



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION

May 21, 2024

The Honorable Mike DeWine
Governor of Ohio
Riffe Center, 30th Floor
77 South High Street
Columbus, OH 43215

The Honorable Stephen D. Dackin
Director
Ohio Department of Education and Workforce
25 South Front Street
Columbus, Ohio 43215

Dear Governor DeWine and Director Dackin:

I am writing in response to the Ohio Department of Education and Workforce's March 4, 2024, request to the U.S. Department of Education (Department) for a waiver of the fiscal year (FY) 2023 maintenance of effort (MOE) requirements under the American Rescue Plan Act of 2021 (ARP Act).

As a condition of receiving Elementary and Secondary Emergency Relief (ESSER) funds under the ARP Act, Ohio assured it would maintain effort, as defined in the ARP Act, for both elementary and secondary education and higher education in each of FYs 2022 and 2023. More specifically, for each FY, section 2004(a)(1) of the ARP Act requires a State that receives ARP ESSER funds to maintain State support for: 1) 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) 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. 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 Ohio's request to waive the MOE requirements in section 2004(a)(1) of the ARP Act with respect to State support for higher education to relieve fiscal burdens incurred by the State for FY 2023. This determination is based on the totality of the circumstances, including review of Ohio's waiver request and the fiscal burden the State incurred in responding to the COVID-19 pandemic; the Department's application of the statutory requirements; the Department's approach to MOE

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waiver requests as noted in the Frequently Asked Questions document;¹ and consideration of the impact on students.

Based on the information submitted, Ohio failed to meet the FY 2023 MOE requirement for higher education by 0.53 percentage point (a \$13.9 million shortfall). Ohio noted that the decrease in proportional higher education spending was due to increases in overall State spending on health and human services; expanded foster care; and other programs related to the COVID-19 pandemic, including broadband connectivity, criminal justice services, and economic development projects.

In determining whether to grant a State an MOE waiver, we may consider factors such as increased State support for education. Ohio submitted data showing it increased overall support for higher education from an average of \$2,545,899,967 in the baseline years to \$2,717,345,404 in FY 2023. Ohio also increased FY 2023 per-pupil spending for higher education by 20.5 percent, or \$1,324 per student, compared to the baseline. Finally, Ohio demonstrated a commitment to State support for higher education beyond FY 2023 including \$303.8 million in increased spending in FY 2024, as noted in the State's waiver request.² This increase in the higher education appropriations is larger than Ohio's shortfall for FY 2023 as calculated under the ARP Act MOE requirement.

Thank you for your ongoing commitment to education. If you have any questions, please contact Ohio's State mailbox at Ohio.OESE@ed.gov.

Sincerely,

Laura Jimenez

Laura Jimenez
Director, Office of State and Grantee Relations

¹ [8.15.22-Update MOE-Chart-with-waiver-FAQs-Rounding-and-Appendices-Updated1.pdf](#)

² <https://oese.ed.gov/files/2024/04/Ohio-Appendix-C.pdf>