

November 2, 2021

Ms. Britt Jung
U.S. Department of Education
400 Maryland Avenue, SW Room 3W113
Washington, DC 20202

Re: ED Docket No. ED–2021–OESE-0116-0007

Dear Ms. Jung:

I write on behalf of AASA, The School Superintendents Association (AASA) in response to the data collection requirements for the Maintenance of Equity (MoEq) provisions in the Elementary and Secondary School Emergency Relief (ESSER) Fund. AASA is the nonpartisan national organization representing public school superintendents; the core of our work is advocating for equitable access for all students to the highest quality public education.

The superintendents we represent and the public school systems and students they serve have endured a year and a half unlike any other in their careers or lifetimes. Faced with the unprecedented nature of the COVID-19 pandemic and how it up-ended everything considered normal meant educational leadership was vital. Related to this, the school superintendents remain grateful for the assistance provided to support local education agencies via the three appropriations of ESSER funds. School superintendents are putting ESSER funds to use in myriad ways focused on equity; learning recovery; safe reopening; COVID mitigation; and addressing community, family and student needs, among others. The important work of investing these dollars responsibly works in tandem with the effort to ensure detailed information on how and where those dollars are spent is collected and available to support evaluation of the policies and funding available from Congress, as well as the efficacy, equity and efficiency of the programs, supports and services schools access.

While the data collection in this requirement rests at the state level, the reality of implementation means that the responsibility will be shared by state and local education agencies (SEAs, LEAs) alike. State data collection does not happen in a vacuum and the scope of data collection—that is, the extent to which the data collection requires LEA-level detail—means that the data collection has a direct impact on LEAs. To that end, we align ourselves with the constructive feedback submitted by the Council of Chief State School Officers (CCSSO) as well as the comments from the National Association of ESEA State Program Administrators (NAESPA). We submit these comments to reiterate the importance of the data collection as well as avoiding unnecessary burden, complication or overreach.

The proposed ESSER MoEq data collection has problems that are in conflict with the of goal of collecting valid, reliable and timely data:

1. The proposed rule is not based in an understanding of how SEA and LEA data systems operate. SEAs are not positioned to ensure LEA data is accurate. The rule includes a flawed assumption that states are already collecting and retaining the relevant MoEq data; this is simply not the case. Any data on LEA MoEq are locally managed, and involve processes that are not typically collected, reviewed, or overseen by SEAs. Illustrating this point: an initial inquiry in October 2021 by EduNomics found that at least 29 states definitely do not have the school-by-school data this proposal would require. Conversely, only **one** state (Maine) indicated they have the capacity. SEAs and LEAs would have to create new data reporting systems

to comply with this data collection, an effort that would cost time and money. Every dollar and hour spent on this data collection is a dollar and hour unavailable for supporting student recovery.

2. The reporting timeline in requirements (a) and (b) are not feasible. The requirement proposes a timeline that could be reasonably interpreted to mean SEAs have to report FY22 MoEq data by December 31, 2021. This is not feasible: it is a mere 7 weeks from the closing of the filing period for comments on this data collection, which still need to be finalized and published. Further, USED continues to modify and tweak its guidance on MoEq (most recently in October 2021, following previous revisions in August and June). These updates impact local calculation timelines. It is likely LEAs may not have sufficient enrollment, expenditure, forecasting, or budget data to perform calculations by then, much less report the data to SEAs. In proposing data collections, USED would be well informed to refer to and align with similar data collections. In this instance, that would be the Every Student Succeeds Act's per-pupil expenditure reporting requirements. This provision reports on the *preceding* fiscal year's per pupil expenditures, in conjunction with the Department's Report Card Guidance at Q&A H-13, and provides a very feasible and realistic timeline, recognizing variability in state audit and reporting systems.
3. SEAs lack sufficient technical information from USED to reliably determine if LEA-level MoEq calculations are consistent with the ARP. MOEquity is a new rule as of March 2021, and USED's interpretation of how the rule should be complied with continues to evolve (see previous reference to three substantive updates in the last five months alone!). States are working with the USED to understand the compliance expectations, but many technical questions remain unaddressed. Until USED's expectations are clear, it will remain difficult for SEAs to ensure LEA data are accurate and consistent with ARP.

In closing, we strongly urge the Department to retract or substantially revise the proposed reporting rule as fundamentally incompatible with state and local systems and functionally impossible to implement as proposed. Thank you for the opportunity to provide feedback on this data collection. We look forward to seeing these recommendations reflected in the final requirement. If we can be of further assistance, do not hesitate to contact me.

Sincerely,



Noelle Ellerson Ng
Associate Executive Director, Advocacy & Governance
AASA, The School Superintendents Association