



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

July 31, 2023

The Honorable Jay Inslee
Governor of Washington
P.O. Box 40002
Olympia, WA 98504

The Honorable Chris Reykdal
State Superintendent of Public Instruction
Old Capitol Building
600 Washington St., S.E.
Olympia, WA 98504

Dear Governor Inslee and Superintendent Reykdal:

I am writing in response to the December 17, 2021, request from the Washington State Office of Financial Management (OFM) to the U.S. Department of Education (Department) for a waiver of the maintenance of effort (MOE) requirements in section 317(a) of the Coronavirus Response and Relief Appropriations Act, 2021 (CRRSA Act) and section 2004(a)(1) of the American Rescue Plan Act of 2021 (ARP Act). As a condition of receiving CRRSA Act and ARP Act pandemic relief funds under the Education Stabilization Fund, Washington assured it would maintain effort for both elementary and secondary education and higher education in each of fiscal years (FYs) 2022 and 2023.

More specifically, for FY 2022, section 317(a) of the CRRSA Act requires a State that receives Elementary and Secondary School Emergency Relief funds (ESSER II), Governor's Emergency Education Relief funds (GEER II), and funds for the Emergency Assistance to Non-Public Schools (EANS) program to: 1) maintain State support for 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) maintain State support for 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. This MOE requirement also applies to ARP ESSER funds, and 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."

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Under the authority of section 2004(a)(2) of the ARP Act, I am approving Washington's request to waive the MOE requirements in section 317(a) of the CRRSA Act and 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 2022.

As indicated in the Department's Frequently Asked Questions document, the Department's approach to MOE waiver requests is rooted in consideration of the impact on students. In reviewing Washington's request for a waiver, the Department considered all information and data included, as well as the totality of the circumstances. Based on the information submitted, the Department determined that, consistent with the Department's interest in a State's commitment to education spending, Washington made increased investments in elementary and secondary education in FY 2022. Specifically, Washington increased State support for elementary and secondary education overall and on a per-pupil basis in FY 2022 compared to the baseline years. Additionally, per-pupil support for elementary and secondary education in FY 2022 increased at a rate that exceeded the growth in overall State expenditures.

Despite these facts, based on Washington's submission, the State failed to meet MOE requirements by approximately 2.4 percentage points (\$575 million) in FY 2022, compared with the baseline years. Washington represents that the decrease in proportional education spending was driven by increased State spending on health care, housing and rental assistance, and other COVID response activities.

Considering the totality of the circumstances, including the State's support for elementary and secondary education in FY 2022 overall and on a per-pupil basis compared to the baseline years, as well as the State's demonstration of fiscal burdens incurred in responding to the coronavirus pandemic, the Department approves Washington's request for a waiver of the aforementioned MOE requirements for FY 2022.

Finally, the Department will not be acting on the State's request for a waiver of the MOE requirements for FY 2023 at this time. We strongly encourage the State to take additional steps to further the State's commitment to elementary and secondary education in FY 2023.

Thank you for your ongoing commitment to education. If you have any questions, please contact the Washington State Mailbox at: Washington.OESE@ed.gov.

Sincerely,

Laura Jimenez

Laura Jimenez
Director, Office of State and Grantee Relations