Maintenance of Equity Requirements
USBE Guidance for LEAs
June 2022

Frequently Asked Questions about Local-Level Maintenance of Equity Requirements in the American Rescue Plan (ARP) for School Year 2021-2022

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I. <u>Key Terms and Acronyms</u>

- **ARP**: American Rescue Plan, a bill signed into law on March 11, 2021 that includes funding for state and local educational agencies and includes a new requirement known as Maintenance of Equity.
- **CARES**: Coronavirus Aid, Relief, and Economic Security
- **CRRSA**: Coronavirus Response and Relief Supplemental Appropriations
- **ESSER**: Elementary and Secondary School Emergency Relief Fund, a federal grant program for state and local educational agencies to support efforts to prevent, prepare for, and respond to COVID-19. ESSER was first authorized through CARES Act in March 2020. A second round of ESSER funding was authorized through the CRRSA Act in December 2020. A third round of ESSER funding was authorized under the ARP in March 2021.
- **Fiscal equity**: One of two tests LEAs must meet in order to satisfy ARP's new Maintenance of Equity requirements.
- **FY 2022**: Fiscal Year 2022, which is the fiscal year that corresponds to the 2021-2022 school year.
- **FY 2023**: Fiscal Year 2023, which is the fiscal year that corresponds to the 2022-2023 school year.
- **High-poverty schools**: The highest quartile of schools served by an LEA based on the percentage of economically disadvantaged students served. In other words, an LEA's poorest 25% of schools.
- **LEA**: Local Educational Agency
- **MOEquity**: Maintenance of Equity, a new fiscal test under ARP that limits funding and staffing cuts in certain schools in FYs 2022 and 2023.
- **SEA**: State Educational Agency
- **Staffing equity**: One of two tests LEAs must meet in order to satisfy ARP's new Maintenance of Equity requirements.
- **USBE**: Utah State Board of Education.
- **USDE**: United States Department of Education.

II. Overview of MOEquity

1. What is MOEquity?

MOEquity is a new fiscal rule under the American Rescue Plan (ARP).[1] Section 2004 of the ARP Act of 2021 requires LEAs and SEAs to ensure maintenance of equity (MOEquity) in order to receive funds under the Elementary and Secondary School Emergency Relief (ARP ESSER) Fund. ARP contains both state[2] and local MOEquity requirements[3]. This document only addresses local requirements.

MOEquity applies to all LEAs that received ARP ESSER funds except for LEAs with a total enrollment of less than 1,000 students, LEAs that operate a single school, LEAs that have only one school per grade span, or LEAs that can demonstrate an exceptional or uncontrollable circumstance (see Questions 2 and 3).

MOEquity limits LEAs from making certain funding and staffing cuts in its "high-poverty" schools in FY 2022 (school year 2021-2022) and FY 2023 (school year 2022-2023). Under the ARP, high-poverty schools are the top quartile of an LEA's schools based on the percentage of low-income students. In other words, for MOEquity purposes, high-poverty schools are an LEA's poorest 25% of schools (see Question 4).

MOEquity involves two tests: (1) a fiscal equity test that looks at school-level per-pupil state and local funding, and (2) a staffing equity test that looks at school-level per-pupil full-time equivalents (FTEs). An LEA must comply with both tests. Specifically, in 2021-2022 and 2022-2023 an LEA must:
- **Not reduce per-pupil state and local funding** in any of its high-poverty schools by an amount that exceeds the total reduction, if any, in LEA per-pupil funding for all schools served by the LEA (see Question 5-7); <u>AND</u>
- **Not reduce the number of FTE staff per-pupil** in any of its high-poverty schools by an amount that exceeds the total reduction, if any, in FTE staff per-pupil in all schools served by the LEA (see Questions 8-9).

MOEquity is different from another similarly named fiscal rule, Maintenance of Effort (MOE). MOEquity and MOE serve different purposes and require different kinds of calculations.

