

American Rescue Plan

Overview of Maintenance of Equity Provisions

June 17, 2021



Introduction to Maintenance of Equity

- The American Rescue Plan Act of 2021 (ARP Act) includes new maintenance of equity provisions that are a condition for a State educational agency (SEA) and local educational agency (LEA) to receive funds under the Elementary and Secondary School Emergency Relief (ARP ESSER) Fund.
- These provisions are central to ensuring that essential resources are meeting the needs of students who have been subject to longstanding opportunity gaps in our education system. These student groups have also experienced the greatest impact from the COVID-19 pandemic.
- Maintenance of equity provisions will help ensure that LEAs and schools serving a large share of students from low-income backgrounds do not experience a disproportionate share of any budget cuts in fiscal years (FYs) 2022 and 2023, and that the highest poverty LEAs do not receive a decrease in State funding below their FY 2019 level.



Maintenance of Equity and ARP

- The provisions in ARP ESSER that target funding to LEAs with concentrations of students from low-income families have the potential to be rendered ineffective without the safeguards of the maintenance of equity requirements.
- By protecting these LEAs from disproportionate funding cuts, and all cuts for the highest poverty LEAs compared to their FY 2019 level, maintenance of equity helps to ensure that vital resources are available to mitigate the impact that the pandemic has had, and continues to have, on underserved students, including addressing students' social, emotional, mental health, and academic needs.
- In addition, the maintenance of equity provisions ensure that each LEA safeguards its high-poverty schools from disproportionate cuts to funding and staffing so that students from low-income families in each LEA are not disproportionately impacted by State and local cuts to vital resources.



What Does Maintenance of Equity Mean?

- As a condition of receiving ARP ESSER funds, an **SEA** may not, in each of FY 2022 or 2023—
 - Reduce the per-pupil amount of State funding for any high-need LEA by an amount that exceeds the overall per-pupil reduction in State funding, if any, across all LEAs in the State.
 - Reduce the per-pupil amount of State funding for any highest-poverty LEA below the per-pupil amount the SEA provided to such LEA in FY 2019.
- As a condition of receiving ARP ESSER funds, an **LEA** may not, in each of FY 2022 or 2023—
 - Reduce combined State and local per-pupil funding for any high-poverty school by an amount that exceeds the total reduction, if any, of combined State and local per-pupil funding for all schools in the LEA.
 - Reduce the number of FTE staff per-pupil in any high-poverty school by an amount that exceeds the total reduction, if any, of FTE staff per-pupil in all schools in the LEA.



Identifying LEAs for Maintenance of Equity

- A “high-need LEA” is an LEA that is one of the LEAs in the State that –
 - In rank order, have the highest percentages of economically disadvantaged students in the State on the basis of the most recent satisfactory data available from the U.S. Department of Commerce (i.e., Small Area Income and Poverty Estimates (SAIPE) data provided by the U.S. Census Bureau); and
 - Collectively serve not less than 50 percent of the State’s total enrollment of students served by all LEAs in the State.
- A “highest-poverty LEA” is an LEA that is one of the LEAs in the State that –
 - In rank order, have the highest percentages of economically disadvantaged students in the State on the basis of the most recent SAIPE data; and
 - Collectively serve not less than 20 percent of the State’s total enrollment of students served by all LEAs in the State.



Identifying LEAs for Maintenance of Equity

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%	10,000	10,000	Yes	Yes
LEA 2 (charter LEA)	35%	2,000	12,000	Yes	Yes
LEA 3	30%	9,000	21,000	Yes	Yes
LEA 4	30%	11,000	32,000	Yes	No
LEA 5	25%	8,000	40,000	Yes	No
LEA 6	25%	9,000	49,000	Yes	No
LEA 7	20%	10,000	59,000	Yes	No
LEA 8	20%	8,000	67,000	No	No
LEA 9	15%	10,000	77,000	No	No
LEA 10	15%	6,000	83,000	No	No
LEA 11 (charter LEA)	10%	2,000	85,000	No	No
LEA 12	10%	15,000	100,000	No	No
Total		100,000			



Calculating Maintenance of Equity

For high-need LEAs:

1. Determine the overall per-pupil reduction of State funding, if any, for FY 2022 in the SEA as a whole.
2. Determine the per-pupil reduction of State funding, if any, for FY 2022 for each high-need LEA in the State.
3. Compare the per-pupil reduction, if any, for each high-need LEA (step 2) with the overall per-pupil reduction in State funds for all LEAs (step 1). 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 by an amount that exceeds the overall per-pupil reduction across all LEAs in the State.



