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SECRETARY OF EDUCATION (DESIGNATE)

MICHELLE LUJAN GRISHAM  
GOVERNOR

September 17, 2021

Fatimah Muhammad, Director  
Office of Impact Aid Programs  
U.S. Department of Education  
400 Maryland Avenue SW  
Washington D.C., 20202-6244

Dear Director Muhammad:

Director David Craig had sent you on January 29, 2021, a letter, indicating that the State of New Mexico intends to consider an offset of eligible local sources of revenue and any eligible Impact Aid fund in State aid payments during the 2021-2022 school year.

This letter was based on the State Statute effective on January 29, 2021. It read like this:  
"22-8-25. State equalization guarantee distribution; definitions; determination of amount.

A. The state equalization guarantee distribution is that amount of money distributed to each school district to ensure that its operating revenue, including its local and federal revenues as defined in this section, is at least equal to the school district's program cost. For state-chartered charter schools, the state equalization guarantee distribution is the difference between the state-chartered charter school's program cost and the two percent withheld by the department for administrative services.

B. "Local revenue", as used in this section, means seventy-five percent of receipts to the school district derived from that amount produced by a school district property tax applied at the rate of fifty cents (\$.50) to each one thousand dollars (\$1,000) of net taxable value of property allocated to the school district and to the assessed value of products severed and sold in the school district as determined under the Oil and Gas Ad Valorem Production Tax Act [Chapter 7, Article 32 NMSA 1978] and upon the assessed value of equipment in the school district as determined under the Oil and Gas Production Equipment Ad Valorem Tax Act [Chapter 7, Article 34 NMSA 1978].

C. "Federal revenue", as used in this section, means receipts to the school district or state-chartered charter school, excluding amounts that, if taken into account in the computation of the

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state equalization guarantee distribution, result, under federal law or regulations, in a reduction in or elimination of federal school funding otherwise receivable by the school district, derived from the following:

(1) seventy-five percent of the school district's share of forest reserve funds distributed in accordance with Section 22-8-33 NMSA 1978; and

(2) seventy-five percent of grants from the federal government as assistance to those areas affected by federal activity authorized in accordance with Title 20 of the United States Code, commonly known as "PL 874 funds" or "impact aid".

D. To determine the amount of the state equalization guarantee distribution, the department shall:

(1) calculate the number of program units to which each school district or charter school is entitled using an average of the MEM on the second and third reporting dates of the prior year; or

(2) calculate the number of program units to which a school district or charter school operating under an approved year-round school calendar is entitled using an average of the MEM on appropriate dates established by the department; or

(3) calculate the number of program units to which a school district or charter school with a MEM of two hundred or less is entitled by using an average of the MEM on the second and third reporting dates of the prior year or the fortieth day of the current year, whichever is greater; and

(4) using the results of the calculations in Paragraph (1), (2) or (3) of this subsection and the staffing cost multiplier from the October report of the prior school year, establish a total program cost of the school district or charter school;

(5) for school districts and state-chartered charter schools, calculate the local and federal revenues as defined in this section;

(6) deduct the sum of the calculations made in Paragraph (5) of this subsection from the program cost established in Paragraph (4) of this subsection;

(7) deduct the total amount of guaranteed energy savings contract payments that the department determines will be made to the school district from the public school utility conservation fund during the fiscal year for which the state equalization guarantee distribution is being computed; and

(8) deduct ninety percent of the amount certified for the school district by the department pursuant to the Energy Efficiency and Renewable Energy Bonding Act [Chapter 6, Article 21D NMSA 1978].

E. Reduction of a school district's state equalization guarantee distribution shall cease when the school district's cumulative reductions equal its proportional share of the cumulative debt service payments necessary to service the bonds issued pursuant to the Energy Efficiency and Renewable Energy Bonding Act.

F. The amount of the state equalization guarantee distribution to which a school district is entitled is the balance remaining after the deductions made in Paragraphs (6) through (8) of Subsection D of this section.

G. The state equalization guarantee distribution shall be distributed prior to June 30 of each fiscal year. The calculation shall be based on the local and federal revenues specified in this section received from June 1 of the previous fiscal year through May 31 of the fiscal year for which the state equalization guarantee distribution is being computed. In the event that a school district or charter school has received more state equalization guarantee funds than its

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entitlement, a refund shall be made by the school district or charter school to the state general fund.”

