



THE SECRETARY OF EDUCATION
WASHINGTON, DC 20202

In the matter of

**NEW MEXICO PUBLIC EDUCATION
DEPARTMENT**

Docket No. 20-16-I

Federal Impact Aid

Respondent.

INDICATIVE ORDER PURSUANT TO SETTLEMENT AGREEMENT

The above-captioned case is presently stayed pending resolution of an appeal to the United States Court of Appeals for the Tenth Circuit. On December 30, 2022, counsel for the Department and counsel for intervenors Zuni Public School District and Central Consolidated School District filed a notice of settlement and a settlement agreement. Those parties requested that I indicate my intent to issue a decision affirming the initial decision of the Administrative Law Judge (ALJ). According to the notice and request, the settlement agreement resolves all issues that would be before me in the present appeal.

Having reviewed the settlement agreement, I agree that the agreement resolves the issues that would be before me in the appeal. However, while the case remains pending before the Tenth Circuit, I lack jurisdiction to take further action. Therefore, I issue this order stating that, upon remand of the case to me, I will issue an order which states:

The following decision is based solely on the settlement agreement between the parties appearing in *Board of Education for the Gallup-McKinley County Schools and Board of Education for the Grants/Cibola County schools v. United States Department of Education*, No. 21-9568 (10th Cir.).

Due to the unique facts and circumstances which I find are specific only to this case, I affirm the ALJ's January 15, 2021, holding in the administrative matter No. 20-16-I (Federal Impact Aid Proceeding). Affirming this decision means "[t]he April 15, 2020 determination is deemed a final agency determination and is not subject to reconsideration by the Department. NMPED has failed the disparity test for SFY 2020 and must now refund to each LEA an amount equal to the amount that NM deducted from its State aid provided to each LEA for SFY 2020." (OES Document No. 34 at 18).

The January 15, 2021, ALJ decision is binding on all parties that participated before the ALJ. However, because of the unique facts and circumstances underlying that decision, the ALJ's decision and this Order do not create a rule of general application or establish precedent regarding IAP's ability or authority to reconsider future determinations made under Section 7009 of the ESEA. This Order is final, and there is no further means of administrative appeal of this matter.

So ordered this 31st day of January 2023.



Miguel A. Cardona
Miguel A. Cardona, Ed.D.

Washington, DC

Service List

Jennifer S. Mauskapf, Esq.
Brustein & Manasevit, PLLC
1023 15th St. N.W., Suite 500
Washington, DC 20005
jmauskapf@bruman.com
Attorneys for New Mexico Public Education Department

Andrew M. Sanchez, Esq.
Himes, Petrarca & Fester
5051 Journal Center Blvd., N.E., Suite 320
Albuquerque, NM 87109
asanchez@edlawyer.com
*Attorney for Gallup-McKinley County Schools and
Grants/Cibola County Schools*

Ronald J. VanAmberg, Esq.
VanAmberg, Rogers, Yepa, Abeita,
Gomez, & Wilkinson, LLP
P.O. Box 1447
Santa Fe, NM 87504-1447
ryanamberg@nmlawgroup.com
Attorney for the Zuni Public School District

Germaine Chappelle, Esq.
Chappelle Law
1027 Camino Rancheros
Santa Fe, NM 87505
gchappelle.law@gmail.com
Attorney for Central Consolidated School District

Laurie Wiesner, Esq.
Colin Bishop, Esq.
Office of the General Counsel
U.S. Department of Education
400 Maryland Ave., S.W.
Washington, DC 20202
laurie.wiesner@ed.gov
colin.bishop@ed.gov
*Attorneys for the Assistant Secretary for
Elementary and Secondary Education*