

# DISABILITY RIGHTS CENTER - NH

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August 6, 2021

**Via Electronic Mail Only**  
**New Hampshire School Superintendents and School Board Members**

**RE: Input for Local Education Agency (LEA) Plans for American Rescue Plan  
Elementary and Secondary School Emergency Relief Funds.**

Dear Superintendents and School Board Members:

We are writing on behalf of the Disability Rights Center – NH (“DRC-NH”), New Hampshire’s federally-designated protection and advocacy system for individuals with disabilities, to provide input for the development of spending plans for all New Hampshire Local Educational Agencies (LEAs) that are receiving American Rescue Plan Elementary and Secondary School Emergency Relief (ARP ESSER) funds.

During the past year and a half, the COVID-19 pandemic has disrupted every aspect of all our lives. Throughout the course of the pandemic, DRC-NH has received calls and requests for assistance from hundreds of New Hampshire parents and guardians whose students with disabilities have been adversely impacted by COVID-19, related school closures, and the transition from in-person to remote and/or hybrid instruction.

The influx of ARP ESSER funds provides a substantial resource for schools across the state to address the academic impact of lost instructional time and impact the pandemic has had on students’ social, emotional, and mental health. In addition, given the broad permissible uses for which these funds may be used, LEAs receiving ARP ESSER funds will have opportunities to invest in innovative strategies to address students’ needs. We hope you will fully consider our comments and, as requested below, that you will seek additional stakeholder input in developing your plans.

## **Federal Law Requirements for Public Input**

Before providing our recommendations concerning the allocation and priorities for the use of ARP ESSER funds, we want to call your attention to federal requirements mandating that you seek input from, and engage in meaningful consultation with, a variety of Stakeholders and urge your compliance with these requirements. Section 2001(i)(2) of the American Rescue Plan Act of 2021 requires LEAs to seek public comment on their spending plan for ARP ESSER funds and to take public input into account when developing their spending plans. Regulations promulgated by the U.S. Department of Education, pursuant to its authority under this Act,

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provide, in developing their ARP ESSER spending plans for submission to the State Educational Authority (SEA), LEAs must “engage in meaningful consultation – (A) with stakeholders, including: Students; families; . . . and (B) To the extent present in or served by the LEA: . . . civil rights organizations (including disability rights organizations); and stakeholders representing the interest of children with disabilities, English learners, . . . and other underserved students.” Further, LEAs are required to “provide the public the opportunity to provide input and take that input into account.” See Interim Final Requirements for the American Rescue Plan Elementary and Secondary School Emergency Relief (“ARP ESSER FUND”), promulgated by the U.S. Department of Education pursuant to Section 2001 of the American Rescue Plan Act of 2021. Federal Register, Volume 86, No. 76, p. 21201 (April 22, 2021).

We have not identified a single LEA that has provided meaningful opportunities for stakeholder participation in the development of its spending plan. We urge you to comply with the above-cited requirements for seeking, and considering, input from a variety of Stakeholders. Your efforts to comply with these requirements should include informing the public of the availability of these funds, purposes for which they may be used, requirement for the development of a spending plan and inviting members of the public to provide their input into the development of the LEA’s plan. Steps you might take to inform and invite members of the public to provide input include, but are not limited to:

- Reaching out to known parent and community organizations to inform them of ARP ESSER funding plan requirements and seek their input.
- Posting information on the plan development and ways to provide input on the LEA’s website, social media accounts, and other school communication & parent engagement platforms (e.g. ParentSquare).
- Publishing information in a local newspaper or newsletter.
- Developing and submitting public service announcements on local radio stations.
- Publicizing and holding public hearings.

### **Allocation of ARP ESSER Funds**

All students have experienced significant and prolonged disruptions in their education and lost opportunities to build and maintain relationships with trusted adults and peers in their school communities. However, students with disabilities, students who were struggling in school before the pandemic, and students in communities that are, or have historically been, subjected to discrimination or marginalized such as English Language Learners, immigrants, refugees, racial or ethnic minorities and economically disadvantaged students, have been most negatively impacted by the pandemic and related education disruptions. Poor students and students from rural communities with limited access to technology (both hardware and internet) were also disproportionately impacted by the switch to remote instruction. DRC-NH, therefore, recommends that LEAs ensure that the education relief funds are targeted, and equitably distributed to, the students who need them the most. This includes students with disabilities, students who were struggling before the pandemic, and students who belong to marginalized communities or were unable to access instruction due to limited access to technology.

## **Spending Priorities**

In addition to prioritizing spending based on principles of equity, we encourage you to view the influx of substantial federal funds as an opportunity to develop and employ new and innovative best practices to:

(1) address learning loss and implement strategies to promote accelerated learning to prevent students from falling further behind;

(2) address students' emotional and behavioral challenges in a manner that will support students' success and achievement including implementing programs such as Multi-Tiered Systems of Support (MTSS), restorative justice, and other strategies to eliminate or significantly reduce the use of disciplinary-related school removals that result in lost instructional opportunities; and

(3) promote the delivery of high quality, individualized school to post-secondary school transition services as a pathway to competitive integrated employment.

