

**From:** [Beth Scioneaux](#)  
**To:** [OESE.SGR.Louisiana](#); [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** HPE CM: Re: Waiver Request from Section 2004(a) of the American Rescue Plan Act (ARP) and Section 317 of the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA)  
**Date:** Friday, April 21, 2023 4:10:49 PM  
**Attachments:** [Louisiana Waiver Request.pdf](#)

---

**CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

The State of Louisiana, through this letter and attached documents, requests a waiver to the Maintenance of Effort requirements in Section 2004(a) of the American Rescue Plan Act (ARP) and Section 317 of the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA) for fiscal year (FY) 2022. While the State has made unprecedented new investments in education at the K-12 and post-secondary levels in FY 2022, other new obligations and changes to State revenue calculations have meant that education expenditures have not kept pace with total State expenditures. We believe that these increases to total support for education, as well as increased per-pupil expenditures, demonstrate the strength of Louisiana's commitment to our students and educators and meet the intended purpose of the Maintenance of Effort provision as drafted by Congress – to ensure that schools are insulated from any negative fiscal impacts of the COVID-19 pandemic. Your consideration of this request is appreciated.

More information on how the State has funded schools and other obligations is contained in the answers to the template inquiries below.

- 1. A description of the extent to which the State experienced fiscal burdens in preventing, preparing for, and responding to the coronavirus and an explanation of how those fiscal burdens affected the State's ability to maintain fiscal effort (e.g., the status of and any changes to the State's rainy day fund, whether the State experienced a decline in revenues, or an increase in other emergency expenses resulting from the pandemic, such as expenses related to health care, unemployment insurance, or support for small businesses).**

The State's inability to meet the MOE requirement is due to several factors, including higher-than-expected State revenues which skewed total spending numbers, as well as pre-existing federal obligations which reduced the State's total financial resources available to dedicate additional funds to education. With potential inflationary increases in costs and lingering economic uncertainty due to the COVID-19 pandemic, the legislature has strictly followed constitutional provisions requiring that budget surplus and additional revenues be used in certain ways to respond to future emergencies (through the rainy-day fund) and safeguard investments in infrastructure.

State general fund revenues (in real dollars) have now rebounded to above pre-pandemic levels. FY22 state general fund collections totaled \$11.7 billion, exceeding pre-pandemic state general fund collections by approximately \$2 billion. Over this same time period, the state has made substantial increased investments in state support for both K-12 education and higher education, increasing state support well above pre-pandemic levels, even while K-12 student enrollment has declined.

Despite these new investments in both K-12 education and higher education, overall state spending has outpaced growth for K-12 education support, resulting in the FY22 state support for K-12 education as a share of overall state spending falling below the baseline ratio as required for the Elementary and Secondary Schools Emergency Relief (ESSER) Fund and the Governor’s Emergency Education Relief (GEER) Fund. However, the state’s ability to direct the increased revenues to K-12 support was both restricted and limited by the constitutional requirements, debt obligations, and fiscal policy. To understand these restrictions and limitations as related to the maintenance of effort requirements, a background on the Minimum Foundation Program (MFP) as state support for K-12 education is necessary.

State support for elementary and secondary education is allocated through the Minimum Foundation Program (MFP), the state’s school funding formula that provides state funding for local school districts. The MFP serves as the primary means for providing state support to local school districts and consistently requires the largest share, over one-third, of the state general fund revenues. Additionally, the Louisiana constitution mandates full funding of the MFP formula adopted by the Louisiana State Board of Elementary and Secondary Education (BESE) and provides certain protections to maintain existing funding. These constitutional requirements ensure the MFP provides a consistent, recurring source for state support of K-12 education to local school districts. The MFP formula ensures an equitable distribution of state funding across school districts, providing school districts with funding allocations that can be used as block grants. After satisfying all mandated requirements, school districts have the flexibility to spend the funding to meet the needs of their schools and students.

