

Frequently Asked Questions

Emergency Assistance to Non-Public Schools (EANS) Program



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PURPOSE OF THIS DOCUMENT

The purpose of this document is to answer Frequently Asked Questions related to the Emergency Assistance to Non-Public Schools (EANS) program under the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA Act), Pub. L. No. 116-260 (December 27, 2020). Congress authorized the EANS program as part of the CRRSA Act's Governor's Emergency Education Relief Fund (GEER Fund under the CRRSA Act). The U.S. Department of Education (Department) will award a portion of the GEER Fund under the CRRSA Act to Governors as a supplement to the Coronavirus Aid, Relief, and Economic Security (CARES) Act's GEER Fund. We refer to the funds awarded as a supplement to the CARES Act GEER Fund awards as the GEER II Fund. GEER II supplemental funding will appear in the Department's grants management system (G5) without any additional paperwork required for States with approved CARES Act GEER Fund applications. In addition, the Department will award a formula grant to each Governor with an approved EANS Certification and Agreement for the purpose of providing emergency services or assistance to non-public schools in the wake of the Coronavirus Disease 2019 (COVID-19). Please note that while Governors apply for EANS funds, the statute requires that State educational agencies (SEAs) administer the program; consequently, in accepting an EANS award from the Department, a Governor automatically designates the SEA to administer the EANS program. The SEA will be the payee or fiscal agent in G5 for purposes of accessing Federal funds. To ensure that this administrative structure results in effective implementation of the EANS program consistent with all statutory requirements, Governors must consult with their respective SEAs in providing the application assurances specified in section 312(d)(2)(B) of the CRRSA Act.

Because the CRRSA Act includes a separate EANS program for which eligible non-public schools may apply to an SEA to receive services or assistance, a local educational agency (LEA) is not required to provide equitable services to students and teachers in non-public schools under the CRRSA Elementary and Secondary School Emergency Relief Fund (ESSER II Fund) or the GEER II Fund. However, equitable services requirements continue to apply under the CARES Act's ESSER and GEER programs.

Disclaimer

Other than statutory and regulatory requirements included in the document (such as those pursuant to the authorizing statute and other applicable laws and regulations), the contents of the guidance do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. In addition, it does not create or confer any rights for or on any person.

The U.S. Department of Education (Department) may provide additional or updated information, as necessary, on the Department's website at:
<https://oese.ed.gov/offices/education-stabilization-fund/emergency-assistance-non-public-schools/>

If you have questions that are not answered in this document, please email GEERF@ed.gov and include "EANS" in the subject line.

A. Program Purpose and Awards to Governors

A-1. What is the purpose of the EANS program?

The purpose of the EANS program is to provide services or assistance to eligible non-public schools to address educational disruptions caused by COVID-19. By creating a separate reservation of funds for this purpose, Congress reiterated the need for non-public schools to participate in emergency education relief programs by establishing a separate program under GEER, rather than relying on the equitable services requirements that typically apply to elementary and secondary formula grant programs. Consequently, LEAs are not required to provide equitable services for funds received under the CRRSA Act, though equitable services requirements continue to apply to CARES Act programs. The Department will award EANS funds by formula to each Governor who has an approved Certification and Agreement. By accepting an EANS award from the Department, a Governor designates the SEA to administer the program and access EANS funds from G5. Governors and SEAs should consult expeditiously on the administration of EANS. To receive services or assistance, an eligible non-public school must submit an application to the SEA at such time, in such manner, and accompanied by such information as the SEA may reasonably require to ensure expedited and timely provision of services or assistance.

A-2. How does the Department determine the amount of funding available for each State under the EANS program?

Under the CRRSA Act, Congress provided \$2,750,000,000 for the EANS program. The Department allocates EANS funds to a Governor with an approved Certification and Agreement based on the State's relative share of children ages 5-17 who are from families at or below 185 percent of the poverty level and enrolled in non-public schools, as determined by the Department on the basis of non-public school enrollment data from the U.S. Census Bureau's American Community Survey Public Use Microdata Sample (PUMS), which can be accessed here: <https://www.census.gov/programs-surveys/acs/microdata.html>. The amount available to each State is available at: <https://oese.ed.gov/offices/education-stabilization-fund/emergency-assistance-non-public-schools/>

A-3. How does a Governor apply for a State's share of EANS program funds?