2. Which LEAs must meet MOEquity requirements?

All LEAs that received ARP ESSER funds must meet MOEquity requirements except LEAs:
- With a total enrollment of less than 1,000 students, <u>or</u>
- That operate a single school, <u>or</u>
- That have only one school per grade span.[4]

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[1] For more information about MOEquity, please see *USDE October 2021 MOEquity FAQs*.
[2] *USDE October 2021 MOEquity FAQs*, Q&As 9 – 21(a).
[3] *USDE October 2021 MOEquity FAQs*, Q&As 22 – 32.
[4] ARP, Section 2004(c).

An LEA that meets any of the above criteria is automatically excepted from MOEquity requirements, meaning the LEA is not required to calculate fiscal equity or staffing equity, nor submit documentation to the USBE or USDE to claim the exception.[5] However, LEAs that are automatically excepted from MOEquity should maintain documentation supporting the exception in case it is requested during an audit or monitoring review.[6]

3. If an LEA is not automatically excepted from MOEquity requirements are any other exceptions available?

Yes, there are two other potential exceptions to MOEquity:

- **Exception for LEAs that are not experiencing overall budget reductions in school year 2021-2022.** If an LEA certifies "that it did not and will not implement an aggregate reduction in combined State and local per-pupil funding in FY 2022 [school year 2021-2022] (i.e., is not facing overall budget reductions),"[7] an LEA will be excepted from both the fiscal equity and staffing equity requirements. LEAs that meet the criteria for this exception must complete a certification (see Attachment: LEA Certification of Exception from Local Maintenance of Equity Requirements) and submit it to the Neil Stevens, USBE Fiscal Monitoring Team Lead at Neil.Stevens@schools.utah.gov. LEAs do not need to submit supporting documentation with the certification but should maintain such documentation in case it is requested during an audit or monitoring review.[8]

- **Exception due to an "exceptional or uncontrollable circumstance."** LEAs may be eligible for an exception from USDE if they can demonstrate an exceptional or uncontrollable circumstance.[9] For example, if after calculating fiscal equity and/or staffing equity an LEA fails to maintain equity in one or more schools for an exceptional or uncontrollable reason such as those listed below, then the LEA can apply to USDE for an exception. Exceptional or uncontrollable circumstances might include:
  - Increased one-time expenditures in the baseline year due to the pandemic,
  - The effects of very small schools on MOEquity calculations, or
  - A significant change in spending because a school no longer serves a student with high-cost needs.

  However, it is important to note the USDE anticipates very few "exceptional or uncontrollable circumstances" that prevent an LEA from maintaining equity. LEAs must apply directly to USDE for this exception by emailing Attachment A and providing an explanation on LEA letterhead to utah.oese@ed.gov. Please also cc: Neil Stevens at Neil.Stevens@schools.utah.gov.[10] USDE advises the request "should provide detailed information on the exceptional or uncontrollable circumstance and how it prevents the LEA from maintaining equity."[11] USDE will review exception requests on a case-by-case basis.

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[5] *USDE October 2021 LEA Exemption Process*, p. 1 para. A.
[6] *USDE October 2021 LEA Exemption Process*, p. 1 para. A.
[7] U.S. Department of Education, *Frequently Asked Questions American Rescue Plan Elementary and Secondary School Emergency Relief (ESSER) Program Maintenance of Equity Requirements*, October 2021, Q&A 32 and Appendix B. This guidance will be referred to as *USDE October 2021 MOEquity FAQs* for the rest of this document.
[8] *USDE October 2021 LEA Exemption Process*, p. 1 para. B.
[9] ARP, Section 2004(c)(2)(D).
[10] *USDE October 2021 LEA Exemption Process*, p. 1 para. C.
[11] *USDE October 2021 LEA Exemption Process*, p. 1 para. C.

