



**#241-21**

**Commonwealth of Virginia  
Virginia Department of Education  
Superintendent's Memo #241-21**

DATE: August 27, 2021  
TO: Division Superintendents  
FROM: James F. Lane, Ed.D., Superintendent of Public Instruction  
SUBJECT: Updated Guidance on ESSER III Maintenance of Equity

On August 6, 2021, the U.S. Department of Education released [updated guidance on the Maintenance of Equity requirement](#) in the American Rescue Plan (ARP) Act Elementary and Secondary School Emergency Relief (ESSER) program. In the revised guidance, questions 17, 18, 26, and 32 were revised, and questions 19a, 26a, and Appendix B were added. The updated guidance does not impact information previously shared about the requirement to identify high poverty schools (see [Superintendent's Memorandum #206-21](#)). As a reminder, each school division must submit the completed [Maintenance of Equity tool to identify high poverty schools](#) to [VDOEfederalrelief@doe.virginia.gov](mailto:VDOEfederalrelief@doe.virginia.gov) by **September 10, 2021**.

Question 26 of the guidance clarifies that a school division may exclude certain one-time disbursements from its calculation of per-pupil funding.

*The LEA must use consistent funding sources from year to year and document its sources of data. As a result, if an LEA can document a one-time disbursement for a specific purpose (e.g., a revenue surplus that was distributed only for one year), then those funds may be excluded from MOEquity calculations. These data should be consistent with sources of State and local funding that an LEA uses to report for the purposes of per-pupil expenditures in section 1111(h)(1)(C)(x) of the ESEA.*

Question 32 provides a condition under which a school division may request an exemption from the Maintenance of Equity requirement for Fiscal Year (FY) 2022.

*For FY 2022 MOEquity determinations, the Department recognizes that LEAs may face certain one-time implementation challenges due to the enactment of the ARP Act in March 2021—when LEA budgeting was well-underway in many places—and the impact of the pandemic, which has resulted in significant ongoing uncertainty about school-level enrollment for the 2021-2022 school year. Given such unique timing and implementation challenges due to the pandemic, the Department has determined that these circumstances are an example of “exceptional or uncontrollable circumstances” that justify a limited exception to the local MOEquity requirements for the 2021-2022 school year. Therefore, an LEA experiencing these circumstances may demonstrate that it is excepted from the MOEquity requirements for FY 2022 by certifying to the Department that it did not and will not implement an aggregate reduction in combined State and local per-pupil funding in FY 2022 (i.e., is not facing overall budget reductions).*

### For more information

Additional information about the Maintenance of Equity calculation, reporting, and exemption request processes will be shared with school divisions in the near future. Questions about the ARP Act ESSER III Maintenance of Equity provisions should be directed to [VDOEfederalrelief@doe.virginia.gov](mailto:VDOEfederalrelief@doe.virginia.gov).

JFL/LS