

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF IMPACT AID PROGRAMS

In the Matter of the Submission
By The New Mexico Public Education Department
For Certification Under Section 7009
For Fiscal Years 2020 and 2021

PRE-HEARING COMMENTS
OF THE
NEW MEXICO PUBLIC EDUCATION DEPARTMENT

Introduction

The New Mexico Public Education Department (“NMPED”) hereby submits comments prior to the pre-determination hearing set for August 31, 2020 to clarify the issues before the Impact Aid Program (“IAP”).

As specified in the IAP Notice of Impact Aid Predetermination Hearing, dated August 6, 2020, the data that are the subject of the pre-determination hearing are the revised disparity data sets submitted for FY 2021 on July 20, 2020 and for FY 2020 data on July 31, 2020 (together “the revised disparity submissions”). The revised disparity submissions apply the same methodology and completely address the concerns raised in the IAP letter dated June 29, 2020 (“June 29 Letter”).¹ Additionally, the State believes clarifying comments regarding the ‘computation of proportion’ requirement would be helpful. The State addresses each in turn.

I. Issues Resolved by the Revised Disparity Submissions

The revised disparity submissions include the required modeled changes to the State Equalization Guarantee (“SEG”). In its earlier FY 2021 disparity submission (submitted May 31, 2020), the State modeled an increase in the at-risk multiplier from 0.25 to 0.30 that went into effect for the 2021 fiscal year (FY). In the June 29 Letter, the IAP requested that the State make two changes to the distribution of funds through the SEG, the phase out of the Size Adjustment Factor and the phase in of the Rural Adjustment Factor; and the transition from the Teaching and Experience Index to the Teacher Cost Index (together known as the “Staffing Cost Multiplier”). The State has modeled effect of these two changes on calculating weights (“unit values” in the State) in the SEG in the revised disparity submissions.

The June 29 Letter also required the State to include other programs that provide State funding to school districts for specific purposes outside of the SEG. The Letter specifically noted the following funds:

¹ NMPED’s cover letter to the FY 2021 revised disparity submission clearly walks through how each concern was addressed.

- 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
- New and Expanded Bilingual Programs.

First, some of these funds represent additional appropriations made to the SEG and are distributed through the SEG. These funds include:

- Early Literacy Funds;
- Mentorship and Professional Development Funds;
- Elementary and physical education funds; and
- New and Expanded Bilingual Program Funds

These categories of funds do not generate additional units for school districts or otherwise change the funding formula for the SEG. Instead, these funds serve to increase the total appropriation available to distribute through the already-established and modeled SEG formula. As such, these funds were already accounted for in the original submission.

The remaining funds listed in the June 29 Letter are state grants that operate outside of the SEG, known as “27XXX” funds. This series of funds, in the aggregate, typically accounts for about 2% of the revenues for current expenditure, but the specific funds vary greatly from year to year. Most of the 27XXX funds listed in the June 29 Letter are funds that have been newly appropriated in 2020 by House Bill 2, and information about how those funds will be distributed and what amounts of these specific programs will flow to each LEA is not yet available. As such, the State does not have data to make accurate projections to model these newly appropriated programs. Since the State is not able to model the impact of the newly appropriated 27XXX funds on the disparity test, the State instead used the final data from all 27XXX funds distributed in FY 2019 in the calculation of disparity in FY 2021 and used final data from FY 2018 to calculate FY 2020.

As the SEG was historically recognized as New Mexico’s State aid program designed to equalize expenditures for free public education, incorporating additional State funding into the process has been a significant undertaking. While preparing for the predetermination hearing, the State identified two additional categories of funds that, similar to the 27XXX funds, provide State funding to school districts for specific purposes outside of the SEG. These two categories of funds are known as “28XXX” and “29XXX” funds. Both funds are special revenue funds that are legally restricted to certain categories of expenditure. The 28XXX funds represent direct state grants and the 29XXX funds are grants that have both a state and local funding component. These funds are reported in the STAT book and while they have not been raised by the districts, it is important to the State to ensure all possible additional State funding categories that could be construed as State revenue are brought to the IAP’s attention for the IAP’s determination of whether these funding categories are in fact revenues for the purposes of calculating disparity. These funds represent an even smaller percentage of revenues for current expenditure than the 27XXX funds and only add 0.19% to the disparity test. In case the IAP deems these funds to be State revenue, the State has worked to incorporate these funds into the modeling and is providing an FY 2021 disparity test submission that includes these funds.²

Next, the June 29 Letter required the State to include the entirety of the Transportation Fund in its revised disparity test and instructed the State to apply any transportation special cost differentials to the weighted pupil count. The State removed the reductions to the Transportation Fund revenues related to special cost differentials and used the entire amount of Transportation Fund revenues in the two revised submissions.