More information about exceptions is available in Question 32 of USDE's *Frequently Asked Questions American Rescue Plan Elementary and Secondary School Emergency Relief (ESSER) Program Maintenance of Equity Requirements* and USDE's *Local Educational Agency (LEA) Local Maintenance of Equity Exception Process*.

III.   Determining "High Poverty Schools" under the Maintenance of Equity Requirements

1.   How does an LEA determine which schools are "high-poverty schools" under the MOEquity requirements?

MOEquity limits funding and staffing cuts for schools identified as high-poverty schools. High-poverty schools are an LEA's 25% of schools with the highest number of low-income students,[12] which can be calculated on a districtwide or grade-span basis as described below.[13] Please note there is no specific poverty rate that qualifies a school as a "high-poverty" school. Instead, identification as a high-poverty school for MOEquity purposes depends on a school's relative poverty compared to other schools in the LEA.

First, LEAs must <u>determine the number of schools to identify</u>. This is done by dividing the LEA's total number of schools by 4 and then rounding up to the nearest whole number. For example, if an LEA has 9 schools it must identify 3 schools as high-poverty schools (9 ÷ 4 = 2.25, which rounds up to 3).

Next, LEAs must <u>rank their schools by percentage of economically disadvantaged students</u> based on school poverty data that are reported to USBE in October, either:
- The number of children eligible for free or reduced-price lunches, or
- The number of children in families receiving assistance under the Temporary Assistance for Needy Families (TANF) program.

Last, LEAs must <u>choose whether to identify high-poverty schools on a districtwide basis or by each grade-span</u>. Using the example above of an LEA that must identify 3 schools as high-poverty schools, the LEA may <u>either</u>:
- Identify its poorest 3 schools overall, or
- Identify its poorest elementary, middle, and high schools as illustrated by the following charts:[14]

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[12] ARP, Sec. 2004(d)(4).
[13] *USDE October 2021 MOEquity FAQs*, Q&A 25.
[14] These charts are adapted from Tables 4 and 5 of *USDE October 2021 MOEquity FAQs*, Q&A 25.

Example of Districtwide Identification		
School	Economic Disadvantage	Grade Span
School 1	80%	Elem
School 2	75%	Elem
School 3	65%	Elem
School 4	60%	Middle
School 5	40%	High
School 6	35%	Elem
School 7	25%	Elem
School 8	25%	Middle
School 9	15%	High

Example of Grade Span Identification		
School	Economic Disadvantage	Grade Span
School 1	80%	Elem
School 2	75%	Elem
School 3	65%	Elem
School 4	60%	Middle
School 5	40%	High
School 6	35%	Elem
School 7	25%	Elem
School 8	25%	Middle
School 9	15%	High

It is important to note that schools identified as high-poverty schools for MOEquity purposes are not necessarily the same as schools eligible for, or participating in, Title I. Although MOEquity and Title I use the same measures to calculate the poverty levels of schools, and both involve a process of ranking schools by poverty, they are not the same. It is possible a school that does not receive Title I funds could be identified as a high-poverty school for MOEquity purposes or vice versa (that is, a school that receives Title I funds might not be identified as a high-poverty school for MOEquity purposes).

For more information about identifying high-poverty schools please see Question 25 of USDE's *Frequently Asked Questions American Rescue Plan Elementary and Secondary School Emergency Relief (ESSER) Program Maintenance of Equity Requirements*.

IV. Calculating and Complying with MOEquity's Fiscal Equity Requirement

1. What are "state and local funds" for fiscal equity purposes?

USDE guidance explains that state and local funds "generally includes all sources of <u>state and local funds</u> the LEA has available for <u>current expenditures for free public education</u>." The reference to state and local funds means the fiscal equity test only looks at state and local funding sources. Federal funds or support from private donors are not included.[15]

The term "current expenditures for free public education" is a legal term that comes from Section 8101(12) of the Elementary and Secondary Education Act (ESEA). It 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.[16]

It does not cover funding for:

- Community services,
- Capital outlay, and
- Debt services.[17]

USDE's guidance also clarifies that LEAs may exclude one-time disbursements for a specific purpose from the MOEquity calculation such as a revenue surplus that was distributed for only one year.[18]

The USBE has defined the term "current expenditures" as per-pupil expenditures including all sources of State and local funds available for current expenditures for a free public education (see section 8101(12) of the ESEA). Program level expenditures should be used to determine expenditures for each school.

