



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

June 29, 2022

Ms. Heidi Teshner  
Deputy Commissioner  
Alaska Department of Education and Early Development  
PO Box 110500  
Juneau, AK 99811-0500

Dear Ms. Teshner:

This letter is in response to the Alaska Department of Education and Early Development's (the State's) June 6, 2022 request to begin making estimated payments for State Fiscal Year (FY) 2023 that include a portion of Impact Aid funds as local resources, in accordance with the Impact Aid program regulations at 34 CFR §222.161(a)(6).

The State timely filed a request dated March 3, 2022 to take Impact Aid payments into account in determining State aid payments to school districts during State FY 2023. Under Section 7009 of the Impact Aid statute, the State is able to include Impact Aid funds as local effort in its payment formula for a particular fiscal year if the Secretary certifies that the State has in effect a program of State aid that equalizes expenditures for free public education among local educational agencies (LEAs) in the State.

The Department provided technical assistance to the State regarding the data presentation requirements in 34 C.F.R. § 222.162, after which the State provided a revised data submission on May 20, 2022. The Department notified LEAs in the State of the opportunity to request a predetermination hearing on the May data submission on June 2, 2022. Per 34 CFR §222.164(a)(2), LEAs have 30 days from the receipt of the June 2, 2022 notice to request a predetermination hearing, or until July 2, 2022. Consequently, the Department will not be able to make a determination before July 1, 2022, when the State's FY begins. In accordance with 34 CFR §222.161(a)(6), the Secretary may grant permission to a State to begin making estimated or preliminary State aid payments in cases where a certification cannot be made before the beginning of the State's FY.

In determining whether to grant permission, the Secretary may consider whether the Secretary certified the State in the prior State fiscal year. Alaska was not certified for State FY 2022, and this determination is the subject of an ongoing appeal. The program regulations at 34 CFR §222.162(d) allow for disparity data to be presented in four different ways. The method under which the State chose to present data for the FY 2023 determination, which appears to be consistent with the program regulations, is different from the method that the State historically used to calculate disparity. The Secretary also

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may consider whether substantially the same State aid program is in effect since the date of the last certification. It is our understanding that, while the method of presenting disparity data has changed, the State aid program itself has not changed.

According to the State's data submission of May 20, 2022, the disparity in revenue per student is 21.08 percent. This is below the maximum of 25 percent required to certify a State as equalized under Section 7009(b)(2)(A).

The State also assured the Secretary in its email dated June 6, 2022, that, in accordance with §222.161(a)(6)(ii), if the Secretary determines that the State does not meet the requirements to be certified under Section 7009 as an equalized State, the State will pay to each affected LEA, within 60 days of the determination, the amount by which the State reduced State aid to the LEA. Note that this advance permission does not constitute a determination for FY 2023.

Therefore, pursuant to delegation from the Assistant Secretary for Elementary and Secondary Education to the Impact Aid Program Director, the State is permitted to make estimated or preliminary State aid payments for State FY 2023 that consider a portion of Impact Aid payments as local resources, pending the outcome of our determination for FY 2023.

Please contact Amanda Ognibene at [Amanda.Ognibene@ed.gov](mailto:Amanda.Ognibene@ed.gov) or (202) 453-6637 with any questions about the Section 7009 certification process.

Sincerely,

Faatimah Muhammad, Director  
Impact Aid Program

cc: Alaska Superintendents