



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

**Department of Education
& Early Development**

FINANCE & SUPPORT SERVICES
School Finance Section

333 Willoughby Avenue, 9th Floor SOB
PO Box 110500
Juneau, Alaska 99811-0500
Phone: 907.465.2785
Lori.Weed@alaska.gov

December 1, 2023

Frank Hauser, Superintendent
Juneau School District
10014 Crazy Horse Drive
Juneau, Alaska 99801

Dear Superintendent Hauser,

I am writing to follow up on recent discussions with the Juneau School District (JSD) related to local contribution requirements and limitations under Alaska school funding laws. These discussions occurred after the Department of Education and Early Development's (DEED) June 29, 2023 and August 28, 2023 letters to JSD and JSD's July 28, 2023 letter on this topic.

As discussed, 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.

The definition in statute 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.

The crux of the difference between JSD's and DEED's interpretation of the maximum VLC appears to primarily focus on the funds in which local contributions are placed and whether the funds can be categorized as instructional or non-instructional.

In its July 28 letter, JSD stated that "the \$2.3M appropriated in Ordinance 2022-06(b)(AR) was for non-instructional deficits of (1) \$0.75M for after school childcare, (2) \$0.23M for community school programs, (3) \$1.28M for pupil transportation and (4) a \$60k purchase for wrestling mats." The letter goes on to state that community services are not instructional and are placed in a special revenue fund to prevent JSD from commingling instructional and non-instructional funds to ensure compliance with AS 14.17.410.

The letter also states that community services are not subject to the federal disparity test and not subject to AS 14.17.410. Finally, the letter states that "the recent federal determination that pupil transportation in Alaska is exempt from the federal disparity test is consistent with A.S. 14.09.010, which excludes pupil transportation from the scope of A.S. 14.17.410." Thus, JSD states that the totality of the \$2.3M appropriated in the 2022 ordinance is not a local contribution subject to the cap in AS 14.17.410(c).

I am writing to clarify DEED's position on the issue of local contribution requirements under the law. First, I wish to clarify and confirm that the federal impact aid law does not govern the interpretation of AS 14.17.410(c). As stated in the August 28 letter, "the disparity test is a completely separate requirement for the state than the local contribution requirements of districts in AS 14.17.410." My intent in raising the issue of the disparity test and federal law, section 7009(b) of the Elementary and Secondary Education Act (ESEA), in the June 29 letter 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

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,

background for some of the state funding statutes, it is a separate requirement for the state and does not control the interpretation of the state statutes governing school funding and the local contribution.

Second, I 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 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.

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)

Given the potential for inconsistency on the definition of local contribution, based on 4 AAC 09.990, DEED will honor JSD's 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 letter, the June 29, 2023 and August 28, 2023 letters to JSD may be disregarded to the extent they are inconsistent with the position stated in this letter.

Finally, please feel free to contact me with any questions or needs for further clarification on this issue.

Sincerely,

A handwritten signature in cursive script that reads "Lori Weed".

Lori Weed
School Finance Manager

Enclosure

cc: Deedie Sorensen, JSD Board President
Cassie Olin, JSD Administrative Services Director
Heidi Teshner, DEED Deputy Commissioner
Karen Morrison, DEED Director of Finance and Support Services