For more information about which state and local funding sources to include in the MOEquity calculation please see Question 26 of USDE's *Frequently Asked Questions American Rescue Plan Elementary and Secondary School Emergency Relief (ESSER) Program Maintenance of Equity Requirements*.

2. What enrollment data should an LEA use when calculating fiscal equity?

LEAs must use the most current final enrollment data available.

For more information about enrollment data please see Question 27(a) of USDE's *Frequently Asked Questions American Rescue Plan Elementary and Secondary School Emergency Relief (ESSER) Program Maintenance of Equity Requirements*.

3. How does an LEA calculate and comply with MOEquity's fiscal equity requirement?

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[15] *USDE October 2021 MOEquity FAQs*, Q&A 26.
[16] ESEA, Sec. 8101(12)(A).
[17] ESEA, Sec. 8101(12)(B).
[18] *USDE October 2021 MOEquity FAQs*, Q&A 26.

To satisfy the fiscal equity requirement, an LEA may not reduce per-pupil state and local funding for any high-poverty school by an amount that exceeds the total reduction in per-pupil state and local funding for all schools.[19]

In general, calculating fiscal equity is a two-step process where an LEA first compares last year's per-pupil state and local funding for all schools to this year's per-pupil state and local funding for all schools to determine if there has been a decrease. That calculation then guides whether, and by how much, the LEA can decrease per-pupil state and local funding in any of its high-poverty schools.

LEAs have the option to calculate fiscal equity on a districtwide or grade-span basis as follows.

a) Calculating Fiscal Equity on a Districtwide Basis

To calculate fiscal equity on a districtwide basis for 2021-2022, an LEA:
- Divides the total amount of state and local funds (see Question 5) provided to all schools in 2020-2021 by the LEA's total enrollment (see Question 6) in 2020-2021,
- Divides the total amount of state and local funds provided to all schools in 2021-2022 by the LEA's total enrollment in 2021-2022, and then
- Compares the results to determine the overall decrease in per-pupil state and local funds for all schools.

2020-2021	2021-2022
Total amount of state and local funds provided to all schools in 2020-2021 $\div$ Total enrollment in 2020-2021	Total amount of state and local funds provided to all schools in 2021-2022 $\div$ Total enrollment in 2021-2022
$50,000,000/5,000 = $10,000	$66,000,000/5,500 = $12,000 (No decrease)
$75,000,000/5,000 = $15,000	$70,000,000/5,500 = $14,000 (Decrease of $1,000)

Complying with Fiscal Equity on a Districtwide Basis When There Has Been a Decrease in Per-Pupil Funding for All Schools

If there is an overall *decrease* in per-pupil state and local funds for all schools, then the LEA cannot reduce per-pupil state and local funds for any high-poverty school by more than that amount.

For example, if an LEA provided, on average, $15,000 of state and local funds per-pupil to its schools in 2020-2021 and plans to provide $14,000 of state and local funds per-pupil to its

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[19] ARP, Sec. 2004(c)(1)(A).

schools in 2021-2022, then there has been a $1,000 decrease in state and local funds per-pupil overall. In 2021-2022 the LEA may not reduce per-pupil state and local funds in any high-poverty school by more than $1,000. If, for instance, a high-poverty school received $17,000 of state and local funds per-pupil in 2020-2021, then it must receive at least $16,000 of state and local funds per-pupil in 2021-2022 to satisfy the fiscal equity test.

