

NM Public Education Department
Local Educational
Agency (LEA)
Assurances for the
Application for receipt
of award authorized by
the ARP ESSER III
Fund, Index 24330

Albuquerque Bilingual Academy

Name of LEA

The LEA provides the following assurances to the New Mexico Public Education Department (NMPED) as the State Educational Agency (SEA), for receipt of the LEA level award from the Elementary and Secondary School Emergency Relief (ESSER III) Fund authorized by the American Rescue Plan (ARP) Act.

1. The LEA shall use its LEA level ESSER III Fund award to help schools to return safely to in-person instruction, maximize in-person instructional time, sustain the safe operation of schools, and address the academic, social, emotional, and mental health impacts of the COVID-19 pandemic on its students.
2. The LEA shall spend its LEA level ESSER III Fund award in accordance with all applicable statutes, regulations, program plans and requirements.
3. The LEA shall have control over, and title to property acquired with the LEA level award of the ESSER III Fund.
4. The LEA shall comply with all reporting requirements at such time and in such manner and containing such information as Secretary Cardona may reasonably require pertaining to the use of these funds and detailed information on their impact.
5. The LEA shall cooperate with any request for examination of records regarding such funds by making records available for inspection, production, and examination, and authorized individuals available for interview and examination, upon the request of (i) NMPED; the U.S. Department of Education 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 shall:
 - (a) in the case of a LEA that chooses to use the award to provide early childhood development services to low-income children below the age of compulsory school attendance, ensure that such services comply with the performance standards established by the NMPED's Early Childhood Bureau and/or the Early Childhood Education and Care Department; and
 - (b) ensure, through incentives for voluntary transfers, the provision of professional development, recruitment programs, and other effective strategies to ensure that low-income students and minority students are not taught by unqualified, out-of-field, or inexperienced teachers at higher rates than other students.

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7. The LEA shall adopt written procedures for the receipt and resolution of complaints alleging violations of law in the administration of programs.
8. As a condition of receiving Federal Funds, the LEA certifies to the SEA in accordance with Section 8546 of ESEA that it has a policy in effect that prohibits any individual who is a school employee, contractor, or agent from assisting a school employee, contractor, or agent in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or agency know, or have probable cause to believe, that such a school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law.
9. The LEA certifies 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. The SEA shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 C.F.R. Part 82, Appendix B); and the SEA shall require the full certification, as set forth in 34 C.F.R. Part 82, Appendix A, in the award documents for all subawards at all tiers.
10. The LEA shall use such fiscal control and fund accounting procedures and program documentation as shall ensure proper disbursement of, and accounting for, Federal funds used, including:
 - (a) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients;
 - (b) the correction of deficiencies in any program operations identified through audits, monitoring, or program evaluation; and
 - (c) detailed records of any purchases including P-card purchases.
11. The LEA shall repay to the SEA, using non-federal funds or Federal funds for which no accountability is required to the Federal government, any amounts which the U.S. Department of Education orders the SEA to repay because of the LEA's failure to comply with applicable statutes, regulations, and requirements.
12. The LEA shall further repay to the SEA with non-federal funds, or from Federal funds from which no accountability is required to the Federal government, any amounts determined by the SEA to have been misspent or misapplied because of the LEA's failure to comply with applicable statutes, regulations, and requirements.
13. The LEA shall cooperate in carrying out any evaluation of each such program conducted by or for the SEA, the U.S. Secretary of Education, or other Federal officials.
14. Records pertaining to the ESSER III award under 2 C.F.R. § 200.334 and 34 C.F.R. § 76.730, including financial records related to use of grant funds, shall be retained separately from an LEA's ESSER I, ESSER II, and GEER funds.
15. The LEA receiving funding under this program shall 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).

