEA spent in each category with each funding source. If the LEA did not utilize funds for that category, please leave blank. The total should account for the entire LEA allocation for that fund source. If the total does not account for the entire LEA allocation, please be prepared to explain the reasoning.

	ESSER I	GEER I	CRRSA / ESSER II	GEER II	ARP ESSER
1 - Any activity authorized by the ESEA, including the Native Hawaiian Education Act and the Alaska Native Educational Equity, Support, and Assistance Act (20 U.S.C. 6301 et seq.).					
2 - Any activity authorized by the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 et seq.).					
3 - Any activity authorized by the Adult Education and Family Literacy Act (AEFLA) (29 U.S.C. 3271 et seq.).					
4 - Any activity authorized by the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins V) (20 U.S.C. 2301 et seq.).					
5 - Any activity authorized by subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (McKinney-Vento) (42 U.S.C. 11431 et seq.).					
6 - Coordinating 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 COVID-19.					
7 - Providing principals and other school leaders with the resources necessary to address the needs of their individual schools.					
8 - Activities to address the unique needs of low-income children or students, students with disabilities, English learners, racial and ethnic					

minorities, students experiencing homelessness, and children and youth in foster care, including how outreach and service delivery will meet the needs of each population.					
9 - Developing and implementing procedures and systems to improve the preparedness and response efforts of LEAs.					
10 - Training and professional development for staff of the LEA on sanitation and minimizing the spread of infectious diseases.					
11 - Purchasing supplies to sanitize and clean the facilities of the LEA, including buildings operated by such LEA.					
12 - 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 education services can continue to be provided consistent with all Federal, State, and local requirements.					
13 - 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.					
14 - Providing mental health services and supports, including through the implementation of evidence based full-service community schools.					
15 - Planning and implementing activities related to summer learning and enrichment and supplemental after-school 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 and youth in foster care.					

16 - Addressing the academic impact of lost instructional time among an LEA's students (including low-income students, students with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children and youth in foster care) 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.					
17 - 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.					
18 - 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.					
19 - 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 effectively maintain the health and safety of students, educators, and other staff.					
20 - Other activities that are necessary to maintain the operation of and continuity of services in the LEA and continuing to employ existing staff of the LEA.					
Indirect Costs					

Construction

Indicator	Evidence
<p>1. If the LEA purchased land and/or property using federal funds, the LEA has evidence that they will have undisturbed use and possession of the facilities for 50 years or the useful life of the facilities, whichever is longer.</p> <p>§ 75.603 (Authority: 20 U.S.C. 1221e-3 and 3474)</p>	<ul style="list-style-type: none"> • Full title or other interest in the site, including the right of access.
<p>2. The LEA has sufficient funds to meet any non-Federal share of the cost of constructing the facility.</p> <p>§75.604</p>	<ul style="list-style-type: none"> • Quotes, estimates, invoices, or receipts that show the cost of constructing the facility. • Detailed plan of the LEA plan for funding the facility construction, including the various funding sources, Federal and non-Federal.
<p>3. The construction has begun in a reasonable time frame after the grant for construction is made.</p> <p>§75.605 Commissioner's Regulations Section 155.2(b)</p>	<ul style="list-style-type: none"> • Invoices • Statements from vendor/architect stating the start date of construction • Evidence that NYSED Office of Facilities Planning has issued a building permit
<p>4. The construction has been or will be completed within a reasonable time and completed in accordance with the application and approved drawings and specifications.</p> <p>§75.606</p>	<ul style="list-style-type: none"> • Invoices • Statements from vendor/architect stating the completion date or intended completion date • Images of the completed construction
<p>5. The LEA has maintained competent architectural engineering supervision and inspection at the construction site to ensure that the work conforms to the approved drawings and specifications.</p> <p>§75.612</p>	<ul style="list-style-type: none"> • Contract with architect/architecture firm • Statement from architect/architecture firm • Copy of NYSED Certificate of Occupancy • Copy of NYSED Certificate of Substantial Completion

