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May 19, 2021

TO: BOCES District Superintendents  
School District Superintendents  
School District Business Officers  
Charter School Leaders

FROM: Phyllis D. Morris, Chief Financial Officer

RE: Information for Local Educational Agencies (LEAs) on Federally Required Plans for American Rescue Plan (ARP) Elementary and Secondary School Emergency Relief (ESSER) Funds

The U.S. Department of Education's (USDE's) ARP-ESSER Interim Final Requirements (IFR) require each LEA receiving ARP-ESSER funds to:

1. Develop a plan for the safe return to in-person instruction and continuity of services (as also required by the federal ARP statute); and,
2. Develop a plan for the use of ARP-ESSER funds.

LEA Plan for Safe Return to In-Person Instruction and Continuity of Services

NYSED will permit previously developed LEA re-opening plans to satisfy the ARP statutory requirement for the safe return to in-person instruction and continuity of services. LEAs must make any necessary updates to existing plans to conform with the USDE requirements within 30 days of receipt of ARP-ESSER funds

### USDE's Interim Final Requirement:

- x An LEA's plan must include how it will maintain the health and safety of students, educators, and other school and LEA staff and a description of any policies it has adopted regarding each of the CDC's safety recommendations, including 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.
- x The plan must describe how the LEA will ensure continuity of services, including but not limited to services to address students' academic needs and the social, emotional, mental health and other needs of students and staff, which may include student health and food services.
- x During the period of the ARP ESSER award established in section 2001(a) of the ARP Act (i.e., until September 30, 2023), an LEA must periodically, but not less than every six months, review its plan and revise as appropriate. Consistent with section 2001(i)(2) of the ARP Act, an LEA must seek public input and take such input into account in determining whether to revise its plan. If the LEA determines revisions are necessary, it must seek public input on any proposed revisions (taking into consideration the timing of significant changes to CDC guidance on reopening schools).
- x If the LEA revises its plan, the revised plan must address each of the aspects of safety currently recommended by the CDC, including any updated safety recommendations. An LEA that developed a plan prior to enactment of the ARP Act that meets the requirements under sections 2001(i)(1) and (2) of the ARP Act but does not address each of the required aspects of safety established in this requirement must, as part of the required periodic review, revise its plan consistent with these requirements no later than six months after it last reviewed its plan.
- x LEA plans must be in an understandable and uniform format and, to the extent practicable, written in a language that parents can understand (or, if not practicable, orally translated). Upon request by a parent with a disability, LEA plans must be provided in an alternative format accessible to the parent.

### LEA Plan for Use of ARP -ESSER Funds

NYSED will consider each LEA's application for its base 90% ARP-ESSER allocation as meeting the USDE LEA ARP-ESSER use of funds plan requirement, provided the required elements of the plan are built into the LEA's application, combined with a budget, and then publicly posted after being developed with public input. NYSED will structure the LEA application to capture the required elements in USDE's IFR. More details on the LEA plan requirements in USDE's IFR may be found below.

USDE's Interim Final Requirement:

USDE's IFR states that each LEA that receives ARP ESSER funds must develop, submit