

Towards a sufficient education system in New Mexico: Yazzie Proposed Remedies

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The Yazzie case is rooted in two basic strengths of New Mexicans.

1. Our children —New Mexico's students are culturally and linguistically blessed. They have just as much ability to learn and thrive as children anywhere.
2. Our educational expertise and knowledge -- we know we we need to do to provide our students opportunities to succeed.



Education—foundation of a democratic society

Recognition of the importance of education to our democracy: The fundamental nature of education is embedded in our State Constitution which places the following obligation on the State:

A uniform system of free public schools sufficient for the education of and open to all children of school age in the state shall be established and maintained. N.M. Const. art. XII, § 1.

Education fundamental to productive life: Education provides the basic tools by which individuals might lead economically productive lives to the benefit of us all. In sum, education has a fundamental role in maintaining the fabric of our society. We cannot ignore the significant social costs borne by our Nation when selected groups are denied the means to absorb the values and skills upon which our social order rests. Plyler v. Doe, 457 U.S. 202, 221 (1982).

Economic Impact of an Insufficient Education System

Approximately one-quarter of all New Mexico students fail to graduate from high school.

Total taxpayer losses from insufficient education are \$129,250 to \$176,580 per high school dropout. Across the 7,100 dropouts annually, the total taxpayer burden is \$0.9-\$1.25 billion. This is equivalent to 15-20% of New Mexico's annual Operating Fund.

The social burden to New Mexico from insufficient education is \$417,540 to \$530,270 per high school dropout when added up over the life course. Across an entire cohort, the total social loss is \$2.96 to \$3.75 billion. This is an annual lump sum burden for each high school cohort or class (e.g. the class of 2017).

Trial Declaration of Clive R. Belfield, Trial Exhibit P-2793, filed 6/10/2017.

All students must have the opportunity to be college and career ready.

College & Career Ready: “[T]he State Constitution requires the State to provide every student with the opportunity to obtain an education that allows them to become prepared for career or college.” (pg. 25)



Yazzie/Martinez Decision

Programs and Services

- The Defendants have failed to provide at-risk students with programs and services necessary to make them college or career ready.

Funding and Resources

- The funding provided has not been sufficient for all districts to provide the programs and services required by the Constitution.

Accountability

- The PED has failed to meet its supervisory and audit functions to assure that the money that is provided has been spent so as to most efficiently achieve the needs of providing at-risk students with the programs and services need for them to obtain and adequate education.

Comprehensive Evidence-based Remedy Platform

The Remedy plan was developed with a large group of experts and stakeholders in education:

- 6 Plaintiff School Districts (Cuba, Gallup-McKinley, Lake Arthur, Moriarty-Edgewood, Rio Rancho, Santa Fe)
- Coalition for the Majority
- College Horizons
- Dual Language Education of NM
- Keres Children's Learning Center
- Learning Alliance NM
- National Education Association NM
- Native American Budget & Policy Institute
- Native American Community Academy
- NGAGE NM
- The Santa Fe Indian School Leadership Institute

About 150 stakeholders gave us their input at an Education Transformation Summit on September 14, 2018.

Overview of Proposed Short-Term Remedies

Multicultural Education

Early Childhood Education

Extended Learning Opportunities and Literacy

Social Services

Teacher Recruitment, Retention and Capacity Building

Funding / Resources

A Multicultural Education is necessary for New Mexico students.



Develop a Multicultural Education Framework

Judge's Finding:

- PED has not provided a **framework for districts to use in providing multicultural education.**
- The State has not implemented the NM Indian Education Act, the Hispanic Education Act, or the Bilingual and Multicultural Education Act.



NM Law already recognizes that the system must be rooted in a multicultural education.

The legislature finds that **no education system can be sufficient** for the education of all children **unless it is founded on the sound principle that every child can learn and succeed** and that the system must meet the needs of all children by recognizing that student success for every child is the fundamental goal.

The legislature finds further that the **key to student success in New Mexico is to have a multicultural education system** that:

1. attracts and retains **quality and diverse teachers to teach New Mexico's multicultural student population;**
2. holds teachers, students, schools, school districts and the state accountable;
3. **integrates the cultural strengths of its diverse student population into the curriculum** with high expectations for all students;
4. recognizes that **cultural diversity in the state presents special challenges** for policymakers, administrators, teachers and students;
5. provides students with a rigorous and relevant high school **curriculum that prepares them to succeed in college and the workplace;** and
6. elevates the importance of public education in the state by clarifying the governance structure at different levels.

The legislature finds further that the **public school governance structure needs to change to provide accountability from the bottom up** instead of from the top down. NMSA § 22-1-1.2.

NM Indian Education Act (2003)

The [PED] secretary shall ensure that the duties prescribed in the IEA are carried out and that ***each division within the PED is collaborating to fulfill its responsibilities*** to tribal students.