To apply for a State's allocation for the EANS program, a Governor must submit a signed Certification and Agreement to the Department. It may be submitted immediately but no later than February 8, 2021. The Certification and Agreement includes specific programmatic, fiscal and accountability assurances, as well as other assurances and certifications. The Certification and Agreement is available at <https://oese.ed.gov/offices/education-stabilization-fund/emergency-assistance-non-public-schools/>

Note that because of the unique administrative structure of the EANS program, under which Governors apply for funding and SEAs are charged with administering the program, Governors must consult with their respective SEAs in providing the application assurances specified in section 312(d)(2)(B) of the CRRSA Act. The Department further encourages Governors and SEAs to continue to engage in regular consultation throughout the administration of the EANS program.

A-4. How long after submitting a Certification and Agreement should a Governor anticipate receiving funds?

The Department intends to make awards within one business day of receiving an approvable Certification and Agreement. By law, the Department must award funds within 15 days of receiving a Governor's approvable Certification and Agreement.

B. Administration of the EANS Program/SEA Responsibilities

B-1. Who is responsible for administering the EANS program?

The SEA in a State in which the Governor receives an EANS award is responsible for administering the EANS program. However, the Governor remains the grantee and is responsible for oversight, including that the SEA implements the program consistent with all relevant requirements, and the statute requires Governors to consult with SEAs in carrying out this responsibility.

B-2. What are an SEA's responsibilities for administering the EANS program?

An SEA's responsibilities to administer the EANS program include the following:

- Distributing information about the EANS program promptly to non-public schools in the State.
- Creating an application with which any eligible non-public school in the State may apply for services or assistance.
 - Establishing poverty criteria (from among generally available sources of poverty data) for a non-public school to identify the number and percentage of children from low-income families in its application. (See C-7).
 - Establishing information a non-public school must provide in its application to enable the SEA to prioritize schools most impacted by COVID-19.
- Ensuring that eligible non-public schools provide the information required by section 312(d)(3)(B) related to enrollment of students from low-income families and a description of the emergency services requested from the SEA.
- Making an application easily available to non-public schools in the State as soon as possible but no later than 30 days after receipt of the EANS funds.
- Approving/denying each non-public school application promptly but no later than 30 days after the SEA receives the application from a non-public school.
- Prioritizing the provision of services or assistance to non-public schools that enroll low-income students and are most impacted by COVID-19.
- Determining what services or assistance the SEA will provide directly or through LEAs, other public entities, or contractors to each non-public school, as informed by an approved application and consultation, as appropriate, with the non-public school or its representatives.
- Ensuring the control of funds for the services or assistance provided to a non-public school, and title to materials, equipment, and property purchased with EANS funds, are in a public agency and a public agency administers the funds, services, assistance, materials, equipment, and property.
- Ensuring that all services or assistance provided, including any materials, equipment, and any other items used to provide such services or assistance, are limited to secular, neutral, and non-ideological purposes.
- Obligating all EANS funds in an expedited and timely manner, to the extent practicable; however, obligating all EANS funds not later than six months after receiving the funds.
- Administering the EANS program in accordance with all applicable requirements.

B-3. How might an SEA provide information to non-public schools in a timely manner?

An SEA must distribute information about the EANS program promptly to non-public schools in the State, which would include information on topics such as how to access the application, data requirements, steps for completing the application, and relevant deadlines. In addition, the SEA should seek to distribute information widely, and in various formats (e.g., social media, email, SEA website, and regular mail). The SEA should emphasize that services are available to all eligible non-public schools, including those that may not have participated in any Federal education program in the past, but that it will first target services to non-public schools serving low-income students and most impacted by

COVID-19. (See C-10). To assist with the dissemination of information, the SEA may engage with non-public school leaders in the State, such as State-level non-public school associations or State-level working groups. An SEA might also consult with its State ombudsman designated under the Elementary and Secondary Education Act (ESEA), who has relationships with such organizations and non-public school officials in the State. State ombudsmen should also support the SEA's dissemination of information to non-public schools in a timely manner.

B-4. Must an SEA consult with representatives of non-public schools in the State regarding implementation of the EANS program?

