

person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

#### V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <https://www.regulations.gov/privacyNotice>.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

#### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 100 as follows:

#### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add a temporary § 100.T799–0582 to read as follows:

#### § 100.T799–0582 Special Local Regulation; RWO World Championship, Key West, FL.

(a) *Locations.* The following regulated areas are established as special local regulations. All coordinates are North American Datum 1983.

(1) *Race and Safety Buffer Area.* Waters of the Atlantic Ocean of Key West, FL that are encompassed within the following points: Starting at Point 1 in position 24°32.506' N, 81°49.984' W; thence southwest to Point 2 in position 24°32.455' N, 81°49.040' W; thence northwest to Point 3 in position 24°32.559' N, 81°49.584' W; thence northwest to Point 4 in position 24°32.608' N, 81°49.628' W; thence northwest to Point 5 in position 24°33.095' N, 81°49.265' W; thence northeast to Point 6 in position 24°33.518' N, 81°48.902' W; thence northeast to Point 7 in position 24°33.908' N, 81°48.448' W; thence east to Point 8 in position 24°33.898' N, 81°48.364' W; thence southeast back to origin.

(2) *Spectator Area.* All waters of the Atlantic Ocean in Key West, FL that are encompassed within the following points: Starting at Point 1 in position 24°33.123' N, 81°49.290' W; thence northeast to Point 2 in position 24°33.545' N, 81°48.923' W; thence east to Point 3 in position 24°33.518' N, 81°48.902' W thence southwest to point 4 in position 24°33.095' N, 81°49.265' W thence west back to origin.

(b) *Definition.* As used in this section, the term “designated representative” means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Key West in the enforcement of the safety zone.

(c) *Regulations.*

(1) All non-participant persons and vessels, except those persons and vessels participating in the high-speed boat races, are prohibited from entering, transiting through, anchoring in, or remaining within the regulated areas described in paragraph (a) of this section unless authorized by the Captain of the Port Key West or their designated representative.

(2) All persons are prohibited from entering the water or swimming in the spectator area described in paragraph (a)(2) of this section.

(3) All vessels are prohibited from transiting at speeds that cause wake within the spectator area described in paragraph (a)(2) of this section.

(4) To seek permission to enter, contact the Captain of the Port Key West or a designated representative by

telephone at (305) 433–0954, or via VHF radio on channel 16. If authorization is granted by the Captain of the Port Key West or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Key West or a designated representative.

(5) The Coast Guard will provide notice of the regulated area by Broadcast Notice to Mariners and on-scene designated representatives.

(d) *Enforcement Period.* This section will be enforced from 9:30 a.m. until 4:30 p.m. each day on November 10, 12, and 14, 2021.

Dated: September 29, 2021.

**A. Chamie,**

*Captain, U.S. Coast Guard, Captain of the Port Key West.*

[FR Doc. 2021–21575 Filed 10–4–21; 8:45 am]

**BILLING CODE 9110–04–P**

#### DEPARTMENT OF EDUCATION

#### 34 CFR Chapter II

[ED–2021–OESE–0115]

#### Request for Information Regarding the Implementation of Maintenance of Equity Provisions in the American Rescue Plan Act of 2021

**AGENCY:** Office of Elementary and Secondary Education, U.S. Department of Education.

**ACTION:** Request for information.

**SUMMARY:** The U.S. Department of Education (Department) is requesting information in the form of written comments regarding implementation of the statutory requirements for the American Rescue Plan Elementary and Secondary School Emergency Relief (ARP ESSER) Fund, under the American Rescue Plan (ARP) Act of 2021, that each State educational agency (SEA) and each local educational agency (LEA) that receives ARP ESSER funds maintain equity. Information received through this request may be used to assist the Department in preparing further guidance, providing technical assistance, engaging in potential rulemaking, and developing other resources.

**DATES:** We must receive your comments on or before November 4, 2021.

**ADDRESSES:** Submit your response to this request for information (RFI) through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive

duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

**Federal eRulemaking Portal:** Go to [www.regulations.gov](http://www.regulations.gov) to submit your comments electronically. Information on using [Regulations.gov](http://Regulations.gov), including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under “FAQ.”