In order to address each of these areas of need, LEAs should prioritize spending of federal relief funds in the following manner.

### **(1) Learning Loss**

ARP ESSER funds should be used to address students' loss in academic knowledge and skills as well as in social/emotional and other developmental areas. Resources should be directed towards both identifying the extent of each student's learning loss as well as providing necessary remedial services, including research-based interventions, to enable students to make up for lost learning and address social-emotional needs in the least restrictive environments. In addition, school districts should provide accelerated learning opportunities to bring students' academic knowledge and skills back to the levels they should have been if the pandemic had not interrupted and/or negatively impacted their education. School districts should assess learning loss and provide remedial services for currently enrolled students, as well as for students who graduated or aged out of public education at the end of the 2019-2020 or 2020-2021 school years.

At minimum, ARP ESSER funds to address learning loss should be made available for the following activities:

a. Assessing Extent of Learning Loss. Schools need to rapidly conduct assessments for all or nearly all students, including some former students. LEA plans should allocate funds for schools to retain private contractors and/or extend the availability and ability of current staff to conduct assessments to determine the extent of learning loss. These assessments should examine possible loss in academic skills/achievement as well as assessments in all areas of known or suspected disability for students with disabilities or suspected of having disabilities including, but not limited to, diagnostic reading evaluations, social/emotional/psychological evaluations,

speech language pathologist evaluations, occupational therapist evaluations, and physical therapist evaluations.

b. Funds should be made available to address identified learning loss and prevent further regression as follows:

- Hire qualified teachers, contractors and/or increase compensation to current teachers to provide intensive one-on-one or small group tutoring on core curriculum for all students. To ensure equitable access to these services, funds should be targeted to provide tutoring during regular school hours and/or directly after school. If tutoring services are provided outside of regular school hours, ESSER ARP funds should be used to provide transportation to enable all students to benefit, regardless of income level.
- Extend the length of the academic year, and/or make summer and school vacation Extended School Year Programs available to all students, not just students with disabilities, to make up for lost instructional opportunities.
- Address social/emotional learning loss and isolation by providing opportunities for students with disabilities and from economically disadvantaged families to attend summer and/or school vacation camps as a means to explore areas of interest, gain knowledge in particular areas of interest, and make connections with peers who have shared interests. These opportunities should be made available for the next few years (until the relief funds must be expended).
- Provide teacher training in accelerated learning methods and other new and innovative best practices to address learning loss.
- Provide teacher training in peer-reviewed research supported interventions such as Orton-Gillingham Reading Instruction. This will ensure that current and newly hired faculty are prepared and have the necessary training and support to employ proven methods to address delayed acquisition of reading and other academic skills.
- Provide targeted teacher training and opportunities for certification/endorsement of current staff to enable schools to address critical workforce shortages. Priorities for teacher and staff training should include math, reading and writing specialists; general special educators with endorsements in emotional and behavioral disabilities, intellectual and developmental disabilities, and specific learning disabilities; and endorsements in fields such as English for Speakers of Other Languages.
- Provide compensatory services to current students and students who graduated or aged out at the end of the 2019-2020 or 2020-2021 school year to make up for missed services or for services which, though offered remotely, did not result in students making expected progress in the regular education curriculum and/or as indicated in their IEPs. This should be accomplished in a manner that minimizes administrative costs and is readily accessible to parents. For example, rather than requiring parents and IEP teams to attend meetings to consider each student's possible compensatory education claim, simply provide every student with a disability a list of the missed related services/services which may have been provided remotely, and either a proposal to make up each service or a set amount set aside to make up each service. Districts that choose the latter option should also provide a list of providers

- authorized by the district for parents to contact and make arrangements for makeup services.
- The provision of compensatory services should not be limited to currently enrolled students. Students with disabilities who graduated or aged out of public education during the 2019-2020 or 2020-2021 school year should also be provided with the opportunity to secure compensatory services to make up for learning loss, lost instruction time, and regression in social/emotional skills as a result of the pandemic and related school closures/transition to remote learning. To accomplish this, LEAs should consider using relief funds to conduct outreach to reach these students in order to provide compensatory education services.
  - LEAs might also consider using federal relief funds to provide parents with a set amount to use for compensatory services. The amount would be based on several factors including the extent of learning loss, the type and number of services the student missed or did not fully benefit from if not provided in-person, and equitable considerations such as students who qualify for free/reduced lunch, have identified educational disabilities, are English language Learners, or possess immigrant/refugee status. Schools should pay contracted providers directly, rather than require parents to seek reimbursement, up to the amount set aside for each student. School districts could allow parents to arrange services from a list of qualified providers and/or a provider suggested by the parent who meets the district's reasonable requirements. School district personnel could also provide support to parents who are not able to arrange services on their own.