An SEA would benefit greatly from engaging in timely and meaningful consultation to assist it in establishing the parameters of the program, and it would be difficult to administer the program successfully without doing so. For example, representatives of non-public schools could provide relevant information on sources of poverty data available for non-public school children and criteria to determine those schools most impacted by COVID-19 and services that may best serve their students and teachers. However, there is no statutory requirement that an SEA consult with representatives of non-public schools regarding implementation of the EANS program.

B-5. Does an SEA automatically have access to its State's EANS funds once the Department makes an award to the Governor?

Yes. By accepting an EANS award from the Department, a Governor automatically designates the SEA to administer the EANS program. The SEA will be the payee or fiscal agent in G5 for purposes of accessing Federal funds on the date of award. The Governor must provide the SEA's financial institution and bank information in the Certification and Agreement. The SEA, as the agency designated to administer the EANS program, is considered to have "received" EANS funds when the Department makes an award to the Governor. The Governor and the SEA are encouraged to consult each other throughout the process of providing emergency assistance to non-public-school students and teachers.

B-6. May an SEA reserve EANS funds to administer the program?

Yes. An SEA may reserve not more than the greater of \$200,000 or one-half of one percent of the State's EANS allocation for reasonable costs necessary to administer the EANS program. An allocation table for the EANS program, including the maximum administrative reservation for each State, can be found here: <https://oese.ed.gov/offices/education-stabilization-fund/emergency-assistance-non-public-schools/>

B-7. May an SEA consolidate its administrative funds under the EANS program?

Yes. Sections 8201(a)(2) of the ESEA permits an SEA to consolidate administrative funds under certain ESEA programs (assuming the SEA derives the majority of its administrative funds from non-Federal sources). The Secretary may designate additional programs from which administrative funds may be consolidated. In addition to ESEA programs, the Secretary has previously designated McKinney-Vento and ESSER as programs from which an SEA may consolidate administrative funds.

Under that authority, we now also designate the EANS program as a program under which an SEA may consolidate administrative funds. If an SEA consolidates administrative funds, it is not required to keep separate records for how it uses those administrative funds.

B-8. Is there a deadline by which an SEA must obligate EANS funds for services or assistance for non-public schools?

Yes. An SEA must obligate EANS funds to provide services or assistance to non-public schools in an expedited and timely manner, to the extent practicable. However, an SEA must obligate EANS funds not later than six months after receiving those funds. (See B-5).

B-9. What does it mean for an SEA to “obligate” EANS funds?

The regulations at [34 C.F.R. § 76.707](#) govern when an obligation of Federal funds by an SEA occurs. Specifically, for services or assistance provided through a contract, the obligation is made on the date that the SEA makes a binding written commitment to obtain the services or work. For rental of real or personal property, the obligation is made when the property is used.

B-10. What happens to EANS funds that have not been obligated for services or assistance to non-public schools within six months of the SEA receiving the funds?

If an SEA complies with its responsibilities under the EANS program (e.g., notifies non-public schools of the availability of funds under the EANS program, develops a reasonable application process with reasonable deadlines, and relies on generally available data sources), and presuming an adequate level of demand from non-public schools given the nature of the emergency, it seems unlikely that the SEA will have unobligated funds remaining after six months. In the event that there is insufficient demand for services or assistance and the SEA has unobligated funds remaining six months after receiving those funds, the statute requires the SEA to return those funds to the Governor for any authorized use under the GEER II Fund, including services and assistance for non-public-school students and teachers.

The Department strongly encourages Governors to use unobligated EANS funds consistent with their originally authorized purpose of providing services and assistance to non-public schools, students, and teachers. Before the SEA returns EANS funds to the Governor, it should contact the Department.

B-11. Does anything in the CRRSA Act impact deadlines for awarding and obligating funds ESSER I and GEER I under the CARES Act?

No. The timelines for awarding and obligating the ESSER I and GEER I funds under the CARES Act remain the same. A State has one year from the date it received ESSER I and GEER I funds to award those funds (typically April/May 2021), and has until September 30, 2022, to obligate them.

C. Non-Public School Eligibility, Application, and Identification for Services or Assistance

C-1. Which non-public schools are eligible to apply for services or assistance under the EANS program?