LEAs should plan to repeat the steps described above for 2022-2023 comparing 2021-2022 to 2022-2023. If there is an overall decrease in per-pupil state and local funds for all schools in 2022-2023 compared to 2021-2022, the LEA would not be permitted to reduce per-pupil state and local funds in any high-poverty school in 2022-2023 by more than that amount.

> ### _Complying with Fiscal Equity on a Districtwide Basis When There Has Not Been a Decrease in Per-Pupil Funding for All Schools_

USDE's MOEquity guidance provides that if there is _no decrease_ in per-pupil state and local funds for all schools, then the LEA cannot reduce per-pupil state and local funds in any high-poverty school <u>at all</u>.[20]

b) Calculating Fiscal Equity on a Grade Span Basis

To calculate fiscal equity on a grade-span basis for 2021-2022, an LEA:
- Divides the total amount of state and local funds provided to all schools in <u>each grade span</u> in 2020-2021 by the LEA's total enrollment in each grade span in 2020-2021,
- Divides the total amount of state and local funds provided to all schools in each grade span in 2021-2022 by the LEA's total enrollment in each grade span in 2021-2022, and then
- Compares the results to determine the overall decrease in per-pupil state and local funds for each grade span.

2020-2021	**2021-2022**
Total amount of state and local funds provided to all elementary schools in 2020-2021 ÷ Total elementary school enrollment in 2020-2021	Total amount of state and local funds provided to all elementary schools in 2021-2022 ÷ Total elementary school enrollment in 2021-2022
Total amount of state and local funds provided to all middle schools in 2020-2021 ÷ Total middle school enrollment in 2020-2021	Total amount of state and local funds provided to all middle schools in 2021-2022 ÷ Total middle school enrollment in 2021-2022
Total amount of state and local funds provided to all high schools in 2020-2021 ÷ Total high school enrollment in 2020-2021	Total amount of state and local funds provided to all high schools in 2021-2022 ÷ Total high school enrollment in 2021-2022

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[20] _USDE October 2021 MOEquity FAQs_, Q&A 27, Table 6.

Grade Span	2020-2021	2021-2022	Decrease	Determination
Elementary	$90,000,000/6000 = $15,000	$77,000,000/5500 = $14,000	$1,000	Met if high poverty school decrease is not greater than $1,000
Middle	$38,500,000/3500 = $11,000	$36,000,000/3,000 = $12,000	$0	Met if there is no high poverty school decrease
High	$90,000,000/6000 = $15,000	$88,000,000/5500 = $16,000	$0	Met if there is no high poverty school decrease

Complying with Fiscal Equity on a Grade Span Basis When There Has Been a Decrease in Per-Pupil Funding for All Schools in a Grade Span

If there is an overall *decrease* in per-pupil state and local funds for a grade span, then the LEA cannot reduce per-pupil state and local funds for any high-poverty school in that grade span by more than that amount.

For example, if an LEA provided, on average, $15,000 of state and local funds per-pupil to its elementary schools in 2020-2021 and plans to provide $14,000 of state and local funds per-pupil to its elementary schools in 2021-2022, then there has been a $1,000 decrease in state and local funds per-pupil overall for elementary schools. In 2021-2022 the LEA may not reduce per-pupil state and local funds to any high-poverty elementary school by more than $1,000. If, for instance, a high-poverty elementary school received $17,000 of state and local funds per-pupil in 2020-2021, then it must receive at least $16,000 of state and local funds per-pupil in 2021-2022 to satisfy the fiscal equity test.

LEAs should plan to repeat the steps described above for 2022-2023 comparing 2021-2022 to 2022-2023. If there is an overall decrease in per-pupil state and local funds for all schools in a grade span 2022-2023 compared to 2021-2022, the LEA would not be permitted to reduce per-pupil state and local funds in any high-poverty school in that grade span in 2022-2023 by more than that amount.

