



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 11, 2024

The Honorable Deena M. Bishop
Commissioner of Education
Alaska Department of Education and Early Development
P.O. Box 110500
Juneau, AK 99811

Dear Commissioner Bishop,

Thank you for providing additional information on April 5, 2024, regarding factors impacting Alaska Department of Education and Early Development's (DEED) compliance with the American Rescue Plan (ARP) Act fiscal year (FY) 2022 and FY 2023 maintenance of equity (MOEquity) requirements.

State MOEquity provisions help protect local educational agencies (LEAs) serving high concentrations of students in poverty from experiencing disproportionate reductions in elementary and secondary education funding. This requires a two-part analysis (see Question 9 of the [MOEquity guidance](#)):

- Under section 2004(b)(1) of the ARP Act, for any LEA identified by the SEA as a “high-need LEA,” the SEA may not, in FY 2022 or FY 2023, reduce State funding, calculated on a per-pupil basis, by an amount that exceeds the overall per-pupil reduction in State funds, if any, across all LEAs in the State for such fiscal year.
- Under section 2004(b)(2) of the ARP Act, for any LEA identified by the SEA as a “highest-poverty LEA,” the SEA may not, in FY 2022 or FY 2023, reduce State funding, calculated on a per-pupil basis, below the amount the SEA provided per-pupil to such LEA in FY 2019.

MOEquity provisions were enacted for the first time in the ARP Act, which became law on March 11, 2021. Alaska assured it would “comply with the maintenance of equity provisions in section 2004(b) of the ARP and ensure its LEAs comply with the maintenance of equity provision in section 2004(c) of the ARP” upon receipt of ARP ESSER funds on March 24, 2021.¹ The Department first released [MOEquity guidance](#) to support States in implementing the provisions on June 9, 2021. The Department updated this guidance on October 1, 2021, which included the addition of question 21(a), outlining the process for submitting a small LEA tolerance proposal. The final update to the MOEquity guidance on January 23, 2023, included a clarification related to the use of Department of Treasury COVID-relief funds in a State's MOEquity analysis. None of these updates relates to the specific per-pupil analysis for determining State-level MOEquity compliance.

¹ [ARP-ESSER-Grant-Award-Assurances_FINAL2.pdf \(ed.gov\)](#)

Question 19 of the MOEquity guidance shows that determining the overall per-pupil reduction of State funding, if any, for FYs 2022 and 2023 in the SEA as a whole is the first step in the required analysis for high-need LEAs. The State must then determine the per-pupil reduction of State funding, if any, for FYs 2022 and 2023 for *each high-need* LEA in the State and compare the per-pupil reduction, if any, for each high-need LEA with the overall per-pupil reduction in State funds for all LEAs. As demonstrated in Example 1 on Table 2 (page 12 of the [MOEquity guidance](#)), if a State has a \$0 reduction in overall per-pupil funds, then any per-pupil reduction in a specific high-need LEA that exceeds \$0 constitutes non-compliance. Merely having a \$0 reduction in overall per-pupil funds in the SEA alone does not demonstrate compliance with MOEquity requirements for specific high-need LEAs.

In your April 5, 2024, letter Alaska DEED stated that “Alaska’s funding during fiscal years 2019-2023 was entirely consistent with congressional intent. It did not reduce per-pupil spending on education.” However, Alaska DEED’s most recent data [submission](#) (final FY 2022 and FY 2023 data), available on the Department’s [MOEquity webpage](#), Column AD, Row 60, indicates a \$205 per-pupil reduction in overall State funding from FY 2021 to FY 2022. Column AF, Row 60, indicates a \$27 per-pupil reduction in overall State funding from FY 2022 to FY 2023. While this reduction in per-pupil funding statewide does not, by itself, constitute non-compliance with MOEquity requirements, it does indicate a State-level reduction in per-pupil spending between FYs 2021-2023.

On December 21, 2022, the Department communicated to Alaska DEED that all three funding sources – State aid, required local effort,² and a portion of eligible Federal Impact Aid – used to meet a school district’s calculated basic need could be included in the State-level MOEquity data. The Department also communicated to Alaska DEED that any supplemental payments from DEED to LEAs to resolve non-compliance with MOEquity requirements in a prior fiscal year may be excluded from the State’s disparity test analysis under section 7009 of the ESEA. However, Alaska’s equalization of expenditures amongst LEAs under section 7009 of the Elementary and Secondary Education Act of 1965 (ESEA) does not constitute compliance with the ARP Act’s specific MOEquity requirements.

The Department appreciates the additional detail you provided regarding hold harmless funding and per-pupil transportation funding. After again analyzing Alaska’s State laws for those additional funding provisions and the information you provided, we do not agree that it is appropriate to exclude these funding sources. The [MOEquity guidance](#) limits the exclusion of aspects of a statewide funding formula to specific circumstances (e.g., a one-time appropriation for a specific purpose, reimbursement based on the cost of a service in a prior year). Specifically, [FAQ 17](#) notes that if a State can document a one-time appropriation for a specific purpose (e.g., a revenue surplus that was distributed only for one year), then those funds may be excluded from MOEquity calculations. Based on the information provided, Alaska’s hold harmless funding and per-pupil transportation funding do not meet this definition of one-time funding because they

² See [FAQ 17](#).

impact LEAs across multiple fiscal years. This position is also consistent with the technical assistance we have provided to all other States.

Based on our additional review, Alaska DEED has not resolved the noncompliance with FY 2022 and FY 2023 State MOEquity requirements under the ARP Act. The outstanding LEAs for which Alaska DEED is non-compliant are as follows:

Table 1. Amount of State funding reductions considered disproportionate under FY 2022 maintenance of equity requirement	
<i>LEA</i>	<i>Shortfall</i>
Kenai Peninsula Borough School District	\$5,485,666
Anchorage School District	\$6,407,820

Table 2. Amount of State funding reductions considered disproportionate under FY 2023 maintenance of equity requirement	
<i>LEA</i>	<i>Shortfall</i>
Juneau Borough School District	\$90,148
Anchorage School District	\$215,187
Kenai Peninsula Borough School District	\$2,494,871
Fairbanks North Star Borough School District	\$2,756,426

Please note that the MOEquity shortfall figures have been adjusted to account for the statewide per-pupil reductions in FYs 2022 and 2023 reflected in Alaska DEED’s most recent data submission.

The State’s grant condition placed on March 27, 2024, will remain until Alaska demonstrates that it has resolved its non-compliance with the MOEquity requirements in section 2004(b) of the ARP Act. The Department strongly encourages Alaska to resolve its non-compliance issues, especially for FY 2022, as quickly as possible. The Department will remove the high-risk designation from Alaska’s ARP ESSER grant award if by April 25, 2024, Alaska confirms that an appropriations request has been made; or otherwise presents a sufficient plan to resolve its non-compliance.

If you have additional questions, please contact the Office of State and Grantee Relations through the Alaska State mailbox at Alaska.OESE@ed.gov.

Sincerely,



Adam Schott
Principal Deputy Assistant Secretary
Delegated the Authority to Perform the
Functions and Duties of the Assistant Secretary
Office of Elementary and Secondary Education