

From shutdown to shut out:

How America's low-income students continue to be hurt by Covid policy

ISSUE BRIEF

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It's been three years since the government's response to Covid upended Americans' lives. And as time progresses, it is increasingly clear who will pay the steepest price for the pandemic: children.

To facilitate the reopening of K-12 schools, Congress made available nearly \$200 billion through federal Covid relief starting in 2020. About 97% of this funding went to government-run public schools. After a push from stakeholders to acknowledge the harm of government-mandated closures on nonpublic schools, Congress created Emergency Assistance to Nonpublic Schools (EANS) and allocated \$5.5 billion in aid to nonpublic schools with low-income students severely impacted by Covid..

Today, at least \$736 million of federal aid has failed to reach the nonpublic schools and students it was intended for. Government mismanagement at federal and state levels ultimately kept qualified schools from accessing funds designated for them by Congress.

At least \$157 million that states didn't allocate to nonpublic schools has already ended up back in the hands of governors who reallocated the money to other public and private entities. Whether these and similar grants made with leftover EANS money are good uses of federal funds in general matters far less than the issue of dollars intended for K-12 nonpublic schools going elsewhere.

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Examples of governors' grants include:

- Alaska gave \$1.2 million toward a program that uses the video game Minecraft to teach coding.
- Colorado directed \$5 million to Colorado RISE Turnaround Fund Grants, which go to public schools and nonprofits, not nonpublic schools.
- Georgia put \$34 million to grants for Georgia's public schools.
- Kansas granted \$6 million to a summer program that gives children and their families/caregivers free admission to museums, zoos, and historic sites.
- New Mexico granted \$5.4 million to school-based health clinics, a public-school project already underway pre-pandemic.
- South Carolina gave \$25 million to Workforce Scholarships for the Future, a community college workforce preparedness program.
- West Virginia used \$500,000 for awards to 12 public schools that won a statewide "I Got Vaxxed!" competition.
- Oregon gave \$1.6 million to "Moonshot for Equity," a multi-year initiative aimed at "eliminating equity barriers" in several state colleges.
- North Carolina used \$7.7 million for mental health programs at public colleges and universities.



WHAT WENT WRONG?

The National Opportunity Project has produced the first comprehensive study of the EANS program and identified key problems:

1. Some states used aid as a slush fund

Governors and state education agencies were disincentivized to allocate all the funding to nonpublic schools because of a little-discussed statutory spoiler (“reversion clause”) that allows money that doesn’t reach schools to be used by the governor for virtually any educational purpose.

2. Arbitrary program parameters led to poor implementation

States were left to decide how to notify schools of the program, calculate the impact of Covid on schools, and how to measure the low-income student enrollment in order to qualify for EANS funds. This resulted a lopsided and inconsistent distribution of funds.

3. Overly restrictive (and now moot) allowable expenses

While federal relief funds for public schools were essentially blank checks to all taxpayer-funded districts, funding for nonpublic schools was more restricted. Allowable uses were severely limited, emphasizing sanitation supplies, temporary air ventilation systems, and leasing space to ensure students and teachers were social distancing.

4. Exclusion of nonpublic schools that received paycheck assistance

Nonpublic schools that received a second-round Paycheck Protection Plan loan to help pay staff salaries were excluded from EANS eligibility. By contrast, public schools could use federal education aid totalling \$190 billion (Elementary and Secondary School Emergency Relief Fund or ESSER) to pay staff salaries and benefits.

