Grantee Learning Series for COVID-19 Relief Programs: Maintenance of Effort & Maintenance of Equity

The Office of State and Grantee Relations

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Purpose

Participants in this meeting will:

1. Understand the maintenance of effort requirements, related policy guidance, and reporting deadlines.

2. Understand the State maintenance of equity requirements, related policy guidance, and reporting deadlines.

3. Understand the local maintenance of equity requirements, related policy guidance, and reporting deadlines.

A recording of the presentation and accompanying slides will be made available on the Department's State and Grantee Relations announcements webpage.

MOE and MOEquity

1. Overview of MOE and MOEquity Requirements

2. Data Reporting Deadlines

3. Q&A

	Maintenance of Effort	Maintenance of Equity
Applicable Fiscal Years	2020, 2021, 2022, 2023	2022, 2023
Baseline Fiscal Years	Average 2017, 2018, and 2019	<u>SEA Requirement</u> • High-Need LEAs – 2021 and 2022 • Highest-Poverty LEAs – 2019 <u>LEA Requirement</u> • 2021 and 2022
Responsible Entity	States	SEAs and LEAs
Applies To	Funding for all public K-12 schools and Institutions of Higher Education	Funding for LEAs and schools that serve the largest shares of students from low-income backgrounds
Type of Funding	Total State Funds	State and Local Per-Pupil Funding, FTE Staff (LEA Requirement Only)
COVID Relief Programs	ESSER, GEER, EANS	ARP ESSER
Waiver Authority	Secretary can waive requirements to relieve fiscal burdens	Secretary cannot waive the requirements, but LEAs can be excepted from LEA requirement

Maintenance of Effort

CARES Act Requirement

- A State must separately maintain support for elementary and secondary education and higher education in FYs 2020 and 2021 at a level equal to or greater than the average of State support for elementary and secondary education and higher education for FYs 2017, 2018, and 2019.

CRRSA and ARP Act Requirements

- Under the CRRSA Act in FY 2022 and the ARP Act in FY 2022 and FY 2023, a State must separately maintain support for both elementary and secondary education and higher education at least at the proportional level of support for elementary and secondary education and higher education relative to overall state spending averaged over FY 2017, FY 2018, and FY 2019, the baseline years.
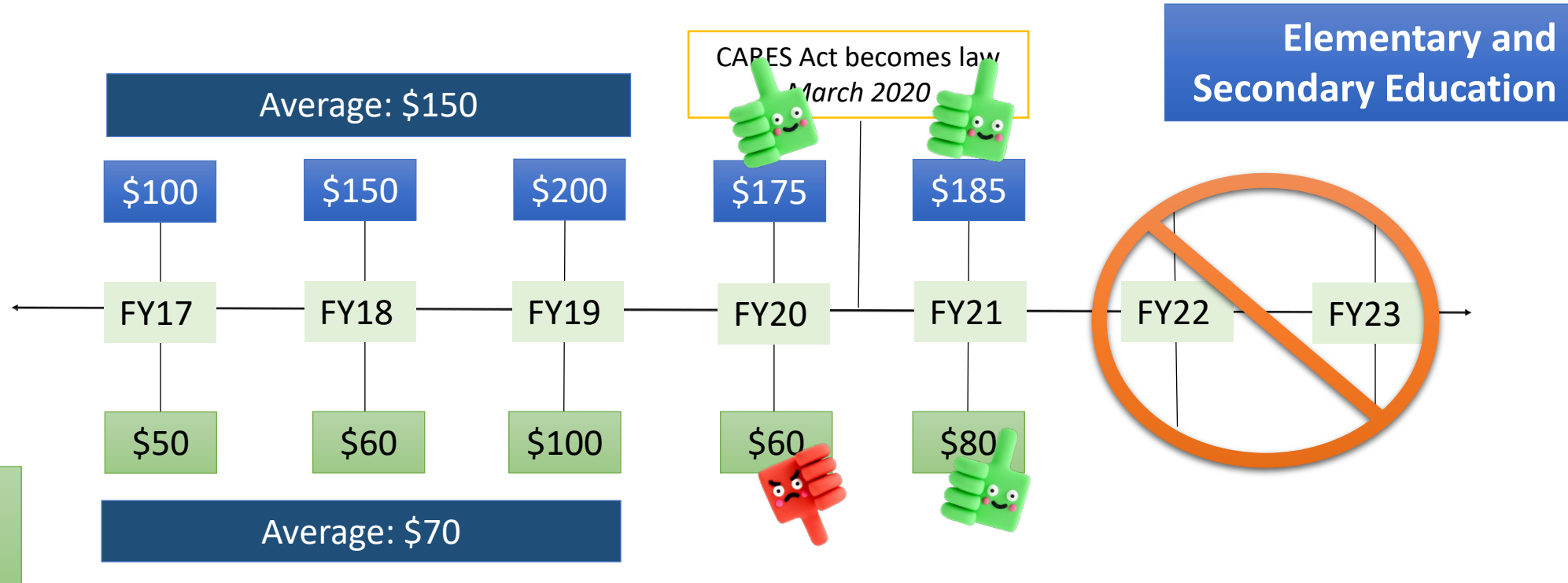
States have already submitted final MOE data for FYs 2020, 2021, and 2022 as well as interim FY 2023 data. Final FY 2023 data will be due March 15, 2024.