Complying with Fiscal Equity on a Grade Span Basis When There Has Not Been a Decrease in Per-Pupil Funding for All Schools in a Grade Span

USDE's MOEquity guidance provides that if there is *no decrease* in per-pupil state and local funds for a grade span, then the LEA cannot reduce per-pupil state and local funds for any high-poverty school in that grade span at all.[21] **If, however, an LEA can certify that it is not experiencing overall budget reductions it can receive an exception.[22]** (See Question 3.)

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[21] *USDE October 2021 MOEquity FAQs*, Q&A 27, p. 17-18.
[22] *USDE October 2021 MOEquity FAQs*, Q&A 32.

Each LEA should plan to repeat the steps described above for 2022-2023 comparing 2021-2022 to 2022-2023.

More information about calculating fiscal equity is available in Question 27 of USDE's *Frequently Asked Questions American Rescue Plan Elementary and Secondary School Emergency Relief (ESSER) Program Maintenance of Equity Requirements*.

V. Calculating and Complying with MOEquity's Staffing Equity Requirement

1. What is an FTE for staffing equity purposes?

According to USDE guidance, LEAs "must include all paid staff, both instructional and non-instructional when determining whether it maintained staffing equity."[23] This includes all employees and those hired by contract who perform school-level services funded by State, local, and federal funds.

If a staff member splits their time between more than one school, the LEA should include the proportional FTE for each school in the staffing equity calculation.[24]

LEAs should calculate staffing equity "once both enrollment and staffing decisions are final for a specific school year."[25] LEAs do not have to redetermine staffing equity if there are unpredictable changes in student enrollments or personnel assignments later in the school year.[26]

More information about counting FTEs is available in Questions 28 and 29 of USDE's *Frequently Asked Questions American Rescue Plan Elementary and Secondary School Emergency Relief (ESSER) Program Maintenance of Equity Requirements*.

2. How does an LEA calculate and comply with MOEquity's staffing equity requirement?

To satisfy the staffing equity requirement, an LEA may not reduce the number of FTEs per-pupil for any high-poverty school by an amount that exceeds the total reduction in the number of FTEs per-pupil for all schools.[27]

In general, calculating staffing equity is a two-step process where an LEA first compares last year's per-pupil FTE numbers for all schools to this year's per-pupil FTE numbers for all schools to determine if there has been a decrease. That calculation then guides whether, and by how much, the LEA can decrease per-pupil FTE numbers in any of its high-poverty schools. LEAs have the option to calculate staffing equity on a districtwide or grade-span basis as follows.

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[23] *USDE October 2021 MOEquity FAQs*, Q&A 28.
[24] *USDE October 2021 MOEquity FAQs*, Q&A 28.
[25] *USDE October 2021 MOEquity FAQs*, Q&A 29.
[26] *USDE October 2021 MOEquity FAQs*, Q&A 29.
[27] ARP, Sec. 2004(c)(1)(B).

a) Calculating Staffing Equity on a Districtwide Basis

To calculate staffing equity on a districtwide basis for 2021-2022, an LEA:
- Divides the total number of FTEs (see Question 8) provided to all schools in 2020-2021 by the LEA's total enrollment (see Question 6) in 2020-2021,
- Divides the total number of FTEs provided to all schools in 2021-2022 by the LEA's total enrollment in 2021-2022, and then
- Compares the results to determine the overall decrease in per-pupil FTEs for all schools.

2020-2021	2021-2022
Total number of FTEs provided to all schools in 2020-2021	Total number of FTEs provided to all schools in 2021-2022
÷	÷
Total enrollment in 2020-2021	Total enrollment in 2021-2022
52.1 / 579 = .09	44 / 550 = .08

Complying with Staffing Equity on a Districtwide Basis When There Has Been a Decrease in Per-Pupil FTEs for All Schools

If there is an overall *decrease* in per-pupil FTEs for all schools, then the LEA cannot reduce per-pupil FTEs for any high-poverty school by more than that amount.

