



Indian Education For All funding reduction – January 19, 2023

Background

The Montana Constitution establishes Indian Education For All (IEFA) as an essential part of Montana’s education system in Mont. Const. [Art. X, sec. 1\(2\)](#): “The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.”

In 2005, the Legislature enacted § [20-9-329](#), MCA, which established an IEFA payment as “a component of the BASE [base amount for school equity, i.e., a primary source of state funding for public schools] budget of the district.” The Legislature updated the statute in 2007 to prohibit the diversion of IEFA funds for another purpose and to require financial reporting specifying how the funds were expended.

School districts provide the mandatory IEFA financial reporting on an annual Trustee Financial Summary (TFS) filed with the Office of Public Instruction (OPI), which contains the previous year’s revenue and expenditures.

In 2023, the Legislature passed [HB 338](#), which contained several new requirements in § [20-9-329](#), MCA. One new requirement in subsection 4 mandated reporting on how IEFA instruction was developed cooperatively with Montana Tribes and how IEFA instruction was provided to certified personnel and students. Another new requirement in subsection 5 mandated IEFA eligibility reductions for failing to report IEFA spending or IEFA funding reductions for failing to show that all IEFA funds were appropriately spent.

Although the bill became effective July 1, 2023, the bill stated the “new” reporting requirements in subsection 4 apply to funds distributed after July 1, 2023, which will apply to the new instruction reporting requirement.

OPI interprets this requirement to apply to the new instructional reporting requirement, but not to the financial reporting requirement, which was not new. Thus, OPI interprets the financial reporting requirement to apply to the 2023-24 school year, which contains the IEFA financial report for the 2022-23 school year.

Funding Reduction

OPI has prepared a preliminary data sheet identifying school districts that underreported IEFA expenditures in the TFS filed during the 2023-24 school year. OPI acknowledges the Board of Public Education’s (BPE) authority § [29-9-344\(2\)](#), MCA, to “order the superintendent of public

instruction to withhold distribution of BASE aid from a district when the district fails to: (a) submit reports or budgets as required by law or rules adopted by the board of public education”. OPI also acknowledges that § [29-9-344\(3\)](#), MCA, provides a school district with an opportunity for a contested case hearing before BPE withholds distribution of BASE aid.

OPI requests that BPE exercise its authority under § [29-3-344\(2\)\(a\)](#), MCA, to order what amount of IEFA funding, if any, “must be reduced” under § [29-9-329\(5\)\(b\)](#), MCA, after reviewing the “funding received [by school districts] that was not spent” on IEFA activities.