

Attachment to Grant Award Notification (GAN) for the American Rescue Plan Elementary and Secondary School Emergency Relief (ARP ESSER) Fund award, as authorized in section 2001 of the American Rescue Plan Act (ARP).

PART A: PROGRAMMATIC, FISCAL, AND REPORTING ASSURANCES

In order to make a significant portion of emergency relief funds under section 2001 of the ARP available as quickly as possible, the U.S. Department of Education (Department) is issuing through this GAN an award equal to two-thirds of the State educational agency's (SEA's) ARP ESSER allocation. In accepting the funds made available under this GAN, the Chief State School Officer assures that the SEA will submit a plan (which will be required as part of the SEA's application for the remainder of its ARP ESSER allocation) that contains such information as the Secretary may reasonably require, including on matters such as:

- How the SEA will support local educational agencies (LEAs) in safely returning to in-person instruction, maximizing in-person instruction time, and sustaining the safe operation of schools, consistent, to the extent practicable, with Centers for Disease Control and Prevention (CDC) guidance;
- How the SEA will use the funds that it must reserve for evidence-based activities to address learning loss, implement summer learning and enrichment programs, and implement comprehensive afterschool programs, and how those activities will respond to the academic, social, and emotional needs of students and address the disproportionate impact of COVID-19 on student groups most impacted by the pandemic and for whom the pandemic exacerbated pre-existing inequities;
- How the SEA will support LEAs in addressing learning loss through the implementation of 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 groups most impacted by the pandemic and for whom the pandemic exacerbated pre-existing inequities;
- How the SEA will support LEAs in building capacity to promote healthy and safe learning environments and support students' social, emotional, mental health, and academic needs; making evidence-based, equity-driven ARP ESSER spending decisions; engaging a diverse range of stakeholders, including students, families, and educators; tracking how resources are targeted and outcomes achieved; and ensuring appropriate fiscal monitoring and controls; and
- How the SEA consulted with stakeholders and the public, including students, families, civil rights organizations including disability rights organizations, school administrators, superintendents, and educators and their unions, and provided an opportunity for and incorporated, as appropriate, input in development of its ARP ESSER plan.

The plan will be submitted as part of the SEA's application for the remainder of its ARP ESSER allocation within the deadline established by the Secretary (e.g., within 45 days of the Department's issuance of the application).

The assurances below apply to the total amount of an SEA's ARP ESSER allocation.

By the SEA's drawdown of funds under this GAN, the Chief State School Officer assures the following:

1. The SEA will allocate not less than 90 percent, and not more than 93 percent, of its total ARP ESSER allocation to LEAs (including charter schools that are LEAs) in the State on the basis of their respective shares of funds received under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA) in fiscal year 2020.
2. The SEA will allocate ARP ESSER funds to LEAs in an expedited and timely manner and, to the extent practicable, not later than 60 days after the SEA receives ARP ESSER funds (i.e., 60 days from the date the SEA receives each portion of its ARP ESSER funds). An SEA that is not able to allocate such funds within 60 days because it is not practicable (e.g., because of pre-existing State board approval requirements) will provide an explanation to the Department within 30 days of receiving each portion of its ARP ESSER funds, including a description of specific actions the SEA is taking to provide ARP ESSER funds to LEAs in an expedited and timely manner and the SEA's expected timeline for doing so.
3. When the SEA allocates ARP ESSER funds to an LEA from the funds awarded through this GAN, the SEA will communicate the LEA's total ARP ESSER allocation (i.e., the sum of the amount the LEA receives from funds awarded under this GAN and the additional amount that it will receive after the Department approves the SEA's application for the remainder of its allocation) to enable an LEA immediately to begin making plans for the use of ARP ESSER funds, including for the use of at least 20 percent of its total ARP ESSER allocation to address learning loss.
4. The SEA will reserve not less than five percent of its total ARP ESSER allocation to carry out, directly or through grants and contracts, activities to address learning loss by supporting the implementation of evidence-based interventions, such as summer learning or summer enrichment, extended day, comprehensive afterschool programs, or extended school year programs, and ensure that such evidence-based 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), including by providing additional support to LEAs to fully address such impacts.
5. The SEA will reserve not less than one percent of its total ARP ESSER allocation to carry out, directly or through grants and contracts, the implementation of evidence-based summer enrichment programs, and ensure such programs 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
6. The SEA will reserve not less than one percent of its total ARP ESSER allocation to carry out,

directly or through grants and contracts, the implementation of evidence-based comprehensive afterschool programs, and ensure such programs 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).