Calculating Maintenance of Equity

For high-need LEAs:

Examples	Overall Per-pupil Reduction in State Funds	High-need LEA 1 Per-pupil Reduction	High-need LEA 2 Per-pupil Reduction	High-need LEA 3 Per-pupil Reduction
Example 1	\$0	FY21 Per-Pupil Amount: \$13,000 FY22 Per-Pupil Amount: \$13,000 Per-Pupil Reduction: \$0	FY21 Per-Pupil Amount: \$15,050 FY22 Per-Pupil Amount: \$15,000 Per-Pupil Reduction: \$50	FY21 Per-Pupil Amount: \$17,050 FY22 Per-Pupil Amount: \$17,000 Per-Pupil Reduction: \$50
Example 2	\$100	FY21 Per-Pupil Amount: \$14,150 FY22 Per-Pupil Amount: \$14,000 Per-Pupil Reduction: \$150	FY21 Per-Pupil Amount: \$13,100 FY22 Per-Pupil Amount: \$13,000 Per-Pupil Reduction: \$100	FY21 Per-Pupil Amount: \$15,050 FY22 Per-Pupil Amount: \$15,000 Per-Pupil Reduction: \$50
Example 3	\$150	FY21 Per-Pupil Amount: \$12,500 FY22 Per-Pupil Amount: \$12,400 Per-Pupil Reduction: \$100	FY21 Per-Pupil Amount: \$20,500 FY22 Per-Pupil Amount: \$20,400 Per-Pupil Reduction: \$100	FY21 Per-Pupil Amount: \$17,500 FY22 Per-Pupil Amount: \$17,400 Per-Pupil Reduction: \$100



Calculating Maintenance of Equity

For highest-poverty LEAs:

1. Determine the per-pupil amount of State funding provided to each of its 2022 highest-poverty LEAs in FY 2019.
2. Determine the per-pupil amount of State funding provided to each of its 2022 highest-poverty LEAs in FY 2022.
3. To maintain fiscal equity for its highest-poverty LEAs, an SEA may not reduce the per-pupil amount of State funding for any highest-poverty LEA below the per-pupil amount of State funding the SEA awarded to that LEA in FY 2019.



Calculating Maintenance of Equity

For highest-poverty LEAs:

Examples	FY 2019 Per-pupil State Funding	FY 2022 Per-pupil State Funding	FY 2023 Per-pupil State Funding
Highest-poverty LEA 1	\$10,000	\$10,000 (Equal to the LEA's FY 2019 per-pupil State funding level)	\$10,000 (Equal to the LEA's FY 2019 per-pupil State funding level)
Highest-poverty LEA 2	\$10,000	\$10,000 (Equal to the LEA's FY 2019 per-pupil State funding level)	\$9,500 (Less than the LEA's FY 2019 per-pupil State funding level)
Highest-poverty LEA 3	\$15,000	\$10,000 (Less than the LEA's FY 2019 per-pupil State funding level)	\$17,000 (Greater than the LEA's FY 2019 per-pupil State funding level)



Identifying Schools for Maintenance of Equity

- A “high-poverty school” is, with respect to a school served by an LEA, a school that is in the highest quartile of schools served by the LEA based on the percentage of economically disadvantaged students in the school.
- Consistent with section 2004(d)(4)(B) of the ARP Act, the Department establishes any measure(s) of poverty authorized under section 1113(a)(5) of the ESEA. From these measures, an SEA selects a 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.
- An LEA may elect, consistent with the statute, to make the determination on a districtwide basis or by grade span. In deciding which option to use to identify its high-poverty schools, an LEA might consider factors such as 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.



