



♥ Ensuring a Place at the Table for Every Family

November 4, 2021

Submitted at: www.regulations.gov

Britt Jung, Deputy Assistant Secretary
Office of Elementary and Secondary Education
US Department of Education
Washington, DC

Re: **Request for Information Regarding Implementation of Maintenance of Equity Provision of the American Rescue Plan Act of 2021 published in the Federal Register Vol. 86., No. 190, pages 54881-54883, October 5, 2021. [ED-2021-OESE-0115]**

Dear Deputy Assistant Secretary Rosenblum:

On behalf of the National Center for Parent Leadership, Advocacy, and Community Empowerment (National PLACE), we are submitting these comments in response to the above-captioned RFI.

National PLACE and our 70 local, state and national member organizations are committed to ensuring that families and family-led organizations are at the table when decisions regarding children and families are being made, and that our voices, experiences, and perspectives meaningfully influence those decisions. We have reviewed the Request for Information Regarding Implementation of the Maintenance of Equity Provision of the American Rescue Plan of 2021 and include our thoughts below. Our primary goal is to strengthen the voice of families and family-led organizations at decision-making tables on issues impacting our nation's children and families, especially those who face the greatest challenges and have the poorest outcomes, including children with disabilities and special healthcare needs, children of color, immigrant children, low-income children, children with limited English proficiency, and LGBTQ+ children, and their families.

In addition to our comments below which are focused on the role of families of children, youth, and young adults and the family-led organizations that support them, National PLACE supports the comments of our member, The Advocacy Institute, which raises important questions about the potential negative implications of the maintenance of equity provision on children with disabilities including concerns about MOEquity requirements being a disincentive for inclusion with non-disabled peers. Many of National PLACE's members are Parent Centers (Parent Training and Information Centers and Community Parent Resource Centers) and/or Family to Family Health Information Centers that provide

information, training, and support for families who have children and youth with disabilities who could be negatively impacted by the MOEquity requirements in the ways identified by The Advocacy Institute.

We also echo the point raised by the coalition consisting of All4Ed, Center for American Progress, The Education Trust, National Center for Learning Disabilities, National Urban League, SchoolHouse Connection, Teach Plus, and UnidosUS, that “as ED implements MOEquity, it continues to effectively monitor and enforce other key provisions in ESSA that can also improve resource equity, including ensuring that states are publishing complete and timely school-level spending data on report cards and conducting resource allocation reviews.”

Introduction

We appreciate the opportunity to comment on the Maintenance of Equity provision in the ARP of 2021. Our members strongly support strong provisions to increase equity in school funding and certainly to ensure that ARP funds are used equitably to provide needed educational and support services to our nation’s most vulnerable children. An overall concern is that, despite provisions in the COVID-related education funding legislation and US Department of Education (US ED) guidance mandating stakeholder engagement in the process of deciding how funds will be spent, and a focus on ensuring that stakeholders representing the most vulnerable students and families are at the table, there has been, in most places, a lack of opportunities for such participation. While some of this may be explained by the quick turn-around required for state and subsequently district plans, not all of it can be laid at this door. National PLACE strongly urges the US ED to solicit information from each state about how it engaged diverse stakeholders, especially parents of the most vulnerable students, in their planning processes and in their requirements for districts to include stakeholders in decision-making at the local level.

Question 1: What types of state-specific considerations are relevant to the implementation of the State and local MOEquity provisions? What types of barriers exist to implementing the MOEquity provisions due to the State specific approach to education funding? How might guidance or potential rulemaking account for unique State education finance systems so that State MOEquity implementation will be consistent with the goal of maintaining equity?

In order to “maintain equity,” equity needs to have existed prior to the COVID-related funding, which is not the case. As US ED is well aware, our nation’s most vulnerable children are most likely to be in schools and districts that have long been underfunded and have historically faced a significant lack of equity. The responses to this RFI from states and districts indicating that they do not track and have no way of tracking compliance with maintenance of equity funding provisions is troubling, and provides glaring evidence of the problems with the current situation and the complete disregard in most states and districts of the importance of ensuring equitable funding for the most underserved students.

National PLACE strongly supports the MOEquity provisions as a way to protect high-need schools and districts from funding cuts due to the unequitable state and district funding systems and practices. Our members know too well that allocations outside the main funding formulas in many states and districts further exacerbate the inequities in those funding formulas. It is critical that US ED do everything in its power to ensure that the communities already facing the greatest inequities have the resources they need to support and address the instructional and academic, social-emotional, nutrition, and other needs of students. If state funding decisions result in allocations that would violate the MOEquity requirements, then those states must be held accountable to ensure that high-poverty or high-need districts do not experience per pupil funding cuts.

Question 2: How might this issue [LEAs with small enrollments may exhibit greater annual variations in

per pupil funding and other calculations based primarily on their size] be addressed to ensure the small size of an LEA does not render year-over-year comparisons unreliable, so that State MOEquity implementation will be consistent with the goal of maintaining equity?

