

## Supreme Court affirms ED's Federal Impact Aid Program interpretation

In a 5-4 decision, the **Supreme Court** turned back two New Mexico districts' challenge to the **Education Department's** method of determining when a state has a policy of equalizing per-pupil expenditures statewide.

The Federal Impact Aid Program provides federal funds to school districts that are affected by federal activity, such as having a military base or federal lands within their borders. Under the program, states may not offset funds provided under the FIAP when making their allocation to such districts, unless the state equalizes per-pupil expenditures across the state. When determining whether the state has a per-pupil equalization policy, the law requires ED to compare the funding at the highest- and lowest-funded districts, disregarding the top and bottom 5 percent. In New Mexico, when ED made the comparison it excluded the top and

bottom 5 percent based on student population. The two New Mexico districts challenged ED's methodology.

The court held that ED's method of conducting the necessary analysis should be given deference. Although the decision does not have direct impact on NCLB funding decisions, the fact that a majority of the court deferred to ED on a matter of how to accomplish a complex administrative task may have an indirect impact on NCLB and other education programs, said education attorney **John Borkowski**.

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**John W. Borkowski, Esq.:** Hogan & Hartson LLP, Columbia Square, 555 13th St. NW, Washington, DC 20004, [jwborkowski@hhlaw.com](mailto:jwborkowski@hhlaw.com).

*Zuni Public School District No. 89, et al. v. Department of Education, et al.*, No. 05-1508 (U.S. 04/17/07). □