

# The American Rescue Plan

## Local Impacts and Bargaining Implications

### American Rescue Plan

The American Rescue Plan (ARP), enacted on March 11, will deliver \$122 billion in aid to states and school districts to help safely and sustainably reopen school buildings and bridge the learning gaps stemming from the pandemic.

The total allocation for Maryland schools is \$1.9 billion. Two-thirds of this money was to be received in March and the remaining one-third will be received when the state submits a plan that complies with the federal requirements. Many states are in the process of drafting plans, which mandates stakeholder input including educators, their unions, civil rights organizations, students, and families.

This document is intended to help local associations understand how the funds will be distributed and navigate the appropriate and optimal ways to ensure that the voice of educators remains at the table as plans are made to utilize these resources.

### ARP Funds Distribution

Ninety percent of ARP funds must be distributed to local education agencies within 60 days of receipt. Of these funds, at least 20% must be used to address pandemic-associated learning gaps through the implementation of evidence-based interventions, such as summer learning or summer enrichment, extended day, comprehensive afterschool programs, or extended school year programs.

These interventions must address students' academic, social, and emotional needs and the disproportionate impact of coronavirus on the communities hit hardest by the pandemic. To do this, ARP funds may be used to hire new staff.

Effective implementation of these ARP programs necessitates the participation and involvement of current employees for both consistency and quality as well as to identify students who suffered the greatest negative impact during the pandemic. These educators can best ensure that students with the greatest needs are prioritized for summer school programs and have access to tutoring services, smaller class sizes, or additional supports.

### How much money is involved and when does it need to be spent?

Federal aid over the last year is divided into three packages:

- ESSER I/CARES (Coronavirus Aid, Relief, and Economic Security Act) enacted March 27, 2020
- ESSER II/CRRSA (Coronavirus Response and Relief Supplemental Appropriations Act) enacted December 27, 2020
- ESSER III/ARP (American Rescue Plan) enacted March 11, 2021

*Note: the aggregate funding from all three of these laws is sometimes referred to in totality as ESSER (Elementary and Secondary School Emergency Relief) funds.*

These laws required the US Department of Education (USDE) to allocate the ESSER funds based on the proportion that each state received under Title I, Part A in the most recent fiscal year.<sup>1</sup>

Because the ESSER funds were allocated by different laws which were enacted at different times, there are differing time periods in which to utilize the funds. A breakdown of the period of fund availability for each tranche of ESSER funding is as follows:

ESSER Funds	Period of Availability
ESSER I (CARES)	Through 9/30/2020
ESSER II (CRRSA)	Through 9/30/2022
ESSER III (ARP)	Through 9/30/2023

*Any funds not obligated or expended during the availability period may be carried over and may be obligated and expended during the succeeding fiscal year.*

The Department of Legislative Services has broken down by county the distribution of ESSER funds received over the last year (Exhibit A).

<sup>1</sup> Although an LEA receives ESSER formula funds via the Title I, Part A formula, ESSER formula funds are not Title I, Part A funds and are not subject to Title I, Part A requirements.

### *What are the required uses of the ARP funds per federal and state law?*

The ARP provides that the ESSER funding is to be used for implementation of evidence-based interventions, including summer learning, summer enrichment, extended day, comprehensive afterschool programs, or extended school year programs. The Blueprint revisions outlined in HB 1372 (Section 4), which was passed during the 2021 legislative session, are also explicit in requiring the implementation of a: “summer school program for public school students, including students who will be in kindergarten in the upcoming school year and were eligible to attend a publicly funded prekindergarten program, to address the effects of the COVID-19 pandemic on education that:

- i. Includes daily academic instruction in reading or math that is aligned with the county board’s or public school’s curriculum;
- ii. Limits the number of students assigned to each teacher in the program;
- iii. Establishes partnerships with local government, which may include the local parks and recreation agency and library system, or community and nonprofit organizations to provide student experiences other than academic instruction;
- iv. In 2021, shall incorporate the county’s program for providing free meals in the summer;
- v. Shall offer student transportation services to students who need transportation to participate in the program;
- vi. May offer incentive pay for teachers and other school employees, including higher compensation, loan forgiveness, or tuition assistance, subject to collective bargaining, as applicable;
- vii. May offer incentive pay for students participating in the program who are employed or participating in career training through the partnership;
- viii. Prioritizes enrollment for students with the greatest learning loss from the effects of the COVID-19 pandemic on education;
- ix. Administers an educational assessment to each student in the program prior to beginning the program and on completion of the program; and
- x. Evaluates the effectiveness of the summer school program at the conclusion of each year.”

