



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

**Department of Education
& Early Development**

OFFICE OF THE COMMISSIONER

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April 1, 2024

Honorable Members of the Alaska Legislature
Alaska State Capitol
Juneau, Alaska 99801

Re: March 27, 2024 Letter from U.S. Department of Education official regarding Maintenance of Equity provision under the American Rescue Plan Act ("ARPA") education funding grant and Alaska school funding

Dear Honorable Representatives and Senators:

Last week, a deputy assistant secretary of the federal Department of Education ("USDOE") emailed a letter to state officials and certain school districts. In that letter, the USDOE official asserted that based on his office's interpretation of a first-of-its-kind Maintenance of Equity ("MOEquity") provision included in the COVID-19 relief bill (ARPA), Alaska's appropriations to school districts during fiscal years 2022 and 2023 did not comply with the USDOE office's interpretation of MOEquity under the ARPA relief law. The USDOE gave the State ten days to file a motion for reconsideration which is presently being prepared by the Department of Law. Once the motion for reconsideration is filed, we will have more to say about this matter. But for now, I wanted to make sure to convey several important points.

First, USDOE has not said that more state funding must go to all Alaska school districts, rural and urban. To the contrary, the USDOE's position is that under its interpretation of the MOEquity provision. More money should go to a handful of urban districts.

Second, Alaska's appropriations to school districts during the applicable periods were made according to its equalized public school funding formula, also known as the foundation funding formula.¹ All ARPA federal funding was provided to school districts, rural and urban, based on the Title 1 Part A formula per federal guidance.

Third, Alaska's appropriations complied with the plain language and clear intent of Congress when it passed ARPA and its MOEquity provision; state funding for education was not cut for low-income or any other students during fiscal years 2019-2023 in order to take advantage of new federal funding; instead, Alaska continued to apply its equalized funding formula as required by ARPA.

¹ AS 14.17.300-AS 14.17.490.

Fourth, as noted, we are working with the Department of Law in an effort that we hope will lead the USDOE office to understand the equalized nature of the State's funding formula. As you are aware and the Alaska Supreme Court has recognized, the state school funding formula "is intended to equalize districts by providing them with needed resources, taking into account differences among districts."²

Fifth, although the USDOE office that sent the March 27 letter asserts that Alaska's spending did not meet its interpretation of "equity", another office of USDOE has found that Alaska has met the demanding requirements to be eligible to consider a portion of federal impact aid payments as local resources in determining state aid entitlement for education funding. Under that law, a state must "[h]ave in effect a program of State aid that equalizes expenditures for free public education among local educational agencies."³ This is an "equalization" or "disparity test" that the State must meet and that the Secretary of USDOE must certify. Alaska met this requirement and the Secretary of USDOE has certified our state.

Given all of the above, you can understand the consternation that the March 27 letter has caused my office, the Office of Management and Budget, and our legal advisors at the Department of Law. As you are no doubt aware, the Alaska Constitution places the responsibility to "establish and maintain" the public school system⁴ with the Legislature as well as the authority to fund the system through appropriations passed in law.⁵ Further, the Alaska Constitution requires that rural and urban residents and students and our Alaska Native children and families be treated with equal protection under the law.⁶ The State's equalized funding formula is complex and has been constructed to meet all of these obligations as well as the federal impact aid requirements. We are concerned that a single office within USDOE could effectively (even if unintentionally) leverage an emergency pandemic aid bill to force Alaska to change how it distributes critical education funding, resulting in more inequity rather than less.

² *State v. Ketchikan Gateway Borough*, 366 P.3d 86, 88 (Alaska 2016).

³ 20 U.S.C. Sec. 7709.

⁴ Alaska Const., art. VII, Sec. 1.

⁵ Alaska Const., art. IX, Sec. 13.

⁶ Alaska Const., art. I, Sec. 1. See eg. *Kasayulie v. State* 3AN-97-3782 (1999) (Superior Court found that the school construction financing program violated the education and equal protection clauses of the Alaska Constitution because it discriminated against rural school children; court also the program was racially discriminatory under Title VI of the Civil Rights Act.)

We will continue to work with our colleagues at USDOE and are hopeful that with a greater understanding of the unique needs of Alaska, its widespread population, and its equalized funding program that USDOE will make some adjustments to its current interpretations and enable us to resolve this matter.

Respectfully,

A handwritten signature in dark ink, appearing to read 'Deena M. Bishop', with a large, stylized flourish extending to the right.

Deena M. Bishop, Ed.D.
Commissioner, Alaska Department of Education and Early Development