5. Poor federal oversight and little accountability

The federal government is not tracking the use of EANS funds in real time, and there are few requirements for states to publicly report what is happening with the money. Stakeholders lack tools or data to hold governors accountable for allocating funds to eligible schools. NOP expected the EANS reversion clause could result in hundreds

State	Funds unspent through EANS — already has or is at risk of reverting to GEER II
Alaska	\$10,020,669
Arkansas	\$20,857,185
Colorado	\$13,269,000
Georgia	\$59,286,968
Hawaii	\$11,284,633
Idaho	\$32,888,486
Illinois	\$54,479,700
Kansas	\$15,804,943
Louisiana	\$1,940,246
Maryland	\$1,651,769
Montana	\$6,293,452
New Hampshire	\$6,678,000
New Jersey	\$19,760,099
New Mexico	\$22,950,382
North Dakota	\$3,659,555
Ohio	\$51,260,738
Oregon	\$22,489,900
Rhode Island	\$4,271,738
South Carolina	\$25,332,079
South Dakota	\$7,123,155
Tennessee	\$101,439,070
Texas	\$115,271,935
Vermont	\$3,909,468
Virginia	\$68,214,006
Washington	\$41,979,185
West Virginia	\$5,268,429
Wyoming	\$8,652,946
Totals	\$736,037,736

Data presented reflects what was confirmed as of February 1, 2023

EANS by the numbers

\$5.5 billion total federal aid for nonpublic schools

\$736 million, federal aid that has failed to reach nonpublic schools and students

\$157 million federal aid already spent by governors on pet projects



WHAT'S AT STAKE?

It's now up to governors, state legislators, and stakeholders to make sure the money gets to where Congress intended it go — to nonpublic school students and teachers. But how?

Parents, school leaders, and activists can ask state officials to honor the promise federal lawmakers made to address Covid-related learning loss in nonpublic schools. Specifically, governors and state education officials can:

- Remove misguided criteria that prevented some schools from being eligible.
- De-emphasize school use of funds for “controlling” Covid the disease (i.e., activities or goods that have proven superfluous or ineffective).
- Broaden allowable expenses to the fullest extent possible.
- Grant unused EANS funds to schools, entities, or programs that directly benefit nonpublic students affected most by learning loss resulting from Covid-response policies.
- Report and regularly update (via state websites) all data on EANS disbursement, reversions, and reallocations.

Students and teachers at all U.S. schools — including private, independent, and parochial — were greatly impacted by the Covid response. Exposing the problems with the EANS program's design and its implications will help ensure that students receive the help they were promised.

ABOUT US

Jessica Hockett

Lead researcher and author

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Jessica Hockett is a senior policy analyst at the National Opportunity Project. Jessica has a PhD in educational psychology from the University of Virginia. Jessica conducts research on government programs and policy responses for NOP, including the handling of Covid emergency relief funding. Jessica's 20-year career in education included working with schools and agencies across the U.S. to improve curriculum, instruction, and programs.

Patrick Hughes

President and Co-Founder, National Opportunity Project

Patrick Hughes is the president and co-founder of the National Opportunity Project and a lead strategist of national policy initiatives and precedent-setting litigation.

Pat has a reputation for taking on the big fights. In his former role as the co-founder and president of the Liberty Justice Center, Pat led a team of attorneys to legal victories that touched the lives of over 100 million Americans. He spearheaded the legal challenge that stopped the federal vaccine mandate for private employers and was ultimately upheld by the U.S. Supreme Court. And, in 2018, his team successfully overturned a 40-year Supreme Court precedent in *Janus v. AFSCME*. His work is frequently featured in top-tier, national media outlets including Fox News, MSNBC, *The Hill*, *The Chicago Tribune*, *The Washington Post*, and *The New York Times*.

With Pat's experience as an attorney litigating complex cases in state and federal courts throughout the country, NOP identifies when and where litigation is necessary to protect Americans' rights as parents, taxpayers, voters, business owners, and citizens.

About the National Opportunity Project

The National Opportunity Project is a national, nonprofit government watchdog organization committed to protecting Americans' rights and holding the government accountable at all levels.

The National Opportunity Project's mission is to transform liberty principles into public policies and improve the lives of American families. We aim to achieve our mission through our research, education, training, and issue advocacy work on behalf of liberty-based principles and public policy.

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