While National PLACE is not opposed to allowing some flexibility to account for changes in per-student measures due to changes in enrollment in small districts, we are concerned about the vague language regarding the flexibility to determine that a state has maintained equity for small districts within a face-based “tolerance level.” We encourage the US ED to ensure greater consistency across states/ jurisdictions by providing additional and more detailed guidance on how a state/jurisdiction may analyze its data to determine the tolerance level and how a state may determine a reasonable maximum tolerance level based on that analysis. As our members clearly saw when the US ED’s definition of “disproportionality” in special education identification, placement, and discipline, leaving it up to states/ jurisdictions to make their own decisions too often leads to unacceptable levels of denial of inequity (for example, leading to situations where no state identified disproportionality, based on their definition that must have been developed in order to avoid having to identify inappropriate disproportionality!)

Question 3. Please identify any considerations that are relevant to implementation related to enrollment data and funding sources used in determining per-pupil funding. Are there safeguards that should be considered to ensure that State-specific enrollment methodologies (e.g., the use of hold harmless provisions or rolling averages) do not distort per-pupil funding levels? What data are SEAs and LEAs most likely to have available and rely on for conducting initial MOEquity considerations?

National PLACE recognizes that the pandemic continues to have impacts on school and district enrollment and will likely to continue to do so through the 2022-2023 school year. While some commenters have recommended that US ED extend all flexibilities offered to States and districts for meeting MOEquity requirements from FY 2022 into FY 2023, National PLACE has concerns about this recommendation, particularly given the multiple comments from States and districts that they do not currently track, nor do they have the capacity to track or report, information that would be required under the MOEquity provisions. Any consideration of extending flexibilities must also include provisions that would ensure that states and districts, if they do not currently collect, analyze/track and report on this information set up systems that would allow them to do so at the expiration of the additional year of flexibilities. Otherwise it is likely that we will hear the same complaints from year in another year.

Question 4. What factors should the Department be aware of related to the types of exceptional or uncontrollable circumstances [that may exempt an LEA from MOEquity requirements], both specific to FY 2022 implementation and, more generally, to ensure that such exceptions do not contradict the intent of the law and are consistent with the goal of maintaining equity?

National PLACE agrees with existing MOEquity guidance that not experiencing a reduction in state and local funds is an exceptional circumstance that justifies an exemption from the local MOEquity requirement for FY 2022. Other advocates have suggested that this is a helpful exemption that enables US ED to focus monitoring on ensuring that high poverty schools do not disproportionately shoulder the burden of funding or staffing cuts and have urged application of this exemption in FY 2023 so that districts that are not experiencing funding cuts continue to be exempted from MOEquity requirements. National PLACE remains concerned that just because a district does not experience funding cuts does not mean that particular schools within that district – especially the schools serving the most vulnerable students who have the least access to high quality services and the poorest outcomes – are not experiencing funding or staffing cuts. How will US ED monitor this situation? Will parents, parent and family organizations, and advocacy groups have a means to report these situations for follow-up?

Question 5. What other information or related issues should the Department consider to ensure that the purpose of the MOEquity provisions [to ensure that schools and LEAs serving large proportions of underserved groups of students receive an equitable share of State and local funds] are achieved?

The 70 national, state, and local members of National PLACE strongly support US ED's focus on ensuring that schools and districts serving large proportions of underserved groups of students receive an equitable share of state and local funds as we recover from the pandemic. We endorse other advocates' calls for US ED to consider other requirements to facilitate monitoring and enforcement of the state and district MOEquity provisions balanced with a review of all the other new and existing data collection and reporting requirements such as those in the ESSER use of funds data collection and the 2021-2022 US ED Civil Rights Data Collection.

Additional Recommendation

The members of National PLACE overwhelmingly provide information, training, support and advocacy for and on behalf of the most un/underserved children, youth and families, including those who are ill-served due to race, ethnicity, language, immigration status, geography, socio-economic status, homelessness, involvement in the child welfare and/or juvenile justice system, etc. Access to detailed demographic information is critical to our work and to families themselves. We strongly urge the US ED to ensure that such additional demographic information is publicly posted by states/jurisdictions and easily accessible to parents, families and communities in ways that are easy to understand. This must also be reported on state and local report cards along with the existing fiscal transparency data required under the Every Student Succeeds Act (ESSA).

Conclusion

In conclusion, we appreciate the opportunity to provide comments and recommendations regarding the US ED's RFI on MOEquity provisions in ARP. The members of National PLACE see daily the harmful impacts on children and families when inequitable funding policies and practices limit the resources available to educate the most vulnerable children. These funding inequities have had and will continue to have devastating impacts on the most vulnerable children and families, and on our larger society, for decades to come, unless we do something about it today.

Finally, National PLACE strongly recommends that any decisions made about these issues be made with the active and meaningful participation of representatives of the very children, parents and families who will be most impacted by these decisions as well as the family/parent, immigrant, disability, and other organizations that provide them with information and support and represent their interests. For any questions or for additional information about this letter and its recommendations, please contact Diana Autin, Executive Director of the National Center for Parent Leadership, Advocacy, and Community Empowerment (National PLACE), at dautin@parentsatthetable.org.

Sincerely:



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On behalf of National PLACE
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