



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

November 14, 2023

The Honorable Josh Shapiro
Governor of Pennsylvania
508 Main Capitol Building
Harrisburg, PA 17120

The Honorable Khalid N. Mumin
Secretary of Education
Pennsylvania Department of Education
333 Market Street
Harrisburg, PA 17126

Dear Governor Shapiro and Secretary Mumin:

I am writing in response to the April 24, 2023, request from the Pennsylvania Department of Education to the U.S. Department of Education (Department) for a waiver of the maintenance of effort (MOE) requirements in section 317(a) of the Coronavirus Response and Relief Appropriations Act, 2021 (CRRSA Act) and section 2004(a)(1) of the American Rescue Plan Act of 2021 (ARP Act). As a condition of receiving CRRSA Act and ARP Act pandemic relief funds under the Education Stabilization Fund, Pennsylvania assured it would maintain effort for both elementary and secondary education and higher education in each of fiscal years (FYs) 2022 and 2023.

More specifically, for FY 2022, section 317(a) of the CRRSA Act requires a State that receives Elementary and Secondary School Emergency Relief funds (ESSER II), Governor's Emergency Education Relief funds (GEER II), and funds for the Emergency Assistance to Non-Public Schools (EANS) program to: 1) maintain State support for elementary and secondary education at least at the proportional level of the State's support for elementary and secondary education relative to the State's overall spending, averaged over FYs 2017, 2018, and 2019; and 2) maintain State support for higher education at least at the proportional level of the State's support for higher education relative to the State's overall spending, averaged over FYs 2017, 2018, and 2019. This MOE requirement also applies to ARP ESSER funds and Section 2004(a)(2) of the ARP Act allows the Department to grant a waiver of the MOE requirements "for the purpose of relieving fiscal burdens incurred by States in preventing, preparing for, and responding to the coronavirus."

Under the authority of section 2004(a)(2) of the ARP Act, I am approving Pennsylvania's request to waive the MOE requirements in section 317(a) of the CRRSA Act and section

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

2004(a)(1) of the ARP Act with respect to State support for elementary and secondary education to relieve fiscal burdens incurred by the State for FY 2022.

As indicated in the Department's Frequently Asked Questions document, the Department's approach to MOE waiver requests is rooted in consideration of the impact on students. In reviewing Pennsylvania's request for a waiver, the Department considered all information and data included, as well as the totality of the circumstances. Based on the information submitted, the Department determined that, consistent with the Department's interest in a State's commitment to education spending, Pennsylvania made increased investments in elementary and secondary education in FY 2022. Specifically, Pennsylvania increased State support for elementary and secondary education overall and on a per-pupil basis in FY 2022 compared to the baseline years.

Despite these facts, based on Pennsylvania's submission, the State failed to meet MOE requirements by approximately 0.98 percentage points (\$187 million) in FY 2022, compared with the baseline years. The decrease in proportional education spending was driven by increases in health and human services spending, State investments in industries impacted by the pandemic like tourism, and increased hiring of State personnel in law enforcement and correctional facilities to implement COVID protocols.

Considering the totality of the circumstances, including the State's ongoing commitment to support elementary and secondary education through a \$567 million increase to the Basic Education Funding Formula in the State's enacted FY 2023 budget, as well as the State's demonstration of fiscal burdens incurred in responding to the coronavirus pandemic, the Department determined that approval of the waiver for purposes of the FY 2022 requirements is appropriate.

Thank you for your ongoing commitment to education. If you have any questions, please contact the Pennsylvania State mailbox at: Pennsylvania.OESE@ed.gov.

Sincerely,

Laura Jimenez

Laura Jimenez
Director, Office of State and Grantee Relations