Total overall state spending for FY22 increased by \$2 billion over the MOE baseline years, largely driven by the increase in state general fund revenue collections, and during this time, Louisiana also increased support for both K-12 education and higher education. As depicted in the table below, overall state spending increased at a greater rate, causing the state support for K-12 education as a share of overall state spending to fall below the MOE baseline average (State support for higher education exceeds the overall State spending rate of increase).

	<b>State Support K-12</b>	<b>State Support Higher Education</b>	<b>Overall State Spending</b>
Baseline	\$3,698,539,656	\$969,655,067	\$16,094,596,859
FY22	\$3,850,671,774	\$1,134,012,991	\$18,155,992,910
<b>Increase (\$)</b>	<b>\$152,135,117</b>	<b>\$164,357,924</b>	<b>\$2,061,396,051</b>
<b>Increase (%)</b>	<b>4.1%</b>	<b>16.95%</b>	<b>12.8%</b>

The increased growth of overall state spending in FY22 over the growth of state support for K-12 education stems from constitutional restrictions on the uses of increased revenue. The Louisiana constitution restricts the use of any revenues recognized as non-recurring, including surplus funds, by requiring deposits into the state’s rainy-day fund (25%)<sup>[1]</sup> and payments on the unfunded accrued liability held by the state’s pension systems (10%)<sup>[2]</sup>. The constitution then limits the expenditure of the remaining surplus funds to debt defeasance, capital outlay projects, coastal protection and restoration, and new road and bridge construction<sup>[3]</sup>. Of the \$699 million FY21 surplus, \$521 million was expended in FY22 and reflected in the FY22 overall state spending. But due the constitutional

limitations, these funds could not be utilized within the MFP as state support for K-12 education. Increased state general fund revenues late in the fiscal year also hindered Louisiana’s ability to meet maintenance of effort requirements. Determination of state general fund revenues is vested with the constitutionally-created Revenue Estimating Conference (REC) consisting of the governor or his designee, the president of the senate, the speaker of the house of representatives, and an independent economist. The state general fund revenue unanimously adopted by the REC becomes the basis of Louisiana’s constitutional balanced budget requirement. For FY22, the REC increased the forecast of state general fund revenues by \$350 million in May 2022<sup>[4]</sup>, less than two months before the end of the fiscal year. While this revenue is constitutionally defined as “recurring revenue”, it is consistently treated as “one-time” revenue by the legislature due to its arrival late in the fiscal year and therefore is not included in the MFP formula as funds available for allocation to school districts.

**2. Documentation and data supporting the description of the State’s fiscal burdens (e.g., revenue data, appropriation tables, unemployment statistics, etc.) including any State action that impacted State revenue (e.g., tax increases or decreases).**

The FY22 overall state spending also includes a \$400 million in payment to the federal treasury for the state’s debt on the Hurricane and Storm Damage Risk Reduction System (HSDRRS), the infrastructure system constructed following Hurricanes Katrina and Rita to provide 100-year protection to the Greater New Orleans area. Upon completion of the project by the Army Corps of Engineers, the state cost shared exceeded \$1.1 billion. In order to make the second payment of \$400 million in FY22, the legislature required 38% of any additional state general fund revenues, up to \$400 million, be directed to this purpose<sup>[5]</sup>. This commitment increased the State expenditure totals while reducing the amount of funds available for allocation to schools and universities.

**3. In addition, in its waiver request, a State should submit information on the relevant factors listed below to support its request. The Secretary may ask States for additional information after States submit the MOE waiver request form.**

Louisiana has significantly increased total state support for both K-12 and higher education over the MOE baseline years beginning with FY17, and these increases have been consistent year-over-year with few exceptions. The increased support is targeted and demonstrates a commitment to not only maintain, but increase, support for education statewide.

*Increased Support for K-12 Education*

The Louisiana constitution mandates full funding of the MFP formula and provides certain protections to maintain existing funding. Determination of the MFP formula allocation to districts and the total amount needed to fully fund the MFP formula considers factors such as the number of students enrolled in each district, increased weighted-averages for economically disadvantaged students, students with disabilities, and career and technical education units provided by the district, and a district’s ability to generate local revenue to support K-12 education. The base-per-pupil amount maintained by the constitutionally protected MFP formula increased by 1.375% in FY20 from \$3,961 to \$4,015. The average per-pupil expenditure has also increased steadily over the same time period, as noted below.

