

Maintenance of Equity (MOEquity) Non-Exempt Guidance for Local Education Agencies (LEAs)

Updated: October 11, 2022

The American Rescue Plan (ARP) Act of 2021 (ARP) mandates an additional federal fiscal requirement known as local maintenance of equity (MOEquity), which was previously referred to as MOQ. This requirement applies to all state educational agencies (SEAs) and local educational agencies (LEAs) that receive funding under the grants authorized by ARP § 2001. LEAs receiving ARP ESSER funds must meet two local-level MOEquity requirements for the fiscal year 2023 (FY23), the 2022–23 school year.

Each LEA must maintain equity for each “high-poverty school” as a condition of receiving ARP ESSER funds. Under ARP § 2004(c), for each school identified by the LEA as a high-poverty school, the LEA may not, in FY23—

1. **Reduce per-pupil funding (from combined State and local funding) by an amount that exceeds the total reduction, if any, in LEA per-pupil funding for all schools served by the LEA in such fiscal year;**
or
2. **Reduce the number of FTE staff per pupil by an amount that exceeds the total reduction, if any, in FTE staff per pupil in all schools served by the LEA in such fiscal year.**

As described in ARP § 2004(c)(2), an LEA need not maintain equity if the LEA:

1. Has a total enrollment of fewer than 1,000 students;
2. Operates a single school;
3. Serves all students within each grade span with a single school;
- 4a. Demonstrates an exceptional or uncontrollable circumstance*;
- 4b. Demonstrates No Aggregate Budget Reduction for the FY23 budget**.

LEAs that meet exempt criteria 1-3 above are automatically exempted from MOEquity requirements for calculating fiscal or staffing equity and are not required to submit documentation to the state or U.S. Department of Education (ED) to claim the exemption. However, the Tennessee Department of Education (department) advises that automatically exempted LEAs maintain documentation supporting their exemption in case it is requested during an audit or monitoring review.

Non-Exempt Local Education Agencies (LEAs)

Using LEA data from the FY23 Basic Education Programs (BEPs) calculations and data provided in the FY23 Consolidated Funding Application (CFA), the department generated the following list of LEAs that **do not** meet at least one of the exemption criteria 1-4 listed above.

Non-Exempted LEAs	
Bledsoe County	Grundy County
Cannon County	Lauderdale County
Carter County	McMinn County
Decatur County	Scott County

Franklin Special School District	Sullivan County
Grainger County	Tipton County

Qualification for U.S. Department of Education Exemption Based on “Exceptional or Uncontrollable Circumstances” *

The U.S. Department of Education (ED) anticipates very few "exceptional or uncontrollable circumstances" that would prevent an LEA from maintaining equity. As a result, each claim of exemption will require a case-by-case review by ED. Demonstrating “an exceptional or uncontrollable circumstance” is defined in guidance as:

- ***unpredictable changes in student enrollment,***
- ***a precipitous decline in the financial resources of the LEA, or***
- ***one-time exemption for an increased budget in FY23.***

LEAs must document the intention to apply to ED for an exemption by completing and submitting [Appendix A and providing an explanation on LEA letterhead](#). Note that ED will request the LEA’s financial data from the department as part of the process of reviewing the exemption request.

LEA Exemption Based on No Aggregate Budget Reduction using Local Data **

Upon gathering further information from states and LEAs, the U.S. Department of Education understands that many localities are still facing fluctuating school enrollments and uncertain revenue collection because of the pandemic, particularly tax levies or other local resources that are established well in advance of the 2022-23 school year. Given such challenges due to the pandemic, ED has determined that these circumstances continue to be an example of “exceptional or uncontrollable circumstances” that justify a limited exemption to the local MOEquity requirements for the 2022–23 school year in instances in which there is no aggregate reduction in combined State and local per pupil funding in FY23 in the LEA.

In accordance with the information provided by ED in Maintenance of Equity: Frequently Asked Questions, Appendix B, an LEA may self-certify its exemption from MOEquity. An LEA may demonstrate that it is exempted from the LEA MOEquity requirements for FY23 by certifying that it did not and will not implement an aggregate reduction in combined state and local per-pupil funding in the FY23 (that is, the LEA is not facing overall budget reductions).

