



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

May 17, 2023

The Honorable Joe Graves
Secretary of Education
South Dakota Department of Education
800 Governors Drive
Pierre, SD 57501-2291

Dear Secretary Graves:

The U.S. Department of Education (Department) received your written plan for a reasonable level of tolerance when calculating whether the South Dakota Department of Education (SDDE) 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 South Dakota'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).)

SDDE considers LEAs with memberships of fewer than 200 students to be small. Under this proposed threshold, South Dakota has 29 small LEAs out of 166 statewide. SDDE asserts that calculated per-pupil funding amounts for these small LEAs are significantly affected by minor changes in attendance rates due to declining enrollment. This makes the per-pupil funding amounts in South Dakota's small LEAs an imperfect indicator of whether the SEA has achieved the intent of maintaining equity in funding across LEAs. For its 29 small LEAs, SDDE proposes a tolerance of up to a 5 percent decline in per-pupil funding. Applying this tolerance would impact two small LEAs that the State identified as meeting the definition of high-need or

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highest-poverty in Fiscal Year 2022; together, these districts served .16 percent of South Dakota's students.

After reviewing SDDE'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 South Dakota has maintained equity for small LEAs.

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