



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

July 18, 2024

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

Dear State Superintendent Baesler:

The American Rescue Plan Act of 2021 (ARP Act) includes requirements to safeguard the highest need local educational agencies (LEAs) from experiencing a disproportionate reduction in State funding in fiscal years (FYs) 2022 and 2023 (i.e., school years 2021-2022 and 2022-2023) and to ensure that LEAs serving the greatest numbers of students from low-income backgrounds do not experience a decrease in State funding below their FY 2019 levels. The Secretary does not have authority to waive these requirements.

To support implementation of these maintenance of equity requirements, the U.S. Department of Education (Department) has conducted technical assistance calls with States since summer 2022, including multiple calls with the North Dakota Department of Public Instruction (NDDPI). In these discussions, we worked with NDDPI officials to assist the State in categorizing various funds provided to LEAs in the maintenance of equity data submission and in evaluating a small LEA tolerance proposal¹ as developed by NDDPI and consistent with the Department's guidance.²

Based on FY 2023 data provided by the State,³ North Dakota has not yet demonstrated compliance with the FY 2023 maintenance of equity requirements for three high-need LEAs and two highest-poverty LEAs; please see Table 1, next page. North Dakota may resolve the identified compliance issues for FY 2023 by making supplemental payments to these LEAs equal to the amount of the State funding reductions considered "disproportionate" under the maintenance of equity requirement.

¹ https://oese.ed.gov/files/2024/02/FINAL_North-Dakota-FY-2023-Small-LEA-Tolerance-Response.pdf

² https://oese.ed.gov/files/2023/01/2023-01-23-Update_22-0471-moequity-FAQs_Final-Version.pdf

³ <https://oese.ed.gov/files/2024/01/North-Dakota-FY23-MOEquity-Data.xlsx>

Table 1. Amount of State funding reductions considered disproportionate under FY 2023 maintenance of equity requirement	
LEA	Shortfall
Belcourt 7	\$10,650
Devils Lake 1	\$31,673
Wahpeton 37	\$207,234
Mandan 1	\$156,843
McKenzie Co 1	\$2,322,740

These figures are based on data and information available to the Department through its monitoring and may not reflect the full scope of North Dakota’s FY 2023 maintenance of equity compliance issues.

Within 30 calendar days of this correspondence, North Dakota must submit a plan to the Department, demonstrating that it is actively working to resolve its FY 2023 maintenance of equity compliance issues. This plan should clarify the extent to which the State is planning to make supplemental payments to the LEAs listed above; please include information regarding how and when any supplemental payments will be made and provide any additional data, as applicable. If North Dakota does not provide a timely response, the Department may take appropriate enforcement actions, such as adding specific conditions to a State’s ARP ESSER award,⁴ designating a State as a high-risk grantee,⁵ and potential recovery of ARP ESSER funds.⁶

If you have any questions or require assistance, please contact the Department via North Dakota’s State mailbox, NorthDakota.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

CC: The Honorable Doug Burgum
 Governor of North Dakota
 600 East Boulevard Ave.
 Bismarck, ND 58505

⁴ See 2 C.F.R. § 200.206(c) and 200.208.
⁵ See 2 C.F.R. § 3474.10 and 2 C.F.R. 200.208.
⁶ Section 452 of the General Education Provisions Act, 20 U.S.C.