



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

May 28, 2021

Carolyn Stanford Taylor
State Superintendent
Wisconsin Department of Public Instruction
125 S. Webster Street
Madison, WI 53703

Dear Superintendent Stanford Taylor:

It has come to our attention that the Wisconsin legislature is considering an omnibus motion as it finalizes the State's 2021-2023 biennial budget. It is our understanding that, as part of this motion, the State would transfer \$350 million from Wisconsin's general fund to a budget stabilization fund in the second year of the biennium. These funds would be available for appropriation by the legislature for K-12 education or for any other purpose. We are concerned that this proposal may have an impact on the ability of the State and its local educational agencies (LEAs) to comply with Federal fiscal requirements if the funds, in fact, are not appropriated for K-12 education.

Each of the Federal pandemic relief statutes – the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (the CRRSA Act), and the American Rescue Plan Act of 2021 (the ARP Act) – contain maintenance of effort (MOE) requirements that apply to States that receive Federal education support. Specifically, as a condition of receiving funds under the Elementary and Secondary School Emergency Relief (ESSER) Fund and the Governor's Emergency Education Relief (GEER) Fund, Wisconsin assured that it would maintain State fiscal effort for both elementary and secondary education and for higher education in fiscal years (FYs) 2020 through 2023. These provisions are designed to ensure that States do not reduce support for education because of the influx of Federal financial assistance and that students receive the much-needed supports and services that the additional Federal resources are intended to provide.

The failure of the Wisconsin legislature to appropriate sufficient levels of funds specifically for K-12 education may preclude the State from meeting applicable MOE requirements. Specifically, Wisconsin may not consider funds that the legislature transfers to the budget stabilization fund to be State support for K-12 education until such time as those funds are appropriated by the legislature for the sole purpose of supporting K-12 education and made available to school districts for their use during the applicable fiscal year. Consequently, the \$350 million that the State might transfer to the budget stabilization fund may not be considered

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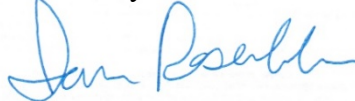
The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

State support for education at the time of the transfer unless it is actually appropriated for K-12 education for the applicable fiscal year and not “for any other purpose.”

Please note that, in addition to the MOE requirements in the pandemic relief programs, a number of other Federal education programs, such as Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA), contain MOE requirements for which Wisconsin assures that the State or its LEAs, as applicable, will annually maintain fiscal effort. The failure of the legislature to appropriate sufficient levels of funds to support K-12 education may impact the ability of the State and its LEAs to meet MOE requirements under those programs.

The Department will continue to closely review and monitor whether Wisconsin is meeting all Federal fiscal requirements. We are available to answer any questions that you and your staff may have, and we look forward to working with you to ensure that Federal education funds are used to meet the critical needs of students, especially underserved students who are disproportionately impacted by the pandemic.

Sincerely,



Ian Rosenblum

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

cc: The Honorable Governor Tony Evers