7. The SEA will reserve no more than 1/2 of 1 percent of its total ARP ESSER allocation for administrative costs and emergency needs as determined by the SEA to address issues related to COVID-19, which may be addressed through the use of grants or contracts or for direct use by the SEA.

8. The SEA will ensure that LEAs use ARP ESSER funds for activities allowable under section 2001(e) of the ARP.

9. The SEA will comply with the maintenance of effort provision in section 2004(a)(1) of the ARP absent a waiver by the Secretary pursuant to section 2004(b)(2).

10. The SEA will comply with the maintenance of equity provisions in section 2004(b) of the ARP and ensure its LEAs comply with the maintenance of equity provision in section 2004(c) of the ARP.

11. The SEA will ensure that each LEA will reserve not less than 20 percent of its total ARP ESSER allocation 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).

12. The SEA will ensure that each LEA that receives ARP ESSER funds either: (a) within 30 days of receipt of the funds, will 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) developed and made publicly available on the LEA's website such a plan that meets statutory requirements before the enactment of the ARP. The SEA will also ensure that, as required in section 2001(i)(2) of the ARP, before making the plan publicly available, the LEA sought public comment on the plan and took such comments into account in the development of the

13. The SEA will comply with, and ensure that LEAs comply with, all reporting requirements at such time and in such manner and containing such information as the Secretary may reasonably require, including on matters such as:

- how the State is developing strategies and implementing public health protocols including, to the greatest extent practicable, policies and plans in line with the CDC guidance related to addressing COVID-19 in schools;

- overall plans and policies related to State support for return to in-person instruction and maximizing in-person instruction time, including how funds will support a return to and maximize in-person instruction time, and advance equity and inclusivity in participation in in-person instruction;
- data on each school’s mode of instruction (remote, hybrid, in-person) and conditions;
- SEA and LEA uses of funds to meet students’ social, emotional, and academic needs, including through summer enrichment programming and other evidence based interventions, and how they advance equity for underserved students;
- SEA and LEA uses of funds to sustain and support access to early childhood education programs;
- impacts and outcomes (disaggregated by student subgroup) through use of ARP ESSER funding (e.g., quantitative and qualitative results of ARP ESSER funding, including on personnel, student learning, and budgeting at the school and district level);
- student data (disaggregated by student subgroup) related to how the COVID-19 pandemic has affected instruction and learning;
- requirements under the Federal Financial Accountability Transparency Act (FFATA); and
- additional reporting requirements as may be necessary to ensure accountability and transparency of ARP ESSER funds.

14. Records pertaining to the ARP ESSER award under 2 C.F.R. § 200.334 and 34 C.F.R. § 76.730, including financial records related to use of grant funds, will be retained separately from other grant funds, including funds that an SEA or LEA receives under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA Act). The SEA will ensure that it and every subrecipient of ARP ESSER funds will cooperate with any examination of records with respect to such funds by making records available for inspection, production, and examination, and authorized individuals available for interview and examination, upon the request of (i) the Department and/or its Inspector General; or (ii) any other federal agency, commission, or department in the lawful exercise of its jurisdiction and authority.

15. The SEA will return to the Secretary any ARP ESSER funds that the SEA does not award within one year of the date the SEA receives each portion of its ARP ESSER funds (i.e., with respect to the first two-thirds of the SEA’s allocation, one year from the date the SEA receives ARP ESSER funds under this GAN, and with respect to the remaining ARP ESSER funds that will be allocated to the SEA after submission of an application, one year from the date the SEA receives those funds). For purposes of this assurance, funds are “awarded” when they are subgranted to an LEA or, in the case of the funds the SEA reserves under section 2001(f) of the ARP, when the SEA awards a contract or subgrants the funds or retains the funds to provide direct services itself.

