Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

ZUNI PUBLIC SCHOOL DISTRICT NO. 89 ET AL. v. DEPARTMENT OF EDUCATION ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

No. 05–1508. Argued January 10, 2007—Decided April 17, 2007

The Federal Impact Aid Program provides financial assistance to local school districts whose ability to finance public school education is adversely affected by a federal presence. The statute prohibits a State from offsetting this federal aid by reducing state aid to a local district. To avoid unreasonably interfering with a state program that seeks to equalize per-pupil expenditures, the statute contains an exception permitting a State to reduce its own local funding on account of the federal aid where the Secretary of Education finds that the state program "equalizes expenditures" among local school districts. 20 U.S.C. §7709(b)(1). The Secretary is required to use a formula that compares the local school district with the greatest per-pupil expenditures in a State to the school district with the smallest per-pupil expenditures. If the former does not exceed the latter by more than 25 percent, the state program qualifies as one that "equalizes expenditures." In making this determination, the Secretary must, inter alia, "disregard [school districts] with per-pupil expenditures ... above the 95th percentile or below the 5th percentile of such expenditures in the State." §7709(b)(2)(B)(i). Regulations first promulgated 30 years ago provide that the Secretary will first create a list of school districts ranked in order of per-pupil expenditure; then identify the relevant percentile cutoff point on that list based on a specific (95th or 5th) percentile of student population—essentially identifying those districts whose students account for the 5 percent of the State's total student population that lies at both the high and low ends of the spending distribution; and finally compare the highest spending and lowest spending of the remaining school districts to see whether they satisfy the statute's requirement that the disparity between them not Syllabus

exceed 25 percent.

Using this formula, Department of Education officials ranked New Mexico's 89 local school districts in order of per-pupil spending for fiscal year 1998, excluding 17 schools at the top because they contained (cumulatively) less than 5 percent of the student population and an additional 6 districts at the bottom. The remaining 66 districts accounted for approximately 90 percent of the State's student population. Because the disparity between the highest and lowest of the remaining districts was less than 25 percent, the State's program "equalize[d] expenditures," and the State could offset federal impact aid by reducing its aid to individual districts. Seeking further review, petitioner school districts (Zuni) claimed that the calculations were correct under the regulations, but that the regulations were inconsistent with the authorizing statute because the Department must calculate the 95th and 5th percentile cutoffs based solely on the number of school districts without considering the number of pupils in those districts. A Department Administrative Law Judge and the Secretary both rejected this challenge, and the en banc Tenth Circuit ultimately affirmed.

Held: The statute permits the Secretary to identify the school districts that should be "disregard[ed]" by looking to the *number of the district's pupils* as well as to the size of the district's expenditures per pupil. Pp. 7–17.

(a) The "disregard" instruction's history and purpose indicate that the Secretary's calculation formula is a reasonable method that carries out Congress' likely intent in enacting the statutory provision. For one thing, that method is the kind of highly technical, specialized interstitial matter that Congress does not decide itself, but delegates to specialized agencies to decide. For another, the statute's history strongly supports the Secretary. The present statutory language originated in draft legislation sent by the Secretary himself, which Congress adopted without comment or clarification. No one at the time—no Member of Congress, no Department of Education official, no school district or State—expressed the view that this statutory language was intended to require, or did require, the Secretary to change the Department's system of calculation, a system that the Department and school districts across the Nation had followed for nearly 20 years. Finally, the purpose of the disregard instruction, which is evident in the language of the present statute, is to exclude statistical outliers. Viewed in terms of this purpose, the Secretary's calculation method is reasonable, while the reasonableness of Zuni's proposed method is more doubtful as the then Commissioner of Education explained when he considered the matter in 1976. Pp. 7–11.

(b) The Secretary's method falls within the scope of the statute's

Syllabus

plain language. Neither the legislative history nor the reasonableness of the Secretary's method would be determinative if the statute's plain language unambiguously indicated Congress' intent to foreclose the Secretary's interpretation. See Chevron, supra, at 842–843. That is not the case here. Section 7709(b)(2)(B)(i)'s phrase "above the 95th percentile . . . of . . . [per-pupil] expenditures" (emphasis added) limits the Secretary to calculation methods involving per-pupil expenditures. It does not tell the Secretary which of several possible methods the Department must use, nor rule out the Secretary's present formula, which distributes districts in accordance with per-pupil expenditures, while essentially weighting each district to reflect the number of pupils it contains. This interpretation is supported by dictionary definitions of "percentile," and by the fact that Congress, in other statutes, has clarified the matter at issue to avoid comparable ambiguity. Moreover, "[a]mbiguity is a creature not [just] of definitional possibilities but [also] of statutory context." Brown v. Gardner, 513 U.S. 115, 118. Context here indicates that both students and school districts are of concern to the statute, and, thus, the disregard instruction can include within its scope the distribution of a ranked population consisting of pupils (or of school districts weighted by pupils), not just a ranked distribution of unweighted school districts alone. Finally, this Court is reassured by the fact that no group of statisticians, nor any individual statistician, has said directly in briefs, or indirectly through citation, that the language in question cannot be read the way it is interpreted here. Pp. 11–17.

437 F. 3d 1289, affirmed.

BREYER, J., delivered the opinion of the Court, in which STEVENS, KENNEDY, GINSBURG, and ALITO, JJ., joined. STEVENS, J., filed a concurring opinion. KENNEDY, J., filed a concurring opinion, in which ALITO, J., joined. SCALIA, J., filed a dissenting opinion, in which ROBERTS, C. J., and THOMAS, J., joined, and in which SOUTER, J., joined as to Part I. SOUTER, J., filed a dissenting opinion.