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16. The LEA must receive written prior approval for purchase of equipment with a unit cost equal to or in excess of \$5,000. Failure to do so will result in denial of reimbursement for the cost of such an item. The LEA shall attach an approved [Federal Grant Equipment Form](#) to its BAR if it will include budget in object code 57331 “Fixed Assets (more than \$5,000).” The LEA shall attach the approved form to its application if it submits an initial 2021-22 OBMS budget. The approved [Federal Grant Equipment Form](#) must also be uploaded with any requests for reimbursement (RFRs) containing such expenses.
17. Any approved construction projects must comply with applicable Uniform Guidance requirements, as well as the Department’s regulations regarding construction. See [34 CFR § 76.600](#). As is the case with all construction contracts using laborers and mechanics financed by federal education funds, an LEA that uses ESSER funds for construction contracts over \$2,000 must meet all Davis-Bacon prevailing wage requirements and include language in the construction contracts that all contractors or subcontractors must pay wages that are not less than those established for the locality of the project (prevailing wage rates). (See [20 U.S.C. 1232b Labor Standards](#).)
18. Each LEA that receives ARP ESSER III funds shall either:
 - (a) Within 30 days of receipt of the funds (**by June 24, 2021**), develop and make publicly available on the LEA’s website a plan for the safe return of in-person instruction and continuity of services as required in section 2001(i)(1) of the ARP, or
 - (b) If the LEA developed a plan, before the enactment of the ARP, that meets statutory requirements, the LEA will make the plan publicly available on the LEA’s website.

As required in section 2001(i)(2) of the ARP, before making the plan publicly available, the LEA must have sought public comment on the plan and taken such comments into account in the development of the plan.
19. 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 comply with section 2001(i)(2) of the ARP Act.
(See <https://www.federalregister.gov/documents/2021/04/22/2021-08359/american-rescue-plan-act-elementary-and-secondary-school-emergency-relief-fund>).
20. LEAs must use 20% of subawards 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).

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21. Each LEA that receives these funds must engage in meaningful consultation with stakeholders and give the public an opportunity to provide input in the development of its plan. Specifically, an LEA must 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. Districts must reach out to all of their schools, including district-authorized charter schools, to determine and meet their needs with these funds.

23. LEAs must comply with the maintenance of equity (MEQ) provision in section 2004(c) of the ARP.
 - (1) As a condition of receiving funds under section 2001, a local educational agency shall not, in fiscal year 2022 or 2023—
 - (A) reduce per-pupil funding (from combined State and local funding) for any high-poverty school served by such local educational agency by an amount that exceeds—
 - (i) the total reduction in local educational agency funding (from combined State and local funding) for all schools served by the local educational agency in such fiscal year (if any); divided by
 - (ii) the number of children enrolled in all schools served by the local educational agency in such fiscal year; or
 - (B) reduce per-pupil, full-time equivalent staff in any high-poverty school by an amount that exceeds—
 - (i) the total reduction in full-time equivalent staff in all schools served by such local educational agency in such fiscal year (if any); divided by
 - (ii) the number of children enrolled in all schools served by the local educational agency in such fiscal year.
 - (2) EXCEPTION.—Paragraph (1) shall not apply to a local educational agency in fiscal year 2022 or 2023 that meets at least 1 of the following criteria in such fiscal year:
 - (A) Such local educational agency has a total enrollment of less than 1,000 students.
 - (B) Such local educational agency operates a single school.
 - (C) Such local educational agency serves all students within each grade span with a single school.
 - (D) Such local educational agency demonstrates an exceptional or uncontrollable circumstance, such as unpredictable changes in student enrollment or a precipitous decline in the financial resources of such agency, as determined by the Secretary of Education.

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Definitions:

HIGH-POVERTY SCHOOL.—(A) IN GENERAL.—The term “high-poverty school” means, with respect to a school served by a local educational agency, a school that is in the highest quartile of schools served by such local educational agency based on the percentage of economically disadvantaged students served, as determined by the State in accordance with subparagraph (B).

(B) DETERMINATION.—In making the determination under subparagraph (A), a State shall select a measure of poverty established for the purposes of this paragraph by the Secretary of Education and apply such measure consistently to all schools in the State.

24. The LEA’s ARP ESSER III application must be made publicly available on the LEA’s website no later than August 24, 2021.

The LEA, through its duly authorized representative named below, agrees to these assurances, and certifies that the information contained in these assurances is complete and correct to the best of the signatory’s knowledge and belief, and such information may be relied upon by New Mexico Public Education Department and the U.S. Department of Education.



Signature of Superintendent or Charter School Director

Christopher R. Jones

Printed Name of Superintendent or Charter School Director

Albuquerque Bilingual Academy

Name of LEA

9/30/21

Date