Assurances

ESSER I

1. The LEA assures that ESSER funds are used for activities allowable under section 18003(d) of Division B of the CARES Act. As outlined by USDE guidance, the New York State Education Department generally does not consider the following to be an allowable use of ESSER funds, under any part of 18003: 1) subsidizing or offsetting executive salaries and benefits of individuals who are not employees of the LEA or 2) expenditures related to local teacher or faculty unions or associations.
2. The LEA will provide equitable services to students and teachers in non-public schools in the same manner as provided under section 1117 of the ESEA, as determined through timely and meaningful consultation with representatives of non-public schools.
3. The LEA assures that the control of funds for the services and assistance provided to a non-public school under subsection (a), and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds, materials, equipment, and property and shall provide such services (or may contract for the provision of such services with a public or private entity).
4. The LEA assures that, to the greatest extent practicable, it will continue to compensate its employees and contractors during the period of any disruptions or closures related to COVID-19 in compliance with Section 18006 of Division B of the CARES Act. In addition, each entity that accepts funds will continue to pay employees and contractors to the greatest extent practicable based on the unique financial circumstances of the entity. CARES Act funds generally will not be used for bonuses, merit pay, or similar expenditures, unless related to disruptions or closures resulting from COVID-19.
5. The LEA assures that it will comply with all reporting requirements, including those in Section 15011(b)(2) of Division B of the CARES Act, and submit quarterly reports to the Commissioner at such time and in such a manner as the Commissioner may require. The Commissioner may require additional reporting in the future, which may include: the methodology LEAs will use to provide services or assistance to students and staff in both public and non-public schools, the uses of funds by the LEAs or other entities and demonstration of their compliance with Section 18003(d), such as any use of funds addressing the digital divide, including securing access to home-based connectivity and remote-use devices, related issues in supporting remote learning for all students, including disadvantaged populations.
6. 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.

7. 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.
8. 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).
9. 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.
10. The LEA assures that the LEA uses ESSER funds for purposes that are reasonable, necessary, and allocable under the CARES Act.
11. 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 3474.
12. 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.
13. 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.

GEER I

1. The LEA will use its best efforts to expend funding on an expedited timeline.
2. The LEA shall obligate GEER funds by September 30, 2022 and liquidate GEER funds by October 30, 2022.

3. The LEA assures that funds received under Section 18002 will not be used for administrative or executive salaries and benefits for IHEs, SEAs, or the other education-related entities referenced at § 18002(c)(3).
4. The LEA will, to the greatest extent practicable, continue to pay its employees and contractors during the period of any disruptions or closures related to COVID-19 in compliance with Section 18006 of Division B of the CARES Act.
5. 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.
6. The LEA assures that it will comply with all reporting requirements, including those in Section 15011(b)(2) of Division B of the CARES Act, and submit quarterly reports to the Commissioner at such time and in such a manner as the Commissioner may require (2 CFR 200.327-200.329). The Commissioner may require additional reporting in the future, which may include: Uses of funds by LEAs and demonstration of their compliance with Section 18002(c), including any use of funds applied to support addressing digital divide and related issues in distance learning; The number of public and non-public schools that received funds or services; and a description of the internal controls the LEA has in place to ensure that funds were used for allowable purposes and in accordance with cash management principles.
7. The LEA, that receives more than \$150,000 in CARES Act funds, will report:
 - a. The total amount of funds received;
 - b. The amount spent or obligated for each project or activity;
 - c. A detailed list of all projects or activities supported with CARES Act funds (including name, description and estimated number of jobs created or retained (where applicable); and
 - d. Detailed information on subcontracts and subgrantees, including FFATA data elements, as prescribed by OMB (OMB is authorized to allow aggregate reporting on awards below \$50,000). (Sec. 15011(b)(2))
8. The LEA will provide equitable services to students and teachers in non-public schools in the same manner as provided under section 1117 of the ESEA, as determined through timely and meaningful consultation with representatives of non-public schools.
9. The LEA assures that the control of funds for the services and assistance provided to a non-public school under subsection (a), and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds, materials, equipment, and property and shall provide such services (or may contract for the provision of such services with a public or private entity).
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.

