



# All Pueblo Council of Governors

Officers:

Governor J. Michael Chavarria, Chairman  
Governor Wilfred Herrera, Jr., Vice-Chair  
Governor David M. Toledo, Secretary

July 15, 2020

Acoma

The Honorable Governor Michelle Lujan Grisham

Cochiti

Office of the Governor

Isleta

490 Old Santa Fe Trail, Room 400

Santa Fe, New Mexico 87501

Jemez

## **Re: All Pueblo Council of Governors Position on Impact Aid**

Laguna

Dear Honorable Governor Grisham,

Nambe

On behalf of the All Pueblo Council of Governors (“APCG”), we would like to extend our appreciation for your continued leadership in service to our State’s educators, communities, and families. The member Pueblos of the APCG continue to be collectively engaged on matters regarding Impact Aid and are appreciative of the several interim policy engagement sessions with school districts, Pueblos and tribes, the Public Education Department, and the Indian Affairs Department.

Ohkay Owingeh

Picuris

Pojoaque

In 2019, APCG wrote a letter based on our adopted resolution expressing our concerns for the state deducting 75% of Impact Aid funding a school district receives, implementation of credits has resulted in limited fiscal capacity for districts to comply with requests from tribal representatives through the federally required Indian Policies and Procedures. This continues to effectively nullify the federal government’s trust responsibility by impeding the ability for Pueblos to fully advocate for our students. The Indian Policies and Procedures is federally mandated in the law because of the *Natonabah v. Board of Ed. of Gallup-McKinley* case in 1973.

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San Felipe

San Ildefonso

Santa Ana

Pueblo Leadership has expressed strong opposition to the State’s appeal of Impact Aid. During the summer of 2019 three Native American school districts exercised their right to challenge the State’s ability to take credit for Impact Aid. The April 15, 2020 letter from the US Department of Education (Department), published in the Albuquerque Journal, outlined several reasons why the State does not meet the disparity test which is required under federal law if the State wants reduce the State’s constitutionally required state funding, or State Equalization Guarantee Distribution (SEG), to impact aid districts, otherwise known as “taking credit”. It is clear from the letter, that the US Department of Education substantially agrees with the arguments that Native American districts have desperately tried to get the State to recognize over the past four decades.

Santa Clara

Santo Domingo

Taos

Tesuque

Ysleta del Sur

The Department is also clear that the State has been manipulating the disparity test in order to take credit by not been including the revenues in the disparity test that should have otherwise been included. (See part A. “Funds That LEA’s argue should be included in disparity test” April 15 letter.) Native American school districts have consistently brought this to the administration and legislatures attention and were repeatedly dismissed. Furthermore, Department’s April 15 letter makes the connection between

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Yazzie and Impact Aid. The letter states that because of the Yazzie case the State may be in violation of the Impact Aid law, CFR22.161(a)(2), and requests that the State address the violation of that section in future requests to take credit for Impact Aid.

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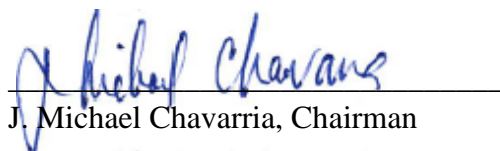
The State of New Mexico has publicly voiced that they are committed to addressing systemic racism in the State of New Mexico, but the current Impact Aid appeal is contradictory. The way the State takes credit for Impact Aid is foundational to systemic racism within the public-school system for Native American students. Our students are dual citizens of the State and the United States. The APCG questions if Native American students are truly being funded like citizens of the State when the states take credit for Impact Aid. The SEG is the State's constitutional responsibility to all students, but because of the SEG reduction to Impact Aid districts, the State is effectively putting zero SEG effort into Native American student public education. SEG funding and Impact Aid dollars should not be interchanged.

Even before the current COVID-19 Public Health Crisis, APCG indicated how imperative it is that Pueblos can effectively consult with their districts, and have the resources necessary to implement solutions. Effective consultation is even more critical now in moving forward and supporting our students learning during the pandemic. Pueblo Leadership argues that Impact Aid is an important part of fixing the educational disparities.

It has been clear for a long time that courts and attorneys, not the NMPED, are pivotal in assuring Native American students receive an equitable education. The Pueblo leadership stands by our position that the State must support funding levels sufficient enough to provide Native children and generations to come with an education that results in a decent paying job, a prosperous life, and a personal sense of academic achievement without compromising Native languages and culture.

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Kuunda; Thank you,



J. Michael Chavarria, Chairman

All Pueblo Council of Governors



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Acoma cc: Secretary Lynn Trujillo, Indian Affairs Department  
Secretary Ryan Stewart, Public Education Department

Cochiti Brian Egolf, Jr., Speaker of the House

Isleta Senator Peter Wirth, Senate Majority Leader

Jemez Legislative Finance Committee

Laguna Senator John Arthur Smith, Chairman  
Representative Patricia A. Lundstrom, Vice-Chairwomen

Nambe David Abby, Director

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