From shutdown to shut out: How America's low-income students continue to be hurt by Covid policy

MARCH 2023

JESSICA HOCKETT, PHD
SENIOR POLICY ANALYST

NATIONAL OPPORTUNITY PROJECT
NATIONALOPPORTUNITY.ORG

THE NATIONAL OPPORTUNITY PROJECT

EXECUTIVE SUMMARY

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.

By the end of March 2020, every school in America was closed. More than 55 million elementary and high school-aged students were thrust into digital classrooms. To the extent that they did schoolwork at all, students suffered. Learning losses accumulated. Loneliness and isolation wreaked havoc. And then, the great debate about school reopenings began.

To facilitate the reopening of K-12 schools, Congress made available nearly $200 billion through federal Covid relief starting in 2020. The bulk of the money – approximately 97% – went to government-run public schools. But Congress acknowledged that government-mandated school closures affected independent, parochial, and nonpublic schools just as much as public schools. To offset these disruptions, Congress allocated $5.5 billion to these schools through a program called Emergency Assistance to Nonpublic Schools (EANS). Much of this money was focused on nonpublic schools that serve significant populations of low-income students.

However, today more than $736 million of this aid has failed to reach the schools and students intended.

The National Opportunity Project has produced the nation's first comprehensive look at the EANS program, with a focus on whether states have been able to get the money to the students and schools for which it was intended. Armed with the knowledge that hundreds of millions of dollars in aid is still available, NOP is calling on stakeholders and elected officials to ensure the aid reaches independent, private, and parochial schools, and students in need.

Schools were unable to use the resources intended for them to address academic and mental health needs.

Government mismanagement at federal and state levels ultimately kept qualified schools from accessing funds designated for them by Congress. The practical implication of this problem is that schools were unable to use the resources intended for them to address academic and mental health needs still accumulating due to the government's handling of Covid. The National Opportunity Project has identified key problem areas with the EANS program as follows:

1. Some states used aid as a slush fund

Governors and state education agencies were disincentivized to allocate all the funding to independent, parochial, and nonpublic schools. This is because of a little-discussed statutory spoiler that allows money that doesn't reach schools to be used by the governor for virtually any educational purpose. The result? Millions of dollars that were supposed to reach low-income students in nonpublic schools have instead been directed to government-run public schools or private organizations, in some cases for purposes and programs completely unrelated to K-12 education.

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 with individual schools in some states receiving $5 million or more, while schools in other states received $0.

3. Overly restrictive (and now moot) allowable expenses

While federal relief funds for public schools were essentially blank checks to all taxpayer-funded districts, government money for nonpublic schools was more restricted. Eligible private schools were severely limited in how this money could be used. The EANS program emphasized sanitation supplies, temporary air ventilation systems, and leasing space to ensure students and teachers were social distancing. Money was also focused on e-learning or remote learning, which became largely moot after schools began reopening in fall 2020.

4. Exclusion of nonpublic schools that received paycheck assistance

Congress excluded nonpublic schools from EANS eligibility if they received a second-round Paycheck Protection Plan loan to help pay staff salaries — a move that unnecessarily denied funding to high-need schools with low-income students. By contrast, public schools could use federal education aid from three successive funding packages amounting to $190 billion (Elementary and Secondary School Emergency Relief Fund or ESSER) to pay staff salaries and benefits. For example, Chicago Public Schools spent 77% of its ESSER funding to date on employee salaries and benefits, according to an article in *The Wall Street Journal* published on January 24, 2023.

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 an accessible manner or timeline for holding governors accountable for the assurances each one gave to the U.S. Department of Education as a condition of receiving an EANS award. It's unclear, for example, what recourse an eligible school that didn't get any money has if the state didn't convey information about the program sufficiently or accurately. Josephinum Academy in Chicago, an independent high school that serves Hispanic and Black girls from low-income families, is one potential example of a school that may have been eligible for but was unaware of the available funds.

> At least **$157 million** that states didn't allocate to nonpublic schools has already ended up back in the hands of governors.

While some of the states that received the most EANS money for nonpublic schools — like New York, California, and Florida — have been able to distribute funds with little to none left for discretionary use, others such as Virginia and Ohio have tens of millions returning to their governors and have not yet decided where the money will go as of February 2023.

States like Texas, Illinois, and Tennessee are creating programs that essentially extend EANS but remove the most restrictive eligibility criteria. These programs allow states to appear as if they are doing everything possible to make sure every cent is used to help children and teens from low-income families in nonpublic schools recover from destructive policies. But in these states as well as those with leftover funds yet to be reallocated, without advocacy and intervention, there are no guarantees the money will go toward things nonpublic schools can use.

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 agencies and entities. Examples follow:

- Alaska gave $1.2 million toward a program that uses the video game Minecraft to teach coding.

At least

$585 million,

if not more, is at risk of being directed away from schools that need it.

- 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.

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.

Though not all 50 states were ready to report to us how much EANS money (if any) they've allotted for nonpublic school students and teachers, it's clear they handled it in 50 different ways. At least $585 million, if not more, of the $736 million that has yet to reach nonpublic schools is at risk of being directed away from schools that need it.

Parents, activists, and school leaders should advocate for this federal funding to be used to address Covid-related learning loss in nonpublic schools by removing misguided criteria that prevented some schools from being eligible and by broadening allowable expenses to the fullest extent possible. 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 applications will help ensure that students receive the help they were promised.

TABLE OF CONTENTS

THE IMPACT OF THE COVID RESPONSE ON U.S. STUDENTS

America's response to the Covid pandemic had an unprecedented impact on K-12 education nationwide. In March 2020, almost every U.S. school, public and nonpublic, closed its doors, relegating an estimated 55.1 million students to virtual learning for the rest of the school year.[a]

Despite knowing early on that most children and teachers were at low risk from severe Covid disease and death, politicians and public health bureaucrats took drastic measures to keep children from in-person school well into the 2020-2021 school year. Though school-closure orders were ultimately state-level decisions, they came at the recommendation of federal agencies, including the Centers for Disease Control and Prevention (CDC). Nearly all kindergarten through high school (K-12) students in the U.S. were adversely affected by government-imposed Covid school closures and subsequent reopening requirements.

Teachers' union leaders spoke out against school reopenings.

ChicagoTeachersUnion
@CTULocal1

The push to reopen schools is rooted in sexism, racism and misogyny.

1:03 PM - 12/6/20 - Twitter from iPhone

200 Retweets **1,943** Quote Tweets **581** Likes

Randi Weingarten 🇺🇦🇺🇸💪🏾👩‍🎓
@rweingarten

If schools are reopened without proper safety measures, you scream bloody murder. Use your public megaphones. politico, com/new/2020/042/...

7:48 PM - Apr 29, 2020

Summer months in 2020 were fraught with controversy over whether and how schools should reopen. The nation's two largest teachers' unions, American Federation of Teachers (AFT) and the National Education Association (NEA), insisted health and safety risks were too high to return to normal school in the fall.

Teachers' union leaders threatened "safety strikes" if public schools reopened without meeting a long list of demands. With only weeks left before school was set to start in fall 2020, AFT President Randi Weingarten claimed teachers' union members were "quitting, retiring or writing their wills."

> AFT President Randi Weingarten claimed teachers' union members were "quitting, retiring or writing their wills."[b]

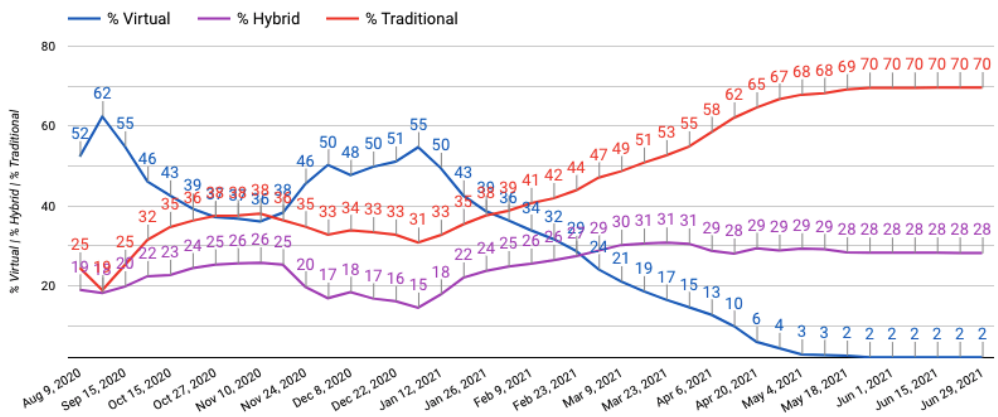
The Chicago Teachers Union, one of the largest and most powerful teachers' unions in the country, tweeted that the push to reopen schools was "rooted in sexism, racism and misogyny."[c]

Thousands of parents pulled their children from taxpayer-funded schools and either enrolled them in nonpublic schools or homeschooled, contributing to an overall 3% public-school enrollment decline in 2020-2021 compared to the previous year. Kindergarten saw the biggest decrease, with drops of 10% or more in 20 states.[d]

By Labor Day 2020, only 1 in 5 public schools were open for full-time, in-person instruction. The majority were virtual-only (55%) or using a hybrid model combining in-person and remote learning.[e] State- and county-level trends revealed stark political divides. Republican-led states, counties, and rural areas had a higher in-person average than Democrat-led states, counties, and urban areas. “Fifteen days to slow the spread” turned into months-long, union-championed lockouts that drove millions of families out of public education.

Figure 1: 2020/2021 School Year in Review

US K-12 Learning Mode Trends



Most U.S. schools began the 2020 school year in virtual or hybrid learning.
Source: Burbio’s K-12 School Opening Tracker.

The decision to replace face-to-face school with screen school was indisputably harmful.[f] For millions of students, returning to buildings was far healthier — and safer — than being at home, but also meant government- or school-mandated masking, coerced testing, and quarantine protocols that continued to interfere with or interrupt learning well into 2021-2022. Negative effects on students’ academic performance, speech and language development, communication skills, social relationships, motivation, and mental health are increasingly well-documented and will continue to accrue. Predictably, racial and linguistic minorities, kids from low-income families, and children in urban schools were hardest hit by government responses to Covid.[g]

THE FIGHT FOR EMERGENCY AID

> "The impact of school lockdowns has been disastrous for our students—especially those from low-income families. And, far too many private school students have suffered because interest groups, politicians, and lobbyists predictably played politics and protected their own lucrative gigs with taxpayer funding."
>
> Betsy DeVos, U.S. Secretary of Education, in a January 8, 2021, press release announcing EANS and GEER funding.

Questions around federal Covid relief for nonpublic schools initially generated controversy. Whether by force or by choice under pressure, nonpublic schools in most states closed alongside public schools. Nonpublic school leaders argued that the economic fallout from the pandemic could lead to an exodus of tuition-paying parents, risking school closure that would then overwhelm the local public system with an influx of students. To protect public education, the government had an interest in making a comparable amount of funds available to nonpublic schools and families.

Equitable service requirements ensconced elsewhere in federal law applied to Elementary and Secondary School Emergency Relief (ESSER), the public-school aid program, and Governor's Emergency Education Relief (GEER) Fund, the governors' program. Historically, this provision was understood to mean private school students were entitled to a portion of federal funding — Title I funding for low-income students, for example — commensurate with the number of disadvantaged students enrolled.[h]

Then-U.S. Secretary of Education Betsy DeVos insisted the pandemic had burdened all students in every school and issued non-binding guidance that directed local educational agencies to distribute the funds equitably to nonpublic schools, without regard for their number of disadvantaged students.[i] Opponents contended this was a misinterpretation of equitable services that would hurt vulnerable public schoolchildren.

U.S. Secretary of State visited Latin class at a Catholic School in Grand Rapids, Michigan, on September 14, 2020.
Source: Official Twitter of U.S. Secretary of Education, Betsy DeVos, @BetsyDeVosED, September 14, 2020.

Secretary DeVos attempted to resolve the dispute by issuing a final interim rule in June 2020 saying public districts could choose whether to set aside funds for all nonpublic school students, or for only a subset of disadvantaged students. Multiple states filed lawsuits over the rule, which a district court judge vacated two months later. The ruling meant only students defined as disadvantaged under the prevailing definition of equitable services were eligible for the then available federal funding, versus all nonpublic school students as DeVos advocated.[j]

The ‘Solution’: The Emergency Assistance to Nonpublic Schools Program

Dedicated dollars for nonpublic schools finally arrived December 27, 2020, with the $2.75 billion Emergency Assistance to Nonpublic Schools (EANS) program, after Republican lawmakers failed to pass a school choice bill that would have given low-income families tuition assistance for private schools. Unlike public schools under ESSER, not all nonpublic schools were eligible for EANS. They had to apply for the program for a certain dollar amount of services and assistance, which the state education agency or a designee approved and provided. EANS was not a direct grant program, as nonpublic schools can't receive federal funding directly without being subject to certain federal laws. Rather, schools submitted allowable expenses and/or the state procured the products and services on behalf of the schools. In March 2021, the American Rescue Plan Act issued an additional $2.75 billion as ARP EANS, or EANS II, for the same uses. Senator Chuck Schumer of New York and AFT President Randi Weingarten were at once credited and blamed for securing passage of the bill, which Catholic- and Jewish-school advocates had championed.[k] The NEA expressed "strong disappointment" in what it called "Betsy DeVos-era" money for private schools that had already been afforded "multiple avenues and funding."[l] The American Association of Superintendents was likewise "deeply disappointed to see Senate Democratic leadership continue the privatization agenda" by taking money away from public schools.[m]

EANS targeted low-income nonpublic school students most adversely affected by the Covid response, versus students at wealthy, high-tuition private schools. Still, the $5.5 billion provided by Congress in two rounds of legislation was less than 3% of the total emergency aid allocated for education. Given that nonpublic schools educate 10% of American children ages 5-17 years old, this was a modest concession for the students and schools harmed by government Covid policies — not a funding windfall.[n]

Unlike public schools under ESSER, not all nonpublic schools were eligible for EANS. They had to apply for the program for a certain dollar amount of services and assistance, which the state education agency or a designee approved and provided. EANS did not award schools with grants; rather, schools submitted allowable expenses and/or the state procured the products and services on behalf of the schools. Grants would have made the schools direct recipients of federal funding and subject to certain federal laws.

