



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

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TO: BOCES District Superintendents
School District Superintendents
School District Business Officers
Charter School Leaders

FROM

U.S. Department of Education

Frequently Asked Questions

American Rescue Plan

Elementary and Secondary School Emergency Relief (ESSER) Program

Maintenance of Equity (MOEquity)

Maintenance of Equity Frequently Asked Questions

Background

1. What is maintenance of equity (MOEquity)?

MOEquity is a set of new fiscal equity requirements in ARP ESSER. Specifically, MOEquity ensures the following:

- x An SEA does not disproportionately reduce per-pupil State funding to high-need LEAs.
- x An SEA does not reduce per-pupil State funding to the highest-poverty LEAs below their FY 2019 level.
- x An LEA does not disproportionately reduce State and local per-pupil funding in high-poverty schools.
- x An LEA does not disproportionately reduce the number of full-time-equivalent (FTE) staff per-pupil in high-poverty schools.

2. How is MOEquity different from maintenance of effort (MOE)?

Both requirements are intended to help ensure that States and LEAs do not use ARP ESSER funds to reduce State and local financial support for education, which would have the effect of mitigating or even eliminating the purpose of the ARP ESSER program, which is to provide the extra, supplemental funding needed to maintain teaching and learning during and after the pandemic, safely reopen schools and maintain operations for full-time, in-person instruction as soon as possible, and address the effects of lost instructional time on students' social, emotional, mental health, and academic needs. The MOE requirements in section 2004(a) of the ARP Act ensure that a State maintains overall financial support for elementary and secondary education and for higher education. The MOEquity requirements in section 2004(b) and (c) ensure that, if funding reductions are necessary, each SEA and LEA does not disproportionately reduce per-pupil funding for education in those LEAs and schools in the State with the highest percentages of students from low-income families. Moreover, in the absolute highest-poverty LEAs, an SEA may not reduce per-pupil allocations of State funds below the LEAs' FY 2019 level.

For further guidance on maintenance of effort requirements, see the Department's April 2021 [Guidance on Maintenance of Effort and Waiver Requests under the Elementary and Secondary School Emergency Relief Fund and the Governors Emergency Education Relief Fund](#).

3. Which entities must comply with the

funds should be allocated to LEAs expeditiously as their availability is essential to the broader goal of advancing educational equity.

State MOEquity

9. What are the State level MOEquity requirements?

Each SEA must separately maintain fiscal equity for high-need LEAs and highest-poverty LEAs as a condition of receiving ARP ESSER funds.

- x 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 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.
- x 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 2023, reduce State funding, calculated on a per-pupil basis, below the amount the SEA provided per-pupil to such LEA in FY 2019.

10. What is a high-need LEA?

13. How does an SEA determine the number of students enrolled in all LEAs in the State when determining its high-need and highest-poverty LEAs?

When identifying its high-need and highest-poverty LEAs, an SEA must rank all its LEAs

Table 1, the cumulative enrollment to identify highest-poverty LEAs is 20,000, which is reached in LEA 3.

3. Identify each LEA referenced in step 2 as a “highest-poverty LEA.” An SEA identifies the LEA that “tips the scale” as a highest-poverty LEA — e.g., LEA 3 in Table 1 — even if only a small number of students are included from the next LEA to reach the cumulative enrollment required. In the example, LEA 2 only brings the cumulative total to 12,000 students — requiring the identification of LEA 3 to reach the 20,000 student threshold.

Table 1: Determining Highest-Poverty LEAs and High-Need LEAs

LEA	SAIPE/derived SAIPE Poverty Percentage	Enrollment	Cumulative Enrollment	High-Need LEA (50% of cumulative enrollment is 50,000)	Highest-Poverty LEA (20% of cumulative enrollment is 20,000)
LEA 1	40%				

(ESEA)¹ (i.e., funds provided through the primary funding mechanisms, categorical funding, and other State support.) Current expenditures *do not include* dedicated funds for capital outlays and debt service. Current expenditures are a common metric: the Department uses per-pupil current expenditure data as general information on the financing of elementary and secondary education; SEAs provide their State per-pupil current expenditures to the Department for use in a number of funding formulas; and LEAs commonly report per-

- maintains per-pupil funding to all LEAs in FY 2022, then for the purposes of determining whether the SEA has maintained fiscal equity for its high-need LEAs, the reduction is zero.
2. Determine the per-pupil reduction of State funding, if any, for FY 2022 for each high-need LEA in the State.
 - a. **High-need LEA per-pupil amount for FY 2022** - Divide the total amount of State funds provided to each high-need LEA in FY 2022 by the aggregate number of children enrolled in that LEA in FY 2022.
 - b. **High-need LEA per-pupil amount for FY 2021** - Divide the total amount of State funds provided to each high-need LEA in FY 2021 by the aggregate number of children enrolled in that LEA in FY 2021.
 - c. **High-need LEA per-pupil reduction in State funds, if any, for FY 2022** - If the per-pupil amount for FY 2022 is less than FY 2021, the difference is the amount by which the SEA has reduced its per-pupil amount of State funds to a high-need LEA in FY 2022.
 3. Compare the per-pupil reduction, if any, for each high-need LEA (step 2c above) with the overall per-pupil reduction in State funds for all LEAs (step 1c above). To maintain fiscal equity for each high-need LEA, an SEA may not reduce State funding (as calculated on a per-pupil basis) to that LEA (step 2c) by an amount that exceeds the overall per-pupil reduction across all LEAs in the State (step 1c).

