

## Comparing the Maintenance of Effort Requirements in the CARES Act, the CRRSA Act, and the ARP Act<sup>1</sup>

This chart outlines the main similarities and differences between the maintenance of effort (MOE) requirements in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA Act), and the American Rescue Plan Act of 2021 (ARP Act). The MOE requirements for the CRRSA Act and the ARP Act are included in the same column because the requirements under the two statutes are the same, except that the ARP Act extends the CRRSA Act requirements for an additional fiscal year.

Topic	CARES Act ( <a href="#">Section 18008</a> )	CRRSA Act (Division M, <a href="#">Section 317</a> ) & ARP Act ( <a href="#">Section 2004(a)</a> )
<b>Programs Subject to MOE</b>	Elementary and Secondary School Emergency Relief Fund (ESSER), Governor’s Emergency Education Relief Fund (GEER).	<u>CRRSA Act</u> : ESSER II, GEER II, Emergency Assistance to Non-Public Schools (EANS) program.  <u>ARP Act</u> : ARP ESSER. The requirements do not apply to ARP EANS.
<b>MOE Requirements</b>	A State that receives ESSER or GEER funds under the CARES Act must: <ol style="list-style-type: none"> <li>1. Maintain State support for elementary and secondary education in each of <i>fiscal years (FYs) 2020 and 2021</i> at least at the level of such support that is the average of State support for elementary and secondary education for FYs 2017, 2018, 2019; and</li> <li>2. Maintain State support for higher education in each of <i>FYs 2020 and 2021</i> at least at the level of such support that is the average of State support for higher education for FYs 2017, 2018, and 2019.</li> </ol>	<u>CRRSA Act</u> : A State that receives ESSER II, GEER II, or EANS funds under the CRRSA Act must: <ol style="list-style-type: none"> <li>1. Maintain State support for elementary and secondary education in <i>FY 2022</i> at least at the proportional level of the State’s support for elementary and secondary education <i>relative to the State’s overall spending</i>, averaged over FYs 2017, 2018, and 2019; and</li> <li>2. Maintain State support for higher education in <i>FY 2022</i> at least at the proportional level of the State’s support for higher education <i>relative to the State’s overall spending</i>, averaged over FYs 2017, 2018, and 2019.</li> </ol>

<sup>1</sup>Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public. This document is intended only to provide clarity to grantees regarding existing requirements under the law or agency policies.

<b>Topic</b>	<b>CARES Act</b> ( <a href="#">Section 18008</a> )	<b>CRRSA Act</b> (Division M, <a href="#">Section 317</a> ) & <b>ARP Act</b> ( <a href="#">Section 2004(a)</a> )
		<u>ARP Act</u> : A State that receives ARP ESSER funds must meet this MOE requirement in each of <i>FYs 2022 and 2023</i> .
<b>MOE Baseline Level</b>	The CARES Act has two MOE baselines: <ol style="list-style-type: none"> <li>1. Elementary and secondary education baseline, which averages the <i>dollar amount of State support for elementary and secondary education</i> over the three baseline years.</li> <li>2. Higher education baseline, which averages the <i>dollar amount of State support for higher education</i> over the three baseline years.</li> </ol>	The CRRSA Act and ARP Act have the same two MOE baselines: <ol style="list-style-type: none"> <li>1. Elementary and secondary education baseline, which averages the <i>percentages of total State spending that are used to support elementary and secondary education</i> over the three baseline years.</li> <li>2. Higher education baseline, which averages the <i>percentages of total State spending that are used to support higher education</i> over the three baseline years.</li> </ol>
<b>Baseline years</b>	FYs 2017, 2018, and 2019.	FYs 2017, 2018, and 2019.
<b>MOE years</b>	FY 2020 and FY 2021.	<u>CRRSA Act</u> : FY 2022.  <u>ARP Act</u> : FY 2022 and FY 2023.
<b>How to Demonstrate MOE</b>	<ol style="list-style-type: none"> <li>1. Compare the dollar amount of State support for elementary and secondary education for FY 2020 and separately for FY 2021 to the baseline level on either an aggregate or per student basis; and</li> <li>2. Compare the dollar amount of State support for higher education for FY 2020 and separately for FY 2021 to the baseline level on either an aggregate or full-time-equivalent (FTE) basis.</li> </ol>	<u>CRRSA Act</u> : <ol style="list-style-type: none"> <li>1. Compare the percentage of total State spending used to support elementary and secondary education in FY 2022 to the baseline percentage; and</li> <li>2. Compare the percentage of total State spending used to support higher education in FY 2022 to the baseline percentage.</li> </ol> <u>ARP Act</u> : Make these comparisons for both FY 2022 and FY 2023 relative to the baseline percentages.
<b>State Sources of MOE data</b>	<b>State support data</b> : A State may use either actual State expenditure data or data representing final appropriated or allocated	<b>State support data</b> : A State may use either actual State expenditure data or data representing final appropriated or allocated

