



Assistant Commissioner
Office of School Governance, Policy, and Religious and Independent Schools
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Dear Colleague,

This letter is regarding the federal Emergency Assistance for Nonpublic Schools (EANS) program.

A second allocation of funding for the EANS program was included in the American Rescue Plan (ARP) Act of 2021, the third federal economic stimulus package, passed in March 2021. The U.S. Department of Education (USDE) has recently made these funds available to states. New York State has received an ARP EANS (EANS II) allocation of \$251.2 million that will be made available to eligible religious and independent schools.

Similar to the administration of EANS funds included in the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act of 2021 (EANS I), the new EANS II funds will be directly administered by the New York State Education Department (NYSED). NYSED has worked with the New York State Division of the Budget (DOB) and Governor's Office to develop this program, consistent with the federal legislation and regulations.

All schools interested in receiving assistance as part of EANS II must submit a Letter of Intent to NYSED by November 8, 2021, as explained in more detail below. Schools that do not submit a Letter of Intent in one of the approved formats (see below) by the deadline will not be able to participate. Governor Hochul and NYSED encourage you to participate in this federally funded program.

Additionally, on October 20, 2021, USDE provided answers to NYSED's inquiry from April 2021 concerning EANS eligibility and Federal PPP Loans. In short, USDE clarified that non-public schools affiliated with an entity (e.g. faith-based organizations, and charitable or other public services) that accepted PPP assistance are not necessarily precluded from receiving assistance under EANS. That is, if an organization and its affiliate schools have different tax id numbers/EINs, if the affiliated organization received PPP assistance but the school did not, or if a faith-based organization requested exemption to affiliation requirements, those schools may still apply for EANS if all other requirements are met. **Schools that did not apply for EANS I based solely on previous PPP loan guidance, and believe they would now qualify based on revised USDE guidance, are invited to apply for EANS II.**

Changes to EANS Eligibility and Funding Uses – Pursuant to the federal legislation and regulations, all of the provisions of the EANS I program also apply to the EANS II program with two exceptions:

- Program Eligibility: Funds are only available to nonpublic schools that enroll a significant percentage of students from low-income families and are most impacted by the COVID emergency (whereas under the EANS I program, funds only had to be prioritized for such schools).
 - Low-Income Student Percentage: New York State has established a minimum low-income student percent of 24.4 percent, which is equal to the median percentage of students from low-income families of the nonpublic schools that applied for EANS I. Only schools with a low-income student percentage of 24.4 percent or greater are eligible to be awarded ARP EANS funds.
 - COVID-19 Impact: New York State has selected various measures (including COVID-19 infection and positivity rates, and changes in employment and wages) as a basis for determining a schools' eligibility. Under this approach, nonpublic schools located in every county will be eligible on the basis of COVID-19 impact and, therefore, in practice, the only limiting factor will be whether a school enrolls a significant percentage of low-income children.
- Allowable Uses of Funds: Funds may not be used to provide reimbursement to any nonpublic school, which was allowed under the EANS I program in certain cases. Rather, NYSED will have to provide all assistance directly to schools or contract with a third-party vendor to provide such assistance. Otherwise, the types of allowable assistance remain the same as under the EANS I program.

School Eligibility Criteria – Schools must meet all of the following six conditions to participate:

1. The school must furnish verifiable enrollment data showing that 24.4 percent or more of its K-12 population for the 2019-20 school year consisted of students from low-income households. **(New Requirement)**
2. The school must be a not-for-profit that serves students in grades K-12. Approved private special education schools, including Chapter 853 schools and State supported schools for the blind and deaf, are eligible to participate. Programs that only serve preschool students with disabilities and special act school districts are not eligible to participate.
3. The school requesting services or assistance must be approved to operate in accordance with State law.

4. The school must have been in existence prior to March 13, 2020 and be providing instruction in the current (2021-22) school year.
5. The school did not participate in the Small Business Administration's Paycheck Protection Program (PPP) (15 U.S.C. 636(a)(37)) after December 27, 2020. PPP loans taken prior to December 27, 2020 have no impact on a school's eligibility to participate in EANS. After December 27, 2020 a school must choose between EANS and PPP; a school cannot participate in both. Please see additional guidance relating to PPP loans above.
6. The school must submit a completed Letter of Intent by November 8, 2021 indicating that it intends to participate in the EANS II program and provide all requested information.

Letter of Intent – The Letter of Intent asks for basic information about the school, confirmation of school eligibility, and information necessary to calculate school-level allocation amounts, including:

- **Enrollment:** Schools will report their K-12 enrollment count as submitted in the 2019-20 BEDS report. Preschool-age student counts may not be included. Your school's 2019-20 reported enrollment can be found here: <http://www.p12.nysed.gov/irs/statistics/nonpublic/>. If you did not report BEDS data for 2019-20, please contact NYSED at SORIS@nysed.gov.
- **Low-income Student Counts:** Schools will report how many pupils in grades K-12 in the 2019-20 school year were from families with incomes at or below 185 percent of the federal poverty threshold. To be counted as a student from a low-income family for purposes of the EANS II program, a student must be aged 5 through 17 and from a family whose income does not exceed 185 percent of the 2020 federal poverty threshold. Examples of allowable sources of this data include free and reduced-price lunch (FRPL) counts, parent surveys, Federal Title I eligibility, and scholarship/financial aid applications. The total number of low-income students may not exceed your school's reported BEDS enrollment count. Preschool-age student counts may not be included.