The New York Times

Schumer and Teachers' Union Leader Secure Billions for Private Schools
March 13, 2021

Nathan J. Diament, the executive director for public policy at the Union of Orthodox Jewish Congregations of America, said this to *The New York Times* about EANS:

"It's still the case that 10 percent of America's students are in nonpublic schools, and they are just as impacted by the crisis as the other 90 percent, but we're getting a much lower percentage overall…"

The amount of EANS funds each state received was based on its relative share of children ages 5-17 from low-income families and who were enrolled in nonpublic schools.[1] Appendix A shows the award amount for each of the 50 states, which includes the greater of $200,000 or .5% of the awarded funds set aside for administrative costs related to providing services and assistance to recipient schools. Table 1 below shows the ten states that received the most funding through EANS.

Table 1: Total Federal EANS Aid for Nonpublic Schools by State — Top 10 States

Ranking	State	Total EANS Award
1	New York	$502,571,521
2	Florida	$434,166,941
3	California	$368,787,846
4	Ohio	$310,086,762
5	Texas	$305,314,258
6	Pennsylvania	$302,763,698
7	North Carolina	$167,776,113
8	Illinois	$167,736,150
9	Indiana	$160,530,005
10	Georgia	$154,583,196

Total amounts ranged from $8.15 million (North Dakota) to $502.5 million (New York). Funds could not be used to provide direct or indirect assistance to scholarship-granting organizations — nor could the money be used toward vouchers, education savings accounts, scholarships, or K-12 tuition-assistance programs. This restriction was a tradeoff that came with the passage of EANS in December 2020 and barred such uses under governor's funds as well, where they had been allowed previously.

When applying for funds, governors were required to give assurances about how the state education agency would distribute information about the program, release and process applications, and obligate funds in an efficient and timely manner.[o]

How did schools get the money?

To be EANS-eligible, nonpublic schools had to:

- Be nonprofit, accredited, licensed, or otherwise operate in accordance with state law.
- Exist before the Covid national emergency declaration.
- Not have applied for or received a loan under the Small Business Administration Paycheck Protection Program (PPP) on or after December 27, 2020. Receiving a PPP loan before that date was permitted.

1. Incomes at or below 185% of poverty level.

EANS I (December 2020) was less restrictive than EANS II (March 2021) in that it *prioritized* nonpublic schools that enroll low-income students and were “most impacted” by the Covid emergency, and allowed participating schools to submit past qualifying expenses for reimbursements.

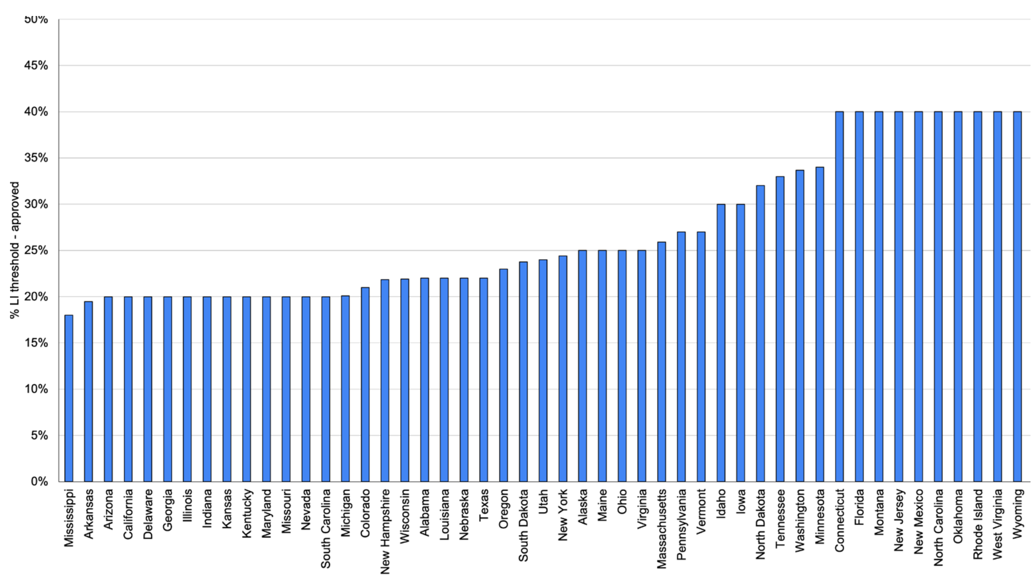
One state in particular, Wyoming, which held the 40% low-income threshold, did not allocate any of the federal funding issued in March 2021.

EANS II, on the other hand, did not permit reimbursements and was limited to schools that serve a “significant percent” of students from low-income families and were “most impacted” by the emergency. The respective statutes didn’t define *low-income, most-impacted*, or *significant percent;* the U.S. Department of Education (USDOE) published non-regulatory guidance offering potential methods for states to define those terms. In addition, the Department specified a school’s percentage of students from low-income families must meet or exceed 40%, or meet an alternate significant poverty percent proposed by the state and approved by the Department.

States could request to adjust the 40% threshold to make more schools eligible for aid, and most did. It is unclear why some did not. One state in particular, Wyoming, which held the 40% mark, did not allocate any of the federal funding issued in March 2021.

Figure 2 shows the low-income thresholds each state used. Mississippi and Arkansas had the lowest thresholds, meaning more schools could qualify (18% and 19.48%, respectively). Two states — Illinois and Georgia — initially requested thresholds below 15%. Both were denied and re-submitted higher thresholds for approval.[2] Only Hawaii requested a percentage higher than 40%, with 47.2%, the percentage of public and nonpublic school students in the state who meet Title I eligibility.

Figure 2: EANS II Low-Income Thresholds by State



2. Illinois requested 10% and Georgia 13.65%. Both were approved at 20%.

Ten states requested the 40% threshold; the overwhelming majority, 39 states, requested a percentage lower than 40%. Table 2 shows breakdown of how many states adopted different ranges for the low-income threshold.

Table 2: EANS Program Low-Income Thresholds by State

Low-Income Threshold	Number of States
Below 20%	2
Between 20%-29%	31
Between 30%-39%	6
At 40%	10
Over 40%	1

What happens to the unallocated aid? Reversion to state slush funds

A key feature of the EANS program under both iterations is its “reversion clause.” This provision reallocates any funds a state education agency does not obligate to nonpublic schools to the governor’s GEER funds, for a broad range of potential uses.

The EANS “Reversion Clause”

> (6) REALLOCATION.—Notwithstanding paragraph (1)(A), each State educational agency receiving funds under this subsection that complies with paragraph (2) but has unobligated funds remaining 6 months after receiving funds under this subsection shall return such remaining unobligated funds to the Governor, to use for any use authorized under subsection (c).

While a governor can direct a portion of remaining funds to a grant that includes or is specific to nonpublic schools, he or she can also use any leftover EANS money to provide emergency support to local education agencies, public school districts, early childhood programs, institutes of higher education, or other education-related entities such as libraries. In other words, when nonpublic school funds revert to the governor’s funds, the money is no longer required to be used for nonpublic schools.

However, the money becomes untethered from the PPP exclusion and low-income threshold. So, if a governor directs reverted funds to nonpublic school students and teachers, more schools could benefit than were qualified under the original EANS program parameters.

AN EARLY LOOK: DID EANS FLAWS DENY NONPUBLIC SCHOOLS A FAIR SHAKE?

NOP expected that both the EANS reversion clause and restrictive eligibility criteria may disincentivize distribution efforts and keep a significant portion of the $5.5 billion designated for Covid relief to low-income students in nonpublic schools from getting to its intended destinations.

Three questions drove this analysis:

1. How much EANS money have states been able to “get out” to nonpublic schools through the application process and/or direct procurement of services/assistance?

2. How much EANS money has reverted or is anticipated to revert to GEER II, the governor’s funds?

3. How have states with substantial leftover funds reverting (or reverted) to GEER II reallocated the funds? Did the money still go to nonpublic schools?

NOP expected that both the EANS reversion clause and restrictive eligibility criteria may disincentivize distribution efforts and keep a significant portion of the $5.5 billion designated for Covid relief to low-income students in nonpublic schools from getting to its intended destinations.

States are required to submit annual Maintenance of Efforts reports on all Education Stabilization Fund (ESF) programs, including EANS, which the U.S. Department of Education reports through an online portal.[p] But this portal shows awarded funds and executed spending as of June 30 in a fiscal year – not the current status of fund allocation and anticipated or planned spending. Therefore, NOP took a state-level approach, gathering documents and data from state education agency websites and via public records requests or other communication with state agencies’ staff.

Some states had comprehensive EANS program information on their websites and/or responded to inquiries with all or most requested records, while other states have very little EANS information online and/or did not respond to repeated requests. We ultimately obtained fund-status data for EANS I, EANS II, or both from 45 states.[3] Prior to finalizing data on February 1, 2023, we asked these states to update or reconfirm the numbers they provided and reached out to non-responsive states again. Some states were still in the process of obligating funds and could not provide amounts anticipated to revert to GEER II. The data we present in this report reflects what we were able to confirm as of February 1, 2023.

How much did states obligate to nonpublic schools?

The status of all 50 states’ EANS I and EANS II allocations is featured in Appendix B. Thus far, $736,037,736 of $5,265,439,043 (14%) in federal EANS money has reverted or is expected to revert for allowable uses under states’ respective GEER II funds.[4] A higher percentage of the more-restricted EANS II funds (20%) is reverting than for EANS I (9%). Those figures include states for which data are not yet available.

The 50-state reversion percentage, also shown in Appendix B, uses total funds awarded as the denominator, without excluding states for which data are not yet available (n/a). After excluding unreported data, we identified two main groups of states: those with no or low reversion amounts and those with significant reversion amounts.

3. Alabama, Connecticut, Kentucky, Nevada, and Oklahoma did not respond.
4. Puerto Rico and Washington, D.C. are excluded.

States with no or low reversion to governor's funds:

Arizona
California
Florida
Iowa
Louisiana
Massachusetts
Nebraska
New York
Utah
Wisconsin

Group 1: States with no or low reversion to governor's funds

No-/low-reversion states are those that have been able to provide services and assistance to eligible nonpublic schools through either the statutory application process and/or via direct procurement of services and assistance, with less than 10% of the state's total EANS funds reverting to GEER II. These 10 states comprise 35% of EANS dollars awarded to all 50 states and include the three states that were awarded the most money: New York, Florida, and California.

Some states successfully disbursed a greater share of the funds during one iteration of the program, but not the other. Twelve states had little to no reverted funds from EANS I only.[5] EANS II restrictions regarding low-income thresholds and Covid impact make it less surprising for states to have "leftover" funds from the program than for EANS I — as is the case with Arkansas, New Jersey, Ohio, Oregon, and South Carolina. Georgia is an outlier, having reverted 75% of EANS I funds to GEER, but none from EANS II.

Based on analysis of available information, it doesn't appear a single or uniform approach was taken by no-/low- reversion states. However, at least some states obligated funds by means other than directly allocating amounts to applicant schools. For example:

- In addition to awarding funding to schools that applied, Utah contracted professional development and tutoring services for all nonpublic schools.
- Wisconsin obligated all funds to one of its cooperative educational service agencies, CESA 6, which provides a combination of direct services, past reimbursements, and future reimbursements.[q]
- With EANS II, California obligated its $181 million to vendors who then provided services to eligible private schools.
- New York took EANS I funds that remained after the obligation period and opened an "unmet needs" program, through which eligible schools received $49 million.[r] New York also dedicated EANS I and II funds to a vendor through which nonpublic schools could upgrade or replace windows and ventilation systems.

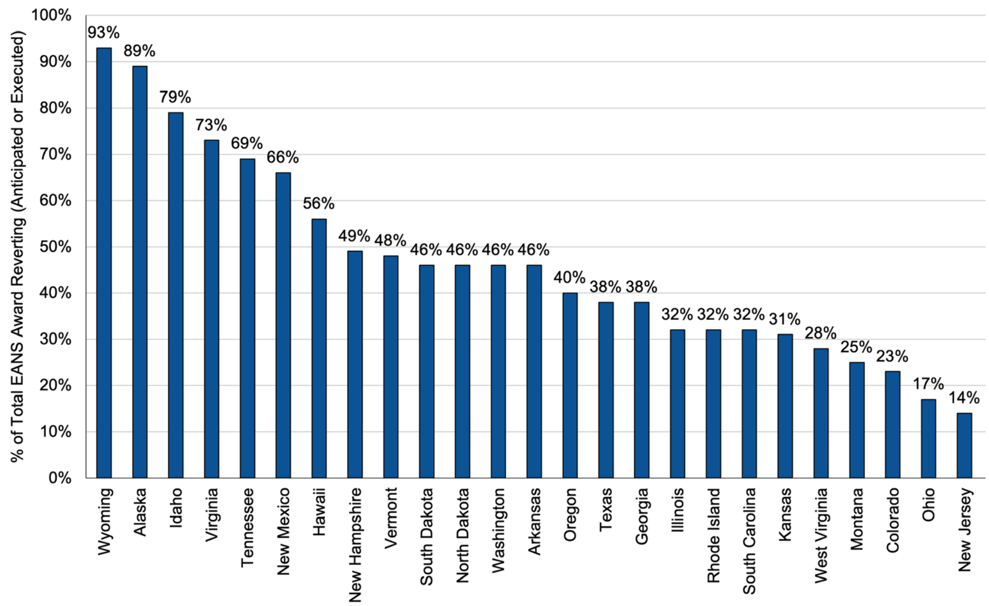
These approaches are all allowable under the statutory parameters of the EANS programs.

