

# Maintenance of Equity (MOEquity) Exception Guidance for Local Education Agencies

**Updated: March 30, 2022**

The American Rescue Plan (ARP) Act of 2021 (ARP) mandates an additional federal fiscal requirement, known as local maintenance of equity (MOEquity), previously referred to as MOQ). This requirement applies to all state educational agencies (SEAs) and local educational agencies (LEAs) that receive funding under the grants authorized by ARP § 2001. LEAs receiving ARP ESSER must meet two local-level MOEquity requirements for FY22 (school year 2021–22) and FY23 (school year 2022–23).

Each LEA must maintain equity for each “high-poverty school” as a condition of receiving ARP ESSER funds. Under ARP § 2004(c), for each school identified by the LEA as a high-poverty school, the LEA may not, in FY22 or FY23—

1. Reduce per-pupil funding (from combined State and local funding) by an amount that exceeds the total reduction, if any, in LEA per-pupil funding for all schools served by the LEA in such fiscal year; or
2. Reduce the number of FTE staff per-pupil by an amount that exceeds the total reduction, if any, in FTE staff per-pupil in all schools served by the LEA in such fiscal year.

As described in ARP § 2004(c)(2), an LEA need not maintain equity if the LEA:

1. Has a total enrollment of fewer than 1,000 students;
2. Operates a single school;
3. Serves all students within each grade span with a single school;
4. Demonstrates an exceptional or uncontrollable circumstance\*.

**LEAs that meet these characteristics for exception are except from both the funding equity test and the staffing equity test.**

LEAs that meet exception criteria 1-3 above are automatically exempted from MOEquity requirements for calculating fiscal or staffing equity and are not required to submit documentation to the state or ED to claim the exception. However, the Tennessee Department of Education (department) advises that automatically exempted LEAs maintain documentation supporting their exception in case it is requested during an audit or monitoring review.

## Tennessee Local Education Agencies Exempt from MOEquity

Using LEA data submitted in the **FY22 Consolidated ESSA Federal Grant Application**, the department generated the following list of LEAs that meet at least one of exception criteria 1-3 listed above.

LEA Name	Region of the State	Exception Category
Alamo	West	One School in the LEA
Alcoa City	East	One School per grade span
Alvin C. York Institute	Middle	One School in the LEA
Bells	West	One School in the LEA
Bradford Special School District	West	One School per grade span

LEA Name	Region of the State	Exception Category
Clinton City	East	Fewer than 1,000 students
Dayton City	East	One School in the LEA
DeKalb County	Middle	One school per grade span
Dyersburg City	West	One school per grade span
Etowah City	East	One School in the LEA
Fayetteville City	Middle	One school per grade span
Hancock County	East	One school per grade span
Haywood County	West	One school per grade span
Hollow Rock - Bruceton	West	One school per grade span
Humboldt City Schools	West	One school per grade span
Huntingdon Special School District	West	One school per grade span
Jackson County	Middle	One school per grade span
Lake County	West	One school per grade span
Lakeland	West	One school per grade span
Lenoir City	East	One school per grade span
Lewis County	Middle	One school per grade span
Lexington City	West	One school per grade span
Macon County	Middle	One school per grade span
McKenzie Special School District	West	One school per grade span
Millington Municipal Schools	West	One school per grade span
Moore County	Middle	One school per grade span
Newport City	East	One School in the LEA
Oneida Special School District	East	One school per grade span
Paris Special School District	West	One school per grade span
Perry County	West	Fewer than 1,000 students
Pickett County	Middle	One school per grade span
Richard City	East	One School in the LEA
Rogersville City	East	One School in the LEA
South Carroll	West	One School in the LEA
Sequatchie County	East	One school per grade span
Sweetwater City	East	One school per grade span
Tennessee Public Charter School Commission	Middle	One school per grade span
Tennessee School for the Blind	Middle	One school in the LEA
Tennessee School for the Deaf	East	One school per grade span
Trenton Special School District	West	One school per grade span
Trousdale County	Middle	One school per grade span
Union City	West	One school per grade span
Van Buren County	Middle	One school per grade span
West Carroll Special School District	West	One school per grade span
West Tennessee School for the Deaf	West	One school in the LEA

## Qualification for U.S. Department of Education Exception Based on “*Exceptional or Uncontrollable Circumstances*”

The U.S. Department of Education (ED) anticipates very few “exceptional or uncontrollable circumstances” that would prevent an LEA from maintaining equity. As a result, each claim of exception will require case-by-case review by ED. Demonstrating “an exceptional or uncontrollable circumstance,” is defined in guidance as:

- unpredictable changes in student enrollment,
- a precipitous decline in the financial resources of the LEA, or
- one-time exemption for increased FY22 (school year 2021-22) budget.