CARES Act

- How much did the State spend on K-12 before the pandemic? (Average of FY17, 18, 19)

- How much did the State spending on K-12 during the pandemic? (FY2020 and FY2021)

Elementary and Secondary Education

CARES Act becomes law March 2020

Average: $150

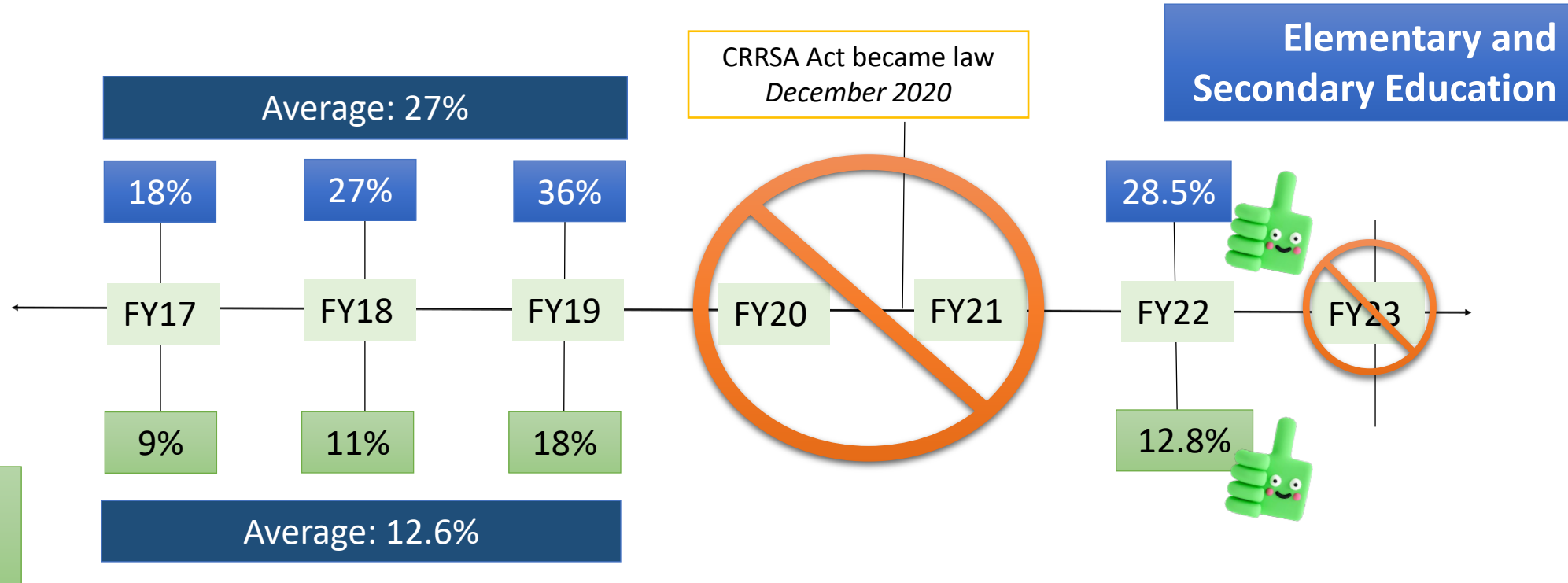| $100	$150	$200	$175	$185		
FY17	FY18	FY19	FY20	FY21	FY22	FY23
$50	$60	$100	$60	$80		