Group 2: States with high or significant reversion to governor's funds

Significant-reversion states have high levels of leftover EANS I and/or EANS II funds returning to governor's funds, with reversion amounts equal to 15% or higher of the amount the state was awarded in one or both rounds of funding. The 25 states in this category (Figure 3 and Table 3) together received $1.91 billion in EANS awards, 38% of which either has been or will be reallocated for other educational emergencies at a governor's discretion. The $734.6 million from these significant-reversion states accounts for almost 100% of the total EANS funds that have reverted or are expected to revert to GEER. Louisiana and Maryland also reverted less than $2 million each to their respective governors. See Appendix C: High/Significant Reversion States, Listed in Order of Total % Reverting to GEER II for full data listing.

5. Arkansas, Connecticut, Maryland, Minnesota, Mississippi, Missouri, New Jersey, Ohio, Oregon, Rhode Island, South Carolina, and Washington

Figure 3: High/Significant Reversion States: Percent of Total EANS Award Reverting to GEER II



This is money that did not go to emergency needs of eligible nonpublic schools through the statutory application process, or via direct procurement of services and assistance, prior to reversion. Some states have used or plan to use the leftover funds for nonpublic school needs, while others have not or do not. Two-thirds of the $734.6 million reversion from these 25 states is from EANS II dollars.

There are few obvious patterns in the geography or political leanings of these 25 states; blue, red, and purple states from all regions are represented. Three of the least-populous states in the U.S. — Alaska, Idaho, and Wyoming — have the highest reversion percentages.

Not all of the 50 states have finalized EANS II reversion amounts. For states that provided us with executed or anticipated amounts (n=35), the correlation between EANS II low-income threshold and its reversion percentage is low (r =.14). In other words, there doesn't seem to be a strong relationship between how much money a state reverted from EANS II to GEER and the figure they used for what schools' percent of low-income students must be in order to apply. There's no reason to believe, for example, that states with higher low-income thresholds have reverted more money (or vice versa).

THE AFTERMATH: WHAT ARE STATES DOING WITH LEFTOVER AID?

NOP expected the EANS reversion clause could result in hundreds of millions of dollars intended for nonpublic schools being redirected to education entities and initiatives unrelated to low-income nonpublic school students, staff, and schools. Current data suggest this prediction may come true.

Total anticipated or executed reversion amount from states for which we could confirm these data totals $736,037,736.[6] Table 3 shows all 27 states with leftover EANS funds.

Table 3: Reverted Money Reallocation Status Table

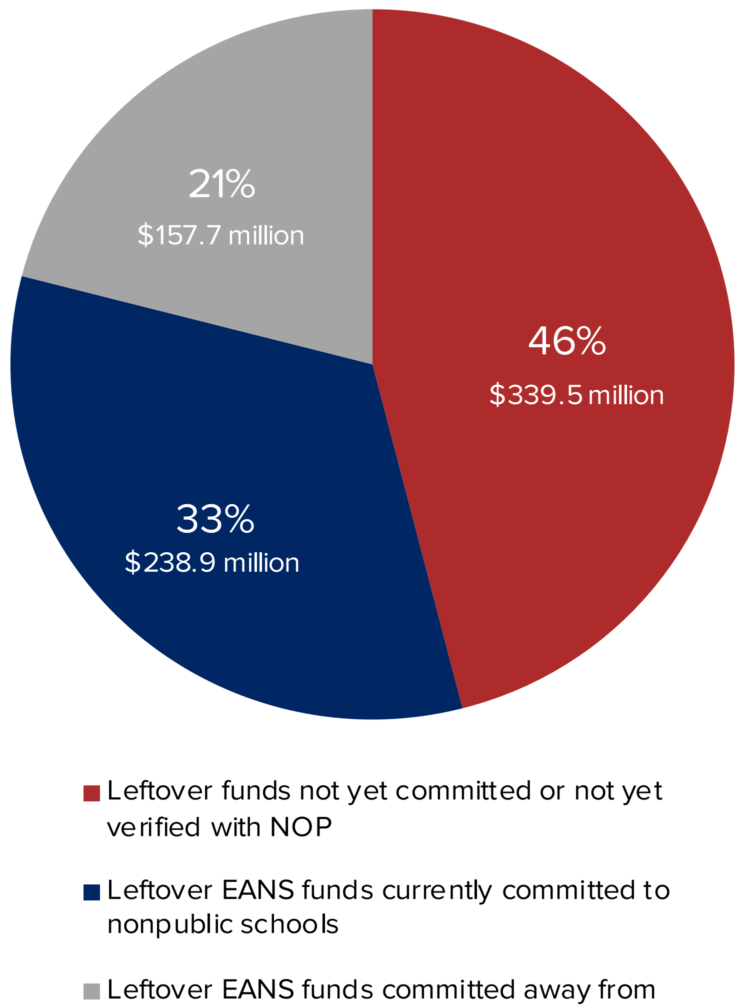
Data presented reflects what was confirmed as of February 1, 2023

State	Funds unspent through EANS — already has or is at risk of reverting to GEER II	Leftover funds not yet committed or not yet verified with NOP	Leftover EANS funds currently committed to nonpublic schools	Leftover EANS funds committed away from nonpublic schools
Alaska	$10,020,669	$1,237,464	$602,036	$8,181,169
Arkansas	$20,857,185	$20,857,185	$0	$0
Colorado	$13,269,000	$0	$3,469,000	$9,800,000
Georgia	$59,286,968	$0	$0	$59,286,968
Hawaii	$11,284,633	$8,165,132	$0	$3,119,501
Idaho	$32,888,486	$32,888,486	$0	$0
Illinois	$54,479,700	$0	$54,479,700	$0
Kansas	$15,804,943	$4,904,943	$0	$10,900,000
Louisiana	$1,940,246	$1,940,246	$0	$0
Maryland	$1,651,769	$1,651,769	$0	$0
Montana	$6,293,452	$6,293,452	$0	$0
New Hampshire	$6,678,000	$4,699,000	$1,979,000	$0
New Jersey	$19,760,099	$19,760,099	$0	$0
New Mexico	$22,950,382	$13,100,000	$0	$9,850,382
North Dakota	$3,659,555	$3,659,555	$0	$0
Ohio	$51,260,738	$51,260,738	$0	$0
Oregon	$22,489,900	$0	$0	$22,489,900
Rhode Island	$4,271,738	$4,271,738	$0	$0
South Carolina	$25,332,079	$0	$0	$25,332,079
South Dakota	$7,123,155	$7,123,155	$0	$0
Tennessee	$101,439,070	$38,382,340	$63,056,730	$0
Texas	$115,271,935	$0	$115,271,935	$0
Vermont	$3,909,468	$3,909,468	$0	$0
Virginia	$68,214,006	$68,214,006	$0	$0
Washington	$41,979,185	$41,979,185	$0	$0
West Virginia	$5,268,429	$0	$0	$5,268,429
Wyoming	$8,652,946	$5,152,946	$0	$3,500,000
Totals	$736,037,736	$339,450,907	$238,858,401	$157,728,428

6. Louisiana is a low-reversion state, but this total includes the state's $1.9 million EANS II reversion. Maryland is a low-reversion state, but this total includes it's $1.6 million EANS II reversion.

Figure 4 shows the status of the $736 million in EANS funds that has or is reverting to states' GEER II funds.

Figure 4: Status of Reallocated EANS Funds Reverted for Uses Under GEER II



Leftover funds not yet committed or not yet verified

For 46% of leftover funds, we either could not confirm use or state agencies said no final decisions have been made yet about how the funds will be allocated.

Six states — Arkansas, Idaho, Ohio, Tennessee, Virginia,[7] and Washington — comprise the majority of these funds, each with $10 million or more reverting to GEER II. Virginia and Idaho experienced comparable rates of fund use through the application process for both EANS I and II; Arkansas and Washington had more success with EANS I than with EANS II.

To the extent that these states have still not reallocated EANS funds reverted to governor's funds, stakeholders have ample opportunity to ask the governor and state education agencies to redirect funds toward nonpublic schools, consistent with Congress's original intent, as some other states have done.

7. On January 9, 2023, a Virginia Department of Education staffer said via email response that "planning is underway to utilize the funds, including using the funds for K-12 learning recovery grants for families, which may be used for in-person, virtual, or hybrid tutoring options for students."

Leftover EANS funds committed away from nonpublic schools

Twenty percent of the $736 million in executed or anticipated reversions between nine states has already been reallocated to other education entities, away from nonpublic schools.

Arguably these grants are the biggest indictment of the EANS program design. Each one may be consistent with the broad range of allowable uses under GEER II, but many do not address the same kinds of needs EANS was designed to meet. While some children and teens who attend nonpublic schools may end up participating in or benefiting from these programs, benefit-by-happenstance wasn't the intention of dollars devoted to nonpublic school kids. A selection of GEER grants made with reverted EANS funds can be found in Appendix D.

For instance:

- South Carolina's $25 million in leftover EANS II funds was put toward a "Workforce Scholarships for the Future" initiative for community colleges, effectively directing the $40.3 million the state received from Congress in March 2021 for low-income nonpublic K-12 schools to college-age adults instead.

- New Mexico put $5.4 million in leftover funds toward school-based health clinics in public schools, an initiative launched before the pandemic.

- West Virginia used $500,000 for prizes for a statewide "I Got Vaxxed!" program. Schools with the highest rates of vaccinated students and staff received $50,000 to use for their prom, fun fair, pep rally, or any student-based activity.[5] Although the competition was open to nonpublic schools as well as public, no nonpublic school was among the winners.

- Kansas granted $6 million to a summer program that gives children and their families/caregivers free admission to various museums, zoos, and historic sites.

- Oregon gave $1.6 million to "Moonshot for Equity," a multi-year initiative aimed at "eliminating equity barriers" in several state colleges.

Two significant-reversion states at different ends of the EANS award continuum — Georgia and Alaska — each divided their leftover program money into many grants, but for different kinds of entities.

Georgia received nearly $160 million for the EANS program and distributed all its EANS II award through the application process, but only 15% of its EANS I award.[8] As shown in Table 4, most of those dollars went to grants and programs for pre-K-12 public school students and teachers, with the Georgia Department of Education and Department of Early Care and Learning being top recipients of $58 million in grants sourced from the funds. Essentially, Georgia took the money intended for nonpublic, independent, and parochial schools and sent it to government-run public schools – which had already received over $6.6 billion from the federal government through ESSER.

8. This is surprising because the criteria for EANS I were looser than for EANS II. Georgia had the third highest EANS I reversion percentage after Wyoming and Alaska, two much-smaller states with far fewer nonpublic schools.

Table 4: Georgia: Governor's Use of Leftover EANS Funds

Georgia	Amount
Department of Education - Back-to-School Grants	$25,077,250
YMCA of Coastal Georgia - Learning Loss Grants	$12,000,000
Department of Early Care and Learning - Summer Transition Program 2023	$7,831,607
Department of Education - Special Needs Teacher Grants	$6,592,300
Board of Regents of the University System of Georgia for USG Library Grants	$2,329,185
Department of Education - Collaborative Rapid Scaling of Statewide Teleaudiology Capacity to Improve Diagnosis Of Hearing Loss	$1,292,310
Special Needs Equipment Grant for Georgia's State Schools	$881,681
Technical College System of Georgia - CNA Program	$843,000
Board of Regents of the University System of Georgia - Career Planning Resource Platform	$650,000
Statewide Hearing and Vision Screening Initiative for Georgia Public Schools	$417,626
Total	$57,914,959

Alaska had significant dollars remaining from both rounds of EANS, but unlike Georgia, didn't direct any of the money to the state education agency. A little over $600,000 went to nonpublic school uses and another $477,000 to a state-sponsored military youth academy, but the lion's share of $10 million leftover from EANS has gone to a range of education entities and organizations that aren't and don't directly support K-12 schools. Examples of the governor's fund uses are shown in Table 5.

