



MEMORANDUM

To: Superintendents and Business Managers

From: Dr. Deena Bishop, Commissioner 

Date: December 1, 2023

Subject: Maximum Local Contribution or "Local Cap"

This memorandum is to follow up on the Department of Education and Early Development's (DEED) July 27, 2023 memo (attached) related to local contribution requirements and limitations under Alaska school funding laws.

The required local contribution (RLC) and voluntary or additional local contribution (VLC) are outlined in AS 14.17.410. AS 14.17.410(c) governs how the VLC is determined, including placing a maximum upper limit (or "local cap") on any VLC made by a city or borough school district:

(c) In addition to the local contribution required under (b)(2) of this section, a city or borough school district in a fiscal year may make a local contribution of not more than the greater of

(1) the equivalent of a two mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Commerce, Community, and Economic Development under AS 14.17.510 and AS 29.45.110; or

(2) 23 percent of the total of the district's basic need for the fiscal year under (b)(1) of this section and any additional funding distributed to the district in a fiscal year according to (b) of this section.

While AS 14.17.410 governs the determination of a monetary amount for the required minimum local contribution in (b)(2) and the voluntary maximum local contribution in (c), the definition of local contribution provides information on what funding is counted toward the established minimum and maximum amounts.

We start with the definition in statute, which provides that "local contribution" means appropriations and the value of in-kind services made by a district. AS 14.17.990(6). These terms are further defined in regulation 4 AAC 09.990, which states:

(b) In the definition of "local contribution" in AS 14.17.990,

(1) "appropriations" means money appropriated to a district's school operating fund by the city or borough;

(2) “value of in-kind services” means the documented fair market value of insurance, utilities, energy, audits, and maintenance of facilities provided at no charge to a district by the city or borough as reported in the district’s school operating fund..

DEED wishes to clarify and confirm that the federal impact aid law does not govern the interpretation of AS 14.17.410(c). The disparity test is a requirement for the state and completely separate from the local contribution requirements of districts in AS 14.17.410. Our intent in raising the issue of the disparity test and federal law, section 7009(b) of the Elementary and Secondary Education Act (ESEA), was to explain some of the background for Alaska’s funding laws and the reasoning for the statutory maximum on the VLC.¹ While the federal disparity test is relevant to the background for some of the state funding statutes, it does not control the interpretation of the state statutes governing school funding and the local contribution.

In addition, we acknowledge that there could be some inconsistency in interpreting AS 14.17.410(c) in light of the regulatory definition in 4 AAC 09.990. The regulatory definition refers to appropriations “to a district’s school operating fund” and the value of particular services “reported in the district’s school operating fund.” This definition is consistent with the federal Impact Aid Program’s historical interpretation that funds subject to the disparity test are limited to those in a school district’s operating fund. However, this interpretation has changed in recent years.² The federal Impact Aid Program does not limit funds subject to the disparity test to a school district’s operating fund. Likewise, AS 14.17.410 does not limit the RLC or the VLC to contributions to or funds reported in a school district’s operating fund.

In order to align with the statutes and recent guidance and orders from the federal Impact Aid Program, DEED intends to propose a regulation amendment to 4 AAC 09.990 to make clear that “local contribution,” as used in AS 14.17.410, is not limited to funds appropriated to or reported in a district’s school operating fund. In consideration of the budgeting process already underway for the FY2025 budget cycle, and the procedures required before a regulation can take effect under the Administrative Procedures Act, DEED would request that any regulation amendment

¹ In legislative hearings on SB 36, the bill that implemented AS 14.17.410 in 1998, a legislator, DEED representative, and a legislative staffer discussed that the purpose of the local cap is to allow the state to pass the disparity test. Legislative staffer to the bill sponsor, Jerry Burnett, explained that “[i]n current law, the local excess contribution is limited to 23 percent of the basic need in order to prevent the disparity from being beyond 25 percent.” Minutes, Senate Health, Ed. & Social Services Comm. Hearing on S.B. 36, 20th Leg., 1st Sess., Number 577 (Feb. 12, 1997), <https://www.akleg.gov/basis/Meeting/Detail?Meeting=SHES%201997-02-12%2009:01:00> (last visited Nov. 27, 2023). While some specifics of AS 14.17.410(c) have changed since 1998, the local contribution concept has not.