Regarding SB-9 funds, the June 29 Letter indicated that the State cannot exclude SB-9 funds used for capital expenditures from the revenues available for current expenditures in the disparity test. The State’s original submission included a sheet that separated the current expenditures from capital expenditures in the SB-9 Fund. That sheet has been removed from this submission and impacted calculations have been updated using all SB-9 revenues.

II. Computation of Proportion

The State believes comments related to the ‘computation of proportion’ requirement, as they relate to the revised disparity test submissions, may be helpful.

As noted in the IAP’s Notice of Hearing, “If the U.S. Secretary of Education determines that the State meets the disparity standard under section 7009 for a particular fiscal year, the State may reduce an LEA’s state aid for that fiscal year by an amount equal to a certain proportion of the Impact Aid assistance that LEA has received.” The statute specifically limits the degree to which a certified State may consider Impact Aid payments as follows: “...a State may consider as local

² Similarly, the State is working to incorporate 28XXX and 29XXX funds into the modeling for FY 2020 so that it can provide an updated FY 2020 disparity test submission that includes those funds. Based on a preliminary evaluation of including these funds in the disparity test, it appears that the inclusion would not significantly change the disparity calculation, just as it did not significantly change the disparity calculation for FY 2021.

tax resources funds received under this title only in proportion to the share that local tax revenues covered under a State equalization program are of total local tax revenues.” 20 U.S.C. § 7709(d)(1)(B); See also 34 C.F.R. § 222.161(a)(1)(i).

The regulations further clarify “[w]hat proportion of Impact Aid funds may a State take into consideration upon certification” at 34 C.F.R. § 222.163. Specifically, “the proportion is obtained by dividing the amount of local tax revenues covered under the equalization program by the total local tax revenues attributable to current expenditures for free public education with the LEA.” 34 C.F.R. § 222.163(b). The regulation clearly requires that “[d]eterminations of proportionality must be made on a case-by-case basis for each LEA affected and not on the basis of a general rule to be applied throughout a State.” 34 C.F.R. § 222.163(a).

Previously, because only SEG was considered within the disparity test and because SEG established a blanket limitation of 75%, the resulting proportion was static. As a result of including SB-9 tax revenues in the analysis, the computation of proportion can be expected to result in varying figures.

It is important to note that the resulting computation of proportion affects only LEAs that receive Impact Aid payments. This federal limitation is on what proportion of Impact Aid funds the State may take into consideration and does not limit in anyway the proportion of local resources the State may take into consideration. While underlying spreadsheets may list resulting proportions for all LEAs, only proportions computed for districts that receive Impact Aid are applied, and when they are applied, they are used only to limit the proportion of Impact Aid funds the State considers. In other words, if a resulting proportion is higher than 75%, NMPED will not consider more than 75% of the given LEA’s Impact Aid payments. Where the resulting proportion is less than 75%, the State is limited from considering more than the resulting proportion in determining State Aid. As such, the financial impact to LEAs that receive Impact Aid as a result of computation of proportion when the larger scope of revenues beyond SEG is included in the disparity test is either neutral or beneficial.

Additionally, the computation of proportion has led to some confusion in how the State credits local tax revenues calculating SEG payments. Some LEAs have indicated concern that the proportion resulting from the calculation in 34 CFR § 222.163 was applied to each LEA’s half mill local property tax levy. The State wishes to clarify that the proportion values on Table 5 of each disparity submission were only applied to Impact Aid and were not applied to the half mill local property tax. In every instance, the State credited seventy-five percent of an LEA’s half mill local property tax when calculating SEG distributions.

Conclusion

The State remains committed to equalization and to ensuring transparency and collaboration in through certification process. We look forward to discussing the submissions and addressing any remaining questions during the predetermination hearing on Monday, August 31.