



STATE OF SOUTH CAROLINA
DEPARTMENT OF EDUCATION

MOLLY M. SPEARMAN
STATE SUPERINTENDENT OF EDUCATION

MEMORANDUM

TO: Chief Financial Officers
Federal Program Directors

FROM: Dr. Sarah Longshore
Director, Office of Federal and State Accountability

Jewell Stanley
Assistant Director, Office of Federal and State Accountability

DATE: June 21, 2022

RE: Maintenance of Effort Requirements

The purpose of this memorandum is to provide clarifying information regarding districts' responsibilities for meeting the Maintenance of Effort (MOE) requirements under the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA), as well as guidance should this requirement not be met.

All statutory and regulatory requirements for districts meeting the ESEA MOE requirements remain in effect for the 2021-22 school year and all subsequent school years in the foreseeable future.

Pursuant to Section 8521 of the ESEA, "a local educational agency may receive funds under a covered program [i.e., Title I, Part A, Title I, Part D, Title II, Part A, etc.] for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of the agency [LEA] and the State with respect to the provision of free public education by the agency [LEA] for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year...."

If a district is unsure whether it will be able to meet the MOE requirement for the 2021-22 school year, it is advised that the district finance and Title I personnel review its calculations and make any necessary adjustments to ensure that MOE will be met for the 2021-22 year, as well as to construct a plan to meet this requirement in subsequent years.

If it is determined that the district is unable to adjust expenditures and uses of funds to meet the MOE requirement, the district may request a waiver from the United States Department of Education (ED). In order to obtain a waiver, the LEA must be able to demonstrate:

- (1) exceptional or uncontrollable circumstances, such as a natural disaster or a change in the organizational structure of the LEA; or
- (2) a precipitous decline in the financial resources of the local educational agency.

ED normally sets a high bar for determining when a circumstance is truly “exceptional” or “uncontrollable,” so not all districts who apply for a waiver will receive one. The district must be able to demonstrate that its situation is unique from other districts and provide applicable documentation and data demonstrating the need for the waiver. Should the district be granted a waiver by ED, the district will be considered to have met the MOE requirement for that year. Therefore, the district would be free to utilize the penalty-free option for a waiver granted by the South Carolina Department of Education (SCDE) in the subsequent year, if needed (ESEA section 8521(b)(1)).

If the waiver is not approved by ED, the district may still request the penalty-free waiver through the SCDE, which is available once every five years. If such a waiver is granted by the SCDE, the district must be able to meet the dollar amount that should have been attained in the year MOE was not met. In other words, the district must make up for the deficit and meet MOE for the subsequent year after the year for which the waiver was granted.

Please note that the penalty for not meeting MOE is a reduction in the district’s ESEA funding by the percentage of the deficit for each ESEA program for which it receives an allocation. These programs may include Title I, Part A; Title I, Part D; Title II, Part A; Title III, Part A; Title IV, Part B; Title V, Part B, Subpart 2; and Title VI, Part A, Subpart 1. The SCDE’s goal is to assist districts in avoiding this penalty.

More information about MOE can be found on the [SCDE website](#). For questions or assistance, contact Greg King at gking@ed.sc.gov.