



# UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

September 6, 2024

TO: Governors  
Chief State School Officers

FROM: Adam Schott  
Principal Deputy Assistant Secretary  
Delegated the Authority to Perform the  
Functions and Duties of the Assistant Secretary  
Office of Elementary and Secondary Education

SUBJECT: LEA-level Maintenance of Equity Requirements

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As we near the end of the performance period for the American Rescue Plan (ARP) Elementary and Secondary School Emergency Relief (ESSER) Fund, we want to ensure that all State educational agencies (SEAs) and local educational agencies (LEAs) are compliant with the ARP Act's maintenance of equity (MOEquity) requirements.

State-level MOEquity requirements help protect LEAs serving high concentrations of students in poverty from disproportionate reductions in elementary and secondary education funding. Similarly, LEA-level MOEquity requirements help protect an LEA's highest need schools from disproportionate reductions in elementary and secondary education staffing and per-pupil funding. More specifically, under section 2004(c) of the ARP Act, for each school identified by the LEA as a high-poverty school, the LEA may not, in fiscal year (FY) 2022 or FY 2023—

1. Reduce the number of FTE staff per-pupil by an amount that exceeds the total reduction, if any, in FTE staff per-pupil in all schools served by the LEA in such fiscal year; or
2. Reduce per-pupil funding (from combined State and local funding) by an amount that exceeds the total reduction, if any, in LEA per-pupil funding for all schools served by the LEA in such fiscal year.

While the U.S. Department of Education (Department) does not have the authority to waive MOEquity requirements for SEAs or LEAs, the Department's [guidance](#) from October 21, 2021, provides information on exceptions that are available to LEAs, including automatic exceptions and exceptions for LEAs that did not have an aggregate reduction in combined State and local per-pupil funding and that completed the "Certification of Exception from

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Local Maintenance of Equity Requirements” in Appendix B. Additionally, LEAs that can demonstrate an exceptional or uncontrollable circumstance may submit a request for exception to the Department through the State’s mailbox and copy the appropriate SEA officials for awareness. See [FAQ 32](#) for more details and examples of exceptional or uncontrollable circumstances. Each claim of exception will require a case-by-case review by the Department. Once the request has been reviewed, the Department will advise the LEA and SEA if the exception request has been approved.

As the prime awardee of ARP ESSER funds, it is the SEA’s responsibility to ensure its LEAs are compliant with these requirements. With FY 2022 and FY 2023 now closed, States are encouraged to use their compliance tools, such as monitoring and providing technical assistance, to help LEAs that were non-compliant with the MOEquity fiscal and/or staffing tests to achieve compliance.

Thank you for your work to ensure compliance with the ARP Act’s MOEquity requirements. The Department stands ready to provide technical assistance to States in meeting their obligations under the ARP Act. For additional information on MOEquity requirements and technical assistance resources, visit the Department’s [ARP ESSER Maintenance of Equity](#) page or contact your program officer through your State mailbox (*[Statename]*.[OESE@ed.gov](mailto:OESE@ed.gov)).