

Zuni Lawsuit Update

Public School Capital Outlay Oversight Task Force
(PSCOOTF)

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Presenter:

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New Mexico Public School Facilities Authority

Partnering with New Mexico's communities to provide quality, sustainable school facilities for our students and educators.

Agenda

- Background
- State of New Mexico Response to Zuni Lawsuit
- Standards Based Awards Process
- Recent Developments

Background

- Current public school capital funding process in NM was developed and established in response to the 1998 Zuni lawsuit.
- New Mexico public school capital outlay process seeks to establish and implement an equitable and uniform funding system for capital improvements.
- Public school capital outlay funding is both a local and state responsibility in New Mexico.
- Public School Capital Outlay Council (PSCOC) manages the allocation of the Public School Capital Outlay Act Fund (PSCOF) to public school facilities in New Mexico's 89 school districts and 2 special schools (School for the Deaf and School for the Blind and Visually Impaired).

State of NM Response to the Zuni Lawsuit

- **1999:** District Court ruled that public school capital outlay funding in NM was violating the State Constitution guarantee: establishment and maintenance of a *“uniform system of free public schools sufficient for the education of all children of school age.”*
- **1999:** Court ordered the State to *“establish and implement a uniform funding system for capital improvements and for correcting past inequities.”*
- **1999 – 2001:** PSCOC develops draft “Facility Adequacy Standards.”
- **2002:** PSCOC adopts first version of the Adequacy Standards in order to:
 - Establish the minimum acceptable level of physical condition and enrollment capacity of school buildings.
 - Provide a measuring stick to evaluate any existing public school building.
 - Define minimum sizes of select space types and minimum performance criteria for educational spaces, based on PED Standards for Excellence.
- **2002 – 2004:** Statewide assessments and first ranking of schools.
 - 2004 – present: School facility assessments are conducted year-round.
- **2004 – present:** Standards-based funding awards, based on the prioritization from the statewide ranking.
 - Current: Systems, Pre-K and Teacher Housing.

Creation of the Standards-Based Process

Between 1999-2004, in response to the Zuni lawsuit and the need to create a uniform system for capital improvements, the State formulated a new “Standards-Based” capital funding program by:

- 1. Assigning the source of the Public School Capital Outlay Fund: supplemental severance tax bond proceeds**
- 2. Designating the administrative and oversight bodies**
 - Public School Capital Outlay Oversight Task Force (PSCOOTF).
 - Public School Capital Outlay Council (PSCOC).
 - Public School Facilities Authority (PSFA).
- 3. Creating the Statewide Adequacy Standards**
 - Minimum space and performance requirements used to evaluate every school and generate the prioritized statewide ranking of all schools.
- 4. Formulating the State/Local match calculation (capital funding formula).**

Purpose of Statewide Adequacy Standards

- Adequacy Standards are used to uniformly measure all existing public school buildings in NM: **the standards are not a design guideline for new schools.**
 - Schools with the most educational and facility deficiencies are identified as having the greatest capital needs.
 - Schools with the greatest needs are prioritized to receive State funding first.
 - Based on the PSCOC weighted New Mexico Condition Index (wNMCI) Ranked list.
- New schools are designed to exceed the minimum requirements of the Adequacy Standards.
 - The maximum building gross square foot per student calculator provides a maximum area, “footprint” for the potential new school.
- Identify deficiencies: assign a cost to correct the deficiencies : calculate the score wNMCI: rank school facilities.

$$\text{wNMCI} = \frac{\text{Cost to Correct Physical Facility Condition Deficiencies at a School} + \text{Cost to Correct Educational Adequacy Deficiencies at a School}}{\text{Cost to Replace the School}}$$

Recent Developments in the Zuni Lawsuit

- **December 2020:**
 - District court rules in favor of Gallup-McKinley County Schools.
 - The District Court ruled in favor of the Plaintiffs, Zuni Public School District and Gallup-McKinley County School District. The court held that the PSCOA and PSCIA are unconstitutional because they do not provide a uniform and sufficient education under Article XII, Section 1 of the New Mexico Constitution.
- **February 2021:**
 - State files a motion for post judgement relief.
 - The motion for post-judgment relief was a motion asking the court to reconsider its ruling. The motion made three basic arguments: 1) that the court's order did not provide sufficient guidance to the Legislature in describing what would make a funding system constitutional; 2) the court did not consider recent legislative changes to the funding system; and 3) the court erred by accepting all 432 of the Plaintiffs proposed findings of fact and conclusions of law, rather than considering them individually.
- **June 2021:**
 - District court denies the state's motion for post judgement relief.
- **July 2021:**
 - State files an appeal of the district court's ruling from December 2020.
- **August 2022:**
 - 2022 NM States Opening Brief in the appeal due.