



## UNITED STATES DEPARTMENT OF EDUCATION

January 17, 2023

The Honorable Jeff Riley  
Commissioner of Education  
Massachusetts Department of Elementary and Secondary Education  
75 Pleasant Street  
Malden, MA 02148-4906

Dear Commissioner Riley:

The U.S. Department of Education (Department) received your written plan for a reasonable level of tolerance when calculating whether the Massachusetts Department of Elementary and Secondary Education (DESE) has met State maintenance of equity requirements under the American Rescue Plan Act of 2021 (ARP Act). This written plan applies only to a subset of Massachusetts' local educational agencies (LEAs).

The ARP Act State maintenance of equity requirements help ensure that State funding supports the students in LEAs with high concentrations of poverty who have often 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 Act State maintenance of equity requirements are vital for ensuring that States maintain funding to address the impact of the pandemic on students' education, and for protecting students in high-poverty LEAs from disproportionate cuts if reductions in State effort do occur.

The Department determined that it is consistent with the State 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).)

According to Massachusetts' plan, DESE considers:

- LEAs with enrollments of fewer than five students to be "extraordinarily small LEAs," with one LEA falling in this category.
- LEAs with enrollments between six and 200 students to be "very small LEAs," with six high-need LEAs falling in this category.

DESE asserts that: 1. the calculated per-pupil funding amounts for these three tiers of LEAs are significantly affected by small changes in student enrollment; and 2. the resulting data are unreliable indicators of whether the SEA has achieved the intent of maintaining equity in funding across LEAs. Accordingly, DESE proposes two tolerance levels:

- 1) **Tier 1:** For “extraordinarily small LEAs” that have five or fewer students, DESE proposes to tolerate a 50% reduction in per-pupil funding from year to year.
- 2) **Tier 2:** For “very small LEAs” that have between six and 200 students, DESE proposes to tolerate a 7% reduction in per-pupil funding from year to year.

After reviewing DESE’s tolerance proposal, including the data submitted, the unique circumstances in the State, and our further State-specific analysis, I have determined that the proposed approach for extraordinarily small and very small LEAs includes reasonable levels of tolerance when calculating whether Massachusetts has maintained equity with respect to those LEAs.

With FY 2022 closed, if DESE did not maintain equity for any highest-poverty and high-need LEA not covered by this tolerance approval, it may address this violation by making additional appropriations in FY 2023 to fully address FY 2022 shortfalls for impacted LEAs. Such additional funds must be separate from funds necessary to comply with the maintenance of equity requirements in FY 2023. Please advise the Department when these additional payments have been made.

We appreciate your diligence in developing this proposal. If you have any questions, please contact your program officer at: [Massachusetts.OESE@ed.gov](mailto:Massachusetts.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