For purposes of the EANS program, an eligible non-public school is an elementary or secondary school that—

- Is non-profit¹;

¹ A for-profit non-public school is not eligible to receive equitable services for its students and teachers under the EANS program. Section 315(6) of the CRRSA Act defines a “non-public school” as a non-public elementary or secondary school. Section 315(8) of the CARES Act incorporates the definitions in ESEA section 8101 for any terms not defined in the CARES Act. ESEA section 8101(19) and (45) defines “elementary school” and “secondary school,” respectively, and specifies that they must be non-profit.

- Is accredited, licensed, or otherwise operates in accordance with State law;
- Was in existence prior to March 13, 2020, the date the President declared the national emergency due to COVID-19; and
- Did not, and will not, apply for and receive a loan under the Small Business Administration's Paycheck Protection Program (PPP) (15 U.S.C. 636(a)(37)) that is made on or after December 27, 2020. (See C-12 for information regarding non-public schools that apply for but do not receive a PPP loan).

C-2. Are faith-based non-public schools eligible to participate in the EANS program?

Yes. Faith-based non-public schools are eligible to participate in the EANS program to the same extent as other eligible non-public schools. (See D-8). All services or assistance provided under the program must be secular, neutral, and non-ideological.

C-3. May an SEA permit an organization that has governing authority over a group of non-public schools to submit an application on behalf of its member schools?

Yes. An SEA may permit an organization that has governing authority over a group of non-public schools to submit an application on behalf of its member schools. If such an organization applies on behalf of its member schools, it must clearly indicate for which schools it applies and provide supporting data and other information requested in the application for any and all schools for which it applies.

C-4. When must an SEA make the application for services and assistance under the EANS program available to non-public schools?

An SEA should make the application for services or assistance available to non-public schools as soon as possible but must make it available no later than 30 days after receiving the funds. (See B-2 and B-5).

C-5. What information must an SEA require an eligible non-public school to provide in its application for services or assistance under the EANS program?

An SEA may require an eligible non-public school to provide information in an application for services or assistance under the EANS program as the SEA deems reasonable to ensure expedited and timely provision of services or assistance. At a minimum, the SEA must request the following information from an eligible non-public school:

- The number and percentage of students from low-income families enrolled in the non-public school in SY 2019-2020. (See C-7).
- Information regarding the impact of COVID-19 on its school so that the SEA may appropriately prioritize the provision of services and assistance. (See C-10)
- A description of the emergency services or assistance that the non-public school requests be provided by the SEA.
- Whether the non-public school received a loan guaranteed by the Small Business Association's Paycheck Protection Program (PPP) before December 27, 2020, and the amount of any such loan received.
- An assurance that the non-public school did not, and will not, apply for and receive a PPP loan on or after December 27, 2020. (See C-12 and C-13). The Department does not require any additional information on this assurance.

C-6. Is a non-public school that received a PPP loan prior to December 27, 2020 eligible to receive services or assistance under the EANS program?

Yes. A non-public school that received a PPP loan prior to December 27, 2020, may receive services or assistance under the EANS program.

C-7. What data may an SEA request a non-public school to provide in its application regarding the number and percentage of students from low-income families enrolled in the non-public school in the 2019–2020 school year?

The CRRSA Act does not prescribe what poverty data an SEA must request from a non-public school in its application. The statute also does not prescribe the poverty threshold an SEA must use. Accordingly, an SEA has flexibility. Considering the short timeframe, the Department encourages an SEA to allow for the use of existing, generally available poverty data to enable reasonable estimates of a school’s low-income status rather than requiring a new data collection. To the extent a non-public school has these data available, possible data sources might include:

- available free or reduced-priced lunch data,
- scholarship or financial assistance data,
- E-Rate data,
- or other relevant data, such as data that the non-public school has provided to the State for purposes of State or local programs.

If complete actual data from a particular source are unavailable, data may be extrapolated based on a representative sample.

For non-public schools where such data are not readily available, and in order to avoid new or unnecessary data collections from non-public schools and families, the following are potential sources of estimates of the number of students from low-income families:

- data imputing the number of students from low-income families based on the American Community Survey (ACS) or the Small Area Income and Poverty Estimates (SAIPE) program by the U.S. Census Bureau, or
- proportionality data: the number of students enrolled in a non-public school who reside in a Title I school attendance area multiplied by the percentage of public school students in that same attendance area who are from low-income families. If the non-public school has students who reside in more than one Title I school attendance area, multiple calculations would be necessary.