***During the legislative session of 2021, the State of New Mexico changed the State Statute 22-8-25 in a manner that the State of New Mexico does not consider anymore an offset.***

Please see the amendment notice:

“The 2021 amendment, effective July 1, 2021, eliminated local and federal credits when determining the state equalization guarantee distribution; after "distribution", deleted "definitions"; deleted Subsections A through C and redesignated former Subsections D through F as Subsections A through C, respectively; in Subsection A, Paragraph A(3), after "prior year or the", deleted "fortieth day" and added "MEM on the first reporting date", after "whichever is greater", deleted "and" and added "provided that the calculation of program units using the MEM on the first reporting date of the current school year shall exclude enrollment growth program units", deleted former Paragraphs (5) and (6) and redesignated former Paragraphs (7) and (8) as Paragraph A(5) and A(6), respectively; in Subsection C, after "Paragraphs", changed "(6) through (8)" to "(5) and (6)"; added new Subsection D and redesignated former Subsection G as Subsection E; and in Subsection E, after "fiscal year", deleted "The calculation shall be based on the local and federal revenues specified in this section received from June 1 of the previous fiscal year through May 31 of the fiscal year for which the state equalization guarantee distribution is being computed".

The new State Statutes reads like this:

“22-8-25. State equalization guarantee distribution; determination of amount.

A. To determine the amount of the state equalization guarantee distribution, the department shall:

- (1) calculate the number of program units to which each school district or charter school is entitled using an average of the MEM on the second and third reporting dates of the prior year; or
- (2) calculate the number of program units to which a school district or charter school operating under an approved year-round school calendar is entitled using an average of the MEM on appropriate dates established by the department; or
- (3) calculate the number of program units to which a school district or charter school with a MEM of two hundred or less is entitled by using an average of the MEM on the second and third reporting dates of the prior year or the MEM on the first reporting date of the current year, whichever is greater; provided that the calculation of program units using the MEM on the first reporting date of the current school year shall exclude enrollment growth program units;
- (4) using the results of the calculations in Paragraph (1), (2) or (3) of this subsection and the staffing cost multiplier from the October report of the prior school year, establish a total program cost of the school district or charter school;
- (5) deduct the total amount of guaranteed energy savings contract payments that the department determines will be made to the school district from the public school utility

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conservation fund during the fiscal year for which the state equalization guarantee distribution is being computed; and

(6) deduct ninety percent of the amount certified for the school district by the department pursuant to the Energy Efficiency and Renewable Energy Bonding Act [Chapter 6, Article 21D NMSA 1978].

B. Reduction of a school district's state equalization guarantee distribution shall cease when the school district's cumulative reductions equal its proportional share of the cumulative debt service payments necessary to service the bonds issued pursuant to the Energy Efficiency and Renewable Energy Bonding Act [Chapter 6, Article 21D NMSA 1978].

C. The amount of the state equalization guarantee distribution to which a school district is entitled is the balance remaining after the deductions made in Paragraphs (5) and (6) of Subsection A of this section.

D. The amount of the state equalization guarantee distribution to which a state-chartered charter school is entitled is the difference between the state-chartered charter school's program cost and the two percent withheld by the department for administrative services.

E. The state equalization guarantee distribution shall be distributed prior to June 30 of each fiscal year. In the event that a school district or charter school has received more state equalization guarantee funds than its entitlement, a refund shall be made by the school district or charter school to the state general fund.

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I understand that the State of New Mexico will not need to provide any further information to you anymore as now the impact aid funds will be managed like any other direct federal grant. However, if my judgment is incorrect, please let me know what information you expect to receive from the New Mexico Public Education Department.

Sincerely,

DocuSigned by:  
  
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Dr. Reiner Martens

Director, Education Finance Analysis Bureau

/RM

cc: Antonio Ortiz, Acting Deputy Secretary of Finance and Operations, PED  
Scott Wright, Director of Operations, PED  
Anthony Duran, Education Finance Analysis Bureau

