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Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Sehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

Dated: September 13, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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DEPARTMENT OF EDUCATION

Applications for New Awards; Project To Support America's Families and Educators (Project SAFE) Grant Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2021 and FY 2022 for Project SAFE under the School Safety National Activities authority of the Elementary and Secondary Education Act (ESEA), Assistance Listing Number 84.184N. The Project SAFE grant program is intended to improve students' safety and well-being by providing resources to local educational agencies (LEAs) that adopt and implement strategies to prevent the spread of the Novel Coronavirus Disease 2019 (COVID-19) consistent with guidance from the Centers for Disease Control and Prevention (CDC) and that are financially penalized for doing so by their State educational agency (SEA) or other State entity.

DATES:

Applications Available: September 20, 2021.

Deadline for Transmittal of Applications: Applications will be reviewed and approved on a rolling, expedited basis contingent on the availability of funding.

ADDRESSES: To submit an application, please email the completed and signed application, along with required attachments, to ProjectSAFE@ed.gov. The application template may be found at the following link: <https://oese.ed.gov/offices/office-of-formula-grants/safe-supportive-schools/the-project-to-support-americas-families-and-educators-project-safe/>.

FOR FURTHER INFORMATION CONTACT:

Amy Banks, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW, Room 3E257, Washington, DC 20202-6244. Phone: 202-453-6704. Email: ProjectSAFE@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Project SAFE grant program provides grants to eligible LEAs to improve student safety and well-being by advancing strategies consistent with CDC guidance to reduce transmission of COVID-19 in schools.

Background: Since March 2020, the Nation's students have experienced massive interruptions to in-person instruction as a result of the COVID-19 pandemic. The pandemic has negatively

impacted many students' social, emotional, and mental well-being and academic achievement, and exacerbated pre-existing racial, socioeconomic, and other educational inequities.¹ The Administration is committed to taking all necessary steps to support LEAs in providing every student the opportunity to safely learn in-person full-time during the 2021-2022 school year.

CDC guidance makes clear that K-12 schools can safely operate in-person by implementing layered prevention strategies (using multiple strategies together consistently).² Studies show that schools that consistently implemented layered prevention strategies had levels of transmission lower than or similar to the rates in the communities in which they are located.³ Science-based strategies recommended by the CDC for preventing the spread of COVID-19 include promoting vaccination for staff and eligible students, universal and correct indoor masking, implementing screening testing, using contact tracing in combination with isolation and quarantine, improving ventilation, and maintaining physical distance to the maximum extent possible.

To support LEAs in adopting and implementing strategies to sustain safe in-person instruction, the American Rescue Plan Act of 2021 (ARP Act) requires each LEA that receives Elementary and Secondary School Emergency Relief (ARP ESSER) funds to adopt a plan for the safe return to in-person instruction and continuity of services.⁴ Under the Department's interim final requirements for the ARP ESSER funds, the LEA must describe in its plan how it will maintain the health and safety of students, educators, and other staff and the extent to which it has adopted policies on CDC safety recommendations.⁵

In addition, the ARP Act is clear that it is within the LEA's discretion⁶ to use

¹ See: <https://www.cdc.gov/mmwr/volumes/70/wr/mm7011a1.htm> and <https://www2.ed.gov/about/offices/list/ocr/docs/20210608-impacts-of-covid19.pdf>.

² See: https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/transmission_k_12_schools.html.

³ Ibid.

⁴ Section 2001(i) of the ARP Act.

⁵ See: 86 FR 21195 (April 22, 2021), available at <https://www.federalregister.gov/documents/2021/04/22/2021-08359/american-rescue-plan-act-elementary-and-secondary-school-emergency-relief-fund>.

⁶ Section 18003(d) of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116-136 (March 27, 2020), and section 313(d) of the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, 2021, Public Law 116-260 (December 27, 2020), and section 2001(e)(2) of the ARP Act permit an LEA to use

ARP ESSER funds (as well as ESSER funds granted through prior Federal pandemic relief funding) to implement policies in line with guidance from the CDC that support the reopening and operation of school facilities to effectively maintain health and safety.⁷ As noted, multiple studies have shown that transmission rates within school settings, when multiple prevention strategies are in place, are typically lower than or similar to community transmission levels.⁸ The Administration fully supports and encourages all school districts to adopt CDC-recommended prevention strategies in order to prevent transmission of COVID-19 in schools.

However, some States have taken steps that restrict an LEA's implementation of local health and safety policies aligned with CDC guidance, including the withholding of critical resources needed to support their implementation. For example, some States have prohibited or otherwise blocked LEAs from adopting universal masking strategies. The Department has issued letters of concern to these States⁹ because trying to prevent school districts from adopting these policies puts the health and safety of students and school staff at greater risk and threatens the ability of school districts to safely sustain in-person instruction. Additionally, for example, some States have gone so far as to withhold resources from or impose financial penalties on LEAs that are following CDC guidance.

