



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

January 25, 2024

The Honorable Tony Thurmond
Superintendent of Public Instruction
California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

The Honorable Linda Darling-Hammond
State Board President
California State Board of Education
1430 N Street, Room 5111
Sacramento, CA 95814

Dear Superintendent Thurmond and President Darling-Hammond:

The U.S. Department of Education (Department) received your written plan for a reasonable level of tolerance when calculating whether the California Department of Education (CDE) has met State maintenance of equity requirements in fiscal year (FY) 2023 under the American Rescue Plan Act of 2021 (ARP Act). This written plan applies only to a subset of California'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).)

CDE cites two types of LEAs that would be captured by its small LEA tolerance proposal:

- 1) LEAs that receive the State's Necessary Small Schools (NSS) funds. These LEAs are funded in bands based on a combination of average daily attendance (ADA) and the number of full-time teachers or certificated employees, whichever provides the lesser amount, rather than just ADA. NSS funding is intended to recognize that there are certain, fixed costs to operate a school that are not directly tied to ADA.
- 2) County Offices of Education (COEs), which are legally constituted as LEAs, but have a unique funding profile that is primarily based on the number of districts countywide and the ADAs of those districts, rather than the ADA for students directly served by the COE.

CDE asserts that calculated annual per-pupil funding amounts for both LEA types are significantly affected by small changes in student enrollment, which makes these data imperfect indicators of whether the SEA has achieved the intent of maintaining equity in funding across LEAs.

Accordingly, CDE proposes:

- Two tolerance levels for LEAs that receive NSS funds:
 - 1) For LEAs with an ADA of 25 or fewer, CDE proposes to tolerate a 55 percent reduction in per-pupil funding from year to year. This would impact eight small LEAs identified by the State as meeting the definition of high-need or highest-poverty in FY 2023 that served 0.002 percent of California's students.
 - 2) For COEs with an ADA between 25 and 100, CDE proposes to tolerate a 20 percent reduction in per-pupil funding from year to year. This would impact five small LEAs identified by the State as meeting the definition of high-need or highest-poverty in FY 2023 that served 0.02 percent of California's students.

- Three tolerance levels for COEs:
 - 1) For COEs with an ADA of 50 or fewer, CDE proposes to tolerate a 55 percent reduction in per-pupil funding from year to year. This would impact 15 small LEAs identified by the State as meeting the definition of high-need or highest-poverty in FY 2023 that served 0.04 percent of California's students.
 - 2) For COEs with an ADA between 50 and 750, CDE proposes to tolerate a 20 percent reduction in per-pupil funding from year to year. This would impact 10 small LEAs identified by the State as meeting the definition of high-need or highest-poverty in FY 2023 that served 0.2 percent of California's students.
 - 3) For COEs with an ADA between 750 and 1000, CDE proposes to tolerate a 15 percent reduction in per-pupil funding from year to year. This would impact three small LEAs identified by the State as meeting the definition of high-need or highest-poverty in FY 2023 that served 0.09 percent of California's students.

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 California has maintained equity for COEs and LEAs that received NSS funds in FY 2023.

We appreciate your diligence in developing this proposal. If you have any questions, please contact your program officer at: California.OESE@ed.gov.

Sincerely,

Laura Jimenez

Laura Jimenez
Director, Office of State and Grantee Relations