11. 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).
12. 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.
13. The LEA assures that the LEA will comply with the provisions of all applicable acts, regulations, and assurances; the provisions of the Education Department General Administrative Regulations in 34 CFR parts 75, 76, 77, 81, 82, 84, 86, 97, 98, and 99; the OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485; and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.
14. 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.
15. 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.

CRRSA / ESSER II

1. The LEA assures that ESSER funds are used for activities allowable under section 312(d) of Division M of the CRRSA Act. As outlined by USDE guidance, the New York State Education Department generally does not consider the following to be an allowable use of ESSER funds, under any part of 313: 1) subsidizing or offsetting executive salaries and benefits of individuals who are not employees of the LEA or 2) expenditures related to local teacher or faculty unions or associations.
2. The LEA assures that, to the greatest extent practicable, it will continue to compensate its employees and contractors during the period of any disruptions or closures related to COVID-19 in compliance with Section 315 of Division M of the CRRSA Act. In addition, each entity that accepts funds will continue to pay employees and contractors to the greatest extent practicable based

on the unique financial circumstances of the entity. ESSER II funds generally will not be used for bonuses, merit pay, or similar expenditures, unless related to disruptions or closures resulting from COVID-19.

3. The LEA assures that it will comply with all reporting requirements, including those in Section 15011 of the CARES Act and section 313(f) of Division M of the CRRSA Act, and submit quarterly reports to the Commissioner at such time and in such a manner as the Commissioner may require. The Commissioner may require additional reporting in the future, which may include: the uses of funds by the LEAs or other entities and demonstration of their compliance with Section 313, such as any use of funds addressing learning loss among students disproportionately affected by coronavirus and school closures, including low-income students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children and youth in foster care.
4. The LEA assures that records pertaining to the ESSER II 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 an LEA's ESSER funds.
5. 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.
6. 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.
7. 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).
8. 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.
9. The LEA assures that the LEA uses ESSER funds for purposes that are reasonable, necessary, and allocable under the CARES Act.
10. 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 3474.

11. 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.
12. 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.
13. The LEA assures:
 - (1) that the local educational agency will administer each program covered by the application in accordance with all [applicable statutes](#), regulations, program plans, and applications;
 - (2) that the control of funds provided to the local educational agency 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) that the local educational agency 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) that the local educational agency 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) that the local educational agency 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.
14. The LEA further assures:
 - (6) that 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;
 - (7) that in the case of any project involving construction—
 - i. the project is not inconsistent with overall State plans for the construction of school facilities, and
 - ii. 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;
 - (8) that 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

- (9) that 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.

GEER II

1. The LEA will use its best efforts to expend funding on an expedited timeline.
2. The LEA shall obligate GEER funds by September 30, 2023 and liquidate GEER funds by October 15, 2023.
3. The LEA assures that funds received under Section 312 will not be used for administrative or executive salaries and benefits for IHEs, SEAs, or the other education related entities referenced at § 312(c)(3).
4. The LEA will, to the greatest extent practicable, continue to pay its employees and contractors during the period of any disruptions or closures related to COVID-19 in compliance with Section 315 of the CRRSA Act.
5. 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.
6. The LEA assures that records pertaining to the GEER II 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 an entity's GEER funds.
7. The LEA assures that it will comply with all reporting requirements, including those in Section 15011 of the CARES Act and submit quarterly reports to the Commissioner at such time and in such a manner as the Commissioner may require. The Commissioner may require additional reporting in the future.
8. The LEA, that receives more than \$150,000 in CARES Act funds, will report:
 - a. The total amount of funds received;
 - b. The amount spent or obligated for each project or activity;
 - c. A detailed list of all projects or activities supported with CARES Act funds (including name, description and estimated number of jobs created or retained (where applicable); and