Identifying Schools for Maintenance of Equity

For the LEA as a whole:

School	Percentage of Economically Disadvantaged Students	Grade Span	High-Poverty School?
School A	80%	Elementary	Yes
School B	75%	Elementary	Yes
School C	65%	Elementary	Yes
School G	60%	Middle	No
School I	40%	High	No
School D	35%	Elementary	No
School E	25%	Elementary	No
School H	25%	Middle	No
School F	15%	Elementary	No



Identifying Schools for Maintenance of Equity

By grade span:

School	Percentage of Economically Disadvantaged Students	Elementary Grade Span	Middle Grade Span	High School Grade Span	High-Poverty School
School A	80%	X			Yes
School B	75%	X			No
School C	65%	X			No
School D	35%	X			No
School E	25%	X			No
School F	15%	X			No
School G	60%		X		Yes
School H	25%		X		No
School I	40%			X	Yes



Calculating Maintenance of Equity

For determining whether an LEA maintained fiscal equity:

1. Determine the per-pupil reduction of State and local funding, if any, for FY 2022 in the LEA as a whole.
 2. Determine the per-pupil reduction of State and local funding, if any, for FY 2022 for each high-poverty school in the LEA.
 3. Compare the per-pupil reduction, if any, for each high-poverty school (step 2) with the per-pupil reduction in State and local funds to all schools in the LEA (step 1). If any high-poverty school receives a reduction in the per-pupil amount of State and local funds that is greater than the amount in step 1, 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.
- For LEAs that identify high-poverty schools by grade span, these comparisons are conducted based on the relevant grade span data.



Calculating Maintenance of Equity

For determining whether an LEA maintained fiscal equity:

Examples	Per-pupil Reduction in State and Local Funds across All Schools in the LEA	High-poverty School 1 Per-pupil Reduction	High-poverty School 2 Per-pupil Reduction	High-poverty School 3 Per-pupil Reduction
Example 1	\$0	FY21 Per-Pupil Amount: \$23,000 FY22 Per-Pupil Amount: \$23,000 Per-Pupil Reduction: \$0	FY21 Per-Pupil Amount: \$24,050 FY22 Per-Pupil Amount: \$24,000 Per-Pupil Reduction: \$50	FY21 Per-Pupil Amount: \$25,050 FY22 Per-Pupil Amount: \$25,000 Per-Pupil Reduction: \$50
Example 2	\$50	FY21 Per-Pupil Amount: \$25,150 FY22 Per-Pupil Amount: \$25,000 Per-Pupil Reduction: \$150	FY21 Per-Pupil Amount: \$26,150 FY22 Per-Pupil Amount: \$26,050 Per-Pupil Reduction: \$100	FY21 Per-Pupil Amount: \$27,150 FY22 Per-Pupil Amount: \$27,100 Per-Pupil Reduction: \$50
Example 3	\$100	FY21 Per-Pupil Amount: \$20,000 FY22 Per-Pupil Amount: \$19,900 Per-Pupil Reduction: \$100	FY21 Per-Pupil Amount: \$19,000 FY22 Per-Pupil Amount: \$18,900 Per-Pupil Reduction: \$100	FY21 Per-Pupil Amount: \$22,000 FY22 Per-Pupil Amount: \$21,925 Per-Pupil Reduction: \$75



Calculating Maintenance of Equity

For determining whether an LEA maintained staffing equity:

- 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.
 1. Determine the per-pupil reduction in FTEs, if any, for FY 2022 in the LEA as a whole.
 2. Determine the per-pupil reduction of FTEs for each high-poverty school for FY 2022.
 3. Compare the per-pupil FTE reduction, if any, for each high-poverty school (step 2) with the per-pupil FTE reduction across all schools in the LEA (step 1). If any high-poverty school has a per-pupil FTE reduction that is greater than the per-pupil FTE reduction across the LEA, then the LEA has not maintained staffing equity under section 2004(c)(1)(B) of the ARP Act for FY 2022.
- For LEAs that identify high-poverty schools by grade span, these comparisons are conducted based on the relevant grade span data.