On August 18, 2021, President Biden issued the "Memorandum on Ensuring a Safe Return to In-Person School for the Nation's Children." The Presidential Memorandum directs the Department "to assess all available tools in taking action, as appropriate and consistent with applicable law, to ensure that:

(i) Governors and other officials are taking all appropriate steps to prepare for a safe return to school for our Nation's children, including not

standing in the way of local leaders making such preparations; and

(ii) Governors and other officials are giving students the opportunity to participate and remain in safe full-time, in-person learning without compromising their health or the health of their families or communities."

The Presidential Memorandum further notes that: "some State officials have even threatened to impose personal financial consequences on school officials who are working tirelessly to put student health and safety first and to comply with their legal obligations to their communities to further the essential goal of a safe, in-person education for all students. Our priority must be the safety of students, families, educators, and staff in our school communities. Nothing should interfere with this goal."¹⁰

Consequently, in cases where LEAs incur financial penalties related to the implementation of science-based strategies recommended by the CDC to prevent the spread of COVID-19 in schools and support sustained, full-time in-person learning, it is appropriate for the Department to provide grant assistance to help offset the impact of such financial penalties and support activities to improve student safety and well-being by advancing strategies consistent with CDC guidance to reduce transmission of COVID-19 in schools.

Priority: This notice contains one absolute priority. We are establishing this priority for the FY 2021 and FY 2022 Project SAFE grant program in accordance with section 437(d) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d).

Absolute Priority: For FY 2021 and FY 2022, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we will consider only applications that meet the absolute priority.

This priority is:

Supporting LEAs' and local education leaders' efforts to improve student safety and well-being in LEAs that have been financially penalized by their SEA or other State entity for adopting and implementing strategies consistent with CDC guidance to prevent the spread of COVID-19.

Under this absolute priority, the Department awards funds to support activities to improve student safety and well-being by advancing strategies consistent with CDC guidance to reduce transmission of COVID-19 in schools by addressing the harmful impact of

disruptive State penalties imposed on the LEA for implementing strategies consistent with CDC guidance. These activities could include, for example, activities to facilitate the continued implementation of strategies aligned with CDC guidance, despite the State-imposed penalty, and/or to maintain LEA and school stability, such as by enabling the LEA to maintain activities and/or staffing levels or compensation that would otherwise be negatively impacted or reduced due to financial penalties levied on the LEA for implementing strategies aligned with CDC guidance, including but not limited to a reduction in salaries for the superintendent or school board members.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program under title IV, part F, subpart 3 of the Elementary and Secondary Education Act (ESEA) (20 U.S.C. 7281) and therefore qualifies for this exemption. Section 437(d)(2) of GEPA allows the Secretary to exempt from rulemaking requirements regulations for which he determines that the requirements of this subsection will cause extreme hardship to the intended beneficiaries of the program affected by such regulations. The Secretary determined notice and comment rulemaking would cause extreme hardship by dangerously delaying critical health and safety measures for students, educators, and staff. Therefore this competition qualifies for this exemption as well. In order to ensure timely grant awards, the Secretary has decided to forgo public comment on the priorities and requirements under section 437(d) of GEPA. These priorities and requirements will apply to this FY 2021/2022 grant competition and any subsequent year in which we make awards under this competition.

Program Authority: Section 4631(a)(1)(B) of the ESEA (20 U.S.C. 7281(a)(1)(B)).

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR

ESSER funds for a broad range of allowable activities. Each section authorizes an LEA to use ESSER funds "for any of the following" activities. Accordingly, neither an SEA nor a State legislature has the authority to limit an LEA's use of ESSER formula funds. See Question A-6 in the Department's FAQ guidance: https://oese.ed.gov/files/2021/05/ESSER.GEER_FAQs_5.26.21_745AM_FINALb0cd6833f6f46e03ba2d97d30aff953260028045f9ef3b18ea602db4b32b1d99.pdf.

⁷ Section 2001(e)(2)(Q) of the ARP Act.

⁸ See: https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/transmission_k_12_schools.html.

⁹ The letters are available to the public at <https://oese.ed.gov/offices/american-rescue-plan/american-rescue-plan-elementary-and-secondary-school-emergency-relief>.

¹⁰ See: <https://www.federalregister.gov/documents/2021/08/23/2021-18223/ensuring-a-safe-return-to-in-person-school-for-the-nations-children>.

parts 75, 77, 79, 81, 82, 84, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The open licensing requirement in 2 CFR 3474.20 does not apply to this program.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds:

\$3,200,000.