Table 5: Alaska: Governor's Use of Leftover EANS Funds

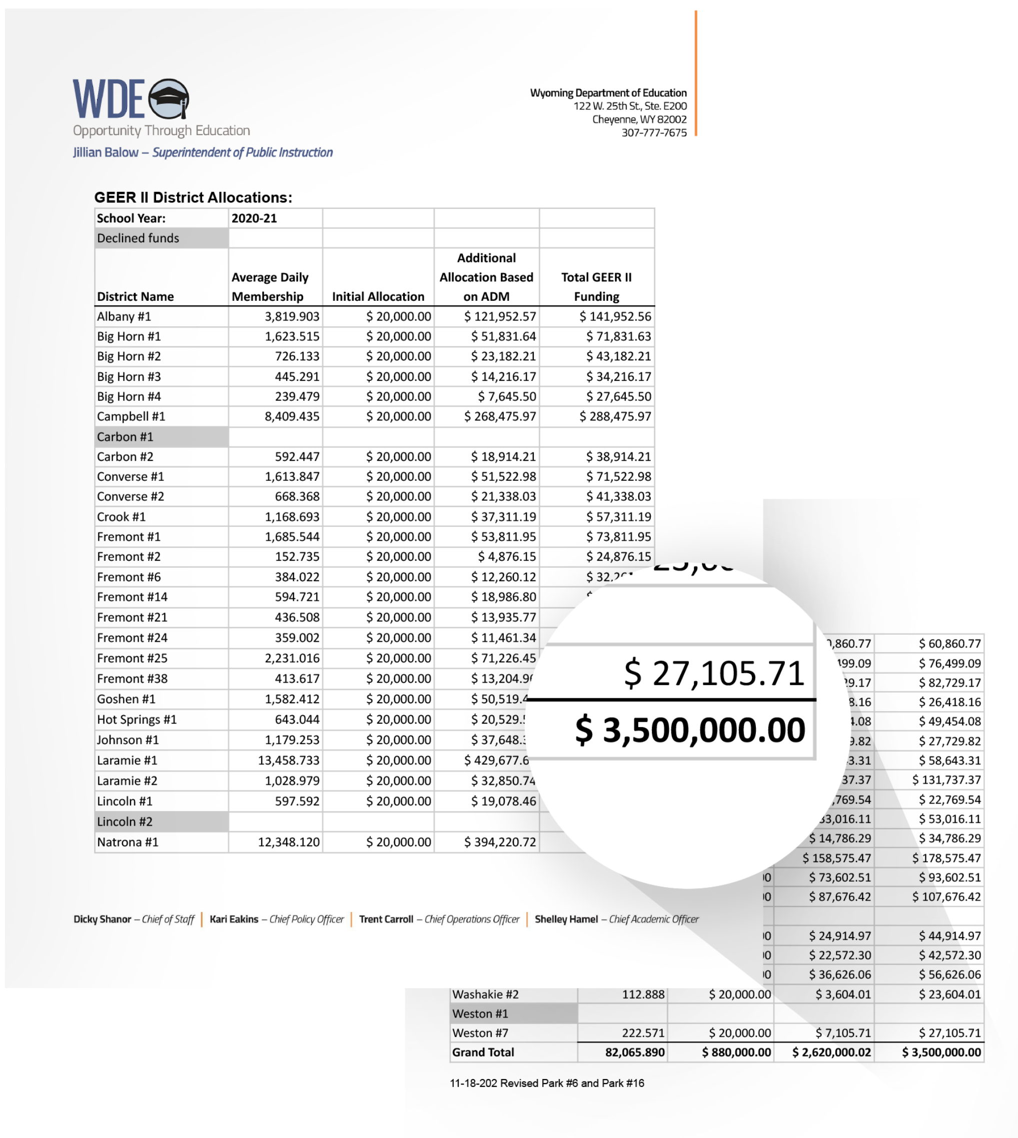
Alaska	Amount
Insight (Minecraft Coding, Microsoft Seats)	$1,225,482
Alaska Native Science and Engineering Program	$2,500,000
Covenant House Alaska	$128,687
Alaska Military Youth Academy (AMYA)	$477,000
Challenger Learning Center	$1,450,000
Drone Education and Advancement Program	$375,000
Alaska Sealife Center	$525,000
Northwestern Alaska Career and Technical Center (NACTEC)	$500,000
Alaska Resource Education (ARE)	$500,000
Future Farmers of America (FFA)	$500,000
Total	$8,181,169

Wyoming, which has the highest reversion percentages of all 50 states, is a unique case. The Wyoming Department of Education provided an explanation that suggested the EANS program presented challenges due to the state's low population, few nonpublic schools, and high percentage of schools open for in-person learning in fall 2020.

Wyoming did not request a reduced threshold for low-income enrollment for EANS II, and denied the only nonpublic school that showed interest in the funds because it didn't meet the 40% standard.

Of 31 nonpublic schools, only four expressed interest in EANS I, and two of those applied.[9] Schools likewise showed no interest in EANS II funds, with the exception of one of the two schools participating in EANS I that didn't meet Wyoming's 40% low-income enrollment threshold. Because states were allowed to request a lower threshold, this raises the question of why Wyoming stuck with the 40%. Arguably, since all schools in the state opened in fall 2020, the limited number of things EANS money could be spent on may have been less appealing or necessary to nonpublic schools.

Wyoming distributed $3.5 million of the $8.6 million in EANS funds returned to GEER II to its public school districts, based on student enrollment (see below). Four districts declined the funds, which were intended to "stabilize the education workforce," per state agency staff.



WDE
Opportunity Through Education
Jillian Balow – *Superintendent of Public Instruction*

Wyoming Department of Education
122 W. 25th St., Ste. E200
Cheyenne, WY 82002
307-777-7675

GEER II District Allocations:

School Year:	2020-21			
Declined funds				
District Name	**Average Daily Membership**	**Initial Allocation**	**Additional Allocation Based on ADM**	**Total GEER II Funding**
Albany #1	3,819.903	$ 20,000.00	$ 121,952.57	$ 141,952.56
Big Horn #1	1,623.515	$ 20,000.00	$ 51,831.64	$ 71,831.63
Big Horn #2	726.133	$ 20,000.00	$ 23,182.21	$ 43,182.21
Big Horn #3	445.291	$ 20,000.00	$ 14,216.17	$ 34,216.17
Big Horn #4	239.479	$ 20,000.00	$ 7,645.50	$ 27,645.50
Campbell #1	8,409.435	$ 20,000.00	$ 268,475.97	$ 288,475.97
Carbon #1				
Carbon #2	592.447	$ 20,000.00	$ 18,914.21	$ 38,914.21
Converse #1	1,613.847	$ 20,000.00	$ 51,522.98	$ 71,522.98
Converse #2	668.368	$ 20,000.00	$ 21,338.03	$ 41,338.03
Crook #1	1,168.693	$ 20,000.00	$ 37,311.19	$ 57,311.19
Fremont #1	1,685.544	$ 20,000.00	$ 53,811.95	$ 73,811.95
Fremont #2	152.735	$ 20,000.00	$ 4,876.15	$ 24,876.15
Fremont #6	384.022	$ 20,000.00	$ 12,260.12	$ 32.2
Fremont #14	594.721	$ 20,000.00	$ 18,986.80	
Fremont #21	436.508	$ 20,000.00	$ 13,935.77	
Fremont #24	359.002	$ 20,000.00	$ 11,461.34	
Fremont #25	2,231.016	$ 20,000.00	$ 71,226.45	
Fremont #38	413.617	$ 20,000.00	$ 13,204.9	
Goshen #1	1,582.412	$ 20,000.00	$ 50,519.4	
Hot Springs #1	643.044	$ 20,000.00	$ 20,529.	
Johnson #1	1,179.253	$ 20,000.00	$ 37,648.	
Laramie #1	13,458.733	$ 20,000.00	$ 429,677.6	
Laramie #2	1,028.979	$ 20,000.00	$ 32,850.74	
Lincoln #1	597.592	$ 20,000.00	$ 19,078.46	
Lincoln #2				
Natrona #1	12,348.120	$ 20,000.00	$ 394,220.72	

Dicky Shanor – *Chief of Staff* | **Kari Eakins** – *Chief Policy Officer* | **Trent Carroll** – *Chief Operations Officer* | **Shelley Hamel** – *Chief Academic Officer*

			,860.77	$ 60,860.77
			99.09	$ 76,499.09
			9.17	$ 82,729.17
			8.16	$ 26,418.16
			.08	$ 49,454.08
			9.82	$ 27,729.82
			3.31	$ 58,643.31
			37.37	$ 131,737.37
			,769.54	$ 22,769.54
			3,016.11	$ 53,016.11
			$ 14,786.29	$ 34,786.29
			$ 158,575.47	$ 178,575.47
		0	$ 73,602.51	$ 93,602.51
		0	$ 87,676.42	$ 107,676.42
		0	$ 24,914.97	$ 44,914.97
		0	$ 22,572.30	$ 42,572.30
		0	$ 36,626.06	$ 56,626.06
Washakie #2	112.888	$ 20,000.00	$ 3,604.01	$ 23,604.01
Weston #1				
Weston #7	222.571	$ 20,000.00	$ 7,105.71	$ 27,105.71
Grand Total	**82,065.890**	**$ 880,000.00**	**$ 2,620,000.02**	**$ 3,500,000.00**

11-18-202 Revised Park #6 and Park #16

---

9. Between the two non-applicants, WDOE said one was ineligible and the other wanted to use EANS funds for scholarships, which was not allowed.

Leftover EANS funds committed to nonpublic schools

One-third (33%) of unspent nonpublic school funding to date has been promised to nonpublic school uses. Examples of programs created to dispurse leftover funds to nonpublic schools are shown in Table 6.

Table 6: Aid Promised to Nonpublic Schools Under Governor's Funds*

State	Dollar Amount and Use
Alaska	$375,939 to air scrubbers for any interested nonpublic school $226,097 to allowable expenses for three individual nonpublic schools
Colorado	$3,469,000 to Governor's Additional Emergency Nonpublic School (GAENS) grant program
Illinois	$7,875,000 to High-Impact Tutoring Program for Nonpublic School; $46,604,700 toward EANS Reallocation Grant Program
New Hampshire	$1,979,000 to EANS I+ Program
Tennessee	$63,056,729 toward Supplemental Educational Relief Grants for Non-Public Schools
Texas	$115,271,935 toward Governor's Emergency Education Relief Fund Assistance to Private Schools (GAPS)

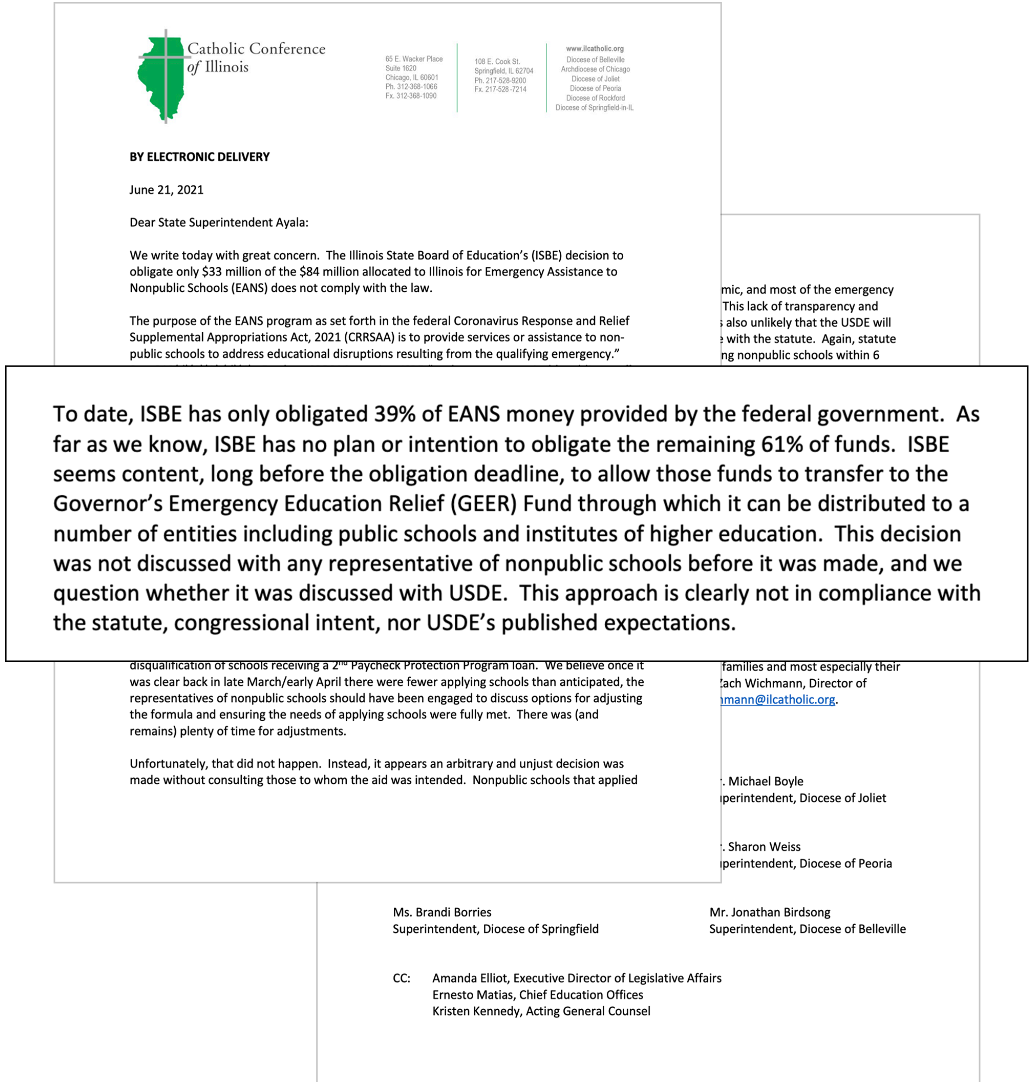
*West Virginia used $500,000 in reverted EANS funds for prizes in the WVDOE "I Got Vaxxed!" competition, which was open to nonpublic schools. Kansas put $500,000 toward a Teacher Recruitment and Retention Program that provided "State-level supports to assist public and nonpublic schools identify and utilize flexibilities and resources to address staffing shortages and expand grow-your-own programs."

Five of these states have either already implemented or are about to implement programs that use some portion of reverted EANS funds to extend or create a third round of the EANS program. Each of these states first reverted funds to GEER II and then rerouted funds toward potential use by nonpublic schools.

Illinois

Thus far, Illinois has promised all leftover EANS funding to nonpublic schools – possibly due to pressure from government watchdogs and nonpublic school stakeholders.

During the EANS I application period, religious-school organizations especially kept close tabs on the allocations the Illinois State Board of Education (ISBE) was awarding to applicant schools. Initially, ISBE applied a formula that reduced the amount each school would receive. After a group of Catholic school superintendents accused ISBE of "not following the law" on EANS, the agency announced schools would receive the original amounts requested.



Catholic Conference *of* Illinois

65 E. Wacker Place
Suite 1620
Chicago, IL 60601
Ph. 312-368-1066
Fx. 312-368-1090

108 E. Cook St.
Springfield, IL 62704
Ph. 217-528-9200
Fx. 217-528-7214

www.ilcatholic.org
Diocese of Belleville
Archdiocese of Chicago
Diocese of Joliet
Diocese of Peoria
Diocese of Rockford
Diocese of Springfield-in-IL

BY ELECTRONIC DELIVERY

June 21, 2021

Dear State Superintendent Ayala:

We write today with great concern. The Illinois State Board of Education's (ISBE) decision to obligate only $33 million of the $84 million allocated to Illinois for Emergency Assistance to Nonpublic Schools (EANS) does not comply with the law.