Average: $70

Higher Education

- How much did the State spend on higher education before the pandemic? (Average of FY17, 18, 19)

- How much did the State spending on higher education during the pandemic? (FY2020 and FY2021)

CRRSA Act

- What percentage of the State budget was allocated for K-12 education before the pandemic? (Average of FY17, 18, 19)

- What percentage of the State budget was allocated for K-12 education during the pandemic? (FY2022)

Elementary and Secondary Education

Average: 27%

| 18% | 27% | 36% | | | 28.5% | |

CRRSA Act became law
December 2020

FY17 — FY18 — FY19 — FY20 — FY21 — FY22 — FY23

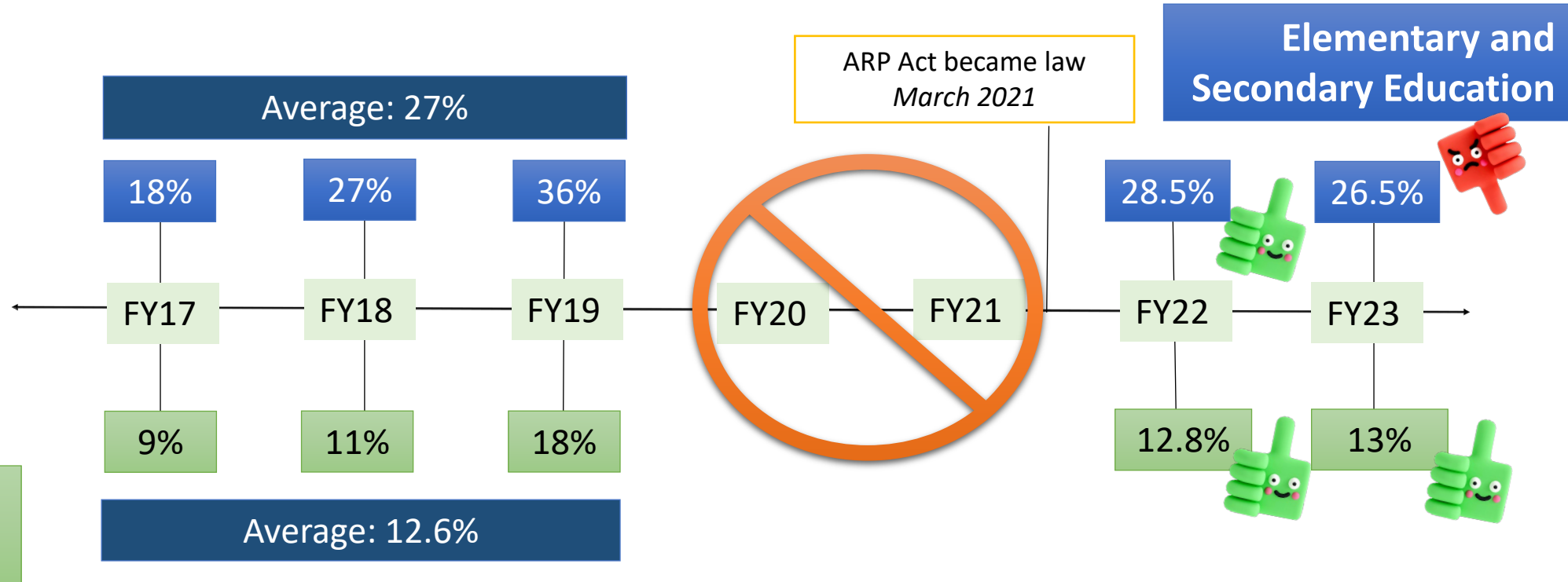| 9% | 11% | 18% | | | 12.8% | |

Average: 12.6%

Higher Education

- How much did the State spend on higher education before the pandemic? (Average of FY17, 18, 19)

- How much did the State spending on higher education during the pandemic? (FY2022)

ARP Act

- What percentage of the State budget was allocated for K-12 education before the pandemic? (Average of FY17, 18, 19)

