



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

May 10, 2024

The Honorable Brian P. Kemp
Governor of Georgia
206 Washington Street
Suite 203, State Capitol
Atlanta, GA 30334

The Honorable Richard Woods
State School Superintendent
Georgia Department of Education
205 Jesse Hill, Jr. Drive, SE
Atlanta, GA 30334

Dear Governor Kemp and Superintendent Woods:

I am writing in response to the Georgia Department of Education's March 14, 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, Georgia 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 Georgia's request to waive the MOE requirements in section 2004(a)(1) of the ARP Act with respect to State support for elementary and secondary 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 Georgia'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

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approach to MOE waiver requests as noted in the Frequently Asked Questions document¹; and consideration of the impact on students.

Based on the information submitted, Georgia failed to meet the FY 2023 MOE requirement for elementary and secondary education by 1.19 percentage points (a \$211.2 million shortfall). Georgia noted that the decrease in proportional education spending was due to pandemic-related enrollment declines in the years in which the State's FY 2023 Quality Basic Education (QBE) funding formula calculations were based.

In determining whether to grant a State an MOE waiver, we may consider factors such as increased State support for education. Georgia submitted data showing it increased overall support for elementary and secondary education from an average of \$9,268,505,036 in the baseline years to \$11,126,570,218 in FY 2023. Georgia also increased FY 2023 per-pupil spending compared to the baseline for elementary and secondary education by 21 percent, or \$1,088 per student. Finally, Georgia demonstrated a commitment to State support for elementary and secondary education beyond FY 2023 by increasing State aid for elementary and secondary education in FY 2024 by more than \$883 million. This included increases for teacher health benefits and salaries; funding to decrease the ratio of students to school counselors; and full funding for the QBE grant, reflecting increases in student enrollment following the drop in the QBE formula in FY 2023 that negatively impacted Georgia's MOE compliance. These supplemental appropriations are larger than Georgia'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 the Georgia State mailbox at Georgia.OESE@ed.gov.

Sincerely,

Laura Jimenez

Laura Jimenez
Director, Office of State and Grantee Relations

¹ https://oese.ed.gov/files/2022/09/8.15.22-Update_MOE-Chart-with-waiver-FAQs-Rounding-and-Appendices-Updated1.pdf