Topic	CARES Act ( <a href="#">Section 18008</a> )	CRRSA Act (Division M, <a href="#">Section 317</a> ) & ARP Act ( <a href="#">Section 2004(a)</a> )
	<p>amounts for both the baseline levels and the applicable comparison levels (FY 2020 and FY 2021).</p> <p><b>State overall spending data:</b> Not relevant for CARES Act MOE determination.</p>	<p>amounts for both the baseline levels and the comparison levels (FY 2022 for CRRSA Act, and FYs 2022 and 2023 for ARP Act).</p> <p><b>State overall spending data:</b> A State must use data on <i>actual</i> State expenditures to demonstrate overall spending, consistent with the statutory reference to “overall State spending.” A State <u>may not</u> use final appropriated or allocated amounts that differ from actual State expenditures to demonstrate compliance with the MOE requirements.</p>
<p><b>MOE Data submission dates</b></p>	<p><b>Baseline data:</b> Each State submitted baseline data by September 1, 2020.</p> <p><b>FY 2020 data:</b> Each State submitted FY 2020 data by December 31, 2020. Baseline data and FY 2020 data may be updated by a State on or before May 17, 2021.</p> <p><b>FY 2021 data:</b> The Department intends to collect FY 2021 data by December 30, 2021.</p>	<p><b>Baseline data:</b> Each State must submit baseline data by May 17, 2021.</p> <p><b>FY 2022 data:</b> Each State must submit FY 2022 interim data on appropriated or allocated amounts for State support for elementary and secondary education, State support for higher education, and overall State spending by December 30, 2021. Each State must submit final expenditure data for FY 2022 overall State spending in spring 2023.</p> <p><b>FY 2023 data:</b> Each State must submit FY 2023 interim data on appropriated or allocated amounts for State support for elementary and secondary education, State support for higher education, and overall State spending by December 30, 2022. Each State must submit final expenditure data for FY 2023 overall State spending in spring 2024.</p>

### What is meant by the term “fiscal year” in determining MOE?

For purposes of determining MOE, a State may use either the applicable Federal fiscal year or the applicable State fiscal year. Fiscal years are denoted by the calendar year in which they end (e.g., the fiscal year that ends June 30, 2021 would be deemed fiscal year 2021). See chart below for an example of how State and Federal fiscal years align with particular school years.

	<b>Federal fiscal year</b>	<b>State fiscal year (example)</b>	<b>School Year</b>
FY 2020	October 1, 2019 - September 30, 2020	July 1, 2019 - June 30, 2020	2019-2020
FY 2021	October 1, 2020 - September 30, 2021	July 1, 2020 - June 30, 2021	2020-2021
FY 2022	October 2, 2021 - September 30, 2022	July 1, 2021 - June 30, 2022	2021-2022
FY 2023	October 2, 2022 - September 30, 2023	July 1, 2022 - June 30, 2023	2022-2023

Note that the preceding information was taken from a more comprehensive document published by the Department of Education on ESSER, GEER, and EANS Maintenance of Effort calculations. If you wish to access the complete document, please go to the link below.

[https://oese.ed.gov/files/2021/04/MOE-Chart\\_with-waiver-FAQs\\_FINAL\\_4.19.21\\_12pm.pdf](https://oese.ed.gov/files/2021/04/MOE-Chart_with-waiver-FAQs_FINAL_4.19.21_12pm.pdf).