- What percentage of the State budget was allocated for K-12 education during the pandemic? (FY2022 and FY2023)

Elementary and Secondary Education

ARP Act became law
March 2021

Average: 27%		
18%	27%	36%

FY17	FY18	FY19	FY20	FY21	FY22	FY23

28.5%   26.5%

9%	11%	18%
Average: 12.6%		

12.8%   13%

Higher Education

- How much did the State spend on higher education before the pandemic? (Average of FY17, 18, 19)

- How much did the State spending on higher education during the pandemic? (FY2022 and FY2023)

Maintenance of Effort

- In reviewing State requests for a waiver of the MOE requirements, we noticed that some States compare the proportional levels in FY 2022 or FY 2023 and the baseline years using several decimal places.

- We advised States that when comparing the FY 2022 and FY 2023 proportional levels of support to the baseline years, the State, at its discretion, may round the difference to the nearest whole number using standard rounding procedures.

- For example, a difference between proportions of less than 0.5% could be rounded down to 0%, and a difference of 0.5% or greater would be rounded up to 1%.

FY 22 – Baseline =	0% or Greater (i.e. is a positive number)	👍
FY 22 – Baseline =	Between - 0.1% and - 0.5%	👍
FY 22 – Baseline =	Greater than - 0.5%	👎

Maintenance of Effort

Waiver Requests

- The Secretary can waive the MOE requirement to relieve a fiscal burden a State endured as a result of the COVID-19 pandemic.

- The information regarding MOE waiver submission materials is available in the MOE FAQs

- The Department has received 22 maintenance of effort waiver requests:
  - **13** requests were withdrawn by the State after receiving technical assistance from the Department
  - **4** requests were approved
    - CNMI (FYs 2020, 2021 – K-12 and higher education)
    - NH, NY, WV (FY 2022 – K-12)
  - **7** requests are pending

Maintenance of Equity (MOEquity)

Maintenance of Equity

- Maintenance of Equity (MOEquity) requirements were enacted for the first time in the American Rescue Plan (ARP) Act.
- MOEquity is a two-part requirement, one that applies to State educational agencies (SEAs) and another for local educational agencies (LEAs), in fiscal years (FY) 2022 and 2023 (i.e., school years 2021-2022 and 2022-2023).
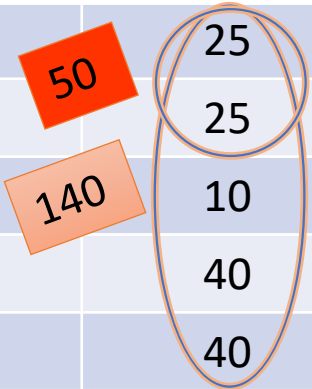
SEA-Level Requirements

- These requirements safeguard school districts that serve a large share of students from low-income backgrounds (high-need LEAs) against experiencing a disproportionate reduction in per-pupil funding in FYs 2022 and 2023.
- These requirements also ensure that school districts serving the largest shares of students from low-income backgrounds (highest-poverty LEAs) do not receive a decrease in State per-pupil funding below their FY 2019 level.
- The Secretary has no maintenance of equity waiver authority and there are no exceptions to this requirement.

How does an SEA identify high-need and high-poverty LEAs?

- A "high-need LEA" has the highest percentages of economically disadvantaged students in the and collectively serves not less than 50 percent of the State's total enrollment of students served by all LEAs in the State.
- A highest-poverty LEA has the highest percentages of economically disadvantaged students in the and collectively serves not less than 20 percent of the State's total enrollment of students served by all LEAs in the State.

LEA Name	Enrollment Total: 250	% of economically disadvantaged students	High-Need or Highest-Poverty?
Ella Fitzgerald ISD	25	90%	Highest-Poverty
Billie Holiday ISD	25	87%	Highest-Poverty
Nina Simone ISD	10	82%	High-Need
Anita Baker ISD	40	80%	High-Need
Norah Jones ISD	40	74%	High-Need
Sarah Vaughan ISD	10	72%	
Diana Krall ISD	20	70%	
Dinah Washington ISD	20	68%	
Etta James ISD	45	65%	
Eliane Elias ISD	15	62%	

50

140

In this example, 50% of total enrollment (250) is 125, so 4 high-need LEAs (100 students) is rounded up to 5.