As mentioned previously, the department used the BEP calculations to determine exempted LEAs. In some circumstances, even though the BEP decreased, a local government could have increased its local contribution. This, in turn, would make the LEA exempted based on “No Aggregate Budget Reduction.” LEAs that local governments increased their contribution, must submit their general-purpose budget as evidence of this. The department will verify these amounts as part of the process of reviewing the exemption request.

LEAs that choose to self-certify their compliance with MOEquity using local data must follow these steps:

- ***Complete the LEA’s general-purpose budget in ePlan by Sept. 15, 2022.***
- ***Receive approval of MOEquity exemption in writing from the department.***

- ***If approved, upload [Appendix B to ePlan](#) > [LEA Document Library](#) > 2023 > [ESSER 2.0 and 3.0 Documents](#) > [Maintenance of Equity](#) > [Appendix B: Exemption Based on No Aggregate Budget Reduction](#).***

LEAs must fill out Appendix B and submit it in ePlan by **Oct. 1, 2022**. Appendix B will apply to the FY23 MOEquity Requirement if approved by the department.

Next Steps

For LEAs not exempted, LEAs must maintain equity for each “high-poverty school” as a condition of receiving ARP ESSER funds. LEAs must make the determination on a districtwide basis or by grade span.

LEAs must select the correct MOEquity Instrument in ePlan. To find these instruments and instruments overview click below or visit ePlan > TDOE Resources> Relief Funding> ARP ESSER Maintenance of Equity (MOEquity).

- [Maintenance of Equity \(MOEquity\) Exempt LEA Guidance](#)
- [U.S. Department of Education: FAQ-ARP ESSER Maintenance of Equity Requirements](#)
- **UPDATED:** [Districtwide Overview of Maintenance of Equity](#)
- **UPDATED:** [TDOE MOEquity Districtwide TEMPLATE](#)
- **UPDATED:** [Grade Span Overview of Maintenance of Equity](#)
- **UPDATED:** [TDOE MOEquity Grade Span TEMPLATE](#)

Timeline

- Aug. 23: Notification to LEAs of MOEquity requirements
- Aug. 29: Launch of MOEquity Instruments
- Aug. 30: Required Session for LEAs at the ESEA/ESSER Conference
- Aug. 30 – Oct.15: Office Hours and Supports
- Sept. 15: Deadline for LEAs to submit GP budget in ePlan (for non-exempt LEAs)
- Oct. 15: LEAs must submit Appendix B to the department (exempt LEAs)
- Nov. 15: Non-exempt LEAs must submit MOEquity Instruments (excel template)

Appendix A: Exemption Based on Exceptional or Uncontrollable Circumstance

American Rescue Plan

LEA Certification of Exemption from Local Maintenance of Equity Requirements

Please submit this certification to your state education agency (SEA) and the U.S. Department of Education (ED) if the local education agency (LEA) claims that it should be exempted from the local maintenance of equity requirements under section 2004(c)(2) of the American Rescue Plan (ARP) Act due to such certifications for the fiscal year 2023.

LEA Name: _____

State: _____

On behalf of my local educational agency (LEA), I

_____ (name),

_____ (title), certify that for the:

2022-2023 school year (the fiscal year 2023)

this LEA demonstrates an exceptional or uncontrollable circumstance under section 2004(c)(2) of the ARP Act. Specifically, this LEA faces implementation challenges due to the enactment of the ARP Act in March 2021 and the impact of the pandemic with respect to budget and enrollment uncertainty.

By signing this certification, I hereby confirm that I am the authorized representative, with the fiscal and legal authority, to certify on behalf of this school district. In addition, to the best of my knowledge and belief, all the information in this certification is true and correct.

Director of Schools Signature: _____

Appendix B: Exemption Based on No Aggregate Budget Reduction

American Rescue Plan LEA Certification of Exemption from Local Maintenance of Equity Requirements

Please submit this certification to your state education agency (SEA) if the local education agency (LEA) claims that it should be exempted from the local maintenance of equity requirements under section 2004(c)(2) of the American Rescue Plan (ARP) Act due to such certifications for the fiscal year 2023.

LEA Name: _____

State: _____

On behalf of my local educational agency (LEA), I

_____ **(name),**

_____ **(title),** certify that for the:

2022-2023 school year (the fiscal year 2023)

the LEA will not implement an aggregate reduction in combined State and local per-pupil funding for the relevant fiscal year(s). By signing this certification, I hereby confirm that I am the authorized representative, with the fiscal and legal authority, to certify on behalf of this school district. In addition, to the best of my knowledge and belief, all the information in this certification is true and correct.

