

Local schools file restraining order to state

Written by By Cody Begaye Sun Correspondent
Friday, 28 August 2020 05:45



The fight to keep impact aid funds continues

Despite a court ruling last spring in favor of the district, Gallup-McKinley County Schools faces a new obstacle in the ongoing battle over federal impact aid.

Superintendent Mike Hyatt said the district, along with Grants-Cibola County Schools and Zuni Public School District, filed a temporary restraining order against the New Mexico Public Education Department on Aug. 18 in light of what the district viewed as an infraction of state laws.

“We challenged the PED on the data they were sending to the federal government and said it was inaccurate, and did not follow the rules and regulations that surround the federal requirements to take impact aid [from schools],” Hyatt told the *Sun* Aug. 20.

HOW WE GOT HERE

Since it exists primarily on tribal land, GMCS and other local districts rely on impact aid more

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than districts in heavily populated, urban areas. But those students and districts face more disadvantages when it comes to receiving the impact aid.

Last fall, GMCS challenged the state in a hearing with the federal impact aid office.

“The federal government ruled in our favor and said we were correct, and there were areas where the state was not appropriately applying the right conditions to take those impact aid dollars from our students,” Hyatt said.

However, Governor Michelle Lujan Grisham said this decision could be appealed by the state before the end of June, and the state did so, Hyatt continued.

“Once the ruling was given, the state’s Secretary of Education decided to appeal the federal government’s decision, and at the same time, he also submitted new data to try to conform to the regulations the federal government has for impact aid,” Hyatt added.

This is where the complications arose and why the TRO was filed.

“When the state did that, they submitted data that does not conform with state law,” Hyatt said. “Essentially, they were trying to write their own law outside the legislative process.

“Since we alleged they were breaking the law, we filed the temporary restraining order to stop them from continuing down the road of not following our own state laws,” he added.

BACKGROUND OF THE ISSUE

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The fight for federal impact aid is one that has spanned decades, and is particularly significant to students in the Gallup region. Hyatt explained the history of impact aid in previous discussions with the *Sun*.

Because schools in property poor areas like Gallup don't receive as much tax support as those in property rich districts, these less affluent districts have to make decisions that will stretch their tax dollars as far as they can go.

This is where impact aid comes in. Impact aid is federal funding in the form of a grant for government entities like public schools who do not have the ability to raise property tax dollars because the entity exists on non-taxable lands, such as tribal lands.

Since school districts in Gallup and Zuni either exist on tribal lands or have students who live primarily on tribal land, they should receive more impact aid than districts that receive tax support like in Albuquerque or Las Cruces.

But complications arise when credits come into play. The state can take credit or claim a given amount, at which point the state takes about 75 percent of impact aid funds designated for select districts and reduces that amount from the state's general fund support for those school districts.

The amount the state claims then is used to calculate the state equalization guarantee funding, or the amount of money distributed to each school district to ensure its operating revenue is at least equal to the school's program cost.

In past school years, GMCS received about \$30 million in federal impact aid. This effectively means the state then reduced its funding for GMCS by about \$22.3 million and redistributed this amount to schools across the state.

The disparity, and ensuing controversy, begins when it becomes apparent the state is claiming

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much more of the impact aid from rural districts than urban districts.

In 2019, the state ended up claiming about \$77.6 million in impact aid. Twenty-nine percent of that figure came from Gallup. Central Consolidated School District followed GMCS with \$17.4 million, or about 23 percent. Zuni contributed about \$5.5 million, or 7 percent. Then Albuquerque contributed \$4 million, or 5 percent.

Once the state claims all the impact aid it can, it then redistributes that amount across the state with districts with the highest student need receiving the most aid. Previously, Hyatt said Albuquerque Public Schools, being the largest district in the state, receives the bulk of the aid.

THE NEW CHALLENGE

Hyatt said the specific reason behind the TRO was the state is now trying to claim less than 75 percent of federal impact aid from the district by submitting new data to the impact aid office that would allow them to do so, when they are only able to claim 75 percent of the aid or none at all.

“[The state] is trying to manipulate the numbers to take these dollars away from our kids,” Hyatt said.

Hyatt said since the district has not had success in keeping impact aid through legislation, they have now been forced to take the issue to court.

“We’ve had a lot of support locally to help fight for this issue from local legislators, specifically Sen. George Muñoz, [D-Gallup] and Rep. Patty Lundstrom, [D-Gallup],” he said. “They have been very instrumental in helping us lead the fight to return these dollars back to the kids.”

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NEXT STEPS

When asked about future steps, Hyatt said the next move is to await the outcome of a hearing scheduled for Aug. 26, and then another hearing with the federal impact aid office.

“If we’re successful in court, the state’s going to have to return that money to us and keep giving it to us unless changes are made with state law,” he said.

Hyatt said impact aid is a big issue for local communities and they have admitted it’s been a problem for over 40 years. He added the governor agrees it is an unfair issue and has to be fixed.

“This is a discrimination issue against Native American communities,” he said. “This isn’t just about our students, it’s about their communities. It affects our infrastructures for schools because we can’t generate dollars in the schools.

“The Board of Education is committed to fighting for students to get the impact aid dollars we have rightly earned for our students and not for the rest of the state,” he said.

The *Sun* reached out to the New Mexico Public Education Department to ask how about their response and future plans on the matter. The PED stated on Aug. 20 they do not comment on pending litigation.

By Cody Begaye
Sun Correspondent