For example, if an LEA provided, on average, 0.09 FTE per-pupil[28] to its schools in 2020-2021 and plans to provide 0.08 FTE per-pupil to its schools in 2021-2022, then there has been a 0.01 reduction in per-pupil FTEs overall. In 2021-2022 the LEA may not reduce per-pupil FTEs in any high-poverty school by more than 0.01. If, for instance, a high-poverty elementary school received 0.1 FTEs per-pupil in 2020-2021, then it must receive at least 0.09 FTEs per-pupil in 2021-2022 to satisfy the staffing equity test.

Complying with Staffing Equity on a Districtwide Basis When There Has Not Been a Decrease in Per-Pupil FTEs for All Schools

If there is *no decrease* in per-pupil FTEs for all schools, the LEA cannot reduce per-pupil FTEs for any high-poverty school <u>at all</u>.

For example, if an LEA provided, on average, 0.09 FTEs per-pupil to its schools in 2020-2021 and plans to provide at least 0.09 FTEs per-pupil to its schools in 2021-2022, then there has been a 0 decrease in FTEs per-pupil overall. In 2021-2022, the LEA may not reduce per-pupil FTEs to

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[28] FTEs per-pupil is not a common way to express staffing levels in USDE programs. To illustrate the calculation for an individual school, consider an elementary school with 460 students. The school has the following FTE positions: 1 principal, 1 assistant principal, 20 classroom teachers, 1 staff development coach, 0.7 ESOL teacher, 1.6 literacy specialist, 0.8 PE teacher, 0.8 art teacher, 0.8 music teacher, 1 special education teacher, 0.8 special education paraeducator, 0.4 related services provider, 1.375 instructional support paraeducators, 1 counselor, 1 media specialist, 3.375 administrative support staff, 3.5 building services staff, and 0.5 food services staff. This amounts to a total of 40.65 FTEs. Dividing the number of FTEs by the number of students yields approximately 0.09 FTEs per student (40.65 ÷ 460 = 0.088).

any high poverty school at all. If, for instance, a high-poverty school received 0.1 FTEs per-pupil in 2020-2021, then it must receive at least 0.1 FTEs per-pupil in 2021-2022.

LEAs should plan to repeat the steps described above for 2022-2023 comparing 2021-2022 to 2022-2023.

b) Calculating Staffing Equity on a Grade Span Basis

To calculate staffing equity on a grade-span basis for 2021-2022, an LEA:
- Divides the total number of FTEs provided to all schools in each grade span in 2020-2021 by the LEA's total enrollment in each grade span in 2020-2021,
- Divides the total number of FTEs provided to all schools in each grade span in 2021-2022 by the LEA's total enrollment in each grade span in 2021-2022, and then
- Compares the results to determine the overall decrease in per-pupil FTEs for each grade span.

2020-2021	2021-2022
Total number of FTEs provided to all elementary schools in 2020-2021 ÷ Total elementary school enrollment in 2020-2021	Total number of FTEs provided to all elementary schools in 2021-2022 ÷ Total elementary school enrollment in 2021-2022
Total number of FTEs provided to all middle schools in 2020-2021 ÷ Total middle school enrollment in 2020-2021	Total number of FTEs provided to all middle schools in 2021-2022 ÷ Total middle school enrollment in 2021-2022
Total number of FTEs provided to all high schools in 2020-2021 ÷ Total high school enrollment in 2020-2021	Total number of FTEs provided to all high schools in 2021-2022 ÷ Total high school enrollment in 2021-2022

Grade Span	2020-2021	2021-2022	Decrease	Determination
Elementary	38.6 / 579 = .067	36.6 / 550 = .067	0	Met if there is no high poverty school decrease
Middle	47.9 / 719 = .067	40 / 700 = .057	.10	Met if high poverty school decrease is not greater than .10
High	79 / 1250 = .063	85 / 1200 = .071	0	Met if there is no high poverty school decrease

Complying with Staffing Equity on a Grade Span Basis When There Has Been a Decrease in Per-Pupil FTEs for All Schools

