




UNITED STATES DEPARTMENT OF EDUCATION

April 16, 2021

MEMORANDUM

TO: Lindsay Abate  
Office of Management and Budget Desk Officer

FROM: 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

RE: Emergency request for Paperwork Reduction Act (PRA) approval

Pursuant to the Office of Management and Budget (OMB) procedures established at 5 CFR 1320, the Department of Education (Department) requests that the following collection of information, Guidance on Maintenance-of-Effort Requirements and Waiver Requests under the Elementary and Secondary School Emergency Relief (ESSER) Fund and the Governor's Emergency Education Relief (GEER) Fund, be processed in accordance with section 1320.13 Emergency Processing. Specifically, the Department is requesting an emergency approval for a revision of the OMB approved CARES Act Maintenance of Effort (MOE) collection under OMB control number 1810-0745. The Department has determined that this guidance and the forms included as appendices must be released to the public and collected prior to the expiration of time periods established under Part 1320. This information is essential to States' ability to implement section 18008 of the Coronavirus Aid, Relief, and Economic Security Act (CARES) Act, Division M, Section 317 of the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA) Act, and Section 2004(a) of the American Rescue Plan Act of 2021 (ARP Act), and provides States clear guidance on the maintenance-of-effort (MOE) requirements and waivers available under each Act.

The Department was granted an approval for the 1810-0745 collection in order to provide clear guidance on the MOE requirements for the ESSER and GEER fund programs under the CARES Act. Since then, in recognition of the immense challenges facing students, educators, staff, schools, LEAs, and SEAs right now, Congress has made additional ESSER and GEER funds available to SEAs and LEAs to prevent, prepare for, and respond to COVID-19 through the CRRSA Act and, most recently and significantly, the ARP Act. It is critical that States and Governors receive clear guidance on the MOE requirements under the CRRSA Act and the ARP Act to inform their spending decisions and

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implementation plans for the GEER and ESSER programs as SEAs and LEAs prepare to help schools return safely to in-person instruction, maximize in-person instructional time, sustain the safe operation of schools, and address the academic, social, emotional, and mental health impacts of the COVID-19 pandemic.

If this collection is not allowed to proceed, States and Governors will not have the clear guidance they need to fully implement their GEER and ESSER programs. States and Governors have delayed distributing and spending funds due to the absence of guidance on the process for requesting waivers of MOE. Additionally, the Department will not be able to properly monitor GEER and ESSER recipients or provide technical assistance without collecting the MOE data and, when requested by States, grant MOE waiver requests.

Given the short timeframe, the Department is unable to consult with the public prior to issuing guidance and forms. However, the MOE form within this guidance is very similar to the previously issued forms under 1810-0745 and will be familiar to recipients. We estimate that the MOE form will take on average 5.5 hours to complete and the waiver request form will take 2 hours to complete.

The Department requests approval of the submission by April 19, 2021. Given the inability to seek public comment during such a short timeframe, we are requesting a waiver from the requirement to publish notice in the Federal Register seeking public comment during the period of OMB review. Public comment will be solicited within a reasonable period, but not later than April 30, 2021, for approval to collect this information beyond the emergency clearance period.