Director of Schools Signature: _____

Frequently Asked Questions ARP ESSER Maintenance of Equity

This document contains questions and answers regarding the requirements for ARP ESSER (ESSER 3.0) maintenance of equity (MOEquity). For additional questions beyond what is covered in this document, please attend the ESSER office hours meeting or contact the appropriate relief team [divisional coordinator](#).

1. What does “no aggregate budget reduction” actually mean?

No Aggregate Budget Reduction means that the LEA did not face an overall budget reduction of State and local funds or the total amount of state and local funds in FY23 stayed the same as FY22 or increased in FY23.

2. How can we show that with the addition of local funds we do not have an aggregate budget reduction?

As mentioned previously, the department used the BEP calculations to determine exempted LEAs. In some circumstances, even though the BEP decreased, a local government could have increased their local match. This, in turn, would make the LEA exempted based on “No Aggregate Budget Reduction.” Directions on how to receive approval are above.

3. Can you describe a scenario in which an LEA would not meet MOEquity?

- School A is high-poverty, and the per-pupil funding in FY22 was \$100.
- For the LEA as a whole, the per-pupil funding in FY22 was \$150.
- Based on the FY23 calculation, the per-pupil funding in School A is \$80, a \$20 reduction.
- For the LEA as a whole, the calculation per-pupil funding for FY23 is \$140, only a \$10 reduction across the LEA.
- The LEA is not maintaining equity, because School A is reduced at a higher rate than the average amount across the LEA.

4. What happens if an LEA does not meet MOEquity?

The department will provide technical assistance to each LEA that did not maintain equity in 2022-23 to identify the cause. By July 1, 2023, each LEA that did not maintain equity in 2022-23 must explain the cause and identify remedial actions that will be taken. These actions must be in place for the 2023-24 school year.

5. How do we define “high poverty school” for MOEquity purposes?

A “high-poverty school” is a school that is in the highest quartile (25 percent) of schools served by the LEA in terms of the percentage of economically disadvantaged students enrolled at the site.

6. What data will we need to determine if we meet MOEquity?

The data an LEA will need to calculate MOEquity:

- State and local funding provided to all schools for school years 2021-22 and 2022-23
- Total number of FTEs provided to all schools in school years 2021-22 and 2022-23
- The October 1 counts for the 2021-22 and 2022-23 school years

7. Do we include all FTE positions or just FTE teaching positions?

FTE for MOEquity should include all instructional and non-instructional staff that are funded with state and local funds, including partial FTEs for those staff who are shared with multiple buildings.

8. How is MOEquity like what we do for Comparability in Title I? How is it different?

The comparability provision in Title I of ESEA requires school districts to provide services in Title I schools from state and local funds that are at least comparable to services in non-Title I schools. Federal assistance provided through Title I is intended to provide additional resources to Title I schools, rather than to compensate for an inequitable distribution of state and local funds that benefits more affluent schools.

MOEquity is meant to ensure that, if funding reductions are necessary, those cuts do not fall disproportionately on low-income students and families. MOEquity focuses on high-poverty schools regardless of Title I status.

9. Which funding sources must an LEA include when determining its per-pupil funding to maintain fiscal equity?

An LEA generally includes all sources of State and local funds the LEA has available for current expenditures for free public education. The term "current expenditures for free public education" is a legal term that comes from ESEA § 8101(12). The term includes funding for administration, instruction, attendance and health services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities

10. How should we account for staffing or enrollment changes that occur during the school year?

An LEA determines whether it maintains staffing equity once both enrollment data and staffing decisions are final for a specific school year. Once an LEA has determined whether it has maintained staffing equity for each of its high-poverty schools, if there are unpredictable changes in student enrollment or personnel assignments later in the school year, the LEA does not have to redetermine staffing equity. LEAs should make every effort to ensure staffing equity is maintained throughout the school year.

11. How is MOEquity different from Maintenance of Effort (MOEffort)?

Maintenance of Effort (MOE) is meant to ensure that overall support for education is maintained. MOEquity is meant to ensure that, if funding reductions are necessary, those cuts do not fall disproportionately on low-income students and families.