



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 28, 2023

The Honorable Arsenio Romero
Secretary of Education
New Mexico Public Education Department
300 Don Gaspar Street
Santa Fe, NM 87501-2786

Dear Secretary Romero:

The U.S. Department of Education (Department) received your written plan for a reasonable level of tolerance when calculating whether the New Mexico Public Education Department (NMPED) has met State maintenance of equity requirements under the American Rescue Plan Act of 2021 (ARP Act). This written plan applies only to a subset of New Mexico's local educational agencies (LEAs).

The ARP Act State maintenance of equity requirements help ensure that State funding supports LEAs with high concentrations of poverty and the students who have been subject to longstanding opportunity gaps in our education system and experienced the greatest impact from the COVID-19 pandemic. These requirements are vital for ensuring that States maintain funding to address the impact of the pandemic on students' education, and for protecting students in high-need and highest-poverty LEAs from disproportionate cuts if reductions in State effort do occur.

The Department determined that it is consistent with the State maintenance of equity requirements to allow a State educational agency (SEA) to calculate whether it has maintained funding equity with respect to its very small high-need and highest-poverty LEAs within a reasonable "tolerance level." The Department's determination is based on the possibility of significant volatility in the calculated per-pupil funding amounts for very small LEAs caused by small changes in student enrollment, which may be unrelated to whether an SEA has achieved the intent of the requirements. (See *Frequently Asked Questions, American Rescue Plan Elementary and Secondary School Emergency Relief Program, Maintenance of Equity Requirements*, July 26, 2022, Question 21(a).)

NMPED considers LEAs with a membership of 150 to 599 students to be very small, and LEAs with fewer than 150 students to be exceptionally small. Under these proposed thresholds, New Mexico has 94 very small LEAs and 29 exceptionally small LEAs. According to information provided by NMPED, New Mexico's State Equalization Guarantee considers several factors when determining per-pupil funding including teacher qualifications and weights for student need. NMPED asserts that calculated per-pupil funding amounts for these very small and exceptionally small LEAs are significantly affected by small changes in students' educational

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needs and fluctuations in staff specialty and years of service. This makes the per-pupil funding amounts in New Mexico's very small and exceptionally small LEAs an imperfect indicator of whether the SEA has achieved the intent of maintaining equity in funding across LEAs.

Accordingly, NMPED proposes two tolerance levels:

1. For its 94 very small LEAs, NMPED proposes to implement a tolerance of up to a 17 percent decline in per-pupil funding. Applying this tolerance would impact six LEAs that served 0.5 percent of New Mexico's students in FY 2022.
2. NMPED proposed to omit its 29 exceptionally small LEAs from the maintenance of equity analysis. As there are no exceptions to the State-level maintenance of equity requirements, omitting LEAs is not allowable. However, the Department will tolerate NMPED's subsequent request to implement a tolerance of up to a 29 percent decline in per-pupil funding in exceptionally small LEAs. Applying this tolerance would impact eight LEAs that served 0.3 percent of New Mexico's students in FY 2022.

After reviewing NMPED's tolerance proposal and accompanying data, the unique circumstances in the State, and our further State-specific analysis, we have determined that this approach includes a reasonable level of tolerance when calculating whether New Mexico has maintained equity for very and exceptionally small LEAs.

We appreciate your diligence in developing this proposal. If you have any questions, please contact your program officer at: NewMexico.OESE@ed.gov.

Sincerely,

Laura Jimenez

Laura Jimenez
Director, Office of State and Grantee Relations