



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 19, 2024

Mr. Scott Kendall
Cashion, Gilmore and Lindemuth
510 L Street, Suite 601
Anchorage, Alaska 99501

Dear Mr. Kendall:

Thank you for your letter of March 4, 2024, providing a summary of two telephone conversations between Department of Education (the Department) staff and Alaska State Superintendents Association members and staff on January 19, 2024, and February 15, 2024. The discussions concerned a December 1, 2023, memo to Alaska Superintendents and Business Managers from Alaska Department of Education and Early Development (DEED) Commissioner Deena Bishop regarding the Maximum Local Contribution, or “Local Cap” described in the Alaska school funding formula. We are confirming, for all parties in Alaska, including DEED and all school districts in Alaska, the contents of our discussions below and adding additional context where appropriate. In addition, this response will be publicly available on our website.

As you know, section 7009 of the Elementary and Secondary Education Act of 1965 (ESEA), allows a State to consider eligible Federal Impact Aid dollars like local revenue in the State aid formula, if a State can show that it equalizes expenditures for free, public education among local educational agencies (LEAs). DEED has used the disparity test to annually show that Alaska equalizes expenditures for free, public education among LEAs, and, as a result, the State has been able to consider eligible Federal Impact Aid dollars like local revenue in the State aid formula. Much of our conversations centered around the “recent guidance and orders from the federal Impact Aid Program” cited in DEED’s memo, related to the disparity test requirements in the Impact Aid statute in section 7009 of the ESEA. In our conversations with the Alaska State Superintendents Association, we emphasized that there have been no recent changes to the Impact Aid Program’s statute, regulations, or formal guidance concerning the disparity test.

DEED’s memo further references the “Impact Aid Program’s historical interpretation that funds subject to the disparity test are limited to those in a school district’s operating fund,” and states that “this interpretation has changed in recent years.” The Impact Aid Program did not make any interpretation with respect to the State’s revenue funds outside of the operating fund until we learned of their existence in 2019. Our Section 7009 equalization determination report for State Fiscal Year (FY) 2020 gives a summary of what happened:

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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.

In the course of discussing a potential change to the State's chart of accounts and its effect on the disparity data to be submitted next year for FY 2021, the Department learned that Alaska school districts have a special revenue fund for pupil transportation that was not being included in the disparity data. Given that pupil transportation is considered a "current expenditure" per the statutory definition at section 7013(4), we determined that pupil transportation revenue should be included in the disparity data. The State submitted to the Department updated disparity data that included pupil transportation revenue on May 1, 2019.

After learning of the existence of the special revenue fund for transportation, we applied the Impact Aid Program's statute and regulations, which contain no reference to revenues in an operating fund and affirm that all revenues for current expenditures must be considered in the disparity test. Characterizing this technical assistance as a change in interpretation is not correct in our view; however, it was new information to DEED. Further, the DEED memo's statement that "the Federal Impact Aid Program does not limit funds subject to the disparity test to a school district's operating fund," which the memo explains is the impetus for DEED's concern about the State's current regulations, is completely correct.

In response to your questions concerning the memo's reference to a potential, upcoming proposal to clarify the State's regulations, Impact Aid Program staff did not ask, or recommend, that DEED change its State regulations. State regulations are not within the Impact Aid Program's interest or purview.

As a reminder, a State is not required to submit disparity data under Section 7009 of the ESEA, and it does so only to receive a benefit, which is the ability to treat eligible Impact Aid funds like local effort in the State aid formula, thereby reducing the amount the State must pay LEAs that receive Impact Aid. There are four different methods that a State can use to show it meets the disparity test in Section 7009; the State chooses the method, not the Impact Aid Program. Further, the Impact Aid Program has no interest in the outcome of an equalization determination; it affects the State and the LEAs in that State but does not affect the amount of the Impact Aid grants in any way.

We are aware that DEED is worried that Alaska may not be able to meet the disparity test requirements in future years, and that this issue has been a concern for State legislators. While we have provided technical assistance to members of the State legislature concerning the disparity test requirements, the Impact Aid Program has no legal interest in the State's school district aid formula, budget, or appropriations process.

To reiterate, State regulations are outside the scope of the Impact Aid Program, as is a State's decision to submit disparity test data to the Impact Aid Program. However, once a State does submit disparity test data, the Impact Aid Program will review the submission and enforce all statutory and regulatory requirements related to the disparity test regardless of the outcome.

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We hope this clarifies the role of the Impact Aid Program in the Section 7009 process and recent events in Alaska. Please contact me by email at Faatimah.Muhammad@ed.gov if you have further questions.

Sincerely,

Faatimah Muhammad, Director
Impact Aid Program

cc: Alaska LEA Superintendents
DEED School Finance and Support Services