The SEA will repeat these steps to make the determination for FY 2023 compared to per-pupil amounts for FY 2022.

See Table 2 for three examples of how an overall per-pupil reduction in State funds affects an SEA's ability to maintain fiscal equity in its high-need LEAs. In the examples, green shows where an SEA has maintained fiscal equity and red shows where an SEA has not maintained fiscal equity.

Table 2: Determining whether an SEA meets MOEquity for high-need LEAs.

Table 3: Determining whether an SEA meets MOEquity for highest-poverty LEAs

Examples	FY 2019 Per-pupil State Funding	FY 2022 Per-pupil State Funding	FY 2023 Per-pupil State Funding
<p>Highest-poverty LEA 1</p>	<p>\$10,000</p>	<p>\$10,000 (Equal to $WKH / (\\$ \uparrow \vee$ 2019 per-pupil State funding level)</p>	<p>\$10,000 (Equal to $WKH / (\\$ \uparrow \vee$ 2019 per-pupil State funding level)</p>

Highest

measure or measures that its LEAs use, which may be the measure the SEA requires for disaggregation of the economically disadvantaged subgroup under section 1111 of the ESEA. The SEA may permit an LEA to use the measure(s) of poverty it uses to rank its schools under section 1113(a) of the ESEA.

25. How does an LEA identify its high-poverty schools?

An LEA determines its high-poverty schools using the following procedures. An LEA may elect, consistent with the statute and as shown in the following examples, to make the determination on a districtwide basis or by grade span. (See sections 2004(c)(1)(A) and (c)(2)(C) of the ARP Act.)² In deciding which option to use to identify its high-poverty schools, an LEA might consider the total number of high-poverty students impacted, relative concentrations of poverty in schools that would be identified compared to those that would not, and whether using grade spans would capture high schools if they would not otherwise be captured.

1. Rank each school in the LEA by its percentage of economically disadvantaged students, from highest percentage to lowest percentage, in each fiscal year. An LEA may rank its schools within the LEA as a whole or within each grade span — e.g., K-5, 6-8, 9-12. See Table 4 below for an example of how an LEA might rank all schools in the LEA as a whole and Table 5 for an example of how an LEA might rank its schools by grade span.
2. Divide the total number of schools in the LEA by 4 to determine the number of schools in the highest quartile. If the result of the division is not a whole number, always round down to the nearest whole number.

Table 4. Identifying high-poverty schools in an LEA as a whole (in a sample LEA with nine schools)*

School	Percentage of Economically Disadvantaged Students	Grade Span	High-Poverty School?
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26. Which funding sources must an LEA include when determining its per-pupil funding for the purposes of maintaining fiscal equity?

When determining whether it maintained fiscal equity, an LEA includes all sources of State and local funds the LEA has available for current expenditures for free public education. (See section 8101(12) of the ESEA.) Current expenditures *do not include* dedicated funds for capital outlays and debt service. Moreover, local fiscal maintenance of equity considers the use of local and State funding sources only. Therefore, an L

high-poverty school receives a reduction in the per-pupil amount of State and local funds that is greater than the amount in step 1c, the LEA has not maintained fiscal equity under section 2004(c)(1)(A) of the ARP Act for FY 2022 with respect to that high-poverty school.

The LEA repeats

- b. **State and local per-pupil amount for FY 2021** - Divide the total amount of State and local funds provided to all schools in each grade span served by the LEA by the aggregate number of children enrolled in all schools in that grade span to determine the LEA per-pupil amount for each grade span.
 - c. **State and local per-pupil reduction in State and local funds, if any, for FY 2022** - If the per-pupil amount of State and local funds for any grade span in FY 2022 is less than the per-pupil amount for that same grade span in FY 2021, the difference is the amount by which the LEA has reduced its per-pupil State and local funds to schools in that grade span in FY 2022. If an LEA increases or maintains State and local funding to all schools in a grade span in FY 2022, then for the purposes of determining whether the LEA has maintained fiscal equity for its high-poverty schools, the reduction is zero.
 2. Determine the per-pupil reduction of State and local funding, if any, for FY 2022 for each high-poverty school in the respective grade span of the LEA.
 - a. **High-poverty school per-pupil amount for FY 2022** - Divide the total amount of State and local funds provided to the high-poverty school in FY 2022 by the aggregate number of children enrolled in that school in FY 2022.
 - b. **High-poverty school per-pupil amount for FY 2021** - Divide the total amount of State and local funds provided to the high-poverty school in FY 2021 by the aggregate number of children enrolled in that school in FY 2021.
 - c. **High-poverty school per-pupil reduction in State and local funds, if any, for FY 2022** - If the per-pupil amount for FY 2022 is less than FY 2021, the difference is the amount by which the LEA has reduced its per-pupil amount of State and local funds to that high-poverty school in FY 2022.
 3. Compare the per-pupil reduction, if any, for each high-poverty school (step 2c above) with the per-pupil reduction in State and local funds for all schools in that grade span (step 1c above). If any high-poverty school in any grade span receives a reduction in the per-pupil amount of State and local funds that is greater than the amount in step 1c for that grade span, the LEA has not maintained fiscal equity under section 2004(c)(1)(A) of the ARP Act for FY 2022 with respect to that high-poverty school.