- d. Detailed information on subcontracts and subgrantees, including FFATA data elements, as prescribed by OMB (OMB is authorized to allow aggregate reporting on awards below \$50,000). (Sec. 15011(b)(2))
- 9. 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.
- 10. 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).
- 11. 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.
- 12. The LEA assures that the LEA will comply with the provisions of all applicable acts, regulations, and assurances; the provisions of the Education Department General Administrative Regulations in 34 CFR parts 75, 76, 77, 81, 82, 84, 86, 97, 98, and 99; the OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485; and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.
- 13. 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.
- 14. 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.
- 15. The LEA assures:
 - a. that the local educational agency will administer each program covered by the application in accordance with all [applicable statutes](#), regulations, program plans, and applications;
 - b. that the control of funds provided to the local educational agency 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

- c. that the local educational agency 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;
- d. that the local educational agency 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
- e. that the local educational agency 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.

16. The LEA further assures:

- f. that 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;
- g. that in the case of any project involving construction—
 - i. the project is not inconsistent with overall State plans for the construction of school facilities, and
 - ii. 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;
- h. that 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
- i. that 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.

ARP ESSER

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.
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:

- a. data on each school's mode of instruction (remote, hybrid, in-person), including student attendance data (disaggregated by student subgroup) for each modality;
 - b. 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;
 - c. LEA uses of funds to sustain and support access to early childhood education programs;
 - d. 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);
 - e. student data (disaggregated by student subgroup) related to how the COVID-19 pandemic has affected instruction and learning;
 - f. requirements under the Federal Financial Accountability Transparency Act (FFATA); and
 - g. additional reporting requirements as may be necessary to ensure accountability and transparency of ARP ESSER funds.
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).
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.
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.
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).
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.

8. The LEA assures that the LEA is using ARP ESSER funds for purposes that are reasonable, necessary, and allocable under the ARP.
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.
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.
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.
12. The LEA assures that:
 - a. the LEA will administer each program covered by the application in accordance with all [applicable statutes](#), regulations, program plans, and applications;
 - b. 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
 - c. 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;
 - d. 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
 - e. 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.
13. The LEA assures that:
 - a. 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;

- b. 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;
 - c. 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
 - d. 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.
14. The LEA assures that the LEA will comply with the maintenance of equity provision in section 2004(c) of the ARP.
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).
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).
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.

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.
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.
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.
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.
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.

Construction Assurances

1. The LEA assures it will have or obtain a full title or other interest in the site, including right of access, that is sufficient to insure the grantee's undisturbed use and possession of the facilities for 50 years or the useful life of the facilities, whichever is longer. § 75.603 (Authority: 20 U.S.C. 1221e-3 and 3474)
2. The LEA assures it will ensure that sufficient funds are available to meet any non-Federal share of the cost of constructing the facility. § 75.604

3. The LEA assures work will begin on construction within a reasonable time after the grant for the construction is made. § 75.605 (Authority: 20 U.S.C. 1221e-3 and 3474)
4. The LEA assures the construction will be completed within a reasonable time and the LEA shall complete the construction in accordance with the application and approved drawings and specifications. § 75.606
5. The LEA assures that the construction is functional; economical; and not elaborate in design or extravagant in the use of materials, compared with facilities of a similar type constructed in the State or other applicable geographic area. § 75.607. Further, the LEA assures that it shall, in developing plans for the facilities, consider excellence of architecture and design and inclusion of works of art. The grantee may not spend more than one percent of the cost of the project on inclusion of works of art. § 75.607 Authority: 20 U.S.C. 1221e-3 and 3474)
6. In planning for and designing facilities, the LEA assures it shall observe the standards under the Occupational Safety and Health Act of 1970 (Pub. L. 91-576) (See 36 CFR part 1910); and State and local codes, to the extent that they are more stringent. § 75.609 Further, the LEA assures it will submit an application for a Building Permit to NYSED Office of Facilities Planning for review and approval prior to construction.
7. The LEA assures that it shall comply with the Federal regulations on access by the handicapped that apply to construction and alteration of facilities. These regulations are:
 - a. For residential facilities - 24 CFR part 40; and
 - b. For non-residential facilities - 41 CFR subpart 101-19.6. § 75.610
8. The LEA assures that, in planning the construction, the LEA shall, in accordance with the provisions of Executive Order 11988 of February 10, 1978 (43 FR 6030) and rules and regulations that may be issued by the Secretary to carry out those provisions: Evaluate flood hazards in connection with the construction; and as far as practicable, avoid uneconomic, hazardous, or unnecessary use of flood plains in connection with the construction. § 75.611
9. The LEA assures that it shall maintain competent architectural engineering supervision and inspection at the construction site to insure that the work conforms to the approved drawings and specifications. § 75.612
10. The LEA assures that it will comply with the regulations on relocation assistance and real property acquisition in 34 CFR part 15. § 75.613
11. The LEA assures that, when construction is completed, sufficient funds will be available for effective operation and maintenance of the facilities. § 75.614
12. The LEA assures that it shall operate and maintain the facilities in accordance with applicable Federal, State, and local requirements. § 75.615
13. The LEA assures that, to the extent feasible, it shall design and construct facilities to maximize the efficient use of energy. § 75.616 Further, the LEA shall comply with ASHRAE standards in designing and constructing facilities built with project funds. §