**Postal Mail, Commercial Delivery, or Hand Delivery:** If you mail or deliver your comments in response to the request for information, address them to U.S. Department of Education, 400 Maryland Avenue SW, Room 3W113, Washington, DC 20202. Mailed comments must be postmarked by November 4, 2021, to be accepted.

**Privacy Note:** The Department’s policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

This is a request for information only. This RFI is not a request for proposals (RFP) or a promise to issue an RFP or a notice inviting applications. This RFI does not commit the Department to contract for any supply or service whatsoever. Further, we are not seeking proposals and will not accept unsolicited proposals. The Department will not pay for any information or administrative costs that you may incur in responding to this RFI. The documents and information submitted in response to this RFI become the property of the U.S. Government and will not be returned.

**FOR FURTHER INFORMATION CONTACT:** Britt Jung, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: (202) 453–5563. Email: [ESSERF@ed.gov](mailto:ESSERF@ed.gov).

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll-free, at 1–800–877–8339.

#### SUPPLEMENTARY INFORMATION:

**Background:** The ARP Act provides a total of nearly \$122 billion via the ARP ESSER Fund to SEAs and LEAs to help schools return safely to in-person instruction; sustain the safe operation of schools; and address the social, emotional, mental health, and academic impacts of the COVID–19 pandemic on the Nation’s students.

Section 2004 of the ARP Act includes maintenance of equity (MOEquity) provisions that are a condition for an SEA and LEA to receive funds under the ARP ESSER Fund. Under section 2004(b) of the ARP Act, the MOEquity provisions ensure that an SEA does not disproportionately reduce State funding in fiscal years (FYs) 2022 and 2023 for LEAs serving a large share of students from low-income families and, for the highest-poverty LEAs, does not decrease State funding below their FY 2019 level. Similarly, under section 2004(c) of the ARP Act, the MOEquity provisions ensure that each LEA safeguards its high-poverty schools from disproportionate reductions to funding and staffing.

On June 9, 2021, the Department published Frequently Asked Questions on the MOEquity requirements (which the Department updated on August 6, 2021),<sup>1</sup> providing detailed guidance on how each SEA and LEA can comply with the MOEquity provisions.

Since issuing the guidance, the Department has continued to engage with a wide array of stakeholders to understand the opportunities and challenges related to MOEquity implementation within the context of the coronavirus disease 2019 (COVID–19) pandemic. The Department is eager to learn from the experiences and perspectives of SEAs, LEAs, and other stakeholders. We are, therefore, issuing this RFI to invite public comment on a range of MOEquity implementation questions. At the same time, the Department is publishing elsewhere in this issue of the **Federal Register** a Notice of Proposed Requirements (NPR) that would require each SEA to make publicly available information on how each LEA in the State is maintaining fiscal and staffing equity to ensure public transparency and accountability for the implementation of the MOEquity provisions.

**Invitation to Comment:** The Department is committed to supporting SEAs and LEAs in implementing the ARP Act MOEquity provisions with fidelity to the law. The Department recognizes that each State’s education finance system is unique and that additional guidance may be needed regarding how to apply the MOEquity requirements with fidelity in the context of specific and varied State circumstances.

To help inform its support for SEAs and LEAs in implementing the

MOEquity provisions, the Department is seeking input from the public. The Department is interested in responses to the specific questions below, as well as additional information and perspectives on MOEquity implementation. Because this RFI is intended to inform further guidance and any potential rulemaking, the Department does not anticipate responding to each comment received. When responding to this RFI, please address one or more of the following questions:

1. The Department is aware that each State’s K–12 education funding system is unique and that State-specific considerations may impact how an SEA implements MOEquity requirements in a manner that is both meaningful and meets the technical requirements of the ARP Act. What types of State-specific considerations (e.g., funding mechanisms, definitions of revenue sources, etc.) 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?

2. The Department recognizes that LEAs with small enrollments may exhibit greater annual variation in per-pupil funding and other calculations based primarily on their size. How might this issue 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?

