



THE SECRETARY OF EDUCATION

WASHINGTON, DC 20202

August 16, 2022

The Honorable Mark A. Holodick, Ed.D.
Secretary of Education
Delaware Department of Education
401 Federal Street, Suite 2
Dover, Delaware 19901-3639

Dear Secretary Holodick:

The U.S. Department of Education (Department) received your written plan for a reasonable level of tolerance when calculating whether the Delaware Department of Education (DDOE) has met State maintenance of equity requirements under the American Rescue Plan Act of 2021. This written plan only applies to a subset of Delaware's very small local educational agencies (LEAs). The Department's implementation of American Rescue Plan (ARP) maintenance of equity requirements helps ensure that State and local funding supports the students who have been subject to longstanding opportunity gaps in our education system and have also experienced the greatest impact from the COVID-19 pandemic. Moreover, the ARP maintenance of equity requirements are vital for ensuring that State and local educational agencies maintain funding and staffing levels to address the impacts of the pandemic on our education system, and for protecting high-need schools and students from disproportionate cuts where any reductions in State and local effort do occur.

Upon careful review, the Department has determined that it is consistent with the maintenance of equity requirements to allow a State educational agency (SEA) to calculate whether it has maintained equity with respect to its very small high-need and highest-poverty LEAs within a reasonable "tolerance level." The Department's determination is based on the possibility of significant volatility in the calculated per-pupil funding amounts for very small LEAs caused by small changes in student enrollment which may be unrelated to whether an SEA has achieved the intent to maintain equity in funding. (See *Frequently Asked Questions, American Rescue Plan Elementary and Secondary School Emergency Relief Program, Maintenance of Equity Requirements*, July 26, 2022, Question 21(a).)

After meeting with DDOE, we understand that Delaware's school funding system is based on unit counts that differ depending on the services required to educate each student.¹ As a result, the calculated per-pupil funding amounts for Delaware's very small LEAs are significantly affected by small changes in total student enrollment or enrollment in specific student groups for which funding is based on the cost of education. This makes the per-pupil funding amounts in Delaware's very small LEAs an imperfect indicator of whether the SEA has achieved the intent of maintaining equity in funding across LEAs. For example, in Gateway Charter School (Gateway), the LEA enrollment increased from 158 students in FY 2021 to 178 students in FY

¹ The Delaware Code (<https://delcode.delaware.gov/title14/>) and State Annual Appropriations Act (<https://legis.delaware.gov/Offices/ControllerGeneral/AppropriationBills>)



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2022. However, the student population shifted in FY 2022 to include fewer students receiving complex and intensive special education services. DDOE has provided the Department with additional information on specific student counts for these service categories that equate to a reduction of 1.49 funding units. If Gateway's special education student population had not shifted in FY 2022, its State funding allocation would have increased by \$448,184, which would have resulted in an increase in the per-pupil funding from FY 2021 to FY 2022.

In summary, on July 13, 2022, we received DDOE's written plan for a reasonable level of tolerance when calculating whether the SEA has maintained equity with respect to very small LEAs. There are 44 LEAs serving more than 139,000 students in Delaware. For the seven LEAs in Delaware with fewer than 400 students, DDOE proposes to implement a tolerance of 10 percent. DDOE states that, combined, these seven LEAs constitute less than 0.3 percent of Delaware's total student enrollment. After reviewing DDOE's written plan, including the data submitted, the unique circumstances in the State, and our further State-specific analysis, we have determined that this approach includes a reasonable level of tolerance when calculating whether Delaware has maintained equity for very small LEAs.

We appreciate your diligence in developing this plan. If you have any questions, please contact your program officer at: Delaware.OESE@ed.gov.

Sincerely,

Laura Jimenez

Laura Jimenez
Director, Office of State and Grantee Relations
Office of Elementary and Secondary Education
United States Department of Education