The SEA may request and use poverty data from multiple sources, provided the poverty threshold is the same among non-public schools. Whatever the data source, an SEA must ensure that it does not require a non-public school to provide personally identifiable information about individual students or their families.

C-8. Is there a deadline by which an SEA must require a non-public school to submit its applications?

Although there is no statutory deadline, the Department strongly encourages an SEA to establish and effectively communicate a reasonable deadline for a non-public school to submit its application. For example, an SEA might require applications to be submitted within 30 days of the SEA making the application available in order for the SEA to ensure expedited and timely provision of services or assistance to non-public schools to address educational disruptions. In addition, establishing a deadline will facilitate the SEA’s responsibility to obligate EANS funds within six months of receiving those funds. SEAs could extend the deadline, if necessary, as many private schools do not have experience with applications like these and may need more time and assistance to complete them. In addition, establishing

a deadline will facilitate the SEA's responsibility to obligate EANS funds within six months of receiving those funds. (See B-10).

C-9. Is there a deadline by which an SEA must approve or deny an application for services or assistance from a non-public school?

Yes. An SEA should approve or deny an application from a non-public school as soon as possible and must approve or deny no later than 30 days after its receipt. (See G-2 for more information on deadlines).

C-10. What factors might an SEA consider in prioritizing non-public schools to receive services or assistance under the EANS program?

An SEA must prioritize EANS services or assistance to non-public schools that enroll low-income students and are most impacted by COVID-19. An SEA generally has flexibility with regard to how it considers these criteria. An SEA might, for example, target non-public schools that enroll significant numbers of low-income students or meet a minimum threshold of low-income students. Factors that an SEA might consider in determining non-public schools that are most impacted by COVID-19 include but are not limited to: (1) loss of tuition revenue; (2) decrease in enrollment; (3) lack of capacity to provide remote learning due to insufficient technological support, and (4) data documenting the extent of learning loss attributable to the disruption of instruction caused by COVID-19.

An SEA has the flexibility to consider other factors in prioritizing non-public schools. For example, an SEA might consider the extent to which a non-public school serves low-income children with unmet needs and did not receive equitable services under a CARES Act program. An SEA might also take information regarding receipt or forgiveness of a PPP loan prior to December 27, 2020, into account in prioritizing services or assistance for non-public schools.

Depending on the EANS funds available and the number of applications it receives, an SEA may also provide services or assistance to non-public schools that the SEA has not prioritized.

C-11. How does an SEA determine what services or assistance to provide to individual non-public schools?

SEAs should make every effort, consistent with available funding and school prioritization requirements, to provide the full range of services and assistance requested by each non-public school in its application. However, until an SEA knows how many non-public schools apply for services or assistance under the EANS program, it may not be possible for the SEA to precisely determine the type or quantity of services or assistance to provide to an individual non-public school. As a result, the SEA may need to confer with eligible non-public schools with approved applications to determine what services or assistance the SEA will provide based on the services or assistance requested in each non-public school's application and the amount of EANS funds available for providing services or assistance to the school. SEAs should communicate, as soon as possible, the services and assistance available to each non-public school, so that the school can weigh whether to pursue a PPP loan instead.

The CRRSA Act does not prescribe how an SEA distributes services or assistance among schools; accordingly, an SEA has flexibility. To determine the amount of EANS funds available to provide services or assistance to individual non-public schools, an SEA might divide the total funds available by the total enrollment in non-public schools with an approved application to obtain a per-pupil amount. The SEA would then multiply that per-pupil amount by the enrollment in an individual non-public school to determine the amount of services or assistance the SEA can provide to that school. Alternatively, an SEA might calculate the funds available for services or assistance in individual non-public schools giving greater weight to student characteristics such as poverty or a measure that quantifies the impact of

COVID-19. These examples are illustrative and other approaches are allowable. Whatever method an SEA chooses, it should be objective, transparent, and applied consistently among non-public schools in the State.

C-12. If a non-public school's application for services or assistance under the EANS program is denied, may the non-public school apply for a loan under the Paycheck Protection Program (PPP)?

The PPP is administered by the Small Business Administration and is governed by its requirements and timelines. However, there is nothing in the CRRSA Act that would preclude a non-public school whose application for services or assistance under the EANS program is denied from then applying for a PPP loan on or after December 27, 2020.