Maintenance of Equity

SEAs Maintaining Equity in High-Need LEAs

Under section 2004(d)(3) of the ARP Act, a "high-need LEA" is one that has 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.

Table 2: Determining whether an SEA meets MOEquity 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

Source: Frequently Asked Questions, ARP Elementary and Secondary School Emergency Relief (ESSER) Program Maintenance of Equity Requirements

Maintenance of Equity

SEAs Maintaining Equity in Highest-Poverty LEAs

Under section 2004(d)(2) of the ARP Act, a "highest-poverty LEA is one that has 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.

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
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)

Source: Frequently Asked Questions, ARP Elementary and Secondary School Emergency Relief (ESSER) Program Maintenance of Equity Requirements

Maintenance of Equity

SEA-Level Reporting Requirements

1. A list of the State's high-need LEAs including NCES LEA/district ID;

2. The statewide per-pupil amount of State funds provided to all LEAs in the State in FYs 2021, 2022, 2023

3. The per-pupil amount of State funds provided to each high-need LEA in the State in FYs 2021, 2022, 2023

4. A list of the State's highest-poverty LEAs including NCES LEA/district ID;

5. The per-pupil amount of State funding provided for each highest-poverty LEA in FY 2019, 2022, 2023

6. 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 FYs 2022 and 2023

Maintenance of Equity

SEA-Level Reporting Deadlines

July 30, 2021 – SEAs were required to report interim FY 2022 data with extensions offered to October 15

July 15, 2022 – SEAs report final FY 2022 data on Annual Performance Report

July 30, 2022 – SEAs report interim FY23 data with extensions offered to October 15

March 15, 2023 – Deadline to submit small LEA tolerance proposals for FY 2022

July 31, 2023 – SEAs submit final FY 2023 data to SGR directly

LEA-Level Maintenance of Equity Requirements

- Under section 2004(c) of the American Rescue Act, LEAs must maintain equity for high-poverty schools by ensuring:
    - There is no disproportionate reduction in combined State and local per-pupil funding compared to all schools served by the LEA in that fiscal year
    - There is no disproportionate reduction in the number of FTE staff per-pupil compared to all schools served by the LEA in that fiscal year
- These requirements apply to fiscal years (FY) 2022 and 2023 (i.e., 2021-2022 and 2022-2023 school years).
- LEAs may choose to evaluate whether they have maintained fiscal and staffing equity by grade span or in the LEA as a whole.
- A "high-poverty school" is a school in the highest quartile of schools served by the LEA based on the percentage of economically disadvantaged students in the school. An LEA may determine its high-poverty schools on a districtwide basis or by grade span. See FAQ 25

How does an LEA identify high-poverty schools across the LEA as a whole?

- A "high-poverty school" is a school in the highest quartile of schools served by the LEA based on the percentage of economically disadvantaged students in the school.

Step 1: Rank each school in the LEA by its percentage of economically disadvantaged students

Step 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 is not a whole number, round up.

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

In this example, 9 schools divided by 4 equals 2.25 schools, so 2.25 is rounded up to 3 schools.

How does an LEA identify high-poverty schools using the grade span method?

- A "high-poverty school" is a school in the highest quartile of schools served by the LEA based on the percentage of economically disadvantaged students in the school.

Step 1: Rank each school in each grade span by its percentage of economically disadvantaged students.

Step 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 is not a whole number, round up.

Step 3: Select the highest-poverty school in each grade span.

