



Via Electronic Mail

June 16, 2021

Honorable Paul Sarlo, Chair
Senate Budget and Appropriations Committee
State House Annex, Trenton, NJ
sensarlo@njleg.org

Honorable Eliana Pintor Marin
Assembly Budget Committee
State House Annex, Trenton, NJ
aswpintormarin@njleg.org

Re: American Rescue Plan Maintenance of Equity Requirement

Dear Senator Sarlo and Assemblywoman Pintor Marin:

Education Law Center (ELC) writes to bring to your attention an urgent matter related to New Jersey's receipt of \$2.5 billion in federal funds appropriated by Congress under the American Rescue Plan Elementary and Secondary School Emergency Relief (ARP ESSER) Fund to enable the state's public school districts, or local education agencies (LEAs), to address the extraordinary impact of the COVID-19 pandemic on their students and families, teachers and staff, and the communities they serve.

In enacting the ARP ESSR Fund, Congress conditioned the receipt of the \$2.5 billion in federal emergency relief funds on the New Jersey Department of Education's (NJDOE) compliance with a Maintenance of Equity (MOEq) requirement. As the United States Department of Education (USED) states in its recent guidance on MOEq, these provisions are "central to ensuring that essential resources are meeting the needs of students who have been subject to longstanding opportunity gaps in our education system."¹

The MOEq prohibits the NJDOE, as the State Education Agency (SEA), from disproportionately reducing per-pupil state funding to high-need districts. It also prohibits districts from disproportionately reducing funding to high-poverty schools. As the Legislature approaches finalizing state school funding for the 2021-22 school year in the FY2022 Budget, it is imperative

1. USED, Frequently Asked Questions, American Rescue Plan Elementary and Secondary School Emergency Relief (ESSER) Program, Maintenance of Equity (MOEquity) Requirements, June 2021, available at <https://oese.ed.gov/files/2021/06/21-0099-MOEq-FAQs.-FINAL.pdf>

that the State ensure the NJDOE's full compliance with the MOEq requirements so as not to jeopardize the districts' receipt of ARP ESSER funds.

With regard to state funding to districts, the MOEq prohibits the NJDOE from:

1. Disproportionately reducing state funding to its *high-need*² districts, and
2. Reducing per-pupil state funding to the *highest-poverty*³ districts below their FY2019 level.

As you are aware, Governor Phil Murphy's proposed FY2022 state budget includes reductions in state funding to numerous districts under the amendments to the School Funding Reform Act (SFRA) enacted in 2018, known as Senate Bill 2 (S2). Because the proposed budget, if enacted, would increase the overall average in per-pupil state funding, the MOEq requires that the difference in per-pupil state funding between FY2021 and FY2022 in any high-need district must not be below zero.

Our preliminary estimates⁴ show there are 71 high-need districts where state funding would be reduced below FY2021 levels as proscribed by the MOEq. We also estimate that approximately \$30 million in state funding is needed to bring these districts to flat per-pupil funding between FY2021 and FY2022 to satisfy the MOEq requirement.

Further, the MOEq requires per pupil state funding be maintained at FY2019 levels in districts that meet the highest poverty definition. We estimate that the Governor's proposed FY2022 budget would reduce funding below FY2019 levels in the ten highest-poverty districts. We further estimate that approximately \$143 million is needed to bring these districts into compliance with the MOEq.

The impact of COVID-19 on students across the state is severe and will continue for years to come. It is crucial that New Jersey is in full compliance with the MOEq requirements in ARP ESSER to ensure our most vulnerable students have the essential resources they need when schools reopen in September. As Congress has made clear, New Jersey districts, especially those serving a large population of low-income students, should not be faced with having less funding and fewer resources in 2021-22 than what was available in 2020-21 and 2019-20.

2. High-need LEAs are the state's highest poverty LEAs, when ranked by the U.S. Census Bureau's Small Area Income and Poverty Estimates (SAIPE) data, that collectively serve no less than 50% of the state's total enrollment of students.

3. Highest-poverty LEAs are the state's highest poverty LEAs, when ranked by the U.S. Census Bureau's Small Area Income and Poverty Estimates (SAIPE) data, that collectively serve no less than 20% of the state's total enrollment of students.

4. The formulas used to determine which districts meet the various MOEq definitions require some data not publicly available and, as a result, our estimates may differ slightly from those of the NJDOE. Our estimates use 2019 SAIPE poverty estimates with adjustments made for charter schools, for which SAIPE estimates do exist. However, we did not have access to other necessary data to create poverty rates for other districts outside the scope of the SAIPE data collection, such as County Vocational Districts. Their inclusion may change the highest poverty and high-need classifications for other districts. The comparison of per-pupil state funding relies on the FY2022 state aid notices and the NJDOE User Friendly Budgets but may diverge from the state expenditure data typically included in New Jersey's federal reporting.

To that end, we also recommend maintaining the \$50 million Stabilization Aid grant in the Governor's proposed budget. This will give districts facing funding reductions under S2, but not covered by the MOEq provisions, the opportunity, if necessary, to seek funds to prevent layoffs, meet health and safety standards, and avoid other educational disruptions in the coming year.

We stand ready to work with the Legislature and Governor Murphy to increase state funding to high-need districts, as outlined above, to ensure New Jersey complies with the MOEq requirement and does not put our high need districts at-risk of losing \$2.5 billion in urgently needed COVID-19 relief. This will also ensure that none of these districts experience a reduction in state funding in 2021-22, and will have the resources necessary to reopen schools safely for in-person instruction and put in place the staff, programs and services essential to bring all students back on track academically as quickly as possible.

Sincerely,



David Sciarra, Executive Director



Danielle Farrie, Research Director

cc: George Helmy, Governor's Chief of Staff
Acting Commissioner of Education Angelica Allen-McMillan
Senate President Stephen Sweeney
Assembly Speaker Craig Coughlin
Senate Education Committee Chair M. Teresa Ruiz
Assembly Education Committee Chair Pamela Lampitt