Administrative Office of the Courts

FOR IMMEDIATE RELEASE

Feb. 12, 2018

Contact: Barry Massey, communications officer
bmassey@nmcourts.gov
505-827-4805
505-470-3436

SUPREME COURT ISSUES RULING ON STATE FUNDING DEDUCTIONS FOR SCHOOLS RECEIVING FEDERAL IMPACT AID

SANTA FE – The New Mexico Supreme Court ruled Monday the Public Education Department must obtain annual certification or permission from the U.S. Department of Education before reducing monthly allotments of state equalization funding to local school districts to offset anticipated federal impact aid payments.

In a unanimous decision, the Court concluded the state agency erred in lowering monthly state funding to Zuni Public School District, #89, by about $4.6 million over 10 months during the 2010 fiscal year, which ran from July 1, 2009 to June 30, 2010.

The school district faced financial problems because it did not receive any of its more than $6 million in impact aid from the federal government until late in the fiscal year. To help cope with underfunding during much of the year, the school district obtained $500,000 in emergency funding from the state education department.

However, after a final distribution of state funding near the end of the fiscal year, the school district ended up receiving about $217,000 more in state equalization aid than it was entitled to under New Mexico's school funding system.

Federal law provides assistance known as "impact aid" to school districts that lose tax revenues because they are on or near tribal lands, military bases and other federal lands exempt from property taxes.

New Mexico's school funding formula reduces state aid to local districts by an amount equal to 75 percent of a district's impact aid. Federal law permits such an adjustment for states that receive a certification each year from the secretary of the U.S. Department of Education that the state has a program for equalizing per-pupil expenditures on public schools. In fiscal year 2010, the state was not certified until April 26, 2010. Newer federal regulations, which were not in

effect in the 2010 fiscal year, also allow a state to adjust its preliminary or estimated school district funding for impact aid payments if it receives permission from the U.S. Department of Education secretary prior to certification.

The Court's ruling came in a lawsuit brought by the Zuni school district in 2010. The district contended that the Public Education Department was wrongly lowering the district's monthly state aid allotments to adjust for impact aid before the agency received federal certification. District court decisions in the case were twice appealed to the state Court of Appeals.

In 2017, the Court of Appeals held that the state could make an impact aid deduction for state school funding received by the Zuni district only in the months after the federal certification was received.

The Supreme Court ruled that the Public Education Department, once it received federal certification, was allowed to adjust the state equalization guarantee (SEG) funding for the federal impact aid the Zuni district received for the entire 2010 fiscal year.

"Going forward, the Department's monthly SEG distribution payments to a district shall be based upon the preliminary SEG distribution figure without taking into consideration a district's impact (anticipated or received), until federal certification has been issued to the State by the DOE Secretary or the DOE Secretary has granted the state permission to consider impact aid prior to certification," the Court said in an opinion written by Senior Justice Petra Jimenez Maes. "Only then shall the Department take into consideration impact aid in its calculation of monthly SEG distribution payments to a district."

The court acknowledged that this approach, if the state receives certification late in a fiscal year, could lead to potentially large refunds of state funding by some school districts to the general fund, which would prevent the refunded money from being available for redistribution to school districts that receive no impact aid. That issue, however, is for the Legislature to address, the court said.

The Zuni school district received about $5.3 million in state equalization funding in the fiscal year after the state deducted $4.8 million – representing 75 percent of the district's federal impact aid – from a final distribution of $9.9 million in state school equalization funding. The district was entitled to $5.1 million in state funding.

To read the opinion in *New Mexico Public Education Department v. Zuni Public School District, #89*, No. S-1-SC-36009 slip op. (N.M. S. Ct. February 12, 2018), please visit the New Mexico Compilation Commission's website using the following link:

http://www.nmcompcomm.us/nmcases/nmsc/slips/SC36,009.pdf

###

The Supreme Court also filed an opinion today in *Progressive Cas. Ins. Co.v. Vigil*, No. S-1-SC-35130 slip op. (N.M. S. Ct. February 12, 2018).

To read the opinion in *Progressive*, please visit the New Mexico Compilation Commission's website using the following link:

http://www.nmcompcomm.us/nmcases/nmsc/slips/SC35,130.pdf