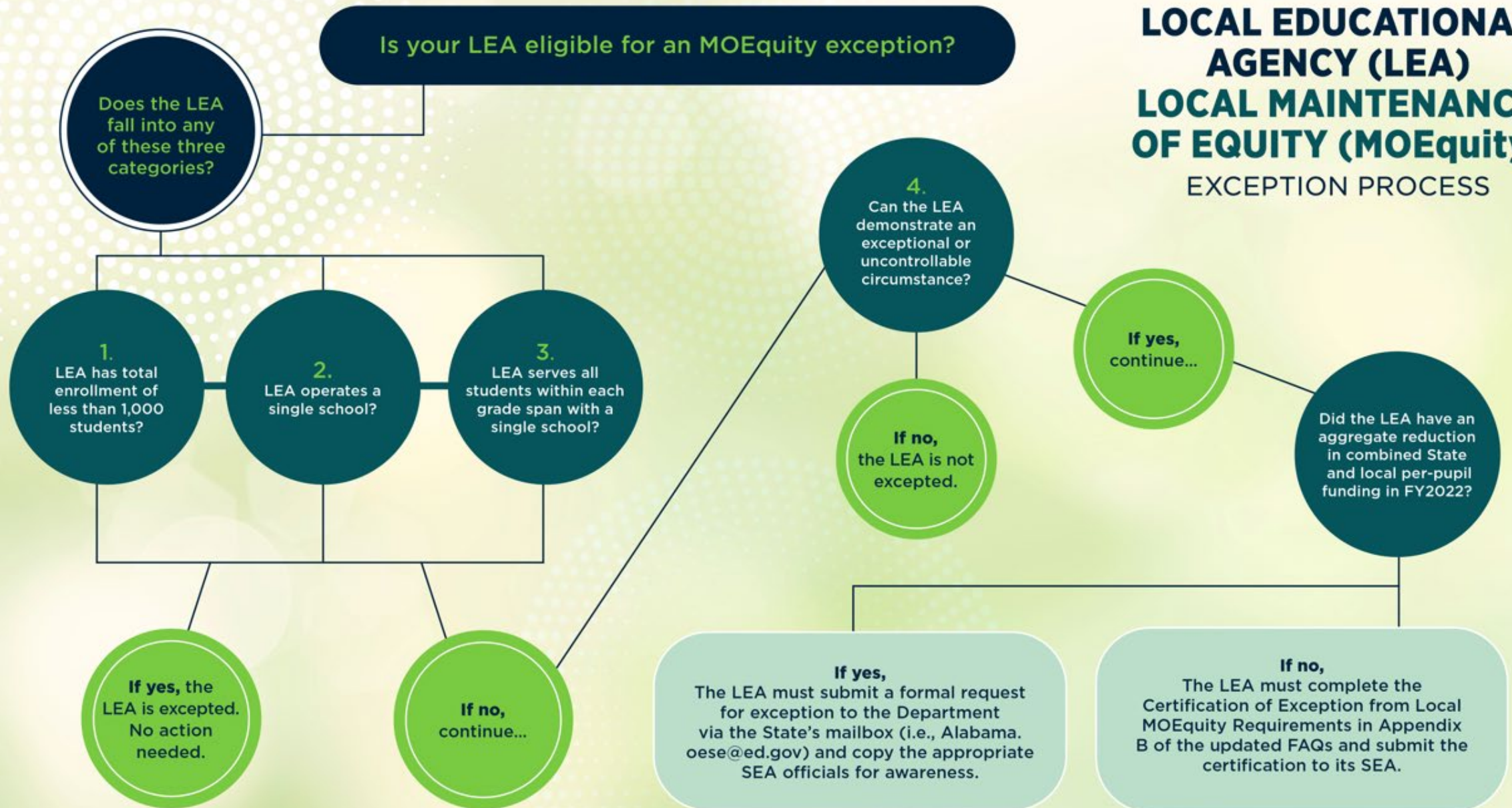| School	Percentage of Economically Disadvantaged Students	Elementary Grade Span	Middle Grade Span	High School Grade Span	High-Poverty School
School A	80%	X			Yes
School B	75%	X			No
School C	65%	X			No
School D	35%	X			No
School E	25%	X			No
School F	15%	X			No
School G	60%		X		Yes
School H	25%		X	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

Just like before, 9 schools divided by 4 equals 2.25 schools, so 2.25 is rounded up to 3 schools.

LEA-Level Maintenance of Equity Exceptions

- The ARP Act excepts an LEA from the local maintenance of equity requirements 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
  - 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 of the U.S. Department of Education
- The Secretary has determined that an LEA that did not have an aggregate reduction in combined State and local per-pupil funding in FY 2022 compared to FY 2021, or in FY 2023 compared to FY 2022, has demonstrated an exceptional or uncontrollable circumstance to warrant an exception from maintaining equity for that fiscal year.

LOCAL EDUCATIONAL AGENCY (LEA) LOCAL MAINTENANCE OF EQUITY (MOEquity)
EXCEPTION PROCESS

Is your LEA eligible for an MOEquity exception?