Calculating Maintenance of Equity

For determining whether an LEA maintained staffing equity:

Examples	Per-pupil FTE Reduction across All Schools in the LEA	High-poverty School 1 Per-pupil FTE Reduction	High-poverty School 2 Per-pupil FTE Reduction	High-poverty School 3 Per-pupil FTE Reduction
Example 1	0	FY21 FTEs Per-Pupil: .50 FY22 FTEs Per-Pupil: .50 Per-Pupil Reduction: 0	FY21 FTEs Per-Pupil: .075 FY22 FTEs Per-Pupil: .050 Per-Pupil Reduction: .025	FY21 FTEs Per-Pupil: .050 FY22 FTEs Per-Pupil: .040 Per-Pupil Reduction: .01
Example 2	.05	FY21 FTEs Per-Pupil: .075 FY22 FTEs Per-Pupil: .015 Per-Pupil Reduction: .06	FY21 FTEs Per-Pupil: .15 FY22 FTEs Per-Pupil: .05 Per-Pupil Reduction: .10	FY21 FTEs Per-Pupil: .05 FY22 FTEs Per-Pupil: .045 Per-Pupil Reduction: .005
Example 3	.05	FY21 FTEs Per-Pupil: .30 FY22 FTEs Per-Pupil: .25 Per-Pupil Reduction: .05	FY21 FTEs Per-Pupil: .40 FY22 FTEs Per-Pupil: .36 Per-Pupil Reduction: .04	FY21 FTEs Per-Pupil: .20 FY22 FTEs Per-Pupil: .16 Per-Pupil Reduction: .04



LEA Exemptions

Under section 2004(c)(2) of the ARP Act, an LEA need not maintain equity if the LEA:

- Has a total enrollment of less than 1,000 students;
- Operates a single school;
- Serves all students within each grade span with a single school; or
- Demonstrates an exceptional or uncontrollable circumstance, such as unpredictable changes in student enrollment or a precipitous decline in the financial resources of the LEA as determined by the Secretary. The Department anticipates very few “exceptional or uncontrollable circumstances” that prevent an LEA from maintaining equity. As a result, each claim of exemption will require a case-by-case review by the Department. For example, an “exceptional or uncontrollable circumstance” might include a significant change in the expenses of a school such as no longer serving a student whose educational and support needs require services that have a particularly high cost.



Reporting Requirements

- Each SEA must submit for FY 2022:
 - A list of the State's high-need LEAs including NCES LEA/district ID;
 - The statewide per-pupil amount of State funds provided to all LEAs in the State in FY 2021;
 - The statewide per-pupil amount of State funds provided to all LEAs in the State in FY 2022;
 - The per-pupil amount of State funds provided to each high-need LEA in the State in FY 2021;
 - The per-pupil amount of State funds provided to each high-need LEA in the State in FY 2022;
 - A list of the State's highest-poverty LEAs including NCES LEA/district ID;
 - The per-pupil amount of State funding provided for each highest-poverty LEA in FY 2019;
 - The per-pupil amount of State funding provided for each highest-poverty LEA in FYs 2022; and
 - A list of the high-poverty schools in each LEA in the State (including the NCES school ID) for which it must maintain equity in FY2022 (which may be provided via a link to a website if the State posts such information on its public website).
- An SEA must submit initial data and information to the Department by July 30, 2021. 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.
- The Department intends to provide further information on the data and information each SEA and its LEAs must annually report.



American Rescue Plan

Maintenance of Equity

Initial Questions

June 17, 2021



Initial Questions

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 based on the most recent SAIPE poverty data and use the best available enrollment data to collectively identify LEAs with 50 percent and 20 percent, respectively, of the State's total enrollment of students served by all LEAs in the State. Generally, for FY 2022, this will be enrollment data from SY 2020-2021. However, for some States, the best available enrollment data may be from SY 2019-2020 due to inaccurate SY 2020-2021 enrollment data as a result of the COVID-19 pandemic.
- The SEA should use enrollment data for *elementary and secondary education* in the State.



Initial Questions

What measures must be used to determine whether a school is high-poverty?

- Consistent with section 2004(d)(4)(B) of the ARP Act, the Department establishes any measure(s) of poverty authorized under section 1113(a)(5) of the ESEA. From these measures, an SEA selects a 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.
- We encourage an SEA to provide guidance to its LEAs as soon as possible on the measure(s) that LEAs must use in their State.



**If you have additional questions,
please send them to your State
email box, [STATE].oese@ed.gov,
and include “MOEquity” in the
subject line.**