The purpose of the EANS program as set forth in the federal Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA) is to provide services or assistance to non-public schools to address educational disruptions resulting from the qualifying emergency."

To date, ISBE has only obligated 39% of EANS money provided by the federal government. As far as we know, ISBE has no plan or intention to obligate the remaining 61% of funds. ISBE seems content, long before the obligation deadline, to allow those funds to transfer to the Governor's Emergency Education Relief (GEER) Fund through which it can be distributed to a number of entities including public schools and institutes of higher education. This decision was not discussed with any representative of nonpublic schools before it was made, and we question whether it was discussed with USDE. This approach is clearly not in compliance with the statute, congressional intent, nor USDE's published expectations.

disqualification of schools receiving a 2nd Paycheck Protection Program loan. We believe once it was clear back in late March/early April there were fewer applying schools than anticipated, the representatives of nonpublic schools should have been engaged to discuss options for adjusting the formula and ensuring the needs of applying schools were fully met. There was (and remains) plenty of time for adjustments.

Unfortunately, that did not happen. Instead, it appears an arbitrary and unjust decision was made without consulting those to whom the aid was intended. Nonpublic schools that applied

mic, and most of the emergency
This lack of transparency and
also unlikely that the USDE will
with the statute. Again, statute
ng nonpublic schools within 6

families and most especially their
ach Wichmann, Director of
mann@ilcatholic.org.

. Michael Boyle
perintendent, Diocese of Joliet

. Sharon Weiss
perintendent, Diocese of Peoria

Ms. Brandi Borries
Superintendent, Diocese of Springfield

Mr. Jonathan Birdsong
Superintendent, Diocese of Belleville

CC: Amanda Elliot, Executive Director of Legislative Affairs
Ernesto Matias, Chief Education Offices
Kristen Kennedy, Acting General Counsel

JOSEPHINUM ACADEMY
OF THE SACRED HEART

The Grants and Scholarship Manager of Josephinum Academy in Chicago contacted the state in October 2022 asking:

"We are 90% low income and I don't believe we were aware of this opportunity last year in order to have applied. Are principals contacted or do we have to be proactive to seek opportunities?"

Even after the adjustments, $23 million of EANS I funding reverted to the governor's fund. The funds were initially earmarked for a statewide high-impact tutoring program for nonpublic schools, but ISBE chose a $7.85 million proposal from a vendor over others for $20 million, leaving $15 million for other potential uses.

The USDOE rejected Illinois' request for a 10% alternative low-income threshold for EANS II, which the state then revised to 20%. Fewer than 70 schools of 279 statewide that met the enrollment threshold participated, which put an additional $31 million in the reversion coffer. It's unclear why more schools didn't apply, but emails obtained via public records request show at least one school — Chicago-based Josephinum Academy of the Sacred Heart, which serves girls from low-income, minority families — didn't know about the EANS program and was given unclear information by state agency staff about availability and eligibility criteria.

In December 2022, ISBE announced the total $46 million in nonpublic funding now in GEER would be used toward an EANS Reallocation Grant Program.[t] All recognized or registered nonprofit, private schools in the state are eligible. There is no restriction based on receiving PPP loans or having a certain number of students from low-income families. The program is otherwise modeled after EANS, with nearly the same allowable expenses.[10] Still, the overarching criterion is that the expense must be related

10. Reasonable transportation costs are no longer allowed.

to mitigating effects of the Covid pandemic. No reimbursements are allowed under the EANS Reallocation Grant program; ISBE purchases or leases the goods or services on the schools' behalf.

Colorado

Colorado used $3.5 million of its leftover $12.2 million EANS I funds for application-based Governor's Additional Emergency Non-Public Schools (GAENS) program for nonpublic schools, with priority to schools with higher enrollments of low-income students.[u] This decision may have been influenced by nonpublic school advocates pressuring Governor Jared Polis about the reverted funds, typified by a March 2022 letter, shown below, from a coalition of 11 organizations, including the Association of Colorado Independent Schools, Colorado Association of Private Schools, Agudath Israel of Colorado, and the Archdiocese of Denver Catholic Schools. The letter urged the governor to "refrain from repurposing any unused federal stimulus money intended for K-12 private schools in Colorado without first engaging the relevant stakeholders."

Thursday, March 10, 2022

Dear Governor Polis:

As a coalition of private school leaders, educators, policy organizations, and scholarship-granting organizations, we

Utilizing remaining EANS funds for other purposes would cut nonpublic schools off from the support they need to finish recovering from the ravages of COVID-19. Just like a patient must finish his or her course of antibiotics in order to fully overcome an illness, our schools will achieve the best outcomes for our students through sustained, longer-term investment of these federal funds in our recovery efforts.

We understand and appreciate the willingness of both your office and the Colorado Department of Education to apply for and disburse these funds to private schools. We also understand that the process has been challenging in some instances. Nonpublic schools, by their very nature as independent education providers, can be difficult for state agencies to interface with—particularly on matters as complex as federal COVID funding.

Nevertheless, the schools we operate and serve have benefited greatly from federal assistance during this time of need. These schools have faced pandemic-related challenges equal to or, in many cases, even greater than those faced by Colorado public schools—in part because they lack the district infrastructure, reserves, and systems to endure sudden financial losses, and in part because they have found themselves playing a critical role in addressing the learning loss of both their existing students and many of the nearly 30,000 students who have exited Colorado's public system since the start of the pandemic.

Elias Moo, Superintendent
Archdiocese of Denver

Norton Rainey, Chief Executive Officer
ACE Scholarships

Rev. Paul Albers, Executive Director
Rocky Mountain District, Lutheran Church Missouri Synod

Deborah Hendrix, Executive Director
Parents Challenge

Alan Smiley, Executive Director
Association of Colorado Independent Schools

Mordechai Hoffman, Executive Director
Hillel Academy

Rabbi Yossi Kaplan, Director
Agudath Israel of Colorado

Pam Benigno, Director
Independence Institute Education Policy Center

Brittany Vessely, Executive Director
Colorado Catholic Conference

Dr. Sheila Whalen, Superintendent
Catholic Diocese of Colorado Springs

Interestingly, Colorado did seek approval from USDOE in January 2022 to use $9 million in reverted EANS I funds to purchase electric buses and build charging stations, under the rationale that "electric buses are needed to reduce fine particulates from diesel school buses in communities disproportionately impacted by the COVID-19 pandemic, which will, in turn, help to reduce co-morbidities." The federal government approved the use, but it never materialized after the state legislature approved a larger initiative with a different funding source.[11]

Most of Colorado's EANS I reversion went to grants and programming for public school students. This includes $5 million for Colorado RISE Turnaround grants intended to

11. In May 2022, the state senate passed a bill giving $65 million for electric school buses. Steps toward the bill could've rendered moot the use of reverted EANS funds for that purpose.

"address the learning challenges related to the economic, social, and health impacts of COVID-19 in turnaround schools and school districts, or in school districts, charter schools, or other nonprofit entities and community-based organizations serving students in turnaround schools or school districts." Nonpublic schools could apply only as a partner to a public pre-K-12 institution.[v] Another $1.05 million of the EANS I reversion was used for the Governor's Bright Start Award grants to 21 public and charter schools.[w] A tutoring program available only to public schools received $2 million.

Smaller amounts went to other state education agencies for a variety of uses. The Colorado Department of Higher Education's FAFSA Completion Program received $800,000,[x] the state's universal preschool program was granted $750,000, and the Colorado Department of Education received $200,000 toward the Dolly Parton Imagination Library, a program that gifts free books to children under age 5.[y]

"I just want to be sure that the nonpublic schools have maximum ability to get the resources that were intended for them … I think they feel like they weren't given the opportunity to take advantage of the resources that were put in place for them to deal with [the impact of the Covid-19 emergency]."

Tennessee State Senator Bo Watson, November 28, 2022.

Tennessee

Tennessee reverted $38 million leftover from EANS I to GEER II, but we were not able to confirm how the money was reallocated. Only 5% of schools eligible for EANS II[13] received funds for services and assistance. Fewer than two dozen schools that applied were approved, reportedly due in part to a February 2022 memo from the U.S. Department of Education that said proportionality could not be used to calculate the poverty rate for nonpublic schools.[z] (The Tennessee Department of Education and other states petitioned the federal government to allow the use of proportionality but were denied.) In addition, according to a spokesperson for a statewide association of nonpublic schools, some schools said the EANS II application process was more "onerous and difficult" than the EANS I process.[aa]

The Tennessee Department of Education proposed to Governor Bill Lee's Financial Stimulus Accountability Group (FSAG), a committee which oversees federal Covid relief spending,[bb] that $63 million in EANS II-reverted funds be used for Supplemental Educational Relief Grants for Non-Public Schools.[cc] FSAG was presented with four options for allocating funds. One used the same methodology as EANS I, but without the PPP restriction or a qualifying low-income threshold; the others awarded dollars based on a per pupil amount to any school that had applied for EANS I, with the goal of giving 100%, 75%, or 50% of the total reversion amount.[14] Any funds that remain after funds are obligated to schools will be reallocated for purposes at the governor's discretion, under GEER II.

As of publication, the FSAG had not yet decided on the allotment mechanism for the Supplemental Educational Relief Grants for Non-Public Schools. Comments from Tennessee State Senator Bo Watson, a committee member, at the November 2022 meeting signaled a good grasp of EANS program's intent: "I just want to be sure that the nonpublic schools have maximum ability to get the resources that were intended for them … I think they feel like they weren't given the opportunity to take advantage of the resources that were put in place for them to deal with [the impact of the Covid-19 emergency]."[dd]

Texas

The Texas Education Agency recently announced that at least some of its reverted money will be used for a GEER Assistance to Private Schools (GAPS) program.[ee] It's open to all accredited nonprofit, nonpublic schools, with no PPP or low-income enrollment threshold requirement.[ff]

★ ★ ★

13. That is, eligible at the state's 33% low-income enrollment threshold.

14. Presenting the options to the committee, TDOE Commissioner Penny Schwinn she did not recommend 100%, because that would mean some nonpublic schools would get more than their public counterparts had received under ESSER.

Allowable expenses are similar to those under Colorado's and Illinois' programs, with a notable exception: Participating nonpublic schools can use GAPS funding for school safety activities "that need to be implemented for students to feel safe and comfortable being on campus so that [the school] may improve student performance and close learning gaps created by the pandemic." Removable security cameras and silent panic-alert components, contracted security services, two-way radio systems, metal detectors, active shooter training, suicide prevention, mental health supports, and developing programs focused on restorative justice practices and culturally relevant teaching are included.

While such uses may be outside the EANS fund intentions, GEER II does afford broader parameters for allowable expenses. Texas articulates the connection between pandemic-related emergency needs and school security equipment, for example, by calling them part of "school safety activities that need to be implemented for students to feel safe and comfortable being on campus so that they may improve student performance and close learning gaps created by the pandemic."[gg] (Oregon uses a similar rationale for some of its reallocated EANS money.)[hh]

New Hampshire

New Hampshire's EANS I+ Distribution Package was created in response to having money left over after some applicant schools decided not to participate and others didn't use their full allotment, submitted reimbursement requests that weren't allowed, or purchased items and services through the state's purchasing system that cost less than the amount they had budgeted.[ii] The remaining $1.98 million is open only to schools that had applied for EANS I and uses the same eligibility constraints. Effectively, New Hampshire used the flexibility under the governor's fund to extend the timeline of and increase allocations for schools already participating in EANS I.

These "EANS Extended" programs are generally aligned with Congress' stated intention that nonpublic schools receive funding from EANS. Removing restrictive criteria all but ensures that more students and teachers have the chance to benefit from the funds. Still, any money left over from these programs could be reallocated again under GEER II provisions if the states do so before the funds expire. Therefore, parents and stakeholders must remain vigilant to ensure the funding reaches nonpublic schools.

ANALYSIS: OBSTACLES THAT UNDERMINED THE IMPACT OF FEDERAL EDUCATION AID

The EANS program was the result of a political fight over whether nonpublic schools — which were either compelled or pressured to close in March 2020 — were entitled to the same kinds of federal emergency relief funds given to public schools. Following controversy and court cases around the meaning and applicability of "equitable services," Congress eventually said "yes" to dedicated dollars for nonpublic schools in December 2020 and March 2021, but with parameters that severely limited the number of schools eligible for services and assistance through the programs.

Analysis of available data and records obtained from individual states reveals significant flaws with EANS program design and implementation that must be remedied where possible so nonpublic school students and teachers can benefit from funds intended to address the needs created by the government's response to the Covid pandemic.

> Significant flaws with EANS program design and implementation must be remedied where possible so nonpublic school students and teachers can benefit from funds intended to address the needs created by the government's response to Covid-19 pandemic.

Was it reasonable for Congress to limit federal aid to only nonprofit, state-recognized nonpublic schools? Yes. It also made sense to prioritize schools with more students from low-income families, who are more susceptible to negative effects of even short-term school closures, let alone weeks- or months-long shutdowns. But certain features of the EANS Program design presented serious obstacles to more schools receiving emergency aid to address students' academic and mental health needs.

Obstacle 1: The reversion clause

The biggest flaw of EANS that this analysis confirmed is the program's **"reversion clause."**[15] This provision is ultimately responsible for the $736 million that did not reach eligible private schools via the application process and instead went back to governors for discretionary use. Only 33% of this money has been promised to nonpublic schools. At least $158 million has already ended up back in governors' hands and has been reallocated to other agencies and entities; the rest is in limbo.[16]

The reversion clause allows governors to issue grants that are consistent with their administration's politics and priorities. And it's what would be expected, absent pressure from stakeholders or a robust infrastructure for and/or commitment to marketing the

15. "Each Governor shall return to the Secretary any funds received under paragraph (1) or (2) of subsection (a) that the Governor does not award or obligate not later than 1 year after the date of receipt of such funds, and the Secretary shall reallocate such funds to the remaining States in accordance with subsection (b) for uses authorized under subsection (c)."