² See Report for the Year July 1, 2021-June 30, 2022 (State Fiscal Year 2022) Under Section 7009(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C § 7709(b)), Impact Aid Office, U.S. Dept. of Education (June 30, 2021) (“IAP explained that if the State continued to submit disparity data using the ‘inclusion method on a revenue basis’ described in 34 CFR 222.162(d)(1), that all revenues for current expenditures must be included in the disparity data, and that pupil transportation revenues met the regulatory definitions of “revenue” and “current expenditures” in 34 CFR 222.161(c).”) (attached)

take effect for the FY2026 budget cycle. Of course, any proposed regulation project must go through the required procedures under state law, including a mandatory time period for public comment, and it would ultimately be up to the State Board of Education and Early Development to consider public comment and vote on whether they would adopt any regulation change.

Given the potential for inconsistency on the definition of local contribution, based on 4 AAC 09.990, DEED will honor an interpretation of “local contribution” as only including appropriations to or funds reported in a school district’s operating fund, until a new regulation takes effect, if ever. Given the change in position as outlined in this memorandum, the July 27, 2023 memorandum may be disregarded to the extent it is inconsistent with the position stated in this memorandum.

Please feel free to contact us with any questions or needs for further clarification on this issue.

Enclosures

cc: Heidi Teshner, DEED Deputy Commissioner
Karen Morrison, DEED Director of Finance and Support Services
Lori Weed, DEED School Finance Manager



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

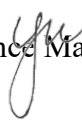
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MEMORANDUM

To: Municipal School Districts
Superintendents and Business Managers

From: Lori Weed, School Finance Manager 

Date: July 27, 2023

Subject: Maximum Local Contribution or "Local Cap"

A review of the local revenues was performed on the FY2022 Financial Statements for all districts. This letter is to remind districts that local appropriations and in-kind funding being applied to special revenue fund(s) are considered towards the maximum local contribution or "local cap" set out in AS 14.17.410.

The U.S. Department of Education has certified that Alaska meets the requirements of section 7009(b) of the Elementary and Secondary Education Act (ESEA); this certification is referred to as the disparity test. As a result, Alaska has an equalized funding formula and is eligible to consider a portion of Impact Aid payments as local resources in determining State Aid entitlements to district.

The State's disparity test needs to include all revenues for current expenditures under the Impact Aid statute's definition of current expenditures, regardless of the State's categorization. The Impact Aid statute's definition of current expenditures is in 20 USC 7713, paragraph 4.

(4) Current expenditures:

The term "current expenditures" means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but does not include expenditures for community services, capital outlay, and debt service, or any expenditures made from funds awarded under part A of subchapter I. The determination of whether an expenditure for the replacement of equipment is considered a current expenditure or a capital outlay shall be determined in accordance with generally accepted accounting principles as determined by the State.

Providing additional local funding outside of the established funding cap creates inequity amongst Alaska school districts and has major repercussions on the above-mentioned

certification from the U.S. Department of Education. Labeling funds as “outside the funding cap” or identifying the allocation to a special revenue fund does not make it compliant.

Going forward the department requests districts verify that the FY2024 total local appropriation and in-kind funding does not exceed the local cap as clarified in AS 14.17.410(c). If it does exceed the local cap, then the district must reimburse those funds back to the city/borough for FY2024.

If it is determined that local funds continue to be applied to special revenue fund(s) to circumvent the local cap and are not refunded appropriately, then state aid will be reduced to maintain compliance with the federal equalization.

If there are any further questions, please do not hesitate to contact me.

cc: Municipal Administrators
Heidi Teshner, Acting Commissioner
Lacey Sanders, Deputy Commissioner
Karen Morrison, Director of Finance and Support Services