Note: For Schools that Applied for EANS I. Information on 2019-20 enrollment and low-income student counts used in the calculation of your EANS I award can be found here: <http://www.nysed.gov/nonpublic-schools/emergency-assistance-nonpublic-schools-program-eans>. If you applied for EANS I you may be able to use these student counts in your EANS II Letter of Intent.

Formats for filing a Letter of Intent:

- For schools that are not part of diocesan or multi-building systems, the Letter of Intent should be accessed through the Business Portal at this link:

<https://portal.nysed.gov/abp>. If you need assistance in accessing the Portal, please contact SORIS@nysed.gov.

- Dioceses or multi-building organizations operating multiple school buildings as part of the same organization may submit the requested information in bulk. For this purpose, NYSED will provide a Letter of Intent spreadsheet that can be found at this link: <http://www.nysed.gov/nonpublic-schools/emergency-assistance-nonpublic-schools-program-eans>. Email the completed spreadsheet to SORIS@nysed.gov.
- If your school does not use the internet, you may submit the Letter of Intent by mail (must be postmarked by November 8, 2021) to:

State Office of Religious and Independent Schools
EBA Room 1074
New York State Education Department
89 Washington Avenue
Albany, NY 12234
ATTN: Emergency Assistance to Nonpublic Schools (EANS)

School-Level Allocation Methodology – Allocations will be determined as follows:

- EANS II funds will be made available to eligible non-public schools based on a per-pupil allocation multiplied by the school's total enrollment count for the 2019-20 school year. The per-pupil allocation will be determined once all Letters of Intent have been received and eligibility determinations made. The per-pupil amount will be based on the total amount of funding available for awards (i.e., \$251.2 million) divided by the total 2019-20 enrollment count of all eligible schools.

New York State ARP EANS Program Timeline –The EANS II program implementation timeframes are listed below:

- Governor submitted State's application to USDE – September 9, 2021;
- USDE approves State's application – October 19, 2021;
- SED releases Letter of Intent to schools – October 27, 2021;
- Deadline for schools to submit Letter of Intent – November 8, 2021;
- SED releases application to schools – November 18, 2021
- Schools' applications due to SED – December 9, 2021;
- SED review of school's applications – January 7, 2022; and
- State required to obligate all funds – April 19, 2022

Applications/Requests for Services and Assistance – Through the application, a nonpublic school may request the following services to be provided:

- supplies to sanitize, disinfect, and clean school facilities;
- personal protective equipment;
- improving ventilation systems, including windows or portable air purification systems to ensure healthy air in the non-public school;
- training and professional development for staff on sanitation, the use of personal protective equipment, and minimizing the spread of infectious diseases;
- physical barriers to facilitate social distancing;
- other materials, supplies, or equipment to implement public health protocols, including guidelines and recommendations from the Centers for Disease Control and Prevention for the reopening and operation of school facilities to effectively maintain the health and safety of students, educators, and other staff during the qualifying emergency;
- expanding capacity to administer coronavirus testing to effectively monitor and suppress coronavirus, to conduct surveillance and contact tracing activities, and to support other activities related to coronavirus testing for students, teachers, and staff at the non-public school;
- educational technology (including hardware, software, connectivity, assistive technology, and adaptive equipment) to assist students, educators, and other staff with remote or hybrid learning;
- redeveloping instructional plans, including curriculum development, for remote learning, hybrid learning, or to address learning loss;
- leasing of sites or spaces to ensure safe social distancing to implement public health protocols, including guidelines and recommendations from the Centers for Disease Control and Prevention;
- reasonable transportation costs; [or]
- initiating and maintaining education and support services or assistance for remote learning, hybrid learning, or to address learning loss

Public Control of Funds – Control of funds for services and assistance provided to a nonpublic school under the EANS program, as well as title to materials, equipment and property purchased with such funds, must be in a public agency, and a public agency must

administer such funds, materials, equipment, and property. In general, once equipment or supplies are no longer needed for purposes of the EANS program, NYSED must remove them from the private school. 34 C.F.R. § 76.661(d)(1). After equipment and supplies are no longer needed for the purposes of the EANS program, NYSED may continue to use the equipment or supplies in the nonpublic school to the extent they are needed for other allowable purposes under another federal education program, such as the ESEA or the Individuals with Disabilities Education Act (IDEA). In that case, NYSED must retain title to, and maintain administrative control over, the equipment and supplies or transfer title and control to another public agency such as a school district providing equitable services under another federal education program.

Sincerely,



Christina Coughlin
Assistant Commissioner
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