Does the LEA fall into any of these three categories?

1. LEA has total enrollment of less than 1,000 students?

2. LEA operates a single school?

3. LEA serves all students within each grade span with a single school?

If yes, the LEA is excepted. No action needed.

If no, continue...

4. Can the LEA demonstrate an exceptional or uncontrollable circumstance?

If no, the LEA is not excepted.

If yes, continue...

Did the LEA have an aggregate reduction in combined State and local per-pupil funding in FY2022?

If yes, The LEA must submit a formal request for exception to the Department via the State's mailbox (i.e., Alabama. oese@ed.gov) and copy the appropriate SEA officials for awareness.

If no, The LEA must complete the Certification of Exception from Local MOEquity Requirements in Appendix B of the updated FAQs and submit the certification to its SEA.

For official guidance, please refer to the Local Educational Agency (LEA) Local Maintenance of Equity Exception Process (Published 10/12/2021). Questions? Please contact the Office of Elementary and Secondary Education's Office of State and Grantee Relations at SGR@ed.gov.

Submitting a request for an "Exceptional or Uncontrollable Circumstance" to the Department

- If an LEA believes it qualifies for an exception due to an exceptional or uncontrollable circumstance, the LEA must submit a written request for exception to the Department via the State's mailbox (i.e., alabama.oese@ed.gov) and copy the appropriate SEA official for awareness.

- The request should provide detailed information on the exceptional or uncontrollable circumstance, including how it prevents the LEA from maintaining equity in its high-poverty schools.

- The Department has approved four FY 2022 LEA exception requests, which are publicly available here.

Additional LEA-Level Maintenance of Equity Exceptions

- An LEA may also be excepted from local maintenance of equity requirements for the 2021-2022 and 2022-2023 school years if the LEA is not facing overall budget reductions. See FAQ 32

- If an LEA did not have an aggregate reduction in combined State and local per-pupil funding in FY 2022 or FY 2023, then the Department has determined that the LEA has demonstrated an "exceptional or uncontrollable circumstance."

- To be excepted, the LEA must complete the Certification of Exception of Local Maintenance of Equity Requirements in Appendix B of the updated FAQs and submit the certification to its SEA.

- **The LEA does not need to submit this form to the Department.**

Demonstrating LEA-Level Maintenance of Equity

- For the purpose of demonstrating compliance with the maintenance of equity requirements, an LEA may use:
  - allocations or budget data, or
  - per-pupil expenditure data from Title I, Part A report cards
- In deciding whether or not to use per-pupil expenditure data, an LEA may review prior-year per-pupil expenditure data to inform its approach to monitoring and assess the likelihood of a maintenance of equity violation.
- The Department acknowledges that LEAs using per-pupil expenditures will not know whether they maintained equity until after the school year ends and, thus, will not be able to remedy a maintenance of equity violation for that school year.
- If an LEA does not maintain equity and cannot make adjustments in that year, the LEA may make adjustments to funding and FTE staffing in the next year to ensure that high-poverty schools in the LEA are treated equitably.

Requirements for Publishing LEA-Level Maintenance of Equity Data

- On June 8, 2022, the Department published a Notice of Final Requirements in the *Federal Register* that outlined the following requirements for SEAs to publish, on an SEA's website, LEA-level maintenance of equity data for FYs 2022 and 2023:

July 8, 2022 – SEAs publish LEA exceptions, identify high-poverty schools for FY 2022, and describe how the SEA will ensure that each LEA that is not excepted from the LEA-level maintenance of equity requirements is maintaining equity in its high-poverty schools.

November 1, 2022 – SEAs publish LEA exceptions and identify high-poverty schools for FY 2023

December 31, 2022 – SEAs publish applicable LEA high-poverty school data for FY 2022

December 31, 2023 – SEAs publish applicable LEA high-poverty school data for FY 2023

Maintenance of Equity Announcements and Resources

- A list of deadlines related to MOEquity and other grants managed by the Office of State and Grantee Relations is available here

- The Department's maintenance of equity webpage is available here

- Maintenance of Equity FAQs

- More information regarding the local maintenance of equity exception process can be found here

QUESTIONS