NMSA § 22-23A-4 A

The assistant secretary shall ***coordinate with appropriate administrators and divisions*** to ensure that [PED] administrators make implementation of the IEA a priority. NMSA § 22-23A-5 B

The NMIEA requires PED to “provide for the ***study, development and implementation of educational systems*** that positively affect the educational success of American Indian students.

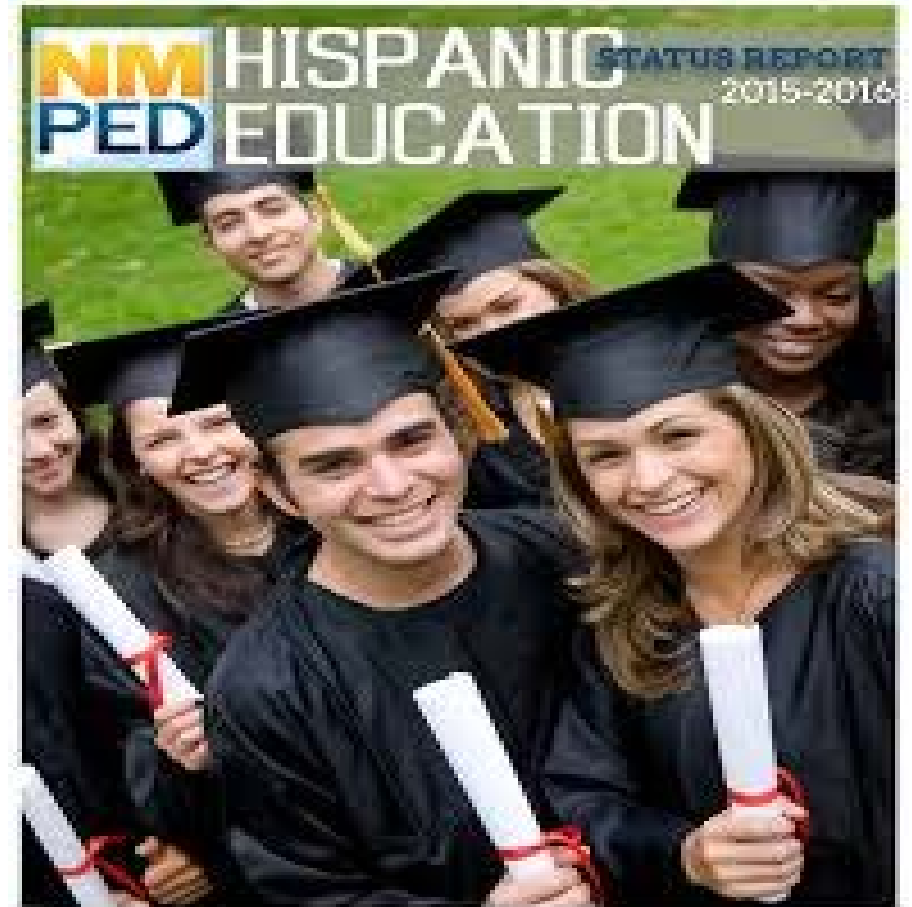
NMSA § 22-23A-2 C.



Hispanic Education Act (2010)

The purpose of the HEA is to provide for the *study, development and implementation of educational systems* that affect the educational success of Hispanic students to close the achievement gap and increase graduation rates; N.M. Stat. Ann. § 22-23B-2.

The “Hispanic education advisory council” is created as an advisory council to the secretary. **The [HEAC] shall advise the secretary** on matters related to improving public school education for Hispanic students, increasing parent involvement and community engagement in the education of Hispanic students and increasing the number of Hispanic high school graduates who succeed in post-secondary academic, professional or vocational education. NMSA § 22-23B-5(A)



Bilingual Multicultural Education Act (2004)

[PED] shall administer and enforce the provisions of the BMEA.
N.M. Stat. Ann. § 22-23-4

The state's BME program goals are for all students, including ELLs, to: (1) become bilingual and biliterate in English and a second language, including Spanish, a Native American language, [...] or another language; and (2) meet state academic content standards and benchmarks in all subject areas. NMSA § 22-23-1.1(B)

The BMEA will ensure equal education opportunities for students in New Mexico. Cognitive and affective development of the students is encouraged by: (1) ***using the cultural and linguistic backgrounds*** of the students in a [BMEP]; (2) providing students with opportunities to ***expand their conceptual and linguistic abilities*** and potentials in a successful and positive manner; and (3) ***teaching students to appreciate the value and beauty of different languages and cultures.*** NMSA § 22-23-1.1(L)

MULTICULTURAL AND BILINGUAL EDUCATION

curricula that provide equal educational opportunities to students regardless of their gender, social class, ethnicity, race, disability, or other cultural identity



Remedies to Implement a Multicultural Education Framework

1. Restructure the PED to ensure that the foundation of a sufficient system of education is rooted in a multi-cultural and linguistically appropriate education.
2. Pass legislation that sets required qualifications for the PED Secretary that are in compliance with the constitution, including requirements that the Secretary have experience and expertise in multicultural education.
3. Provide PED resources and expertise to work with districts to fully implement BMEA, HEA and IEA.
4. Increase the required qualifications of PED staff in the Indian Education, and Bilingual Education Departments so that staff have expertise to provide technical assistance to districts and schools.