16. This includes programs in Illinois, Tennessee and Texas to make remaining EANS funds available to nonpublic schools. The programs are either in progress or have not launched so there is no guarantee that all funds will ultimately reach nonpublic schools.

program. Whether grants made with leftover EANS money are good uses of federal funds in general matters far less than the issue of dollars intended for nonpublic schools going elsewhere.

The reversion clause was even worse for EANS II, despite being hailed as a victory for nonpublic schools that serve the poorest kids. EANS II disallowed reimbursements and was restricted to schools with a certain percentage of low-income enrollment. Participation was predictably lower, and more money is slated to return to gubernatorial discretion than did from EANS I. Already tens of millions of dollars intended for children whose education was disrupted has gone to public entities and other nonprofit organizations via this default mechanism.

Marc Rod of *Jewish Insider* reported on the passage of the EANS II package on March 8, 2021:

> "Republican Sen. Bill Cassidy (R-LA) proposed an amendment that would have changed the bill's language to apply the rules for non-public school funding included in the December package, but the Senate voted it down along party lines at 3:35 a.m. on Saturday."

Why Congress didn't at least anticipate that a provision for unused funds returning to governor-directed coffers might disincentivize states from making sure the money was used for nonpublic schools is unclear. Lawmakers could have prevented hundreds of millions of dollars being left to governors' discretion by requiring states to obligate a high percentage of funds, if not 100%, to nonpublic schools. Unused public school funding under ESSER goes back to the U.S. Department of Education, without passing through the governor for discretionary reallocation. The same could have been applied to federal aid to nonpublic schools. Without question, a reversion clause is a disincentive to getting the money to low-income children and creates a de facto bonus program for public schools and special interests. At minimum, legislators should have changed or removed the clause for the EANS II in March 2021 because the funds were not a part of the overall GEER II program which was created in December 2020.

Obstacle 2: The Paycheck Protection Program exclusion

The **Paycheck Protection Program (PPP)** loan eligibility exemption was another barrier. The criterion created an unfair "forced dilemma" for nonpublic schools between paying their staff and helping students. It seems Congress was keeping nonpublic schools from "double-dipping" into two different sources of federal financial assistance, especially at a time when many nonpublic schools had been open for months. The Council for American Private Education rightly advised member schools to take eligibility requirements, school needs, uses of funds, timing, and key risks into account when weighing the PPP against the EANS program.[jj] Public schools didn't have to make any such choice, and districts were permitted to use federal funds from ESSER to pay salaries, create additional staff positions and more.

In reality, the PPP loan restriction kept hundreds, if not thousands, of nonpublic schools that needed and wanted federal aid for supplies and services from getting it. For example, in May 2021, the Illinois State Board of Education surveyed nonpublic schools that did not apply for EANS I about their reasons for not applying. Seventy percent (70%) of respondents cited receiving a PPP loan on or after December 27, 2020.[17] Now the state has reallocated the funds toward programs nonpublic schools can use, regardless of whether they took a second-round PPP loan.

By contrast, New York — which has sent no dollars back to GEER II — chose to continue obligating funds by extending the EANS program with the PPP criterion in place. Should the state be applauded for getting the money to schools without shifting the money to the governor's fund, or criticized for keeping restrictions in place that it could have removed?

The examples of what New York and Illinois are doing raises an important question: If states could remove the PPP restriction after the money reverted to GEER II, then why was the restriction in place at all? Federal obligations to use an application process

17. The survey was sent to 550 schools; 101 schools responded.

notwithstanding, would schools in a given state have been better off if a state simply put all funds into GEER II and implemented EANS without a PPP loan restriction?

Moreover, nonpublic schools experienced the same emergency declaration and government response as public schools, which pay staff salaries via guaranteed tax funding. It's true nonpublic schools in most states had more flexibility to open in fall 2020 than public schools in union-controlled areas of the country, which may have mitigated the impact of more extensive closures. But even open nonpublic schools incurred numerous costs related to state-level mitigation requirements, and their teachers and students continued to be impacted by local and federal Covid policies.

How could a state determine whether a nonpublic school is most impacted by the Covid emergency?

1. The number of Covid infections per capita in the community or communities served by the nonpublic school;

2. The number of Covid deaths per capita in the community or communities served by the nonpublic school;

3. Data on the academic impact of lost instructional time and the social, emotional, or mental health impacts attributable to the disruption of instruction caused by the Covid emergency; or

4. Data on the economic impact of the Covid emergency on the community or communities served by the nonpublic school.

In addition to using one or more of these factors, a state education agency may use other factors included in the state's approved EANS II application to determine whether a nonpublic school is most impacted by the Covid emergency.

Obstacle 3: State-based allocation decisions

Although EANS gave states flexibility in some areas that made sense, **other decisions left to 50 different executive agencies contributed to unfair allocations within and between states.** For example, governors were left to decide how to calculate the impact of Covid on a school.[kk] Nonpublic schools in jurisdictions where Covid testing was a high priority or that have high concentrations of residents over age 65, in nursing homes, etc., would receive more money than those in places with less testing and different demographics. The allowance for data on academic, mental health or economic impacts is laudable, yet places an unreasonable burden on a nonpublic school to prove the obvious: Closing schools was harmful to all children.

With EANS II, another questionable feature that contributed to inequitable allocations across states was allowing governors to decide whether to request a threshold lower or higher than the **40% low-income enrollment** the federal government set for eligibility.

On one hand, establishing 40% as the default and allowing states to propose an alternative percentage was a reasonable accommodation for different contexts and populations within and across states. On the other hand, it gave states unwarranted power and control over federal funds. A nonpublic school in Kentucky with a 20% low-income enrollment, for example, would not be eligible for federal funds in Iowa, which used 30%. The one Wyoming school interested in EANS II funds was not eligible under the 40% threshold the state decided to use and left 100% of the state's allocation to return to the governor. Though state agencies bear some responsibility for failing to request higher thresholds, these examples nevertheless illustrate a serious flaw in EANS program design.

Obstacle 4: Restrictive allowable uses

Another barrier to nonpublic schools receiving federal funds due to program design was **overly restrictive, if not moot,** allowable expenses. The focus of relief money for nonpublic schools was much narrower than the parameters around federal funds for public schools. Table 7 (see next page) shows examples of expenses that public schools are permitted under ESSER and whether such expenses are allowed for nonpublic schools under EANS.

Table 7: Examples of Allowable Expenses Under ESSER and EANS

Expense	ESSER	EANS
Covid testing	✓	✓
Masks/PPE, plexiglass, other materials that keep students from getting close to each other	✓	✓
Leasing space to facilitate social distancing		✓
Cleaning/sanitation supplies	✓	✓
Cleaning services (janitorial staff or third-party)		
Educational technology for teachers & students (hardware, software, connectivity)	✓	✓
Afterschool tutors and summer programs	✓	If public school contract
Payroll for teachers and support staff	✓	
Class-size reductions (hiring more teachers)	✓	
Library services	✓	
Equity resources and initiatives	✓	
Family engagement activities	✓	
Mental health services for students & staff	✓	
Social Emotional Learning (SEL) materials and training	✓	
Wi-Fi on school buses	✓	✓
Water bottle filling stations	✓	
Asbestos removal	✓	
Technology for school board members	✓	

The initial thrust of EANS was on mitigating disease spread and supporting remote or hybrid learning, rather than on mitigating learning loss. At this point, though, the dollars intended for masks, plexiglass, and hand sanitizer are much better used to help students catch up in reading, writing, math, and other academic subjects.

Texas, Illinois, and Tennessee are launching programs that essentially extend EANS but remove the most restrictive eligibility criteria. This is a step in the right direction. Of the three, Texas has made the biggest stride in taking advantage of GEER's flexibility to permit expenses for things nonpublic schools need or can actually use. Arguably, directing nonpublic schools to use some of the funds for restorative-justice practices and culturally relevant teaching programs could be viewed as incentivizing private

K-12 education to adopt the state's agenda for public schools. Yet it proves the point that reverted dollars are fungible. All states with EANS reversion dollars can use such latitude and follow suit to make sure the money is directed to nonpublic schools.

Obstacle 5: Poor oversight and accountability

Finally, this analysis revealed that $5.5 billion dollars for nonpublic schools has been subjected to **poor federal oversight and little accountability**. First, the U.S. Department of Education isn't tracking the use of EANS funds in real-time — which is why we had to reach out to each state. Additionally, there are few requirements for states to publicly report what is happening with the money in a manner or timeline that parents, schools, and other stakeholders can access and leverage to hold governors accountable for upholding the assurances each one gave as a condition of receiving an EANS award. What recourse does an eligible school that didn't get any money have if the state didn't convey information about the program sufficiently or accurately, for example?

Though not all 50 states were ready to report to us how much EANS money they've been able to use for nonpublic school students and teachers, it's clear they handled it in 50 different ways. Ultimately, the EANS program design was seriously flawed on multiple fronts. From the low-income requirement and the PPP loan exception to its generally limited uses, Congress failed to get emergency relief to nonpublic schools.

Some aspects of EANS were beyond the scope of this analysis and warrant attention in future evaluations of the program, after all funds are allocated/reallocated and the data made available. Potential lines of inquiry include the extent to which funding allocation formulas each state used resulted in the best distribution of funds possible, and whether state education agencies implemented the EANS program in ways that account for reversion amounts.

WHAT NOW? GETTING THE MONEY TO NONPUBLIC SCHOOLS

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 should advocate for the promise federal lawmakers made to address Covid-related learning loss in nonpublic schools be honored. They may specifically ask that state education officials:

- ★ 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 non-public 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 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.

Jessica Hockett
Lead researcher and author
Senior Policy Analyst, National Opportunity Project
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. Her publications include numerous articles related to the education field, as well as three books: *Exam Schools: Inside America's Most Selective Public High Schools* (with Chester E. Finn, Jr.); and *Differentiation in Middle and High School: Strategies to Engage All Learners*; and *Differentiation in the Elementary Grades: Strategies to Engage and Equip All Learners* (with Kristina Doubet).

Kristen Williamson
Communications Director, National Opportunity Project
Kristen Williamson is the communications director for the National Opportunity Project. As an experienced communications and marketing professional, Kristen directs NOP's efforts to inform the public about government abuses and threats to Americans' constitutional rights. Before joining NOP, Kristen was communications and outreach director at the Liberty Justice Center. There she directed the public interest law firm's media, marketing, and client outreach strategies. Contact Kristen to schedule interviews.

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*.

Pat founded the National Opportunity Project to act as a check on the expansion and abuse of government power. NOP is a watchdog using research to uncover government misconduct, and education and advocacy to advance issues of national importance. 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.

APPENDIX

Appendix A: Total Federal EANS Aid for Nonpublic Schools by State

State	EANS I Award	EANS II Award	Total	Ranking (Total Dollars Awarded)
Alabama	$45,502,043	$44,895,780	$90,397,823	19
Alaska	$5,367,703	$5,882,303	$11,250,006	46
Arizona	$54,413,531	$54,444,547	$108,858,078	16
Arkansas	$22,872,412	$22,903,129	$45,775,541	32
California	$187,475,843	$181,312,003	$368,787,846	3
Colorado	$28,433,931	$28,709,729	$57,143,660	27
Connecticut	$15,831,765	$15,956,897	$31,788,662	37
Delaware	$4,965,788	$3,889,481	$8,855,269	48
Florida	$212,978,041	$221,188,900	$434,166,941	2
Georgia	$79,175,146	$75,408,050	$154,583,196	10
Hawaii	$9,815,286	$10,365,129	$20,180,415	41
Idaho	$19,581,608	$21,961,960	$41,543,568	33
Illinois	$84,489,804	$83,246,346	$167,736,150	8
Indiana	$81,656,000	$78,874,005	$160,530,005	9
Iowa	$26,271,345	$23,744,042	$50,015,387	30
Kansas	$26,667,139	$25,069,862	$51,737,001	29
Kentucky	$40,817,799	$42,665,620	$83,483,419	21
Louisiana	$55,566,230	$55,674,204	$111,240,434	15
Maine	$12,751,099	$12,327,260	$25,078,359	39
Maryland	$35,878,533	$39,248,769	$75,127,302	24
Massachusetts	$24,225,048	$24,826,386	$49,051,434	31
Michigan	$86,776,841	$86,894,397	$173,671,238	20
Minnesota	$41,907,253	$40,488,656	$82,395,909	22
Mississippi	$31,353,423	$30,461,120	$61,814,543	26
Missouri	$67,550,224	$68,641,868	$136,192,092	14
Montana	$12,816,385	$12,063,324	$24,879,709	40
Nebraska	$17,272,129	$18,618,767	$35,890,896	35
Nevada	$19,375,550	$18,180,919	$37,556,469	34
New Hampshire	$7,069,209	$6,698,664	$13,767,873	44
New Jersey	$68,749,847	$70,947,730	$139,697,577	13
New Mexico	$17,282,330	$17,425,938	$34,708,268	36
New York	$250,113,323	$252,458,198	$502,571,521	1
North Carolina	$84,824,393	$82,951,720	$167,776,113	7
North Dakota	$3,998,745	$4,151,371	$8,150,116	50
Ohio	$154,896,274	$155,190,488	$310,086,762	4
Oklahoma	$30,986,191	$31,482,084	$62,468,275	25
Oregon	$27,595,419	$28,355,768	$55,951,187	28
Pennsylvania	$150,022,294	$152,741,404	$302,763,698	6
Rhode Island	$7,148,776	$6,209,666	$13,358,442	45
South Carolina	$39,981,327	$40,560,267	$80,541,594	23
South Dakota	$7,773,070	$7,609,142	$15,382,212	43
Tennessee	$72,838,359	$73,683,257	$146,521,616	12
Texas	$153,168,245	$152,146,013	$305,314,258	5
Utah	$23.978,187	$26,428,418	$26,428,418	38
Vermont	$4,284,369	$3,877,205	$8,161,574	49
Virginia	$46,618,019	$46,344,360	$92,962,379	17
Washington	$46,263,028	$45,744,877	$92,007,905	18
West Virginia	$9,052,260	$9,763,599	$18,815,859	42
Wisconsin	$77,492,001	$73,875,583	$151,367,584	11
Wyoming	$4,602,637	$4,683,336	$9,285,973	47

