Congress created a new program to provide services for non-public schools in the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA). This program, known as Emergency Assistance to Non-Public Schools (EANS), is administered by state educational agencies (SEAs) and is different from the typical process for providing services to private schools, known as equitable services. This document outlines some considerations for SEAs deciding how best to implement the EANS program.

**Administrative Funds**
SEAs may spend some of their EANS funds to administer the program: $200,000 or half a percent of their EANS funds, whichever is greater.\(^1\) If this is not enough to cover all of an SEA’s administrative expenses, the SEA could consider consolidating its EANS administrative funds with administrative funds from other eligible programs. This would give the SEA a bigger pool of funds with which to support EANS administration.

The authority to consolidate certain administrative funds comes from Section 8201 of the Elementary and Secondary Education Act (ESEA), which permits eligible SEAs to consolidate administrative funds from ESEA programs and other programs designated by the U.S. Secretary of Education. In addition to ESEA funds, the Secretary has designated EANS, ESSER, GEER and McKinney-Vento as programs eligible for consolidation.\(^2\)

To be eligible to consolidate administrative funds an SEA must be able to demonstrate that the majority of its resources are derived from non-federal sources. For more information about this requirement, and consolidating administrative funds in general, please see the accompanying summary prepared by CCSSO, *Consolidation of ESSA and Other Select State Administrative Funds*.

**Reimbursing Private Schools for Services**
SEAs have expressed concern about the anticipated strain on state procurement systems as they contract for the goods and services non-public schools request under EANS. It may help to note that SEAs have the option to reimburse non-public schools directly for certain expenses. This includes both expenses going back to March 13, 2020 and future expenses.

According to ED:

*A non-public school may request reimbursement in its application for expenses it has incurred or will incur for most allowable services or assistance. (See D-1). An SEA may reimburse a non-public school only for expenses for allowable services or assistance it incurred on or after March 13, 2020, to prevent, prepare for, and respond to COVID-19, that have not already been reimbursed with Federal funds, including PPP. Reimbursements under the EANS program do not make non-public schools recipients of Federal financial assistance. (See D-7). With respect to a request in a non-public school’s application for reimbursement of future services or*

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1. CRRSA, Sec. 313(d)(5).
2. U.S. Department of Education, *Frequently Asked Questions Emergency Assistance to Non-Public Schools (EANS) Program*, 2021, Q&A B-7. (This guidance will be referred to as EANS FAQs from now on.) Although these FAQs do not specifically reference GEER, ED confirmed a state can consolidate any GEER administrative funds it has access to in an informal guidance document circulated to states in July 2020.
assistance, the SEA should have a process in place to review the requested services or assistance to ensure that they are necessary, reasonable, and allowable under the CRRSA Act, and approve reimbursement to the non-public school.\(^3\)

Normally, direct reimbursements to non-public schools are not allowed under the equitable services rules that apply to most ED programs. EANS is different,\(^4\) which could help to reduce some procurement burdens for SEAs.

For a list of expenses that cannot be reimbursed please see Q&A D-3 of the EANS FAQs.

<table>
<thead>
<tr>
<th>Inventory Management</th>
<th>Another SEA concern is the requirement for SEAs to manage items purchased under EANS for non-public school use.(^5) It may help to keep in mind that:</th>
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<td>• Non-public schools may use items purchased with EANS funds throughout EANS’s period of performance (through September 30, 2023) or until the items are no longer needed.(^6)</td>
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<td>• Equipment SEAs purchase for non-public school use under EANS should be managed and disposed of in accordance with state laws and procedures.(^7)</td>
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<td></td>
<td>• Supplies SEAs purchase for non-public school use under EANS should be managed and disposed of in accordance with federal rules for supplies.(^8)</td>
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<td></td>
<td>• On a practical level, considering that many of the items private schools might be expected to request – computers, PPE, cleaning supplies, etc. – will likely have minimal fair market value by September 30, 2023, disposal may be a relatively simple process.</td>
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</table>

\(^3\) EANS FAQs at Q&A D-2.

\(^4\) Section 612(d)(4)(M) authorizes reimbursement for expenses non-public schools incur on or after March 13, 2020. ED has confirmed this authority permits states to reimburse non-public schools for allowable expenses both retroactively (that is, reimburse non-public schools for expenses incurred between March 13, 2020 and the date the SEA receives EANS funds) and for future allowable expenses, so long as the SEA has certain processes in place. See EANS FAQs at Q&A D-2 and D-3.

\(^5\) SEAs must ensure “the control of funds for the services or assistance provided to a non-public school, and title to materials, equipment, and property purchased with EANS funds, are in a public agency and a public agency administers the funds, services, assistance, materials, equipment, and property.” EANS FAQs at Q&As B-2. In addition, that SEA must comply with all applicable grant management rules under the Uniform Grant Guidance (UGG).

\(^6\) EANS FAQs at Q&A F-1, 34 CFR § 76.661.

\(^7\) 2 CFR § 200.313(b).

\(^8\) 2 CFR § 200.314.
As SEAs consider how best to administer the EANS program, it may be helpful to think about the following models. These are not the only possible models for administering EANS, but they reflect some of the thinking we have heard from SEAs that are allowable under the program.

1. **SEA Administration.** Some SEAs are considering performing all EANS functions within the SEA. The option to reimburse private schools directly may help to minimize procurement burdens, and the option to consolidate EANS administrative funds may help to expand the number of staff that can support the program. In addition, some SEAs are:
   - Using or customizing the [sample non-public school-to-SEA application template](#) provided by the U.S. Department of Education.
   - Contracting with individuals on a temporary basis to help establish the EANS program within the SEA.

2. **Contracted Support.** SEAs cannot subgrant the EANS program to another entity, but an SEA could contract with another entity to provide services. For example:
   - Some SEAs are considering contracts with regional entities (like educational service agencies (ESAs)) to arrange for and deliver services to private schools.
   - Some SEAs are considering contracts with other state agencies, such as state agencies that specialize in procurement, to help procure goods and services for non-public school use.

   Importantly, the SEA must control and supervise the contract, and the SEA remains responsible for EANS programmatic decisions and for all compliance requirements.

3. **Equitable Services Infrastructure.** Some SEAs are considering contracting with LEAs or ESAs that provide equitable services to non-public schools under other federal programs. These entities have pre-existing relationships with non-public schools, which may make it easier for them to arrange for and provide EANS services. As above, if an SEA contracts with an LEA or ESA to help carry out the EANS program, the SEA must control and supervise each contract, and the SEA remains responsible for EANS programmatic decisions and for all compliance requirements.

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9 EANS FAQs at Q&A D-4.
10 EANS FAQs at Q&A D-5.