3. MOEquity requires comparisons of “per-pupil funding.” 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 do not distort per-pupil funding levels (e.g., the use of hold harmless provisions or rolling averages)? Since MOEquity calculations are important to inform budget allocation decisions, what data are SEAs and LEAs most likely to have available and rely on for conducting initial MOEquity calculations?

4. LEAs may be exempted from MOEquity requirements per the ARP Act based on “exceptional or uncontrollable circumstance[s].” What factors should the Department be aware of related to the types of exceptional or

<sup>1</sup> See [https://oese.ed.gov/files/2021/08/Maintenance-of-Equity-updated-FAQs\\_final\\_08.06.2021.pdf](https://oese.ed.gov/files/2021/08/Maintenance-of-Equity-updated-FAQs_final_08.06.2021.pdf). (Maintenance of Equity Frequently Asked Questions).

uncontrollable circumstances, 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?

5. The purpose of the MOEquity provisions is to ensure that schools and LEAs serving large proportions of underserved groups of students—including students from low-income families, students of color, English learners, students with disabilities, and students experiencing homelessness—receive an equitable share of State and local funds as the Nation continues to respond to the COVID-19 pandemic's impact. In light of this purpose, what other information or related issues should the Department consider to ensure that the purpose of the MOEquity provisions are achieved?

*Accessible Format:* On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at [www.govinfo.gov](http://www.govinfo.gov). At this site you can view this document, as well as all other documents of the Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

**Ian Rosenblum,**

*Deputy Assistant Secretary for Policy and Programs Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. 2021-21766 Filed 10-4-21; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF EDUCATION

### 34 CFR Chapter II

[Docket ID ED-2021-OESE-0116]

#### Proposed Requirement—American Rescue Plan Act Elementary and Secondary School Emergency Relief Fund

**AGENCY:** Office of Elementary and Secondary Education, Department of Education.

**ACTION:** Proposed requirement.

**SUMMARY:** The Department of Education (Department) proposes a requirement for the American Rescue Plan Elementary and Secondary School Emergency Relief (ARP ESSER) Fund, under the American Rescue Plan Act of 2021 (ARP Act). This requirement is intended to promote accountability and transparency and ensure that each State educational agency (SEA) and each local educational agency (LEA) meets the statutory requirement to maintain equity.

**DATES:** We must receive your comments on or before November 4, 2021.

**ADDRESSES:** Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to [www.regulations.gov](http://www.regulations.gov) to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "FAQ."

- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about the proposed requirement, address them to U.S. Department of Education, 400 Maryland Avenue SW, Room 3W113, Washington, DC 20202.

*Privacy Note:* The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

**FOR FURTHER INFORMATION CONTACT:** Britt Jung, U.S. Department of Education, 400 Maryland Avenue SW, Room 3W113,

Washington, DC 20202. Telephone: (202) 453-5563. Email: [ESSERF@ed.gov](mailto:ESSERF@ed.gov).

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll-free, at 1-800-877-8339.

#### SUPPLEMENTARY INFORMATION:

*Invitation to Comment:* We invite you to submit comments regarding the proposed requirement. To ensure that your comments have maximum effect in developing the requirement, we urge you to clearly identify the specific section of the proposed requirement that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from the proposed requirement. In addition to your general comments and recommended clarifications, we seek input on (i) what demographic information (*e.g.*, poverty status, race/ethnicity, students with disabilities, and English learners) LEAs should publicly post on the schools the LEA identifies as high-poverty schools as noted in proposed requirement (a)(2) and (ii) on any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of our programs.

During and after the comment period, you may inspect all public comments about the proposed requirement by accessing *Regulations.gov*. Due to the novel coronavirus 2019 (COVID-19) pandemic, the Department buildings are currently not open to the public. However, upon reopening you may also inspect the comments in person in room 3C124, 400 Maryland Avenue SW, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

At the same time the Department is publishing this Notice of Proposed Requirement, it is publishing a Request For Information (RFI) to help inform its support for SEAs and LEAs in implementing the MOEquity provisions. Through the RFI, the Department is seeking input from the public with respect to specific questions as well as additional information and perspectives on MOEquity implementation.

*Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record:* On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other