PART B: OTHER ASSURANCES AND CERTIFICATIONS

By the SEA's drawdown of funds under this GAN, the Chief State School Officer assures or certifies the following with respect to ARP ESSER Fund awards:

1. The SEA will comply with all applicable assurances in OMB Standard Forms 424B and D (Assurances for Non-Construction and Construction Programs), including the assurances relating to the legal authority to apply for assistance; access to records; conflict of interest; merit systems; nondiscrimination; Hatch Act provisions; labor standards; flood hazards; historic preservation; protection of human subjects; animal welfare; lead-based paint; Single Audit Act; and the general agreement to comply with all applicable Federal laws, executive orders and regulations.
2. With respect to the certification regarding lobbying in Department Form 80-0013, 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 will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 C.F.R. Part 82, Appendix B); and the SEA will 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.
3. Any LEA receiving funding under this program will 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).
4. To the extent applicable, an LEA will include in its local application a description of how the LEA will comply with the requirements of section 427 of GEPA (20 U.S.C. 1228a). The description must include information on the steps the LEA proposes to take to permit students, teachers, and other program beneficiaries to overcome barriers (including barriers based on gender, race, color, national origin, disability, and age) that impede equal access to, or participation in, the program.
5. The SEA will comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) requirements in Subpart D—Post Federal Award Requirements (2 CFR §§200.300-345) and Subpart E—Cost Principles (2 CFR §§200.400-475) to ensure that LEAs, including charter schools that are LEAs, are using ARP ESSER funds for purposes that are reasonable, necessary, and allocable under the ARP.
6. The SEA and other entities will comply with the provisions of all applicable acts, regulations and assurances; the following provisions of Education Department General Administrative Regulations (EDGAR) 34 CFR parts 76, 77, 81, 82, 84, 97, 98, and 99; the OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485; and the Uniform Guidance in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Appendix: American Rescue Plan Act Excerpts

Subtitle A—Education Matters

PART 1—DEPARTMENT OF EDUCATION

SEC. 2001. ELEMENTARY AND SECONDARY SCHOOL EMERGENCY RELIEF FUND.

(a) IN GENERAL.—In addition to amounts otherwise available through the Education Stabilization Fund, there is appropriated to the Department of Education for fiscal year 2021, out of any money in the Treasury not otherwise appropriated, \$122,774,800,000, to remain available through September 30, 2023, to carry out this section.

(b) GRANTS.—From funds provided under subsection (a), the Secretary shall—

(1) use \$800,000,000 for the purposes of identifying homeless children and youth and providing homeless children and youth with—

(A) wrap-around services in light of the challenges of COVID–19; and

(B) assistance needed to enable homeless children and youth to attend school and participate fully in school activities; and

(2) from the remaining amounts, make grants to each State educational agency in accordance with this section.

(c) ALLOCATIONS TO STATES.—The amount of each grant under subsection (b) shall be allocated by the Secretary to each State in the same proportion as each State received under part A of title I of the Elementary and Secondary Education Act of 1965 in the most recent fiscal year.

(d) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

(1) IN GENERAL.—Each State shall allocate not less than 90 percent of the grant funds awarded to the State under this section as subgrants to local educational agencies (including charter schools that are local educational agencies) in the State in proportion to the amount of funds such local educational agencies and charter schools that are local educational agencies received under part A of title I of the Elementary and Secondary Education Act of 1965 in the most recent fiscal year.

(2) AVAILABILITY OF FUNDS.—Each State shall make allocations under paragraph (1) to local educational agencies in an expedited and timely manner and, to the extent practicable, not later than 60 days after the receipt of such funds.

(e) USES OF FUNDS.—A local educational agency that receives funds under this section— (1) shall reserve not less than 20 percent of such funds to address learning loss through the implementation of evidence-based interventions, such as summer learning or summer enrichment, extended day, comprehensive afterschool programs, or extended school year programs, and ensure that such interventions respond to students’ academic, social, and emotional needs and address the disproportionate impact of the coronavirus on the student subgroups described in section 1111(b)(2)(B)(xi) of the Elementary and Secondary

Education Act of 1965 (20 U.S.C.6311(b)(2)(B)(xi)), students experiencing homelessness, and children and youth in foster care; and (2) shall use the remaining funds for any of the following:

(A) Any activity authorized by the Elementary and Secondary Education Act of 1965.