LEAs must document the intention to apply to ED for an exception by completing and submitting [Appendix A and providing an explanation on LEA letterhead](#). Note that ED will request the LEA’s financial data from the department as part of the process for reviewing the exception request.

An LEA that chooses to apply to ED for an exception must follow these steps:

- Notify [Debby Thompson](#) of the LEA’s intent to apply for the exception by submitting [Appendix A](#) via email to [Deborah.Thompson@tn.gov](mailto:Deborah.Thompson@tn.gov).
- Email a letter documenting the LEA’s “exceptional or uncontrollable circumstances” to ED at [Tennessee.OESE@ed.gov](mailto:Tennessee.OESE@ed.gov), copying [Deborah.Thompson@tn.gov](mailto:Deborah.Thompson@tn.gov). Upload Appendix A and the documenting letter to ePlan > LEA Document Library > ESSER 1.0, 2.0 and 3.0 Documents > Maintenance of Equity > Exception Based on Exceptional or Uncontrollable Circumstance.

### \* **LEA Exception Based on *No Aggregate Budget Reduction***

Upon gathering further information from States and LEAs, the [U.S. Department of Education] understands that many localities are still facing fluctuating school enrollments and uncertain revenue collection as a result of the pandemic, particularly tax levies or other local resources that are established well in advance of the 2022-23 school year. Given such challenges due to the pandemic, the Department has determined that these circumstances continue to be an example of “exceptional or uncontrollable circumstances” that justify a limited exception to the local MOEquity requirements for the 2022–23 school year in instances in which there is no aggregate reduction in combined State and local per pupil funding in FY 2023 in the LEA.

In accordance with information provided by U.S. Department of Education (ED) in Maintenance of Equity: Frequently Asked Questions, Appendix B, an LEA may self-certify its exception from MOEquity. An LEA may demonstrate that it is excepted from the LEA MOEquity requirements for FY22 by certifying that it did not and will not implement an aggregate reduction in combined state and local per-pupil funding in FY22 (that is, the LEA is not facing overall budget reductions).

An LEA that chooses to self-certify must determine what documentation supports its claim that it implemented no aggregate reduction. That documentation is maintained locally. The LEA does not submit its supporting documentation to the department, but it may be requested later.

LEAs that choose to self-certify their compliance with MOEquity must follow these steps:

- Notify Debby Thompson of the LEA's intent to apply for the exception by submitting Appendix B via email to [Deborah.Thompson@tn.gov](mailto:Deborah.Thompson@tn.gov), and
- Upload the document to ePlan > LEA Document Library > ESSER 1.0, 2.0 and 3.0 Documents > Maintenance of Equity > Exception Based on No Aggregate Budget Reduction

LEAs must fill out Appendix B and submit in ePlan by **Oct. 1, 2022**. Appendix B will apply for FY 2022, FY 2023, or both FYs 2022 and 2023. MOEquity Requirement if approved by the department.

## Appendix A: Exception Based on Exceptional or Uncontrollable Circumstance

### 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, FY 2023, or both FYs 2022 and 2023.

**LEA Name:** \_\_\_\_\_

**State:** \_\_\_\_\_

On behalf of my local educational agency (LEA), I

\_\_\_\_\_ **(name),**

\_\_\_\_\_ **(title),** certify that for the:

**2021-2022 school year (FY 22)**

**2022-2023 school year (FY 23)**

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: \_\_\_\_\_

## Appendix B: Exception Based on No Aggregate Budget Reduction

### American Rescue Plan

#### LEA Certification of Exception from Local Maintenance of Equity Requirements

Please submit this certification to your SEA 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, FY 2023, or both FYs 2022 and 2023.

**LEA Name:** \_\_\_\_\_

**State:** \_\_\_\_\_

On behalf of my local educational agency (LEA), I

\_\_\_\_\_ **(name),**

\_\_\_\_\_ **(title),** certify that for the:

**2021-2022 school year (FY 22)**

**2022-2023 school year (FY 23)**

the LEA will not implement an aggregate reduction in combined State and local per-pupil funding for the relevant fiscal year(s). 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: \_\_\_\_\_