75.616 The following standards of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) are incorporated by reference in this section:

- a. ASHRAE-90 A-1980 (Sections 1-9).
- b. ASHRAE-90 B-1975 (Sections 10-11).
- c. ASHRAE-90 C-1977 (Section 12)

14. Incorporation by reference of these provisions has been approved by the Director of the Office of the Federal Register pursuant to the Director's authority under 5 U.S.C. 552 (a) and 1 CFR part 51. The incorporated document is on file at the Department of Education, Grants and Contracts Service, rm. 3636 ROB-3, 400 Maryland Avenue, SW., Washington, DC 20202-4700 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. These standards may be obtained from the publication sales department at the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., 1791 Tullie Circle, NE., Atlanta, Georgia 30329. § 75.616

Certifications Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters

These certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. Lobbying

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 2 CFR Part 200, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Sections 82.105 and 82.110, the applicant certifies that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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 of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;
- b. If any funds other than 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 this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

- c. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. Debarment, Suspension, and other Responsibility Matters

This certification is required by OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 CFR Part 180

A. The applicant certifies that it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - b. Have not within a three-year period preceding this application been convicted of any offenses listed in 2 CFR §180.800(a) or had a civil judgment rendered against them for one of those offenses within that time period; and
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in 2 CFR §180.800(a); and
- a. Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIERED COVERED TRANSACTIONS

The terms “debarment,” “suspension,” “excluded,” “disqualified,” “ineligible,” “participant,” “person,” “principal,” “proposal,” and “voluntarily excluded” as used in this certification have the meanings set forth in 2 CFR Part 180, Subpart I, “Definition.” A transaction shall be considered a “covered transaction” if it meets the definition in 2 CFR Part 180 Subpart B, “What is a covered transaction?”

A. The applicant certifies that it and its principals:

- a. Upon approval of their application, in accordance with 2 CFR Part 180 Subpart C, they shall not enter into any lower tier nonprocurement covered transaction with a person without verifying that the person is not excluded or disqualified unless authorized by USDOE.
- b. Will obtain an assurance from prospective participants in all lower tier covered nonprocurement transactions and in all solicitations for lower tier covered nonprocurement transactions that the participants will comply with the provisions of 2 CFR Part 180 subparts A,B, C and I.
- c. Will provide immediate written notice to the New York State Education Department if at any time the applicant and its principals; earn that a certification or assurance was erroneous when submitted or has become erroneous because of changed circumstances.

Assurances – Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Education Department Program Contact listed in the Application. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, and by signing the Application Cover Page, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) "§§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§" 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328), which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood

hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.), which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and 2 CFR Part 200, Audits of States, Local Governments, and Non-Profit Organizations.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Standard Form 424B (Rev. 7-97), Prescribed by 2 CFR Part 200, Authorized for Local Reproduction, as amended by New York State Education Department