



THE SECRETARY OF EDUCATION  
WASHINGTON, DC 20202

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*In the matter of*

**NEW MEXICO PUBLIC EDUCATION  
DEPARTMENT**

**Docket No. 20-16-I**

Federal Impact Aid

Respondent.

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**ORDER GRANTING REQUEST FOR STAY**

By order dated August 4, 2021, I denied a motion to dismiss filed by Zuni Public School District (Zuni), one of four local educational agencies<sup>1</sup> (Intervenors) appearing in the above-captioned case. Thereafter, two of the Intervenors (Gallup-McKinley County Schools and the Grants/Cibola County Schools) filed a petition for review of my order with the United States Court of Appeals for the Tenth Circuit.

The two Intervenors and the Office of Elementary and Secondary Education (OESE) are engaged in settlement discussions. Acknowledging the ongoing discussions, the Court issued an order abating its proceedings on March 7, 2022. On July 19, 2022, counsel for OESE filed a motion for stay in the instant case, asserting that those settlement discussions remain ongoing. Counsel for OESE indicates that counsel for the two Intervenors who are the petitioners before the Court consents to this request.

Zuni has filed an opposition to the Department's request for stay. Zuni asserts that it is not a part of the appeal to the Tenth Circuit and not participating in the ongoing settlement discussions. Zuni asserts that "none of the parties sought review" of the Administrative Law Judge's decision because the Department "is not a party to this action." Therefore, the delay in resolving the instant case is unwarranted.

In my order dated August 4, 2021, I denied Zuni's motion to dismiss on the ground that the Department is not a party to the case. I held that OESE is a party to this case with standing to request review. That order is now appealed to the Tenth Circuit with a request for relief "that the Court vacate the Order of the Secretary for the U.S. Department of Education." Accordingly, I

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<sup>1</sup> Zuni Public School District, the Central Consolidated School District, the Gallup-McKinley County Schools, and the Grants/Cibola County Schools.

lack jurisdiction to rule on the pending case until such time as the Court completes its review and remands jurisdiction to me.

Although I am cognizant of Zuni's desire for a swift resolution, the outcome of the case pending before the Court has the potential to impact the outcome of the instant case. I agree with OESE that the instant case should be stayed. In the interest of judicial economy, I hereby stay the instant case until further notice.

So ordered this 29th day of July 2022.



Miguel A. Cardona, Ed.D.  
U.S. Secretary of Education

Washington, DC

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