



## UNITED STATES DEPARTMENT OF EDUCATION

March 16, 2023

The Honorable Jason E. Glass, Ed.D.  
Commissioner of Education  
Kentucky Department of Education  
300 Sower Boulevard  
Frankfort, KY 40601

Dear Commissioner Glass:

The U.S. Department of Education (Department) received your written plan for a reasonable level of tolerance when calculating whether the Kentucky Department of Education (KDE) 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 Kentucky'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-need and highest-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 KDE, the Kentucky General Assembly establishes a per-pupil funding amount, known as the SEEK (Support Education Excellence in Kentucky) Guaranteed Base. State statute provides "add-ons" to the SEEK Guaranteed Base to reflect the additional costs associated with educating certain students including at-risk, exceptional children, home and hospital education, and limited English proficient students. The Guaranteed Base plus SEEK add-ons results in an Adjusted SEEK Base allocation for each LEA.

In the context of these funding weights, KDE asserts that calculated per-pupil funding amounts for very small LEAs are significantly affected by small changes in student population. This makes the per-pupil funding amounts in Kentucky's very small LEAs an imperfect indicator of whether the SEA has achieved the intent of maintaining equity in funding across LEAs.

KDE considers LEAs with enrollments of 700 or fewer students to be very small. Under this proposed threshold, Kentucky has 22 very small LEAs out of 171 LEAs statewide. For these 22 very small LEAs, KDE proposes to implement a 10 percent tolerance, impacting six very small LEAs that collectively serve .8 percent of Kentucky's students.

After reviewing KDE'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 Kentucky has maintained equity for very small LEAs.

Finally, KDE's proposal indicates that Kentucky will need to make additional payments to one highest-poverty LEA that experienced a disproportionate reduction in per-pupil funding in FY 2022 and is not captured by this very small LEA tolerance proposal. Please advise the Department when this additional payment has been made.

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

Sincerely,

*Laura Jimenez*

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