



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF EDUCATION

November 4, 2021

Ian Rosenblum  
Deputy Assistant Secretary for Policy and Programs  
Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary for Elementary and Secondary Education  
U.S. Department of Education  
400 Maryland Avenue, SW Room 6W208D  
Washington, DC 20202-8240

Re: ED-2021-OESE-0116

Dear Mr. Rosenblum:

I am writing today to provide the comments of the Pennsylvania Department of Education (PDE) on the U.S. Department of Education's (USDE) proposed requirement for the implementation of the statutory maintenance of equity (MOEquity) provision in the American Rescue Plan Elementary and Secondary School Emergency Relief (ARP ESSER) fund, under the American Rescue Plan (ARP) Act of 2021.

PDE is administering ARP ESSER grants to approximately 1,000 entities, including 500 school districts and nearly 170 charter schools, as they continue their work to prevent, prepare for, and respond to the COVID-19 pandemic and prioritize in-person instruction.

The ARP ESSER funds continue to be critical for local education agencies (LEAs). While we appreciate the need for the ARP Act's inclusion of the MOEquity requirement to examine the spending across individual schools in a single LEA, we have many concerns about the proposed requirement, both from a State Education Agency (SEA) and an LEA perspective.

In Pennsylvania, there are many remaining questions about the details and application of the MOEquity requirement, and based on the data sets available for use, PDE has real concerns about the validity of the MOEquity data that will be collected and reported. It will be virtually impossible for PDE to both verify the accuracy and consistency of the data reported by LEAs and to collect and post the information on its website by the December 31 deadline.

The proposed MOEquity requirement indicates that LEAs should complete the MOEquity calculation using "final appropriated and allocated amounts." It is unclear what is intended by this requirement, and if it seeks actual or budgeted data. The December 31 timeline would force PDE and LEAs to use budgeted data to complete the MOEquity requirement, which would require LEAs to compare actual data to budgeted data to determine if they were maintaining equity in their high-poverty schools.

While a budgeted to actual data comparison is permitted by USDE's MOEquity guidance, the use of budgeted data for this purpose results in the inability to draw any real conclusions from the MOEquity information submitted by LEAs. Budgeted data provides a snapshot in time assumption of what may happen in the next fiscal year. In Pennsylvania, final budgets are passed by the LEA's governing body by

June 30 of the prior fiscal year—often before it is clear what state funding will be provided to each LEA by the General Assembly in the state budget. As a result, the data that LEAs would use to complete the MOEquity calculation would not provide a full, clear, or accurate picture of whether the LEA maintained equity in high-poverty schools, thereby undermining the intent of the requirement and creating a significant burden on LEAs and PDE to produce data that is, by definition, not final.

It is possible that by using General Fund Budgets (GFB) data, an LEA could estimate that it would maintain equity across all individual schools; however, actual budget data may paint a very different picture. The December 31 timeline offers no opportunity for the use of any data other than GFB data as the determining factor in meeting MOEquity requirements.

Additionally, while PDE generally has the capacity to determine which LEAs would be exempt from the MOEquity requirement using building level enrollment and number of schools by LEA, which is reported for other purposes, for those LEAs not exempt from the requirement, there would be significant challenge in building new systems for collecting, reporting, and verifying MOEquity data submitted by designated high-poverty schools.

As outlined below, PDE currently has no way to verify the accuracy or consistency of the detailed information by LEAs in response to the MOEquity requirement. If PDE could rely on certifications signed by each LEA's chief school administrator attesting that the information submitted was accurate—as is done for many other data reporting requirements—then the challenges of the MOEquity requirement are somewhat lessened and some of our concerns are mitigated. However, if PDE is required to independently verify the MOEquity information submitted by each LEA, the burden for both the LEAs and PDE is significant, as PDE would need to create and build a new data collection requirement to report building-level data.

While PDE requires LEAs to submit both final Annual Financial Reports (AFRs) and GFBs, these are not currently completed nor reported by the LEA at the individual school building level. LEAs submit their final AFRs for the prior fiscal year to PDE in late fall, following the completion of their audits. After submission, the data is reviewed and vetted for accuracy by Comptroller's Office before being finalized and posted. The data that is currently reported to PDE through AFRs would be the data LEAs would use to determine both the prior year benchmarks in terms of per-pupil spending and student counts in the aggregate, and while the AFR does collect some building-level financial data to meet the Every Student Succeeds Act's requirements, the data contemplated by the ARP Act's MOEquity requirement for high-poverty schools would add a significant additional layer of data for LEAs to calculate and report to PDE.

Additionally, LEAs submit GFBs to PDE at the beginning of the new fiscal year; however, these budgets currently include only aggregate data and represent the final budget passed by the LEA's governing body by June 30 of the prior fiscal year. This data is not reviewed or vetted for accuracy by PDE, as PDE has no way to verify the accuracy of the data. If a self-certification by the LEA regarding the accuracy of the MOEquity data is not sufficient, PDE would need to require LEAs to prepare and report GFB data to PDE at a much more granular level than is currently required. While still reliant on budgeted data, which poses the concerns noted above, this additional level of data collection and reporting would be the only way for PDE to verify the accuracy and consistency of LEA-reported MOEquity information.

In addition to changes to AFRs and GFBs, PDE could also be required to provide significant additional granularity in LEA collection and reporting regarding the FTE component of the MOEquity calculation. While PDE collects staff records every year for individual professionals by assignment and building, clerical and administrative staff are currently only reported in the aggregate at the LEA level. Contracted employees, which are included pursuant to the MOEquity guidance, are not currently part of the PDE data collection.

Overall, if SEA verification requires more than certification by the LEA, Pennsylvania would require significant new data collection and reporting by LEAs to capture more detailed information on many components of the MOEquity calculation. We believe that many of these more granular data sets are not currently maintained at the building level, and in addition to the burden on PDE to build, collect, and then verify the accuracy of the information reported, the burden on LEAs would be immense. Many LEAs are already experiencing staff shortages due to COVID-19, and this additional required reporting would divert financial and personnel resources to reporting of a temporary requirement, exasperating an already challenging situation.

We agree with the overarching intent of the MOEquity requirement and recognize the importance of ensuring that LEAs are not negatively impacting their high-poverty schools and the students that attend them. However, where budgeted data is being compared to actual data, we have serious concerns about the validity of the data being used to determine whether LEAs are maintaining equity across their schools. Additionally, depending on the extent to which the SEA is required to verify the accuracy and consistency of the MOEquity data being reported by LEAs, it could result in a significant new data collection and reporting requirement for LEAs, adding another layer of challenge and complexity at time when LEAs are already stretched thin, and a timeline that is simply impossible to achieve.

We are happy to provide any additional information you may need as you review the proposed MOEquity requirement.

Thank you for your time and attention.

Sincerely,

A handwritten signature in black ink, appearing to read "Noe Ortega". The signature is fluid and cursive, with the first name "Noe" being larger and more prominent than the last name "Ortega".

Noe Ortega, Ph.D.  
Secretary of Education