



June 15, 2021

[Lakesha.mckenzie@ed.gov](mailto:Lakesha.mckenzie@ed.gov);

[montana.oese@ed.gov](mailto:montana.oese@ed.gov);

I am writing to follow up on my March 24, 2021, Letter (“March Letter”) regarding the Maintenance of Equity (“MOEquity”) requirements in Sections 2004(b)(1) and 2004(b)(2) of the American Rescue Plan Act (“ARPA”). Under the Department’s current interpretation, the MOEquity criteria is incompatible with Montana’s school funding formula and will cause the State to fail the MOEquity requirement for a significant number of LEAs. **I write to request an immediate meeting with the Acting Assistant Secretary for the Office of Elementary and Secondary Education (OESE), Ian Rosenblum to address these issues before the Office of Public Instruction (OPI) awards any additional ESSER III funds to LEAs.**

ARPA prohibits states from reducing “state funding (as calculated on a per-pupil basis)” to certain high poverty and high need districts. The Department’s June 2021 FAQ Document on *Maintenance of Equity (MOEquity) Requirements* (“June FAQ”) interpreted “state funding” to mean “current expenditures” as defined by 8101(12) of the Elementary and Secondary Education Act of 1965. It also prohibits SEAs from including local revenues in this calculation. This, unfortunately, fails to account for the specific problems raised in the March Letter. Montana and other states have complex school funding formulas that do not fit into the per-pupil funding framework adopted by the Department.

To refresh your memory, the March Letter raised several important issues regarding Montana’s school funding formula, which was developed decades ago under court order to achieve adequacy and equity as required by the Montana Constitution. The formula, by law, must be adjusted by an inflation measure each year. One significant equity component of the formula is the guaranteed tax base (GTB) which provides additional state aid to school districts with taxable value per student that is lower than the statewide average. GTB supports equity by giving additional funding to poorer districts. The GTB component, however, presents problems for MOEquity purposes if a High Poverty or High Need LEA sees an increase in taxable value for FY 2022. The increased local tax revenue will be offset by decreased GTB funding from the state. Although the LEA will not receive any less total funding, it will appear the state is contributing less per-pupil under the Department’s MOEquity criteria. This cannot be what Congress intended when it added the MOEquity requirements into ARPA.

The March Letter raised additional concerns regarding the per-pupil calculation and Montana’s school funding formula. For example, Montana’s formula generally premises aid in the current fiscal year on enrollment from the most recent fiscal year. But that is problematic if



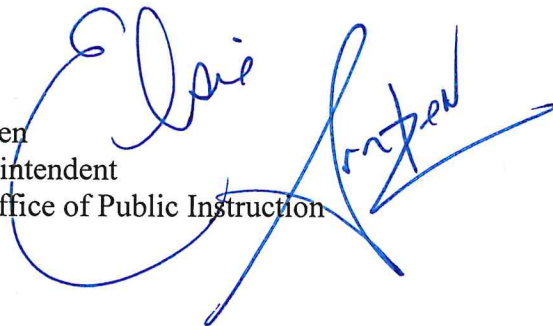
an LEA experienced an enrollment decline in FY 2019 (the comparison year for § 2004(b)(2)), because per-pupil spending will appear high in that year. This will create problems in subsequent years since funding is measured against current enrollment. Additionally, there are other aspects of the formula—such as per-school and per-district entitlements—that can produce distorted per-pupil results when there are large enrollment changes.

The Department's June FAQ has put the State of Montana in a no-win situation. Question 8 instructs SEAs to expeditiously award and allocate funds to LEAs—notwithstanding concerns about MOEquity data—because their availability is essential to the broader goal of advancing educational equity. But Montana does not want to find itself in violation of the Department's interpretation of the MOEquity provisions. And Montana lacks the ability to modify its school funding formula because until its Legislature returns in 2023.

The FAQ promises that the Department will work with States to provide technical assistance and address any unique needs during this initial implementation period. The OPI believes a technical assistance meeting is necessary as soon as possible to avoid running afoul of MOEquity requirements. The OPI cannot continue to implement ESSER III without first resolving the inconsistencies and uncertainties of the MOEquity requirement.

Sincerely,

Elsie Arntzen  
State Superintendent  
Montana Office of Public Instruction

A handwritten signature in blue ink, appearing to read 'Elsie Arntzen', is written over the typed name and title. The signature is fluid and cursive, with a long horizontal stroke at the end.