Estimated Range of Awards: \$50,000 to \$350,000.

Estimated Average Size of Awards: \$250,000.

Maximum Award: The total amount of Project SAFE funds an LEA requests must not exceed the amount of the financial penalty for adopting and implementing CDC guidance that the LEA incurred or will incur during the project period. The Department may fund awards in whole, or in part, consistent with this notice, and may establish a maximum grant award level through a notice in the **Federal Register** in order to serve as many eligible applicants as possible.

Estimated Number of Awards: 13.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 12 months. The Department may structure an LEA's award based on the timing of any anticipated future financial penalty.

III. Eligibility Information

1. *Eligible Applicants:* An LEA that—

a. Has adopted a policy to implement and is implementing one or more of the strategies recommended in the CDC's Guidance for COVID-19 Prevention in K-12 Schools, as may be updated.¹¹ The most recent guidance incorporates the following strategies:

- (i) Promoting vaccination;
- (ii) Consistent and correct mask use;
- (iii) Physical distancing;
- (iv) Screening testing to promptly identify cases, clusters, and outbreaks;
- (v) Ventilation;
- (vi) Handwashing and respiratory etiquette;
- (vii) Staying home when sick and getting tested;

(viii) Contact tracing, in combination with isolation and quarantine; and
(ix) Cleaning and disinfection.

b. Has incurred or will incur a financial penalty imposed by its SEA or other State entity, such as a reduction in funding, including but not limited to reduction in salaries for school board members or superintendents, due to implementation of one or more strategies described in paragraph (a); and

c. To protect the safety and well-being of students, has continued at the time of application to implement such strategy or strategies for which the penalty was imposed and commits to maintain such strategy or strategies to the extent consistent with CDC guidance for the 2021-2022 school year.

2. a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out activities described in its application.

IV. Application and Submission Information

1. *Application:* Applicants are required to certify in their application that they meet the eligibility requirements. In addition to this certification, applicants must include with their application an electronic copy of—

a. The enacted LEA policy that demonstrates that the LEA has adopted one or more strategies as recommended in the CDC's Guidance for COVID-19 Prevention in K-12 Schools available at <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-guidance.html>, as listed in the eligibility requirements;

b. The SEA or other State entity notification of a financial penalty levied due to the LEA's adoption of such strategy or strategies, which includes the amount and duration of such penalty (to the extent available); and

c. An assurance from the LEA superintendent or authorized representative that the LEA leadership will continue implementing the prevention strategy or strategies to the extent consistent with CDC guidance for the duration of the 2021-2022 school year.

The application must also describe the amount of the financial penalty specified in the notification from the SEA or other State entity that has already been levied at the time of the application and the anticipated amount of any future financial penalty that will be levied during the 12-month period beginning on the date of application.

2. *Budget:* Applicants are required to include a budget that includes the total amount requested and the proposed use of grant funds consistent with the absolute priority. The total amount requested must not exceed the amount of the financial penalty the LEA already incurred at the time of application and will incur within the 12-month period following the date of application.

3. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make awards on an expedited basis.

4. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

V. Application Review Information

1. *Review:* Program staff will screen all applications to eliminate any applications that do not meet the eligibility requirements or are incomplete and review applicant budgets to ensure they meet the absolute priority and that costs are allowable. Applications will be accepted on a rolling basis and approved as they are reviewed and determined by program staff to meet all requirements. If it becomes necessary to prioritize applications due to limited availability of funds, the Department may consider additional factors including whether an LEA has Federal pandemic recovery funds available to meet the purposes of the grant.

2. *Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs

¹¹ See: <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-guidance.html>.

or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently \$250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds \$10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed \$10,000,000.

5. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with:

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an

objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Termination of Award:* An LEA that receives a Project SAFE grant must notify the Department if its financial penalty is terminated, whether by the SEA, another State entity, or a judicial proceeding. The Department may discontinue an award and terminate the grant (*i.e.*, prevent future grantee draw downs) if the LEA is no longer subject to a financial penalty required for eligibility.

2. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

3. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance

report, including financial information, as directed by the Secretary. For specific requirements on reporting, please go to www.ed.gov/fund/grant/apply/appforms/appforms.html.

5. *Performance Measure:* For purposes of the Government Performance and Results Act of 1993 and for Department reporting under 34 CFR 75.110, the Department has established the following performance measure for this program: The percentage of LEAs receiving Project SAFE grants that report that they are continuing to protect students' safety and well-being by implementing specific COVID–19 prevention strategies aligned with the most recent CDC guidance. The Department's target for grantees meeting this measure is 100 percent.

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requester with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

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Ian Rosenblum,

Deputy Assistant Secretary for Policy and Programs, Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary, Office of Elementary and Secondary Education.

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