### **Role of the Exclusive Bargaining Representative**

#### *How does the union engage in conversations around the development of interventions designed to address learning gaps, including summer programs?*

Summer school cannot be the traditional summer school of years past. The Blueprint, combined with ARP ESSER funds, is an opportunity to chart a new, innovative course that will attract and engage students and educators. More importantly, while there must be some academics, an effective and engaging program will address the whole child. To create such a program, the voice of educators is important. Consider the following discussion topics:

**Activities** – to attract students, reading and math must be infused with stimulating activities. The summer program should include a broad set of activities such as music, art, and dance classes, sports, and field trips to attend live theater or art museums. In magnet programs there are likely stronger student/staff relationships, but these activities should not be limited to magnet students. Students have to want to be there so find programs that attract students. This should be viewed as an opportunity for students to re-engage in school and to reconnect with their peers and friends.

**Identification of students** - teachers should identify those students who suffered the greatest negative impact and actively recruit the student, as well as the family, to participate in the summer program. This may require phone calls or door knocking to discuss any hesitancy about attending the summer program. It is important that the school system work to remove barriers to a student’s attendance. The teacher-parent relationship will be important to make this work.

**Schedules** – a half-day schedule may prove difficult for families so a full-day option may be necessary for working families.

**Teachers** – the school system must actively work to entice teachers to work in the summer school program. While increased compensation is necessary, working conditions should be addressed, which should include smaller class sizes, the opportunity to work half-days or to teach just one subject consistently as well as the opportunity to be creative as opposed to implementing a stock curriculum.

**Healthy and safe environment** – schools must alleviate parents’ coronavirus-related concerns. Programs are to be in-person, to the extent feasible; therefore, schools should provide clear, accurate information about the safety precautions that are in place to reduce the risk of coronavirus.

**Student/teacher relationships** – use the summer program as a bridge to the next school year and an opportunity to build relationships between students

and school staff, which may be facilitated by smaller class sizes providing for more individualized instruction. In New Mexico, as a result of a court order the summer program was expanded to require a student's summer teacher to be the same teacher they would have during the regular school year. While this was difficult to implement because summer programs are voluntary for both teachers and students, studies indicate that students often do better when they have the same teacher and the same peers for multiple years.

**Workload** – as noted above, to the extent feasible, the programs are to be in-person. If, however, the school system insists on providing both virtual and in-person, teachers must be given the choice of one or the other and not be expected to perform both in-person and virtual.

Recovery from the gaps in learning will not be accomplished in one summer. This requires a substantial investment over a period of years, which is why both the ARP and the Blueprint specifically require the implementation of tutoring and supplemental instruction for grades 4 through 12 during the 2021-22 and 2022-23 school years.

### *What about these interventions can be informally discussed or formally negotiated?*

Long-term student progress requires successful implementation of these interventions, but the additional funding and new mandates create opportunities for discussions and negotiations. Here are some specific areas of focus:

#### **Pay and Benefits**

- **Paid leave** – funds may be used to provide paid leave for coronavirus-related absences in lieu of accrued sick leave.
- **Salaries** – much of the funding may be utilized to recruit and hire staff, including specialized instructional support personnel (therapists, counselors, SLP, school psychologists, behavioral specialists, and nurses), teachers, and paraprofessionals. Therefore, it is incumbent upon the exclusive bargaining representative to negotiate salaries (and working conditions) that will attract highly qualified candidates to provide the support and resources necessary to allow for small group learning and individualized instruction. This increased salary may also result from an extended work day/work week as negotiated to pay for the hours that we know educators have already committed to perform their jobs effectively and successfully. Further, all salary negotiations should be focused toward the development and implementation of career ladders that reflect opportunities for educators to serve as teacher leaders, peer observers, coaches, and mentors.

- **Shortage differentials** – in classifications where there are chronic vacancies in the school requiring existing staff to perform the work, employees required to pick up the extra work should be paid a flat differential of \$1,500 (by way of example) if the vacancy persists for more than 30 days.
- **Summer pay bonuses** – for those educators and paraprofessionals who commit to the summer learning program.

#### **Staffing**

- **Assignments** – procedures governing assignments are a mandatory subject of bargaining. To the maximum extent possible, procedures should be negotiated that prohibit or avoid involuntary assignments. Conversely, there may be procedures negotiated that will encourage voluntary transfers to high-need programs or schools.
- **Class size** – §6-408(c)(3) renders negotiations relative to “the maximum number of students assigned to a class” an illegal subject of bargaining. However, this does not preclude negotiations around additional salary or additional planning time and/or limited preps if the class size exceeds a certain number. Notably, the Blueprint limits a single tutoring session to not more than four students. To implement such a limitation requires additional staff and/or creative staff scheduling
- **Prevent outsourcing** - while the summer tutoring specifically requires a teacher, the ongoing transitional supplemental instruction included in the Blueprint allows districts to support one-on-one and small-group tutoring with a certified teacher, a teaching assistant, or any other trained professional. There are discussions within local boards about contracting out for these services. We must prevent outsourcing and push for the hiring of additional teachers or paras to do this work to ensure quality and commitment to the implementation of an effective program.