C-13. If a non-public school applies for a PPP loan and is denied a loan, may it apply for services or assistance under the EANS program?

Yes. A non-public school that applies for a PPP on or after December 27, 2020, but does not receive funds under the PPP, may apply for services or assistance under the EANS program, as long as the non-public school meets the requirements and deadlines of the SEA.

D. Services or Assistance for Non-Public Schools

D-1. What types of services or assistance may a non-public school receive?

A non-public school may apply to receive services and assistance from the SEA or its contractors to address educational disruptions resulting from COVID-19 for:

- Supplies to sanitize, disinfect, and clean school facilities
- Personal Protective Equipment (PPE)
- Improving ventilation systems, including windows or portable air purification systems
- Training and professional development for staff on sanitization, the use of PPE, and minimizing the spread of infectious diseases
- Physical barriers to facilitate social distancing
- Other materials, supplies or equipment recommended by the CDC for reopening and operation of school facilities to effectively maintain health and safety
- Expanding capacity to administer coronavirus testing to effectively monitor and suppress the virus
- Educational technology
- Redeveloping instructional plans for remote or hybrid learning or to address learning loss
- Leasing sites or spaces to ensure social distancing
- Reasonable transportation costs
- Initiating and maintaining education and support services or assistance for remote or hybrid learning or to address learning loss
- Reimbursement for the expenses of any services or assistance described above that a non-public school incurred on or after March 13, 2020, except for services or assistance described in D-3.

D-2. May a non-public school receive reimbursement for COVID-19-related expenses?

Yes. A non-public school may request reimbursement in its application for expenses it has incurred or will incur for most allowable services or assistance. (See D-1). An SEA may reimburse a non-public school only for expenses for allowable services or assistance it incurred on or after March 13, 2020, to prevent, prepare for, and respond to COVID-19, that have not already been reimbursed with Federal funds, including PPP. Reimbursements under the EANS program do not make non-public schools

recipients of Federal financial assistance. (See D-8). With respect to a request in a non-public school's application for reimbursement of future services or assistance, the SEA should have a process in place to review the requested services or assistance to ensure that they are necessary, reasonable, and allowable under the CRRSA Act, and approve reimbursement to the non-public school.

To maintain control over the EANS funds, the SEA must ensure that the non-public school's expenditures are allowable expenses, that the non-public school has sufficient documentation supporting such expenditures, that the school actually received the services or assistance related to those expenditures, and that the SEA or another public agency gains title to materials, equipment, and property for which it provides reimbursement. For example, if a non-public school purchased laptops for students and teachers to facilitate online learning, the SEA may use EANS funds to purchase those laptops from the non-public school, thereby also obtaining title for the laptops from the non-public school. Provided these conditions are met, the SEA may continue to allow the laptops to be used by non-public school students and teachers.

D-3. Are there otherwise allowable expenses for services or assistance for which an SEA may not reimburse a non-public school?

Yes. Although the following are allowable services or assistance under the EANS program, an SEA may not reimburse a non-public school for:

- Improvements to ventilation systems (including windows), except for portable air purification systems, which may be reimbursed.
- Any expenses reimbursed through a loan guaranteed under the PPP (15 U.S.C. 636(a)) prior to December 27, 2020.
- Staff training and professional development on sanitization, the use of PPE, and minimizing the spread of COVID-19.
- Developing instructional plans, including curriculum development, for remote or hybrid learning or to address learning loss.
- Initiating and maintaining education and support services or assistance for remote or hybrid learning or to address learning loss.

With the exception of expenses reimbursed through a PPP loan, while an SEA may not reimburse a non-public school for the above expenses, an SEA may provide these services or assistance directly to a non-public school or through a contract with an individual, association, agency, or organization.

D-4. May an SEA subgrant EANS funds to an LEA, educational service agency (ESA), or other entity to provide services or assistance to a non-public school?

No. Under 34 C.F.R. § 76.50(c), an SEA may not subgrant funds under a formula-grant program unless there is express authority to do so. There is no express authority to subgrant in the CRRSA Act.

D-5. May an SEA contract with another entity to provide services or assistance to non-public schools?

