



## UNITED STATES DEPARTMENT OF EDUCATION

January 26, 2024

The Honorable Kirsten Baesler  
State Superintendent  
North Dakota Department of Public Instruction  
600 East Boulevard Ave., Dept. 201  
Bismarck, ND 58505

Dear Superintendent Baesler:

The U.S. Department of Education (Department) received your plan for a reasonable level of tolerance when calculating whether the North Dakota Department of Public Instruction (NDDPI) 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 North Dakota's local educational agencies (LEAs).

The ARP Act's 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).)

According to materials provided by NDDPI, North Dakota's State funding formula, set bi-annually by the legislature, is supplemented with an enrollment-driven formula to account for districts with specific characteristics. NDDPI asserts that calculated per-pupil funding amounts for its very small LEAs are significantly affected by small changes in attendance rates. This makes annual per-pupil funding amounts in North Dakota's very small LEAs an imperfect indicator of whether the SEA has achieved the intent of maintaining equity in funding across LEAs.

Accordingly, NDDPI proposes three tolerance levels:

- **Tier 1:** For districts with 10 or fewer students, NDDPI proposes to tolerate a 60 percent reduction in per-pupil funding, year to year. For FY 2023, this would impact one very

small LEA identified by the State as meeting the definition of high-need or highest-poverty that served 0.008 percent of North Dakota's students.

- Tier 2: For districts with 11 to 1,000 students, NDDPI proposes to tolerate a 25 percent reduction in per-pupil funding, year to year. For FY 2023, this would impact 44 LEAs identified by the State as meeting the definition of high-need or highest-poverty that served 8.57 percent of North Dakota's students.
- Tier 3: For districts with 1,001 to 2,000 students, NDDPI proposes to tolerate a 15 percent reduction in per-pupil funding, year to year. For FY 2023, this would impact two LEAs identified by the State as meeting the definition of high-need or highest-poverty that served 2.57 percent of North Dakota's students.

After reviewing NDDPI's tolerance proposal and accompanying data, the unique circumstances in the State, and our further State-specific analysis, we have determined that tiers 1 and 2 are reasonable levels of tolerance when calculating whether North Dakota has maintained equity for small LEAs in FY 2023. We do not find Tier 3, as proposed by NDDPI, to be a reasonable level of tolerance as it is unclear how changes in enrollments in LEAs of this size would contribute to the large reduction in per-pupil funding compared to LEAs with many fewer students.

Based on data provided by NDDPI, North Dakota will need to make additional payments to LEAs that experienced disproportionate reductions in per-pupil funding in FY 2023. Please advise the Department when these additional payments have been made.

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

Sincerely,

*Laura Jimenez*

Laura Jimenez  
Director, Office of State and Grantee Relations