



UNITED STATES DEPARTMENT OF EDUCATION

February 14, 2023

The Honorable Katy Anthes
Commissioner of Education
Colorado Department of Education
201 East Colfax Avenue
Denver, CO 80203-1799

Dear Commissioner Anthes:

The U.S. Department of Education (Department) received your written plan for a reasonable level of tolerance when calculating whether the Colorado Department of Education (CDE) 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 Colorado's local educational agencies (LEAs).

The ARP Act State maintenance of equity requirements help ensure that State funding supports LEAs with high concentrations of poverty and the students who have been subject to longstanding opportunity gaps in our education system and experienced the greatest impact from the COVID-19 pandemic. These 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 funding 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 of the requirements. (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 materials provided by CDE, LEAs in Colorado are funded through a mix of State and local funding depending on the composition of the local tax base. When an LEA shifts from being entirely locally funded to receiving both State and local funds, the district incurs the impact of a budget balancing action known as the Budget Stabilization Factor (BSF). Small rural LEAs are particularly impacted by the BSF, which can reduce overall per-pupil revenue given local tax base fluctuations tied to natural resource extraction. Accordingly, CDE considers LEAs with enrollments of 1,000 or fewer students to be "small rural LEAs." This definition was established and is periodically reviewed by the Colorado Rural Council, a stakeholder group that advises CDE on matters pertaining to or impacting rural LEAs.¹ Under this proposed threshold,

¹ [ruraldefinitionletter12813.pdf \(state.co.us\)](https://www.state.co.us/ruraldefinitionletter12813.pdf)

Colorado has 110 small rural LEAs out of 170 LEAs statewide. CDE asserts that the calculated per-pupil funding amounts for small rural LEAs are significantly affected by small changes in student enrollment, which makes these data an unreliable indicator of whether the SEA has achieved the intent of maintaining equity in funding across LEAs.

For its 110 small rural LEAs, CDE proposes to implement a 5 percent tolerance, which would affect four LEAs for FY 2022 compliance. After reviewing CDE's tolerance proposal and accompanying data, 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 Colorado has maintained equity for these small LEAs.

We appreciate your diligence in developing this proposal. If you have any questions, please contact your program officer at: Colorado.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