(2) Emotional/Behavioral Health and Reducing School Removal

Nearly all New Hampshire students missed out on approximately fourteen months of in-person, school and school-community based learning and social interaction opportunities. Many students were not able to fully attend remote synchronous instruction. Students missed academic instruction and lost social and other opportunities for their developmental growth. Students' connections with their community schools and peers were significantly diminished. In addition, the pandemic caused and exacerbated social, emotional, and behavioral challenges for many students. For these reasons, it is extremely important that schools take whatever steps necessary to address students' social and emotional needs. When children and youth experience emotional upset or trauma, rather than verbalize and process their emotional status, it is common for them to exhibit challenging behaviors. Schools should use ARP ESSER funds to implement a trauma-informed response to students' emotional behavioral needs. Further, schools should encourage and support full in-person school attendance including eliminating or significantly limiting the use of out-of-school removals and instead providing targeted interventions to support students' social-emotional and behavioral needs.

To do so, LEAs should use ESSER ARP funds for the following purposes:

- Staff Training, including training for trainers, on Multi-tiered Systems of Support (MTSS).
- Retention of/training to support current staff members to become Board Certified Behavior Analysts (BCBAs)

- Funds to pay current qualified staff and/or contracted BCBA's to conduct functional behavior assessments and develop positive behavior plans to enable students who exhibit challenging behaviors to address those behaviors in a manner which enable them to stay in school and minimize lost instruction time.
- Retention/additional payment for additional work from current staff qualified to provide trauma-informed care for students.
- Providing training to school administrators, educators, and other staff members on reducing the use of, and alternatives to suspension/expulsion, such as implementing restorative justice practices, to address the root causes of students' conduct code violations, hold students accountable, help them to build and heal relationships, learn positive behaviors, and keep them in school.

### (3) Transition Services

LEAs should target relief funds to current transition-aged students with disabilities, especially those ages 16 and up, as well as to former students who graduated/aged out at the end of the 2019-2020 or 2020-2021 school years. School districts should consider what transition services students with IEPs should have but did not receive due to the pandemic as well as any additional services they may require to address the impact COVID-19 had on their ability to progress in their transition goals, especially goals related to post-secondary education and competitive employment in fully integrated workplaces. We encourage LEAs to use relief funds to implement innovative strategies to provide transition services as a pathway to competitive integrated employment. Possible uses for funds to address transition-related needs include:

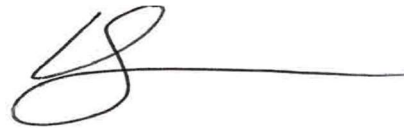
- Establishing funds for each transition-aged youth who was or became eligible for transition services under IDEA during the 2019-2020 or 2020-2021 school year, including students who graduated or aged out. These funds should be made available to adult students/former students and parents of minor students to cover the cost of transition services targeted to facilitate successful transition to post-secondary education or competitive integrated employment including, but not limited to, job coaching, job shadowing, career counseling, resume development, development of interviewing skills, assistance in identifying and applying for post-secondary education programs and funding, and applying for services with New Hampshire Vocational Rehabilitation ("NHVR").
- Hiring new staff and/or paying current staff to notify parents, recent high school graduates, and former students who graduated or aged out in the 2019-2020 or 2020-2021 school year of the compensatory services and/or funds the LEA has made available to support the transition of students with disabilities from secondary school to competitive employment and/or post-secondary school and training programs. Staff should also assist interested students, former students and parents in securing these services and funds.
- Retaining employment specialists to identify students who aged out of public education at the end of the 2019-2020 or 2020-2021 school year who were qualified for transition assessments and services under IDEA. These employment specialists should provide a variety of transition services including, but not limited to, assessing realistic career goals likely to lead to competitive employment, connecting potentially

eligible individuals with NHVR, assisting with the application process for services offered by NHVR, and identifying and facilitating receipt of transition services such as job-coaching, job-shadowing, career exploration, and paid internships. Employment specialists should also assist current and former students in securing compensatory transition-related services in their IEPs that they did not receive or benefit from due to the pandemic.

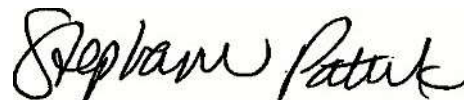
It should be noted that all the above recommendations are consistent with U.S. Department of Education Guidance concerning procedures and use of American Rescue Plan, ESSER funds. See. Frequently Asked Questions Elementary and Secondary School Emergency Relief Programs Governor's Emergency Education Relief Programs issued by the U.S. Department of Education, May 2021, available at [https://oese.ed.gov/files/2021/05/ESSER.GEER\\_.FAQs\\_5.26.21\\_745AM\\_FINALb0cd6833f6f46e03ba2d97d30aff953260028045f9ef3b18ea602db4b32b1d99.pdf](https://oese.ed.gov/files/2021/05/ESSER.GEER_.FAQs_5.26.21_745AM_FINALb0cd6833f6f46e03ba2d97d30aff953260028045f9ef3b18ea602db4b32b1d99.pdf)

Please do not hesitate to contact either of us if you have any questions about, or would like to discuss, our recommendations. Thank you for your consideration.

Sincerely,



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Stephanie Patrick  
Executive Director