The LEA repeats these steps to make the determination for FY 2023 compared to per-pupil amounts for FY 2022.

28. How does an LEA determine which FTEs to include when determining whether the LEA maintained staffing equity?

Under section 2004(c)(1)(B) of the ARP Act, an LEA must maintain staffing equity in any high-poverty school. Each LEA must include all paid staff, both instructional and non-instructional when determining whether it maintained staffing equity on an FTE basis. This would include all employees and those hired by contract who perform school-level services.

An LEA includes staff who split their time between more than one school building in the LEA. For example, if a districtwide literacy coach supports teachers in two different schools, the LEA must include the proportional FTE for each school.

To ensure that an LEA is supporting its high-poverty schools with at least the same level of instructional staff on an FTE basis

terms of its overall staffing budget, which may include considering the qualifications and level of
7/F1 12 Exped 26 of Staffing High Poverty Schools compared to other schools.

29. Must an LEA account for changes in staffing or enrollment during the school year?

An LEA determines whether it maintains staffing equity once both enrollment data and staffing decisions are final for a specific school year. Once an LEA has determined whether it has maintained staffing equity for each of its high-poverty schools, if there are unpredictable changes in student enrollment or personnel assignments later in the school year, the LEA does not have to redetermine staffing equity. LEAs should make every effort to ensure staffing equity is maintained throughout the school year.

30. How does an LEA determine whether it maintained staffing equity for its high-poverty schools?

To determine whether it maintained staffing equity for its high-poverty schools, an LEA must follow the steps below, depending on whether it is determining MOE equity on a districtwide basis or by grade span.

Districtwide Determination:

1. Determine the per-pupil reduction in FTEs, if any, for FY 2022 in the LEA as a whole:
 - a. **Districtwide FTE per-pupil for FY 2022 - D**

- determining whether the LEA has maintained staffing equity for its high-poverty schools, the reduction is zero.
2. Determine the per-pupil FTE reduction, if any, for FY 2022 for each high-poverty school in the LEA.
 - a. **High-poverty school per-pupil FTE for FY 2022** - Divide the total number of FTEs assigned to each high-poverty school in the grade span in FY 2022 by the aggregate number of children enrolled in that school in FY 2022.
 - b. **High-poverty school per-pupil FTE for FY 2021** - Divide the total number of FTEs assigned to each high-poverty school in FY 2021 by the aggregate number of children enrolled in that school in FY 2021.
 - c. **High-poverty school per-pupil FTE reduction, if any, for FY 2022** - If the per-pupil FTE for FY 2022 is less than FY 2021, the difference is the per-pupil FTE reduction for that high-poverty school in FY 2022.
 3. Compare the per-pupil FTE reduction, if any, for each high-poverty school (step 2c above) for that grade span with the per-pupil FTE reduction across that grade span (step 1c above). If any high-poverty school in any grade span has a per-pupil FTE reduction (step 2c) that is greater than the per-pupil FTE reduction for that grade span (step 1c), the LEA has not maintained fiscal equity for that grade span under section 2004(c)(1)(A) of the ARP Act for FY 2022.

The LEA repeats these steps to make the determination for FY 2023 compared to FTEs per pupil for FY 2022.

31. Must an LEA meet both MOEquity requirements?

Yes. An LEA that receives ARP ESSER funds must maintain

SEA must submit MOEquity initial data and information to the Department by July 30, 2021. (See Appendix A.) To the extent that FY 2022 funding data are not available, an SEA may provide projected data or request an extension to provide the data that are not currently available by October 15, 2021.

1. Which schools are identified as high-poverty schools in the LEA and demographic information for each such school compared to the entire LEA;
2. The per-pupil amount of funding for each high-poverty school in the LEA in FYs 2021, 2022 and 2023;
3. The per-pupil amount of funding in the aggregate for all schools in the LEA in FYs 2021, 2022 and 2023;
4. The per-pupil number of FTEs for each high-poverty school in the LEA in FYs 2021, 2022 and 2023;
5. The per-pupil number of FTEs in the aggregate for all schools in the LEA in FYs 2021, 2022 and 2023; and
6. Whether the LEA did not maintain equity for any high-poverty school in FY 2022 or 2023.