#### **Working Conditions**

- **Safe and healthy work environment** – funds may be used to purchase PPE, hire additional custodial staff to increase the frequency of cleanings, and expenditures to address the maintenance or improvement of HVAC systems to ensure the circulation of air throughout the building in order to improve indoor air quality. This may also include repairs or replacement of windows and doors or purchase of air purifiers.
- **Workload** – advocate to prohibit the expectation of teachers to teach in-person and remote students simultaneously. The funding received from ESSER may be utilized to hire more staff to eliminate such an expectation. Where the school system intends to continue to offer virtual instruction, educators should

be offered the choice of in-person or virtual. In the alternative, the number of lesson plans/preps should be limited, and in-person and virtual courses should be treated as two distinct courses or two preps. For special education teachers, negotiate provisions for increased planning time and administrative support based upon the number of students on the teacher’s caseload. For all classroom-based personnel, minimize any non-instructional related duties or assignments (funds may be utilized for hiring more custodial staff to ensure that the learning environment remains healthy and safe).

**District-Level Issues**

- **Education Collaboratives** – increase the number of agreements with local boards and institutions of higher education to establish improved recruitment and induction programs that also include help for paraeducators to become licensed teachers.
- **More Community Schools** – advocate to increase the number of community schools, hire school employees to be the coordinator, and engage in the development of the school-specific plan of action created by the coordinator. Also address the procedures for transferring in/out of the school to ensure that staff so assigned want to be a part of the community in which they work.
- **Professional development** – advocate for job-embedded professional development that centers student success, equity, and racial and social justice; builds educators’ abilities to effectively use a variety of academic and non-academic assessments and tailor the best learning opportunities to ensure student success; establishes the importance of family and community engagement and cultural competence in the shaping and evolution of the school environment; understands and effectively uses restorative practices; and recognizes the importance of, and promotes, educator self-care and provides the necessary supports to foster it.
- **Schools impacted by coronavirus** - for schools disproportionately impacted by the coronavirus (high case count or more vulnerable student populations) there should be more professional development for educators relative to the unique needs of impacted students.

**EXHIBIT A**

**County Distribution of ESSER Funds (\$ in thousands)**

	ESSER I	ESSER II	ESSER III	TOTAL
Allegany	\$2,557.90	\$11,278.20	\$25,329.30	\$39,165.40
Anne Arundel	11,855.60	48,393.50	108,684.90	168,934.00
Baltimore City	48,392.80	197,474.40	443,499.40	689,366.60
Baltimore	23,741.80	96,638.60	217,036.60	337,417.00
Calvert	1,201.90	5,098.50	11,450.40	17,750.80
Caroline	1,490.10	6,096.00	13,690.80	21,276.90
Carroll	1,975.70	7,491.70	16,825.40	26,292.90
Cecil	3,128.80	12,391.70	27,830.00	43,350.60
Charles	3,127.30	13,743.70	30,866.50	47,737.50
Dorchester	1,901.20	7,775.70	17,463.10	27,139.90
Frederick	4,008.50	16,879.10	37,908.00	58,795.60
Garrett	957.20	3,986.80	8,953.90	13,897.90
Harford	4,451.80	18,905.70	42,459.50	65,817.00
Howard	4,236.70	19,372.00	43,506.70	67,115.40
Kent	522.20	2,330.20	5,233.20	8,085.50
Montgomery	24,768.20	112,233.80	252,061.10	389,063.00
Prince George’s	30,031.70	122,234.70	274,521.80	426,788.20
Queen Anne’s	739.90	3,026.00	6,796.10	10,562.00
St. Mary’s	2,574.40	11,611.00	26,076.70	40,262.00
Somerset	1,347.20	6,009.40	13,496.30	20,852.90
Talbot	896.10	3,665.80	8,232.80	12,794.70
Washington	5,606.10	24,618.40	55,289.30	85,513.80
Wicomico	5,166.1	21,093.1	47,372.0	73,631.2
Worcester	1,566.00	6,406.90	14,389.00	22,361.90
SEED School	805.60	3,139.30	7,050.30	10,995.10
MSDE	20,783.80	86,877.10	195,114.00	302,774.90
<b>TOTAL</b>	<b>\$207,834.50</b>	<b>\$868,771.20</b>	<b>\$1,951,137.00</b>	<b>\$3,027,742.70</b>

Source: Maryland State Department of Education; Congressional Research Service; Department of Legislative Services

