



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

November 24, 2021

The Honorable Angelica Allen-McMillan  
Acting Commissioner of Education  
New Jersey Department of Education  
100 River View Plaza  
P.O. Box 500  
Trenton, NJ 08625

Dear Acting Commissioner Allen-McMillan,

I am writing in response to your July 19, 2021, letter, and subsequent conversations with your staff regarding questions New Jersey is raising about the State maintenance of equity requirements in section 2004(b) of the American Rescue Plan (ARP) Act as they relate to New Jersey's elementary and secondary education funding model. As you know, as a condition of receiving Elementary and Secondary School Emergency Relief funds under the ARP Act (ARP ESSER funds), New Jersey assured that it would meet the requirements in section 2004(b) of the ARP for its high-need and highest-poverty local educational agencies (LEAs) in fiscal years (FYs) 2022 and 2023.

Per your letter, under State law, New Jersey's school funding formula included a form of "adjustment aid" that maintained one group of school districts at the level of State support that they received in the 2007-2008 school year, and that the State intended for these school districts to gradually increase their local share of funding for education. Therefore, in 2018, the State enacted P.L. 2018, c. 67 (or Chapter 67), which reduced this adjustment aid to these districts. We understand that New Jersey is now in the third year of a five-year phase-in of such reductions in adjustment aid, which impacts a number of school districts that meet the definition of high-need and/or highest-poverty LEAs.

Based on conversations with your staff, New Jersey's challenge in maintaining equity is beyond technical limitations with compliance. We understand that the New Jersey State legislature provided authority for the State to provide additional funding to high-need and highest-poverty LEAs in order to meet the requirements under section 2004(b) of the ARP Act. Specifically, we note that the Appropriations Handbook for the State's FY 2021-2022 enacted budget states that: "In addition to the amounts hereinabove appropriated, there are appropriated such additional amounts, subject to the approval of the Director of the Division of Budget and Accounting, as are determined to

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be required to satisfy federal maintenance-of-effort and maintenance-of-equity requirements pursuant to the American Rescue Plan Act of 2021.”<sup>1</sup>

In your July letter, you asked whether the State must “provide two separate pools of funding to ensure that highest-poverty LEAs are held harmless to the FY 2019 funding amount and ensure that the LEAs do not have a per pupil reduction from FY 2022 that is greater than the State average reduction.” New Jersey must ensure that its highest poverty LEAs receive at least the same amount of funding in FY 2022 and 2023 as provided in FY 2019 and do not have a disproportionate per pupil reduction in FY 2022 and 2023 compared to the overall State reduction for those years. The Department would expect that a State could remedy any under-allocation to a highest poverty LEA by allocating an additional amount of funding that would satisfy both maintenance of equity requirements in section 2004(b)(1) and (2) of the ARP Act. In other words, we expect that “two separate pools of funding” would not be necessary, as long as all maintenance of equity requirements are met by a single pool.

If you have specific questions on how to remedy such under allocations in New Jersey in order to meet the requirements in section 2004(b) of the ARP Act for both your high-need LEAs and your highest poverty LEAs, my staff is available to provide technical assistance as you review the allocations and data relevant to meeting this requirement.

Thank you for your commitment to maintaining equity in your State.

Sincerely,



Ian Rosenblum  
Deputy Assistant Secretary for Policy and Programs  
Delegated the Authority to Perform the  
Functions and Duties of the Assistant Secretary

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<sup>1</sup> See page E-9 at: <https://www.nj.gov/treasury/omb/publications/22approp/Final.pdf>.