If there is an overall *decrease* in per-pupil FTEs for a grade span, then the LEA cannot reduce per-pupil FTEs for any high-poverty school by more than that amount.
For example, if an LEA provided, on average, 0.09 FTE per-pupil to its elementary schools in 2020-2021 and plans to provide 0.08 FTE per-pupil to its elementary schools in 2021-2022, then there has been a 0.01 reduction in per-pupil FTEs overall. In 2021-2022, the LEA may not reduce per-pupil FTEs in any high-poverty elementary school by more than 0.01. If, for instance, a high-poverty elementary school received 0.1 FTEs per-pupil in 2020-2021, then it must receive at least 0.09 FTEs per-pupil in 2021-2022 to satisfy the staffing equity test.

Complying with Staffing Equity on a Grade Span Basis When There Has Not Been a Decrease in Per-Pupil FTEs for All Schools

If there is *no decrease* in per-pupil FTEs in a grade span, the LEA cannot reduce per-pupil FTEs for any high-poverty school in that grade span at all.

For example, if an LEA provided, on average, 0.09 FTEs per-pupil to its elementary schools in 2020-2021 and plans to provide at least 0.09 FTEs per-pupil to its elementary schools in 2021-2022, then there has been a 0 decrease in FTEs per-pupil overall. In 2021-2022, the LEA may not reduce per-pupil FTEs to any high-poverty school elementary school at all. If, for instance, a high-poverty elementary school received 0.1 FTEs per-pupil in 2020-2021, then it must receive at least 0.1 FTEs per-pupil in 2021-2022.

LEAs should plan to repeat the steps described above for 2022-2023 comparing 2021-2022 to 2022-2023.

More information about calculating staffing equity is available in Question 30 of USDE's *Frequently Asked Questions American Rescue Plan Elementary and Secondary School Emergency Relief (ESSER) Program Maintenance of Equity Requirements*.

Questions about this guidance can be sent to **Neil Stevens** at Neil.Stevens@schools.utah.gov.

VI. **Appendices**

Attachment A: LEA Certification of Exception from Local Maintenance of Equity Requirements Based on Exceptional or Uncontrollable Circumstance

Excerpted from Appendix A of the U.S. Department of Education's MOEquity FAQs
Please submit to utah.oese@ed.gov and cc: Neil Stevens at Neil.Stevens@schools.utah.gov.

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

Please submit this certification to your SEA, and the U.S. Department of Education if the LEA claims that it should be excepted from the local maintenance of equity requirements under section 2004(c)(2) of the American Rescue Plan (ARP) Act due to such certifications for FY 2022.

LEA name: _____

State: _____

On behalf of my local educational agency (LEA), I_____(name), _____(title), certify that for the 2021-2022 school year, 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.

_____
Signature

_____
Printed name & date

Attachment B: LEA Certification of Exception from Local Maintenance of Equity Requirements

Excerpted from Appendix B of the U.S. Department of Education's MOEquity FAQs
Please submit to Neil Stevens at Neil.Stevens@schools.utah.gov

<div align="center">

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

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Please submit this certification to your SEA, which will notify the Department which LEAs in the State are excepted from the local maintenance of equity requirements under section 2004(c)(2) of the American Rescue Plan (ARP) Act due to such certifications for FY 2022.

LEA name: _____

State: _____

On behalf of my local educational agency (LEA), I_____(name), _____(title), certify that for the 2021-2022 school year, this LEA demonstrates an exceptional or uncontrollable circumstance under section 2004(c)(2) of the ARP Act. Given these unique timing and implementation circumstances and that this LEA will not implement an aggregate reduction in combined State and local per-pupil funding in FY 2022 (i.e., is not facing overall budget reductions), this LEA demonstrates such an exceptional or uncontrollable circumstance under section 2004(c)(2) of the ARP Act.

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.

_____
Signature

_____
Printed name & date