



AMERICAN RESCUE PLAN

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 Arizona schools is **\$2.3 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 /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
- ARP ESSER/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.¹

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 Fund (CARES Act) through 9/30/2021 – Tydings period* until 9/30/2022
- ESSER II Fund (CRRSA Act) through 9/30/2022 – Tydings period* until 9/30/2023
- ARP ESSER Fund (ARP Act) through 9/30/2023 – Tydings period* until 9/30/2024

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 AZ Department of Education (ADE) has broken down by district the distribution of [ESSER III funds](#) (Excel spreadsheet). In addition to the allocations, ADE has provided a significant amount of guidance and resources on the [ESSER III](#) page and ESSER I & II pages.

¹ Although a local district 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.

Allowable Use of Funds?

The ARP provides that 20 percent of 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 remaining funds can be used for any of the following:

1. Activities authorized under the federal Every Student Succeeds Act (ESSA), the Individuals with Disabilities Education Act (IDEA), the Carl D. Perkins Career and Technical Education Act of 2006, the McKinney-Vento Homeless Assistance Act, or the Adult Education and Family Literacy Act.
2. Coordination of preparedness and response efforts of local educational agencies with State, local, Tribal, and territorial public health departments, and other relevant agencies, to improve coordinated responses among such entities to prevent, prepare for, and respond to coronavirus.
3. Activities to address the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including how outreach and service delivery will meet the needs of each population.
4. Developing and implementing procedures and systems to improve the preparedness and response efforts of local educational agencies.
5. Training and professional development for staff of the local educational agency on sanitation and minimizing the spread of infectious diseases.
6. Purchasing supplies to sanitize and clean the facilities of a local educational agency, including buildings operated by such agency.
7. Planning for and coordinating during long-term closures, including for how to provide meals to eligible students, how to provide technology for online learning to all students, how to provide guidance for carrying out requirements under the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.) and how to ensure other educational services can continue to be provided consistent with all Federal, State, and local requirements.
8. Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the local educational agency that aids in regular and substantive educational interaction between students and their classroom instructors, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment.
9. Providing mental health services and supports.
10. Planning and implementing activities related to summer learning and supplemental afterschool programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care.
 - a. Addressing learning loss among students, including low-income students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children and youth in foster care, of the local educational agency, including by:
 - b. Administering and using high-quality assessments that are valid and reliable, to accurately assess students' academic progress and assist educators in meeting students' academic needs, including through differentiating instruction.
 - c. Implementing evidence-based activities to meet the comprehensive needs of students.
 - d. Providing information and assistance to parents and families on how they can effectively support students, including in a distance learning environment.
 - e. Tracking student attendance and improving student engagement in distance education.
 - f. School facility repairs and improvements to enable operation of schools to reduce risk of virus transmission and exposure to environmental health hazards, and to support student health needs.
1. Inspection, testing, maintenance, repair, replacement, and upgrade projects to improve the indoor air quality in school facilities, including mechanical and non-mechanical heating, ventilation, and air conditioning systems, filtering, purification and other air cleaning, fans, control systems, and window and door repair and replacement.
2. Developing strategies and implementing public health protocols including, to the greatest extent practicable, policies in line with guidance from the Centers for Disease Control and Prevention for the reopening and operation of school facilities to effectively maintain the health and safety of students, educators, and other staff.
3. Other activities that are necessary to maintain the operation of and continuity of services in local educational agencies and continuing to employ existing staff of the local educational agency.

Role of the Association Representative in Negotiation/Engagement Process

How does the union engage in conversations around the development of interventions designed to address learning gaps, including summer and enrichment programs throughout the year?

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 discussion topics on the following pages:

Summer School and Enrichment Programs Throughout the Year

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. 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 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.

Teachers – the school system must actively work to entice teachers to work in the programs. 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.

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 the ARP 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. It is incumbent upon the Association 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 if the vacancy persists for more than 30 days.

Stipend pay (summer school/after-school/fall and spring break) – for those educators and paraprofessionals who commit to the summer learning program and other enrichment projects.

Student debt relief – school employers can use ARP funds to contribute up to \$5,250 per year for an employee's educational expenses, and the payments will not be considered taxable income for the employee until January 1, 2026.



Staffing

Assignments – procedures governing assignments are not a mandatory subject of bargaining in many districts. 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 – this does not preclude negotiations around additional salary or additional planning time and/or limited preps if the class size exceeds a certain number.

Prevent outsourcing – 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.

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.