



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

June 29, 2020

David Craig, Director
School Budget and Finance Analysis Bureau
New Mexico Public Education Department
300 Don Gaspar Avenue
Santa Fe, New Mexico 87501

Dear Director Craig:

This is in response to the New Mexico Public Education Department's (the State's) June 5, 2020 letter requesting permission to take into account Impact Aid payments in making State aid payments to school districts in the State starting July 1, 2020, under the provisions of 34 CFR 222.161(a)(6). We note that the State included the assurance required by that provision regarding repayment to school districts in the event the State does not meet the disparity test for fiscal year (FY) 2021. We are granting approval of the State's request subject to the conditions below.

We examined, as part of our analysis of whether to grant advance permission under 34 CFR 222.161(a)(6), whether substantially the same State aid program is in effect since the date of the last certification, which in this case was for FY 2019. Although there have been several changes to the state aid formula, which necessitated the use of projected data as required in 34 CFR 222.161(b), it appears that the basic formula for calculating State aid has not been altered, and the most substantial change, an increase in at-risk units, is modeled in the projected per-pupil revenues for FY 2021.

However, we note that not all changes to the formula in effect for FY 2021 appear to be modeled in the projected data the State submitted by email dated May 31, 2020 for the FY 2021 determination. We are using the data submission labelled "USDE," as it more closely comports with the decisions set forth in our FY 2020 determination. That data submission was made using the "inclusion method on a revenue basis" (see 34 CFR 222.162(d)(1)), unlike the submissions for previous years which used the "exclusion method on a revenue basis" (34 CFR 222.162(d)(3)). In examining the State's data submission for the disparity test, we note that the State will need to make several changes in order for its projected data to comply with the decisions in our FY 2020 determination and the program regulations, for a determination for FY 2021.

First, the data appears not to reflect all recent changes to the State Equalization Guarantee (SEG) and other programs that provide funds to school districts. In the data provided, we could not identify a modeling of the following changes to the weights (also known as program units) used for the following components of the SEG: the phase out of the "size

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adjustment” factor and phase in of the “rural adjustment” factor, and the transition from the Teaching & Experience Index to the Teacher Cost Index. We were also unable to account for other programs that provide State funding to school districts for specific purposes outside of the SEG, such as: Early Literacy and Reading Support Funds; Career Technical Education Funds; Teachers’ Professional Development Funds; Science, Technology, Engineering, Arts and Math Initiatives; Computer Science Professional Development Funds; Feminine Hygiene Products Fund; Career and Technical Education Programs Fund; Early Literacy Summer Professional Development Program Funds; National Board Certification Grants; School Improvement Grants; Grow Your Own Teachers Funds; Funds for Hard-To-Staff Teachers; Teacher Residency Funds; Early Literacy Funds; Elementary Physical Education Funds; Mentorship and Professional Development Funds, and the new and expanded bilingual programs. If the funds provided through these programs are properly classified as revenue for current expenditures under the Impact Aid statute, they must be included in the disparity test submission.

Second, the State’s data submission did not include the entirety of the transportation fund. Under the inclusion method, all revenues for current expenditures are to be included, and the student count must include the applicable weights associated with special cost differentials. Therefore, the State must not subtract transportation revenues attributable to “variable B” from the revenues included on Table 4 of the disparity test.

Third, we noticed that the State reduced the amount of SB-9 funds by the amounts expended on capital improvements, thus counting only the amounts actually expended on current expenditures, as defined in the Impact Aid statute. As explained in our FY 2020 determination, because a school district is permitted to spend all of its SB-9 funds on current expenditures and because the State has elected a disparity test on a revenue basis rather than expenditure basis, all SB-9 funds are properly classified as revenues for current expenditures and must be included in the disparity test. The full amount of each school district’s SB-9 funds must be counted as local revenues.

Fourth, the local SB-9 revenues also affect the proportion of Impact Aid that can be considered as local effort by the State. As explained in the FY 2020 determination, the local SB-9 tax revenues must be added to the denominator of the proportion calculation under 34 CFR 222.163, as part of all local tax revenues for current expenditures. We have now further examined whether it is also appropriate to include the local SB-9 tax revenues as being “covered under the equalization program” in the numerator of the proportion calculation. Upon a preliminary analysis the SB-9 Program Guarantee under 22-25-9(A) NMSA 1978 does function as an equalization program for school districts with lower tax revenues per weighted pupil. The SB-9 Program Guarantee establishes a guaranteed minimum amount of SB-9 funds a school district will receive if it levies the local tax, so only the local tax revenues that are under or equal to the calculated minimum amount are considered for equalization. Therefore, only that amount should be included in the numerator of the proportion calculation. Thus, the proportion should be calculated by:

1. Calculating local tax revenues covered under the equalization program by adding:
 - 75 percent of local tax revenues, the amount considered as local effort in the SEG, and
 - All local tax revenues for SB-9, or the school district's SB-9 Guarantee, whichever is lower; and
2. Dividing the result by all local tax revenues, consisting of the sum of:
 - All local tax revenues for the SEG, and
 - All local tax revenues for SB-9.

Using the data contained in the State's FY 2021 we performed a preliminary recalculation of the disparity test under the revenue inclusion method with most of the errors listed above corrected, and it appears from that preliminary analysis that the disparity would likely be under 25 percent. In determining whether to grant the advance permission we also considered, in accordance with 34 CFR 222.161(a)(6), the fact that we did not certify the State for FY 2020. However, the data the State submitted for FY 2021 using the revenue inclusion method suggests that the State may pass the disparity test for FY 2020 if it were recalculated using the same method.

We therefore grant the State permission to take into account Impact Aid for FY 2021, in advance of our determination, but according to the local tax proportion that results from the calculation explained above. We also request a revised FY 2021 disparity test submission that addresses the various deficiencies raised above by July 20, 2020.

Our discussion of these matters in this letter is in regard to the State's request for permission to take into consideration Impact Aid in advance of a determination, as permitted under 34 CFR 222.161(a)(6); it does not constitute a determination for FY 2021. We cannot make a determination for FY 2021 until we have thoroughly reviewed the revised data requested above, completed the predetermination hearing requested by several school districts, and considered the information and arguments presented therein. Our statements on these matters in this letter do not constitute final decisions and may be changed in our determination.

If you have any questions, please contact Amanda Ognibene of my staff at Amanda.Ognibene@ed.gov.

Sincerely,



Faatimah Muhammad, Director
Impact Aid Program

cc: New Mexico Superintendents