**MFP Formula Average Per Pupil**

2019-20	\$5,368
2020-21	\$5,399
2021-22	\$5,429
2022-23	\$5,459

A decline of over 12,000 students in the number of K-12 students enrolled in school districts supported by the MFP since the pandemic has also led State leaders to consider the increased investment sufficient. A decline in student enrollment has not been this significant since Hurricane Katrina impacted Louisiana many years ago. The decrease in student enrollment yielded a \$40 million savings which was diverted to support early childhood education through a special dedicated fund to increase early education services.

Louisiana has used the increased funding to support pay raises for both certificated and non-certificated teachers and school staff as part of a multi-year effort to bring the average teacher pay in line with the Southern Regional Education Board (SREB) average. Since the start of the pandemic in FY20 through the current FY23 fiscal year, Louisiana has increased pay for certificated staff by \$3,300 per year and non-certificated staff by \$1,650 per year. In FY22 specifically, the MFP provided certificated staff with an \$800 per year increase and non-certificated staff with a \$400 per year increase. The FY23 MFP formula allocation includes an additional \$148.4 million for school districts to provide pay increases. Additionally, the governor's FY24 executive budget proposal, submitted in February 2023, recommends increasing state support for K-12 education by another \$196.5 million through another pay raise for teachers and staff.

#### Increased Support for Higher Education

State support for higher education in FY22 increased at a rate that out-paced the increase of overall state spending. FY22 total state support for higher education increased by \$194.2 million, or 20.6%, over the prior fiscal year and \$164.4 million, or 16.95%, over the baseline average. Following years of disinvestment in higher education, Louisiana has dedicated increased resources to restore funding for higher education. Additionally, in contrast with MFP funding for K-12 education, state support for higher education is measured by both recurring and non-recurring support. While many of the increased resources available for Louisiana in FY22 were not available to increase recurring support for K-12 education, a portion of these resources were allocated to higher education for non-recurring support, resulting in a disproportionate increase in state support for higher education as a share of overall state spending. Moreover, the FY24 executive budget recommends an additional \$119 million in state support for higher education.

#### Uses of Federal Emergency Education Funding

Nearly all of the state's ESSER and GEER funds have been used to provide new resources to K-12 schools and higher education institutions. To date, Louisiana has utilized only \$16.4 million of its total ESSER allocation to reduce state expenditures associated with the increased cost of statewide testing and the development of early literacy programs. No portion of the Higher Education Emergency Relief (HEER) Funds or the GEER Funds have been used to replace state funding for education. Additionally, no portion of the unallocated ESSER or GEER funds are proposed to be used to replace existing state commitments for K-12 education or higher education. In fact, the FY24 executive budget recommends all unallocated funds be used to provide new resources to K-12 education and higher education.

[1] Budget Stabilization Fund – [LA Constitution Article 10.2 \(A\)3](#)

[1] Unfunded Accrued Liability - [LA Constitution Article 10 \(D\)\(2\)\(b\)\(iii\)](#)

[1] Constitutional Uses of Surplus - [LA Constitution Article 10 \(D\)\(2\)](#)

[1] [REC Adopted Forecast May 9, 2022](#)

[1] [LA R.S. 39:100.122\(B\)](#)

Thank you for consideration of this request. Let us know if you have any questions.

Beth Scioneaux  
Deputy Superintendent  
School System Financial Services  
Louisiana Department of Education

[REDACTED]  
[REDACTED]

---

[1] Budget Stabilization Fund – [LA Constitution Article 10.2 \(A\)3](#)

[2] Unfunded Accrued Liability - [LA Constitution Article 10 \(D\)\(2\)\(b\)\(iii\)](#)

[3] Constitutional Uses of Surplus - [LA Constitution Article 10 \(D\)\(2\)](#)

[4] [REC Adopted Forecast May 9, 2022](#)

[5] [LA R.S. 39:100.122\(B\)](#)