



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

September 3, 2024

The Honorable Tina Kotek
Governor of Oregon
900 Court Street, Suite 254
Salem, OR 97301

The Honorable Charlene Williams
Director
Oregon Department of Education
255 Capitol Street, NE
Salem, OR 97310

Dear Governor Kotek and Director Williams:

I am writing in response to the Oregon Department of Education's March 14, 2024, request to the U.S. Department of Education (Department) for a waiver of the fiscal year (FY) 2023 maintenance of effort (MOE) requirements under the American Rescue Plan Act of 2021 (ARP Act).

As a condition of receiving Elementary and Secondary Emergency Relief (ESSER) funds under the ARP Act, Oregon assured it would maintain effort, as defined in the ARP Act, for both elementary and secondary education and higher education in each of FYs 2022 and 2023. More specifically, for each FY, section 2004(a)(1) of the ARP Act requires a State that receives ARP ESSER funds to maintain State support for: 1) elementary and secondary education at least at the proportional level of the State's support for elementary and secondary education relative to the State's overall spending, averaged over FYs 2017, 2018, and 2019; and 2) higher education at least at the proportional level of the State's support for higher education relative to the State's overall spending, averaged over FYs 2017, 2018, and 2019. Section 2004(a)(2) of the ARP Act allows the Department to grant a waiver of the MOE requirements "for the purpose of relieving fiscal burdens incurred by States in preventing, preparing for, and responding to the coronavirus."

Under the authority of section 2004(a)(2) of the ARP Act, I am approving Oregon's request to waive the MOE requirements in section 2004(a)(1) of the ARP Act with respect to State support for elementary and secondary education and higher education to relieve fiscal burdens incurred by the State for FY 2023. This determination is based on the totality of the circumstances, including review of Oregon's waiver request and the fiscal burden the State incurred in responding to the COVID-19 pandemic; the Department's application of the statutory

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requirements; the Department’s approach to MOE waiver requests as noted in the Frequently Asked Questions document¹; and consideration of the impact on students.

Based on the information submitted by Oregon, the State failed to meet the FY 2023 MOE requirement for elementary and secondary education by 4.53 percentage points (a \$621.2 million shortfall) and for higher education by 0.68 percentage point (a \$28.1 million shortfall). Oregon noted that decreases in proportional education spending were due to increases in overall State spending on health care, including Medicaid; mental and behavioral health; housing; and drought relief.

In determining whether to grant a State an MOE waiver, we may consider factors such as increased State support for education. Oregon submitted data showing it increased overall support for elementary and secondary education from an average of \$4,064,163,411 in the baseline years to \$5,489,898,483 in FY 2023. Data submitted by the State also show an increase in overall support for higher education from an average of \$815,197,137 in the baseline years to \$1,135,402,720 in FY 2023. Oregon also increased FY 2023 per-pupil spending compared to the baseline for both elementary and secondary education (by 42 percent or \$2,938 per student) and higher education (by 43 percent or \$4,341 per student). Finally, Oregon demonstrated a commitment to State support for education beyond FY 2023 by appropriating \$900 million in supplemental funding for elementary and secondary education via the State School Fund and \$318.9 million for higher education in the FY 2023-2025 biennium. These supplemental appropriations are larger than the FY 2023 shortfalls for both elementary and secondary and higher education as calculated under the ARP Act MOE requirements.

Thank you for your ongoing commitment to education. If you have any questions, please contact the Oregon State mailbox at Oregon.OESE@ed.gov.

Sincerely,

Laura Jimenez

Laura Jimenez
Director, Office of State and Grantee Relations

¹ https://oese.ed.gov/files/2022/09/8.15.22-Update_MOE-Chart-with-waiver-FAQs-Rounding-and-Appendices-Updated1.pdf