Appendix B: EANS Reversion Status of All States

State	Total EANS I & EANS II Awards	Total EANS I and/or EANS II Reversion to GEER II (Potential, Anticipated or Executed)	% of Total EANS Award Reverting (Potential, Anticipated or Executed)	EANS I Award Amount	EANS I Reversion to GEER II (Potential, Anticipated or Executed)	% of EANS I Award Reverting (Potential, Anticipated or Executed)	EANS II Award Amount	EANS II Reversion to GEER II (Potential, Anticipated or Executed)	% of EANS II Award Reverting (Potential, Anticipated or Executed)
Alabama	$90,397,823	n/a	n/a	$45,502,043	n/a	n/a	$44,895,780	n/a	n/a
Alaska	$11,250,006	$10,020,669	89%	$5,367,703	$4,542,679	85%	$5,882,303	$5,477,990	93%
Arizona	$108,858,078	$0	0%	$54,413,531	$0	0%	$54,444,547	$0	0%
Arkansas	$45,775,541	$20,857,185	46%	$22,872,412	n/a	0%	$22,903,129	$20,857,185	91%
California	$368,787,846	$0	0%	$187,475,843	$0	0%	$181,312,003	$0	0%
Colorado	$57,143,660	$13,269,000	23%	$28,433,931	$13,269,000	47%	$28,709,729	n/a	n/a
Connecticut	$15,831,765	n/a	n/a	$15,956,897	$0	0%	$15,956,897	n/a	n/a
Delaware	$8,855,269	n/a	n/a	$4,965,788	$0	0%	$3,889,481	n/a	n/a
Florida	$434,166,941	n/a	n/a	$212,978,041	$0	0%	$221,188,900	$0	0%
Georgia	$154,583,196	$59,286,968	38%	$79,175,146	$59,286,968	75%	$75,408,050	$0	0%
Hawaii	$20,180,415	$11,284,633	56%	$9,815,286	$3,119,504	32%	$10,365,129	$8,165,129	79%
Idaho	$41,543,568	$32,888,486	79%	$19,581,608	$13,788,486	70%	$21,961,960	$19,100,000	87%
Illinois	$167,736,150	$54,479,700	32%	$84,489,804	$23,297,349	28%	$83,246,346	$31,182,351	37%
Indiana	$160,530,005	$0	0%	$81,656,000	$0	0%	$78,874,005	n/a	n/a
Iowa	$50,015,387	$0	0%	$26,271,345	$0	0%	$23,744,042	$0	0%
Kansas	$51,737,001	$15,804,943	31%	$26,667,139	$3,707,175	14%	$25,069,862	$12,097,768	48%
Kentucky	$83,483,419	n/a	n/a	$40,817,799	n/a	n/a	$42,665,620	n/a	n/a
Louisiana	$111,240,434	$1,940,246	2%	$55,566,230	$0	0%	$55,674,204	$1,940,246	2%
Maine	$25,078,359	n/a	n/a	$12,751,099	$0	0%	$12,327,260	n/a	n/a
Maryland	$75,127,302	$1,651,769	n/a	$35,878,533	$1,651,769	5%	$39,248,769	n/a	n/a
Massachusetts	$49,051,434	$0	0%	$24,225,048	$0	0%	$24,826,386	$0	0%
Michigan	$173,671,238	n/a	n/a	$86,776,841	$0	0%	$86,894,397	n/a	n/a
Minnesota	$82,395,909	n/a	n/a	$41,907,253	$0	0%	$40,488,656	n/a	n/a
Mississippi	$61,814,543	n/a	n/a	$31,353,423	$0	0%	$30,461,120	n/a	n/a
Missouri	$136,192,092	n/a	n/a	$67,550,224	n/a	n/a	$68,641,868	n/a	n/a
Montana	$24,879,709	$6,293,452	25%	$12,816,385	$6,293,452	49%	$12,063,324	n/a	0%
Nebraska	$35,890,896	$0	0%	$17,272,129	$0	0%	$18,618,767	$0	0%
Nevada	$37,556,469	n/a	n/a	$19,375,550	n/a	n/a	$18,180,919	n/a	n/a
New Hampshire	$13,767,873	$6,678,000	49%	$7,069,209	$1,979,000	28%	$6,698,664	$4,699,000	70%
New Jersey	$139,697,577	$19,760,099	14%	$68,749,847	$2,771,953	4%	$70,947,730	$16,988,146	24%
New Mexico	$34,708,268	$22,950,382	66%	$17,282,330	$9,850,382	57%	$17,425,938	$13,100,000	75%
New York	$502,571,521	$0	0%	$250,113,323	$0	0%	$252,458,198	$0	0%
North Carolina	$167,776,113	n/a	n/a	$84,824,393	n/a	n/a	$82,951,720	n/a	n/a
North Dakota	$7,950,114	$3,659,555	46%	$3,798,743	$0	0%	$4,151,371	$3,659,555	88%
Ohio	$310,086,762	$51,260,738	17%	$154,896,274	$0	0%	$155,190,488	$51,260,738	33%
Oklahoma	$62,468,275	n/a	n/a	$30,986,191	n/a	n/a	$31,482,084	n/a	n/a
Oregon	$55,951,187	$22,489,900	40%	$27,595,419	$2,534,132	9%	$28,355,768	$19,955,768	70%
Pennsylvania	$302,763,698	n/a	n/a	$150,022,294	$0	0%	$152,741,404	n/a	n/a
Rhode Island	$13,358,442	$4,271,738	32%	$7,148,776	$325,000	5%	$6,209,666	$3,946,738	64%
South Carolina	$80,338,793	$25,332,079	32%	$39,981,327	$0	0%	$40,357,466	$25,332,079	63%
South Dakota	$15,382,212	$7,123,155	46%	$7,773,070	$966,389	12%	$7,609,142	$6,156,766	81%
Tennessee	$146,521,616	$101,439,070	69%	$72,838,359	$38,382,340	53%	$73,683,257	$63,056,730	86%
Texas	$305,314,258	$115,271,935	38%	$153,168,245	$0	0%	$152,146,013	$115,271,935	76%
Utah	$50,406,605	$0	0%	$23,978,187	$7,609,142	32%	$26,428,418	$13,061,936	49%
Vermont	$8,161,574	$3,909,468	48%	$4,284,369	$2,748,680	64%	$3,877,205	$1,160,788	30%
Virginia	$92,962,379	$68,214,006	73%	$46,618,019	$28,361,509	61%	$46,344,360	$39,852,497	86%
Washington	$92,007,905	$41,979,185	46%	$46,263,028	$0	0%	$45,744,877	$41,979,185	92%
West Virginia	$18,815,859	$5,268,429	28%	$9,052,260	$5,268,429	58%	$9,763,599	$0	0%
Wisconsin	$151,367,584	$0	0%	$77,492,001	$0	0%	$73,875,583	$0	0%
Wyoming	$9,285,973	$8,652,946	93%	$4,602,637	$3,969,610	86%	$4,683,336	$4,683,336	100%
Totals	**$5,265,439,043**	$736,037,736	**14%**	**$2,640,451,332**	**$233,722,947**	**9%**	**$2,641,069,740**	**$522,985,866**	**20%**

Notes: n/a = Data not available, whether due to no reply from SEA, or because SEA said obligations were in-progress and no data could be reported | In this report's tables, $0 denotes either a) $0 reverting to GEER II, or b) an SEA saying it hoped or anticipated no/very few funds would revert to GEER II.

Appendix C: High/Significant Reversion States, Listed in Order of Total % Reverting to GEER II

State	Total EANS I & EANS II Awards	Total EANS I &/or EANS II Reversion to GEER II (Anticipated or Executed)	% of Total EANS Award Reverting (Anticipated or Executed)	EANS I Award Amount	EANS I Reversion to GEER II (Anticipated or Executed)	% of EANS I Award Reverting (Anticipated or Executed)	EANS II Award Amount	EANS II Reversion to GEER II (Anticipated or Executed)	% of EANS II Award Reverting (Anticipated or Executed)
Wyoming	$9,285,973	$8,652,946	93%	$4,602,637	$3,969,610	86%	$4,683,336	$4,683,336	100%
Alaska	$11,250,006	$10,020,669	89%	$5,367,703	$4,542,679	85%	$5,882,303	$5,477,990	93%
Idaho	$41,543,568	$32,888,486	79%	$19,581,608	$13,788,486	70%	$21,961,960	$19,100,000	87%
Virginia	$92,962,379	$68,261,509	73%	$46,618,019	$28,361,509	61%	$46,344,360	$39,852,497	86%
Tennessee	$146,521,616	$101,439,070	69%	$72,838,359	$38,382,340	53%	$73,683,257	$63,056,730	86%
New Mexico	$34,708,268	$22,950,382	66%	$17,282,330	$9,850,382	57%	$17,425,938	$13,100,000	75%
Hawaii	$20,180,415	$11,284,633	56%	$9,815,286	$3,119,504	32%	$10,365,129	$8,165,129	79%
New Hampshire	$13,767,873	$6,678,000	49%	$7,069,209	$1,979,000	28%	$6,698,664	$4,699,000	70%
Vermont	$8,161,574	$3,909,468	48%	$4,284,369	$2,748,680	64%	$3,877,205	$1,160,788	30%
South Dakota	$15,382,212	$7,123,155	46%	$7,773,070	$966,389	12%	$7,609,142	$6,156,766	81%
North Dakota	$7,950,114	$3,659,555	46%	$3,798,743	$0	0%	$4,151,371	$3,659,555	88%
Washington	$92,007,905	$41,979,185	46%	$46,263,028	$0	0%	$45,744,877	$41,979,185	92%
Arkansas	$45,775,541	$20,857,185	46%	$22,872,412	$0	0%	$22,903,129	$20,857,185	91%
Oregon	$55,951,187	$22,489,900	40%	$27,595,419	$2,534,132	9%	$28,355,768	$19,955,768	70%
Texas	$305,314,258	$115,271,935	38%	$153,168,245	$0	0%	$152,146,013	$115,271,935	76%
Georgia	$154,583,196	$59,286,968	38%	$79,175,146	$59,286,968	75%	$75,408,050	$0	0%
Illinois	$167,736,150	$54,479,700	32%	$84,489,804	$23,297,349	28%	$83,246,346	$31,182,351	37%
Rhode Island	$13,358,442	$4,271,738	32%	$7,148,776	$325,000	5%	$6,209,666	$3,946,738	64%
South Carolina	$80,338,793	$25,332,079	32%	$39,981,327	$0	0%	$40,357,466	$25,332,079	63%
Kansas	$51,737,001	$15,804,943	31%	$26,667,139	$3,707,175	14%	$25,069,862	$12,097,768	48%
West Virginia	$18,815,859	$5,268,429	28%	$9,052,260	$5,268,429	58%	$9,763,599	$0	0%
Montana	$24,879,709	$6,293,452	25%	$12,816,385	$6,293,452	49%	$12,063,324	n/a	0%
Colorado	$57,143,660	$13,269,000	23%	$28,433,931	$13,269,000	47%	$28,709,729	n/a	0%
Ohio	$310,086,762	$51,260,738	17%	$154,896,274	$0	0%	$155,190,488	$51,260,738	33%
New Jersey	$139,697,577	$19,760,099	14%	$68,749,847	$2,771,953	4%	$70,947,730	$16,988,146	24%
Totals	$1,919,140,038	$734,597,308	38%	$960,341,326	$224,462,036	23%	$958,798,712	$510,135,271	53%

Appendix D: Leftover EANS Funds Committed Away from Nonpublic Schools (Selected examples as of January 2023)