(B) Any activity authorized by the Individuals with Disabilities Education Act.

(C) Any activity authorized by the Adult Education and Family Literacy Act.

(D) Any activity authorized by the Carl D. Perkins Career and Technical Education Act of 2006.

(E) 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.

(F) 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.

(G) Developing and implementing procedures and systems to improve the preparedness and response efforts of local educational agencies.

(H) Training and professional development for staff of the local educational agency on sanitation and minimizing the spread of infectious diseases.

(I) Purchasing supplies to sanitize and clean the facilities of a local educational agency, including buildings operated by such agency.

(J) Planning for, coordinating, and implementing activities during long-term closures, including providing meals to eligible students, providing technology for online learning to all students, providing guidance for carrying out requirements under the Individuals with Disabilities Education Act and ensuring other educational services can continue to be provided consistent with all Federal, State, and local requirements.

(K) 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 children with disabilities, which may include assistive technology or adaptive equipment.

(L) Providing mental health services and supports, including through the implementation of evidence-based full-service community schools.

(M) 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, children with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care.

(N) 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—

(i) 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;

(ii) implementing evidence-based activities to meet the comprehensive needs of students;

(iii) providing information and assistance to parents and families on how they can effectively support students, including in a distance learning environment; and

(iv) tracking student attendance and improving student engagement in distance education.

(O) 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.

(P) 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.

(Q) 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.

(R) 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.

(f) STATE FUNDING.—With funds not otherwise allocated under subsection (d), a State— (1) shall reserve not less than 5 percent of the total amount of grant funds awarded to the State under this section to carry out, directly or through grants or contracts, activities to address learning loss by supporting the implementation of evidence-based interventions, such as summer learning or summer enrichment, extended day, comprehensive afterschool programs, or extended school year programs, and ensure that such interventions respond to students' academic, social, and emotional needs and address the disproportionate impact of the coronavirus on the student subgroups described in section 1111(b)(2)(B)(xi) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(B)(xi)), students experiencing homelessness, and children and youth in foster care, including by providing additional support to local educational agencies to fully address such impacts; (2) shall reserve not less than 1 percent of the total amount of grant funds awarded to the State under this section to carry out, directly or through grants or contracts, the implementation of evidence based summer enrichment programs, and ensure such programs respond to students' academic, social, and emotional needs and address the disproportionate impact of the coronavirus on the student populations described in section 1111(b)(2)(B)(xi) of

the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(B)(xi)), students experiencing homelessness, and children and youth in foster care; (3) shall reserve not less than 1 percent of the total amount of grant funds awarded to the State under this section to carry out, directly or through grants or contracts, the implementation of evidence based comprehensive afterschool programs, and ensure such programs respond to students' academic, social, and emotional needs and address the disproportionate impact of the coronavirus on the student populations described in section 1111(b)(2)(B)(xi) of the Elementary and Secondary Education Act of 1965 (20 7 U.S.C. 6311(b)(2)(B)(xi)), students experiencing homelessness, and children and youth in foster care; and (4) may reserve not more than one-half of 1 percent of the total amount of grant funds awarded to the State under this section for administrative costs and the remainder for emergency needs as determined by the State educational agency to address issues responding to coronavirus, which may be addressed through the use of grants or contracts.

(g) REALLOCATION.—A State shall return to the Secretary any funds received under this section that the State does not award within 1 year of receiving such funds and the Secretary shall reallocate such funds to the remaining States in accordance with subsection (c).

(h) DEFINITIONS.—In this section—

(1) the terms “child”, “children with disabilities”, “distance education”, “elementary school”, “English learner”, “evidence-based”, “secondary school”, “local educational agency”, “parent”, “Secretary”, “State educational agency”, and “technology” have the meanings given those terms in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801);

(2) the term “full-service community school” has the meaning given that term in section 4622(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7272(2)); and

(3) the term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(i) SAFE RETURN TO IN-PERSON INSTRUCTION.—

(1) IN GENERAL.—A local educational agency receiving funds under this section shall develop and make publicly available on the local educational agency's website, not later than 30 days after receiving the allocation of funds described in paragraph (d)(1), a plan for the safe return to in-person instruction and continuity of services.

