

Summary Notes:
By Barry Williams, Apache County School Superintendent

New Mexico State Legislature, Indian Affairs Committee Meeting
November 10, 2015, State Capitol, Santa Fe, N.M.

Attendance:

Representative Sharon Clahchischilliage; Senator John Pinto; Representative James Madalena; Representative Nick Salazar; Representative Eliseo Alcon; Senator Richard Martinez; Senator William Soules; Senator Cisco McSorley; Senator Carlos Cisneros; Representative James Smith; Representative Debbie Rodella; and Senator Nancy Rodriguez; Peter Kovnat, Legislative Council Service; Latifah Phillips, Assistant Secretary of Indian Education, New Mexico Public Education Department (PED); Dr. Colleen Bowman, Interim Superintendent, Central Consolidated School District; Carmen Moffet, Interim Superintendent, Gallup-McKinley County School District; Barry Williams, Apache County School Superintendent; Lynnette Michalski, Superintendent, Window Rock Unified School District; Lee Zhonie, President, Red Valley-Cove Chapter and N.A.T.I.V.E. Board Member; and several Council Members of the Navajo Nation.

Presentation Points:

- From the IAC meeting held in Gallup: What is the status of the NM Director of Finance approval of the IGA between Window Rock and Gallup-McKinley? A letter was shared at the end of the meeting that indicated the Director of Finance and Administration did not need to approve the IGA between the Districts, however language in the IGA appears that it may be intended as a JPA. (See reference letter from the New Mexico Department of Finance & Administration.)
- Gallup-McKinley has the IGA as prepared from Window Rock and is waiting for response from their Council and PED. Neither Governing Board has acted on the IGA at this date.
- New Mexico Public Education Department (PED) is working to develop an MOU for consideration by the Arizona Department of Education and the four school districts on Navajo lands that are affected. The effective date of this work is for the 2016-17 school year NOT this current year.
- The IAC Committee directed PED to arrange a meeting with all affected parties to work through legal language and details that are holding up progress on these agreements. The IAC requested that this be done by December 2015.
- An MOU, IGA or Joint Powers Agreement may be a short term solution. An Interstate Compact should be considered for a long term solution.

Areas-issues that may be road blocks and solutions are needed to address:

- Base level student funding is greater in New Mexico compared to Arizona. This has greater impact on Arizona as there may be a higher cost for students attending a New Mexico school than an Arizona school.

- Arizona and New Mexico handle Impact Aid funding to schools on the Reservations differently. These differences will need to be taken into consideration and Federal representatives will need to be included to insure that Impact Aid follows and supports the students as intended by Federal guidelines.
- There are some students that have hardship circumstances that should be addressed and soon as possible. Arizona statute (15-825) allows the County School Superintendent to issue a Certificate of Educational Convenience for a student to leave Arizona. Does New Mexico have a similar provision and can this provision serve to meet these hardship cases while details between States and Districts are being resolved? How would funding for students under a Certificate of Educational Convenience be processed?

Summary:

The New Mexico IAC Committee is speaking in support of the importance of finding solutions that make our political boundaries invisible when it is negatively affecting a child's education. Their specific direction to the PED and legislative staff is to speed up the process of working through the unresolved details by scheduling meetings with all affected parties by December 2015.

This directive by the IAC Committee should serve to Arizona that they are sincere in finding short term and long term solutions to these long standing boundary issues. Arizona's Department of Education, State Legislators and affected school districts are encouraged to reciprocate by agreeing to meet, identify and resolve the remaining differences in a timely manner.



Susana Martinez
GOVERNOR

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Thomas E. Clifford, Ph.D
Cabinet Secretary

September 29, 2015

BY HAND

Senator John Pinto
District 3
Co-Chair, Indian Affairs Committee

Representative Sharon Clahchischilliage
District 4
Co-Chair, Indian Affairs Committee

C/o Legislative Council Service
411 State Capitol
Santa Fe, NM 87501

Re: *Inquiry Regarding Intergovernmental Agreement Between Gallup-McKinley County School District and Window Rock Unified School District*

Dear Senator Pinto and Representative Clahchischilliage:

This letter is in response to your inquiry regarding Department of Finance and Administration (“DFA”) approval of an intergovernmental agreement (“IGA”) between Gallup-McKinley County School District (“GMCS D”) and Window Rock Unified School District No. 8 (“WRUSD”) pursuant to NMSA 1978, Section 11-1-3.

DFA’s Office of the Secretary has no record of receiving the IGA prior to its receipt as an attachment to your letter. We note that DFA does not approve IGAs; rather, DFA is statutorily obligated to approve joint powers agreements (“JPAs”) in accordance with NMSA 1978, Sections 11-1-1 through 11-1-7 (“JPA Act”). In the case of the draft IGA attached to your letter, though it is titled as an IGA, it appears that the agreement may be intended as a JPA. (The IGA appears to contain most of the required language for a JPA, although it lacks a signature block for DFA’s final approval authority.)

We understand that the Public Education Department (“PED”) may be currently working with GMCS D and WRUSD on a new draft of the IGA. Once PED and the parties have completed this new draft, and assuming that the parties intend that the agreement be a JPA pursuant to and meeting the requirements of the JPA Act, DFA would be happy to perform a pre-review of the agreement and/or expedite its handling once it is received by the Office of the Secretary as a submitted JPA for DFA review.

Please note that JPA submission procedures, which include completion of a JPA brief form, are located on DFA’s website at: http://www.nmdfa.state.nm.us/Office_of_the_Secretary_2.aspx. You may also contact Rebecca Jackson, DFA’s Acting General Counsel, at 827-4632, if you, GMCS D, or WRUSD have any JPA-related questions.

Thank you for the inquiry and we look forward to receiving the agreement in the near future.

Sincerely,

A handwritten signature in cursive script that reads "Thomas Clifford". The signature is written in black ink and is positioned above the typed name.

Thomas E. Clifford, Ph.D.
Secretary of Finance and Administration

CC (via e-mail): Stephanie Schardin Clarke, DFA Deputy Secretary
 Peter Kovnat, Staff Attorney, Legislative Council Service
 Paul Aguilar, Deputy Secretary, Public Education Department