Alaska	Amount	Source
Insight (Minecraft Coding, Microsoft Seats)	$1,225,482	EANS I
Alaska Native Science & Engineering Program	2,500,000	EANS I
Covenant House Alaska	$128,686.69	EANS I
Alaska Military Youth Academy (AMYA)	$477,000	EANS II
Challenger Learning Center	$1,450,000	EANS II
Drone Education and Advancement Program	$375,000	EANS II
Alaska Sealife Center	$525,000	EANS II
Northwestern Alaska Career and Technical Center (NACTEC)	$500,000	EANS II
Alaska Resource Education (ARE)	$500,000	EANS II
Future Farmers of America (FFA)	$500,000	EANS II
Total	**$8,181,169**	
Colorado	Amount	Source
Colorado RISE Turnaround Fund Grants	$5,000,000	EANS I
Colorado DOE - Imagination Library	$200,000	EANS I
Colorado Department of Higher Education - FAFSA Completion	$800,000	EANS I
Americorps SERVE CO - Tutoring Program	$2,000,000	EANS I
Colorado Dept of Early Childhood - UPK Engagement	$750,000	EANS I
"GAENS" (Governor's Additional Emergency Nonpublic School) Funds	$3,469,000	EANS I
Governor's Bright Spot Award Subgrantees	$1,050,000	EANS I
Total	**$13,269,000**	
Georgia	Amount	Source
Department of Education - Back to School Grants	$25,077,250	EANS I
YMCA of Coastal Georgia - Learning Loss Grants	$12,000,000	EANS I
Department of Early Care and Learning - Summer Transition Program 2023	$7,831,607	EANS I
Department of Education - Special Needs Teacher Grants	$6,592,300	EANS I
Board of Regents of the University System of Georgia for USG Library Grants	$2,329,185	EANS I
Department of Education - Collaborative Rapid Scaling of Statewide Teleaudiology Capacity to Improve Diagnosis Of Hearing Loss	$1,292,310	EANS I
Special Needs Equipment Gran for Georgia's State Schools	$881,681	EANS I
Technical College System of Georgia - CNA Program	$843,000	EANS I
Board of Regents of the University System of Georgia - Career Planning Resource Platform	$650,000	EANS I
Statewide Hearing and Vision Screening Initiative for Georgia Public Schools	$417,626	EANS I
Total	**$57,914,959**	
Hawaii	Amount	Source
School Food Services Branch, Office of Facilities and Operations, Hawaii Department of Education	$3,119,501	EANS I
Total	**$3,119,501**	
Kansas	Amount	Source
Sunflower Summer 2.0	$6,000,000	EANS I
FamiliesTogether	$1,000,000	EANS I
Communities in Schools	$300,000	EANS I
Teacher Recruitment and Retention	$500,000	EANS I
Kansas Preschool Pilot Supplmental Support	$2,500,000	EANS I
Community Inclusion and Consultation	$500,000	EANS I
Total	**$10,800,000**	
New Mexico	Amount	Source
School-Based Health Clinics	$5,360,600	EANS I
Waterford Upstart	$2,500,000	EANS I
Adult Basic Educations Instructional Materials	160,00	EANS I
Special Schools Instructional Materials	$130,000	EANS I
High School Equivalency Vouchers	$200,000	EANS I
Background Checks for Substitute Teachers	$50,000	EANS I
Mental and Behavioral Health	$1,000,000	EANS I
Total	**$9,240,600**	
Oregon	Amount	Source
Undetermined destination but did not reach nonpublic schools	$2,500,000	EANS I
Computer Science Education & Enrichment Grants	$5,000,000	EANS II
Program Support for Computer Science Education and Enrichment Grants	$2,349,463	EANS II
Oregon Opportunity Grant to Promote Degree Completion supplement	$1,500,000	EANS II
Oregon Youth Conservation	$2,500,000	EANS II
Student Childcare Grant	$750,000	EANS II
School Safety and Prevention Systems	$3,314,744	EANS II
Moonshot for Equity, an EOU Collaborative	$1,600,000	EANS II
Mitchell School District: Expanding Broadband Infrastructure	$888,400	EANS II
ESD Technical Assistance Program	$3,722,060	EANS II
Total	**$24,124,667**	
South Carolina	Amount	Source
Workforce Scholarships for the Future	$25,000,000	EANS II
Total	**$25,000,000**	
West Virginia	Amount	Source
West Virginia Secondary Schools Activities Commission (WVSSAC)	$1,600,000	EANS I
Communities in Schools Program	$2,468,429	EANS I
Prizes for "I Got Vaxxed!" program	$500,000	EANS I
WVU Energy Express	$600,000	EANS I
Total	**$5,168,429**	
Wyoming	Amount	Source
Grants to Public School Districts	$3,500,000	EANS I
Total	**$3,500,000**	

ENDNOTES

a. Edweek. How Betsy DeVos picked a big fight over COVID relief: An explainer. EdWeek. https://www.edweek.org/policy-politics/how-betsy-devos-picked-a-big-fight-over-covid-19-relief-an-explainer Accessed December 19, 2022.

b. Wanneh, G. (2020, July 28). Teachers union considers strikes over school reopenings. U.S. News and World Report. https://www.usnews.com/news/education-news/articles/2020-07-28/teachers-union-considers-strikes-over-school-reopenings.

c. Editorial Board. (2020, December 14). CTU and embarrassing conduct. When will teachers rise up? Chicago Tribune. https://www.chicagotribune.com/opinion/editorials/ct-editorial-ctu-covid19-misogyny-tweet-cps-20201214-ir27n2x425gixofp64ptqemtby-story.html.

d. Pendharkar, E. (2021, July 17). More than 1 million students didn't enroll during the pandemic. Will they come back? EdWeek. https://www.edweek.org/leadership/more-than-1-million-students-didnt-enroll-during-the-pandemic-will-they-come-back/2021/06 Accessed December 12, 2022.

e. Burbio K-12 School Opening Tracker. https://about.burbio.com/school-opening-tracker. Accessed Jan 7, 2023.

f. Goldhaber, D., Kane, T., McEachin, A., Morton E., Patterson, T., Staiger, D., (2022). The consequences of remote and hybrid instruction during the pandemic. Center for Education Policy Research, Harvard University. https://cepr.harvard.edu/files/cepr/files/5-4.pdf?m=1651690491.

g. Fahle, E., Kane, T.J., Patterson, T., Reardon S., & Staiger, D.O. (2022, October 28). Local achievement impacts of Pandemic. Education Recover Scorecard, https://educationrecoveryscorecard.org/wp-content/uploads/2022/10/Education-Recovery-Scorecard_Key-Findings_102822.pdf.

h. United States. (1965). Elementary and secondary education act of 1965 : H. R. 2362, 89th Cong., 1st sess., Public law 89-10. Reports, bills, debate and act. [Washington] :[U.S. Govt. Print. Off.] | United States. Government Accountability Office. (2013). Individuals with Disabilities Education Act: standards needed to improve identification of racial and ethnic overrepresentation in special education: report to the Chairman, Committee on Health, Education, Labor, and Pensions, U.S. Senate. [Washington, D.C.]; United States Government Accountability Office.

i. The U.S. Department of Education Notice Inviting Applications (NIA) for the FY 2020 Education Stabilization Fund--Rethink K12 Education Models (ESF-REM) Discretionary Grant Program ESF-REM says equitable services meant providing students in nonpublic schools "with the same opportunity to access program benefits as students attending public schools, which may include proportional provision of services to both public and non-public school students" (p. 25414). https://oese.ed.gov/files/2020/04/ESF-REM-Notice-Inviting-Applications.pdf

j. Ujifusa, A. (2020, June 25). DeVos Partially Retreats in Fight Over COVID Aid and Private School Students. Education Week. https://www.edweek.org/policy-politics/devos-partially-retreats-in-fight-over-covid-aid-and-private-school-students/2020/06.

k. Green, E.L. (2021, March 13). Schumer and a teachers' union leader secure billions for private schools. New York Times. https://www.nytimes.com/2021/03/13/us/politics/schumer-weingarten-stimulus-private-schools.html.

l. Egan, Marc. (March 9, 2021). [Letter from Marc Egan on behalf of the National Education Association to Members of the U.S. House of Representatives]. Retrieved from https://web.archive.org/web/20210313164511/https:/educationvotes.nea.org/wp-content/uploads/2021/03/Am-Rescue-Plan-House-floor-030921.pdf

m. Ng, Noelle Ellerson. (March 5, 2021). [Letter from Noelle Ellerson Ng for AASA to Senators Chuck Schumer and Mitch McConnell]. Retrieved from https://web.archive.org/web/20221014230631/https://aasa.org/uploadedFiles/AASA_Blog(1)/AASA%20ARP%20Senate%20030521%20FINAL.pdf

n. U.S. Department of Education, National Center for Education Statistics 2019. School choice in the United States: 2019. (NCES 2019-106) https://nces.ed.gov/fastfacts/display.asp?id=55#:~:text=Overall%2C%2053.9%20million%20K%E2%80%9312,were%20enrolled%20in%20public%20schools.

o. U.S. Department of Education. (2021, Jan. 11). Certification and Agreement for Funding: Emergency Assistance to Nonpublic Schools Program under the Coronavirus Response & Relief Supplemental Appropriations Act, 2021 (CRRSA Act). CFDA Number: 84.425R. OMB Number: 1810-0741. https://oese.ed.gov/files/2021/01/Final_EANS_CertificationandAgreement_FY21_1.11.21.pdf | U.S. Department of Education. (2021, July 7). Application for Funding: Emergency Assistances for Nonpublic Schools (EANS) Program under the American Rescue Plan of 2021 (ARP Act). CFDA Number: 84.425V. https://oese.ed.gov/files/2022/07/ARP-EANS-Application-7.7.21_FINAL.pdf

p. U.S. Department of Education Stabilization Fund Transparency Portal. https://covid-relief-data.ed.gov. Accessed December 20, 2022.

q.Wisconsin EANS Program. https://eans.cesa6.org/ Accessed December 20, 2022.

r. New York State Department of Education. (2022, April 15). EANS I Unmet Needs Letter. http://www.nysed.gov/common/nysed/files/programs/nonpublic-schools/eans-1-unmet-needs-letter.pdf.

s. West Virginia State Department of Education. (2021, September 3). "I Got Vaxxed!" competition flyer. https://wvde.us/wp-content/uploads/2021/09/IGotVaxxed-Competition-Flyer-093021.pdf

t. Illinois State Board of Education. (2022, December 8). EANS reallocation grant invitation to apply and FAQ. https://www.isbe.net/Documents/EANS-Reallocation-Grant-FAQ.pdf

u. Colorado Department of Education. Governor's Additional Emergency Nonpublic Schools (GAENS) Grant. https://www.cde.state.co.us/caresact/gaens. Accessed December 30, 2022.

v. Colorado Department of Education. (2022, August 15). Response, Innovation, and Student Equity (RISE) education fund to support students attending turnaround schools and districts. Application https://drive.google.com/file/d/1r05iWJGlg7LmtxJ9S1NybjWSnLrxZLW4/view and FAQ https://drive.google.com/file/d/1GRl77MS6OhnfTve1CCzkNyJ4_Lgd1-oQ/view. Accessed January 5, 2023.

w. Colorado Governor Jared Polis. (2022, November 18). Governor Polis announces schools selected to receive Governor's Bright Spot award. [Press release]. https://www.colorado.gov/governor/news/9121-governor-polis-announces-schools-selected-receive-governors-bright-spot-award

x. Colorado Department of Higher Education. 2023-204 FAFSA Completion Project. https://fafsa.highered.colorado.gov/Reports/Summary. Accessed January 10, 2022.

y. Colorado Kicks Off Statewide Expansion of Dolly Parton Imagination Library. (2021, December 1). Dolly Parton's Imagination Library. https://imaginationlibrary.com/colorado-kicks-off-statewide-expansion-of-dolly-partons-imagination-library/

z. U.S. Department of Education. (2022, August). ARP EANS and the use of proportionality to determine non-public school eligibility. https://oese.ed.gov/files/2022/08/ARP-EANS_Use-of-Proportionality-to-Determine-Non-Public-School-Eligibility.pdf Retrieved January 8, 2022.

aa. Aldrich, M.W. (2022, November 29). Tennessee private schools could get $60 million in leftover pandemic relief funds. Chalkbeat Tennessee. https://tn.chalkbeat.org/2022/11/29/23485092/tennessee-private-school-covid-relief-funding-nonpublic-bill-lee-penny-schwinn

bb. Tennessee Office of the Governor. (2020, April 16). Governor Lee announces stimulus financial accountability group. [Press release]. https://www.tn.gov/governor/news/2020/4/16/gov--lee-announces-stimulus-financial-accountability-group.html

cc. TDOE's proposal to the committee says $59.6 million from EANS II reverts to GEER II, after EANS II obligations to applicant schools and a $3.684 million administrative set-aside for the proposed Supplemental Grants program: https://www.tn.gov/content/dam/tn/finance/documents/financial-stimulus-accountability-group/EANS_Nov_2022.pdf We confirmed with TDOE that 5% was mistakenly used to calculate the allowable set-aside, instead of 0.5%. So, the reversion from EANS II to GEER II is $63,056,7229 – not $59,605,895

dd. Tennessee Financial Stimulus Accountability Group (FSAG) meeting. (2022, November 28). https://tn.webex.com/recordingservice/sites/tn/recording/87a54f47518d103bad23005056811a54/playback

ee. Texas Education Agency. GEER Assistance to Private Schools (GAPS) grant program. https://tea.texas.gov/finance-and-grants/grants/geer-assistance-to-private-schools-gaps-grant-program Accessed Jan 10, 2023 | Texas Education Agency. (2022, December 11). GEER Assistance to Private Schools (GAPS) statewide training. [Webinar.] https://www.youtube.com/watch?v=5C9dMgoZZH0

ff. Texas Education Agency. (2022, December 11). GEER Assistance to Private Schools: Statewide Training [Video]. YouTube. https://www.youtube.com/watch?v=5C9dMgoZZH0

gg. Texas Education Agency. GEER Assistance to Private Schools (GAPS) grant program. https://tea.texas.gov/finance-and-grants/grants/geer-assistance-to-private-schools-gaps-grant-program Accessed January 10, 2023.

hh. State of Oregon Newsroom. (2022, September 29). Governor Kate Brown announces $3.3 million in grants for school safety and violence prevention. [Press release]. https://

www.oregon.gov/newsroom/pages/NewsDetail.aspx?newsid=77097

ii. New Hampshire Department of Education. (2021, November 2) https://www.education.nh.gov/sites/g/files/ehbemt326/files/inline-documents/sonh/eans-i-info-distribution-package.pdf

jj. Council for American Private Education. (2021, January). Congress Approves COVID Relief for Private Schools. CAPE Outlook: Voice of America's Private Schools. https://myemail.constantcontact.com/January-2021-Outlook.html?soid=1101332147562&aid=hnos3R0CMUY

kk. U.S. Department of Education. (2021, September 17). Frequently Asked Questions: Emergency Assistance to Non-Public Schools (EANS) Program. https://oese.ed.gov/files/2021/09/Final-EANS-FAQ-Update-9.17.21.pdf