



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

January 26, 2024

The Honorable Arsenio Romero  
Secretary of Education  
New Mexico Public Education Department  
300 Don Gaspar Avenue  
Santa Fe, NM 87501

Dear Secretary Romero:

The U.S. Department of Education (Department) received your written plan for a reasonable level of tolerance when calculating whether the New Mexico Public Education Department (NMPED) 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 New Mexico'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 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).)

NMPED considers LEAs with a membership of 151 to 600 students to be very small, and LEAs with 150 students or fewer to be exceptionally small. Under these proposed thresholds, New Mexico has 61 very small LEAs and 32 exceptionally small LEAs. According to information provided by NMPED, New Mexico's State Equalization Guarantee considers several factors when determining per-pupil funding including teacher qualifications and weights for student need. NMPED asserts that calculated per-pupil funding amounts for these very small and exceptionally small LEAs are significantly affected by small changes in students' educational needs and fluctuations in staff specialty and years of service. This makes the annual per-pupil funding amounts in New Mexico's very small and exceptionally small LEAs an imperfect indicator of whether the SEA has achieved the intent of maintaining equity in funding across LEAs.

Accordingly, NMPED proposes two tolerance levels:

1. For its 61 very small LEAs, NMPED proposes to implement a tolerance of up to an 18 percent decline in per-pupil funding. For FY 2023, applying this tolerance would impact three LEAs that served 0.21 percent of New Mexico's students; and
2. For its 32 exceptionally small LEAs, NMPED proposes to implement a tolerance of up to a 37 percent decline in per-pupil funding. For FY 2023, applying this tolerance would impact five LEAs that served 0.16 percent of New Mexico's students.

After reviewing NMPED'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 New Mexico has maintained equity for very and exceptionally small LEAs in FY 2023.

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

Sincerely,

*Laura Jimenez*

Laura Jimenez  
Director, Office of State and Grantee Relations