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SECRETARY OF EDUCATION

BILL RICHARDSON
Governor

January 11, 2010

MEMORANDUM

TO: Local School District Superintendents
Charter School Directors

FROM: Veronica C. García, Ed.D. (signature on file)
Secretary of Education

RE: **Distance Learning Programs**

Various questions have arisen concerning distance learning courses offered by Innovative Digital Education and Learning – New Mexico (IDEAL-NM), as well as by other distance learning programs throughout the state. It is my hope that this correspondence will help in answering these concerns.

1. IDEAL-NM is a state-operated on-line course provider that works with school districts to provide electronic courses (e-courses) to meet the needs of students statewide.
 - Courses are developed and taught by New Mexico licensed teachers who meet No Child Left Behind (NCLB) guidelines for being highly qualified.
 - All courses are aligned with New Mexico Content Standards with Benchmarks.
 - Districts receive the State Equalization Guarantee (SEG) for the student(s) who meet the definition of a “Qualified Student” (NMSA 1978, Section 22-8-2) and take IDEAL-NM courses.

- Districts must pay a course fee to IDEAL-NM for students enrolled in the IDEAL-NM courses. The fee is not for the course curriculum, but covers the prorated share of a teacher's salary. Should a district elect to use its own teacher to deliver e-courses, the course curriculum would be free to the district.
 - Participants in IDEAL-NM courses not enrolled in one-half or more of the minimum course requirements must pay course fees to the local school district. For example, this could include home school students and private school students.
2. School district and charter school initiated distance learning programs that provide services to students statewide (i.e., outside their district attendance area), must have an agreement with the district where those students are enrolled for the purpose of compulsory attendance.
 3. If a student participates in a distance learning course offered by a district or charter school other than the student's enrolling district, the student shall be counted only once as a qualified student for SEG funding purposes and for determining membership in the student's enrolling district. Any reimbursement for cross-district participation for distance learning courses must be arranged between the districts or charter schools and reflected in a signed written agreement. For example:
 - The enrolling home district may elect to retain the SEG for these students by entering into an MOU with the district offering the e-courses, and pay the course fees to the offering district; or
 - The home district superintendent may elect to give written permission for the offering district to enroll the student(s) and thereby forfeit the SEG for those students.

In either event, the district receiving SEG will be responsible for administering the Standards Based Assessment (SBA) and counting the student in the district's/school's Adequate Yearly Progress (AYP).

4. In order to participate in distance learning courses, a public school student must be enrolled in a New Mexico public school district, charter school, state institution, or educational program conducted in a state institution and have written permission of the student's enrolling district, charter school, state institution, or educational program conducted in a state institution.
5. If the e-course is a required course for graduation, there can be no fees, tuition, or additional required materials assessed to any student. Article XII, Section 1 of the New Mexico Constitution guarantees "[a] uniform system of free public schools sufficient for the education of and open to all children of school age in the state." The state attorney general has issued opinions stating that it is unconstitutional to charge a public school

student a mandatory fee on courses required for graduation. Additionally, incidental charges related to elective courses have rarely been upheld by the courts.

6. Finally, violation of any rules governing distance learning could lead to an investigation and possible sanctions in accordance with New Mexico law [e.g., 6.30.8.8(F) NMAC (permitting the withholding of membership in certain situations)].

Special Note: *An on-line drop-out recovery initiative (Graduate New Mexico) is now underway that is targeting 10,000 drop-outs for completion of their high school diploma via IDEAL-NM. This is a single focused initiative and may carry special stipulations for enrolling students that do not necessarily follow the above mentioned procedures. These special stipulations will come from IDEAL-NM when the initiative is finalized and will address only identified Graduate NM students. You will receive specific notification once this initiative is operational.*

I hope this helps to clarify many of the distance learning issues arising throughout the state. If you have further questions, please contact Dr. Jim Holloway, Assistant Secretary for Rural Education (505) 827-6534 or (505) 699-2347 or Ms. Sandra Henson, Executive Director of IDEAL-NM (505) 383-2402 or (505) 629-9533

VCG/JH

cc: Dr. Catherine Cross Maple, Deputy Secretary, Learning and Accountability
Leadership Team, New Mexico Public Education Department
Ms. Sandra Henson, Ed.S, Executive Director, IDEAL-NM