(2) COMMENT PERIOD.—Before making the plan described in paragraph (1) publicly available, the local educational agency shall seek public comment on the plan and take such comments into account in the development of the plan.

(3) PREVIOUS PLANS.—If a local educational agency has developed a plan for the safe return to in person instruction before the date of enactment of this Act that meets the requirements described in paragraphs (1) and (2), such plan shall be deemed to satisfy the requirements under this subsection.

SEC. 2004. MAINTENANCE OF EFFORT AND MAINTENANCE OF EQUITY.

(a) STATE MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—As a condition of receiving funds under section 2001, a State shall maintain support for elementary and secondary education, and for higher education (which shall include State funding to institutions of higher education and State need based financial aid, and shall not include support for capital projects or for research and development or tuition and fees paid by students), in each of fiscal years 2022 and 2023 at least at the proportional levels of such State's support for elementary and secondary education and for higher education relative to such State's overall spending, averaged over fiscal years 2017, 2018, and 2019.

(2) WAIVER.—For the purpose of relieving fiscal burdens incurred by States in preventing, preparing for, and responding to the coronavirus, the Secretary of Education may waive any maintenance of effort requirements associated with the Education Stabilization Fund.

(b) STATE MAINTENANCE OF EQUITY.— (1) HIGH-NEED LOCAL EDUCATIONAL AGENCIES.—As a condition of receiving funds under section 2001, a State educational agency shall not, in fiscal year 2022 or 2023, reduce State funding (as calculated on a per-pupil basis) for any high-need local educational agency in the State by an amount that exceeds the overall per-pupil reduction in State funds, if any, across all local educational agencies in such State in such fiscal year.

(2) HIGHEST POVERTY LOCAL EDUCATIONAL AGENCIES.—Notwithstanding paragraph (1), as a condition of receiving funds under section 2001, a State educational agency shall not, in fiscal year 2022 or 2023, reduce State funding (as calculated on a per-pupil basis) for any highest poverty local educational agency below the level of funding (as calculated on a per-pupil basis) provided to each such local educational agency in fiscal year 2019.

(c) LOCAL EDUCATIONAL AGENCY MAINTENANCE OF EQUITY FOR HIGH-POVERTY SCHOOLS.—

(1) IN GENERAL.—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.

(d) DEFINITIONS.—In this section:

(1) ELEMENTARY EDUCATION; SECONDARY EDUCATION.—The terms “elementary education” and “secondary education” have the meaning given such terms under State law.

(2) HIGHEST POVERTY LOCAL EDUCATIONAL AGENCY.—The term “highest poverty local educational agency” means a local educational agency that is among the group of local educational agencies in the State that—

(A) in rank order, have the highest percentages of economically disadvantaged students in the State, on the basis of the most recent satisfactory data available from the Department of Commerce (or, for local educational agencies for which no such data are available, such other data as the Secretary of Education determines are satisfactory); and

(B) collectively serve not less than 20 percent of the State’s total enrollment of students served by all local educational agencies in the State.

(3) HIGH-NEED LOCAL EDUCATIONAL AGENCY.— The term “high-need local educational agency” means a local educational agency that is among the group of local educational agencies in the State that—

(A) in rank order, have the highest percentages of economically disadvantaged students in the State, on the basis of the most recent satisfactory data available from the Department of Commerce (or, for local educational agencies for which no such data are available, such other data as the Secretary of Education determines are satisfactory); and

(B) collectively serve not less than 50 percent of the State’s total enrollment of students served by all local educational agencies in the State.

(4) 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.

(5) OVERALL PER-PUPIL REDUCTION IN STATE FUNDS.—The term “overall per-pupil reduction in State funds” means, with respect to a fiscal year—

(A) the amount of any reduction in the total amount of State funds provided to all local educational agencies in the State in such fiscal year compared to the total amount of such funds provided to all local educational agencies in the State in the previous fiscal year; divided by

(B) the aggregate number of children enrolled in all schools served by all local educational agencies in the State in the fiscal year for which the determination is being made.

(6) STATE.—The term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.