Yes. An SEA may provide services or assistance directly to non-public schools or it may contract with an individual, association, agency (e.g., an LEA or educational service agency (ESA)), or organization to provide such services or assistance. However, the individual, association, agency, or organization must be independent of the non-public schools receiving the services or assistance. Any contract must be under the control and supervision of the SEA.

D-6. If a non-public school is receiving equitable services under a CARES Act program, do the services or assistance provided under the EANS program need to be different?

No. The services provided to a non-public school under the EANS program may be the same as, or similar to, the equitable services the non-public school is receiving or has received under a CARES Act program. However, the services or assistance must be additive to what was provided under a CARES Act program. Under the EANS program, services or assistance to non-public schools include those authorized services in section 312(d)(4) (see D-1), nearly all of which are also authorized equitable services under the CARES Act programs.

D-7. Does receiving services or assistance under the EANS program make a non-public school a “recipient of Federal financial assistance”?

No. Under the EANS program, a Governor is the recipient of Federal financial assistance and is responsible for ensuring that the SEA administers the EANS program in accordance with applicable laws, including civil rights laws. Section 312(d)(7)(A) of the CRRSA Act requires a public agency (e.g., the SEA) to control and administer EANS funds and keep title to materials, equipment, and property purchased with the funds. A non-public school whose students and teachers receive services or assistance under the EANS program, even if such services or assistance are delivered through reimbursement, is not a “recipient of Federal financial assistance.” As a result, certain Federal requirements that apply to a recipient of Federal financial assistance are not directly applicable to a non-public school whose students or teachers receive services or assistance under the program, unless the school receives Federal financial assistance for other purposes.

E. Public Control of Funds

E-1. Must a public agency maintain control of EANS funds used to provide services or assistance to a non-public school?

Yes. Control of funds for services and assistance provided to a non-public school under the EANS program and 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. Reimbursements by SEAs to non-public schools for allowable expenses meet the public control requirements. In addition, services for a non-public school must be provided by a public agency directly or through contract with another public or private entity. (See D-2 and D-5).

F. Fiscal Requirements

F-1. For how long are the services and assistance provided to a non-public school available?

Equipment and supplies purchased with EANS funds for students and teachers in a non-public school may be used for the authorized purposes of the EANS program during the period of performance (i.e., through September 30, 2023) or until the equipment and supplies are no longer needed for the purposes of the EANS program (see 34 C.F.R. § 76.661(b); 2 C.F.R. §§ 200.313(a)(1), (c)(1) and 200.314(a)).

In general, once equipment or supplies are no longer needed for purposes of the EANS program, an SEA 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, the SEA may continue to use the equipment or supplies in the non-public 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, the SEA must retain title to, and maintain administrative control over, the equipment and

supplies or transfer title and control to another public agency such as an LEA providing equitable services under another federal education program.

F-2. Must a State maintain effort to receive EANS funds?

Yes. Under section 317 of the CRRSA Act, a State receiving funds under GEER II, ESSER II, or the EANS program must provide an assurance that the State will maintain support for elementary and secondary education and higher education in fiscal year 2022 at least at the proportional levels of the State’s support for elementary and secondary education and higher education relative to the State’s overall spending, averaged over fiscal years 2017, 2018, and 2019.

The Secretary may waive the maintenance of effort requirement for the purpose of relieving fiscal burdens on States that have experienced a precipitous decline in financial resources.

G. Reporting Requirements and Timeline

G-1. Are there specific reporting requirements for the EANS program?

Yes, each State must comply with all reporting requirements, including those in Section 15011 of the CARES Act, which are satisfied through the Federal Funding Accountability and Transparency Act (FFATA) reporting. The Secretary may require additional reporting in the future. (See also 2 CFR 200.327-200.329).

G-2. What are the significant deadlines associated with the EANS program?

Please see the table below.

SEA EANS Timeline

Action	Deadline
Make Applications Available to Non-Public Schools	Promptly and no later than 30 days after the SEA receives the EANS funds
Submission of Non-Public School Applications	To be established by the SEA (e.g., the Department encourages 30 days)
Approve or Deny Applications	Promptly and no later than 30 days after receiving the application from a non-public school
Obligate EANS Funds	Within 6 months of the SEA receiving EANS funds
FFATA Reporting	Monthly
Annual Reporting	TBD
Maintenance of Effort Reporting	12/30/2022