NMIEA Findings & Remedies

Judge's Findings:

- Failure to comply with [the NMIEA] amounts to a violation of the constitution's adequacy clause. (p.28)
- There was expert testimony that PED has not provided culturally relevant instructional materials. (p.27-28)
- PED has failed to fill the three regional IED positions that would be instrumental in effectuating this purpose. (p.28)

Proposed Remedies for 2019:

- PED shall, in collaboration with local Tribal Communities and their experts, develop and provide culturally relevant curriculum training for all school district administrators and teachers in NM.
- PED shall finalize statewide culturally relevant curricula standards for use in SY 2019-2020.
- Ensure IED Headquarters and 3 Regional offices are staffed and have expertise in Native American education;
- Ensure IED staff are certified teachers/administrators with experience working in schools serving NA students, with related expertise in curriculum and materials development, assessment of student learning, native language instruction, and bilingual/TESOL endorsements

ELL/BMEA Findings & Remedies

Judge's Finding:

- The State has not complied with **state and federal laws** pertaining to the education of ELL students. (pg. 31-32)
- PED lacks sufficient monitoring programs to determine whether ELL students are receiving adequate assistance. (pg. 31)
- Some districts cannot maintain a sufficient number of TESOL-endorsed teachers. (pg. 36)

Yazzie Proposed Remedies for 2019:

- Ensure that ELL students are provided an English language acquisition program that complies with federal law and state law – eliminate common practice of placing EL students in remedial reading or special education programs.
- Mandate that all teachers are TESOL endorsed.
- Appropriate additional funding for professional development for the development and delivery of rigorous ESL and sheltered content instruction training for all teachers, principals and assessment specialists.

PreK, Extended Learning & Social Services

Judge's Finding:

- The Defendants have failed to provide at-risk students with programs and services necessary to make them college or career ready.
- PreK: The efficacy of PreK has been recognized, but not all at-risk students have access to a quality, full-day program because it is inadequately funded. (pg. 29-30)
- K-3 Plus: The efficacy of extended learning time has been recognized, but not all at-risk students have access to an extended learning program because it is inadequately funded. (pg. 29-30)

Yazzie Proposed Remedies:

- PreK: Expand full-day New Mexico PreK to full capacity give the limitations of current infrastructure and workforce; invest in infrastructure.
- K-5 Plus: Amend the K-3 Plus statute to mandate that the program is available to all K-5 eligible children and that districts have the opportunity to implement it for all eligible children; include transportation cost.
- Social Services: Mandate that social services and health care services are a part of a basic education in New Mexico.

Teacher Recruitment, Retention & Capacity Building

Judge's Finding:

- Number of Teachers
 - School districts do not have the funds to pay for all the teachers they need. (pg. 32)
 - It is difficult to recruit teachers in rural areas. (pg. 36)
 - Some districts cannot maintain a sufficient number of TESOL-endorsed teachers. (pg. 36)

Yazzie Proposed Remedies:

- Provide a pathway for Native Americans, dual language speakers, and early childhood educators to become licensed teachers in New Mexico by having the state pay their tuition and a stipend.
- Provide a pathway for EAs to become teachers and pay for their tuition and a stipend while they work as EAs.
- Mandate that all teachers are TESOL endorsed.

Teacher Recruitment, Retention and Capacity Building

Judge's Finding:

- Teacher Pay: Low teacher pay is an impediment to recruiting and retaining teachers in schools with high at-risk populations. (pg. 35)
- Teacher Training: There are inadequate funds to adequately train teachers. (pg. 36)

Yazzie Proposed Remedies:

- Teacher Pay: Increase teacher base salaries to make them competitive with surrounding states in order to address recruitment and retention concerns (\$45,000; \$55,000; \$65,000) and adjust other salaries accordingly. Tie regular increases to inflation.
- Teacher Training: Increase *embedded* professional development and collaboration time for teachers by the equivalent of 10 days per year.

Schools need adequate resources to provide students sufficient opportunities

Judge's Finding: The funding provided has not been sufficient for all districts to provide the programs and services required by the Constitution. (pg. 70)

Yazzie Proposed Remedies:

- Reinstate money lost since the recession back to 08-09 levels (\$380 million)
- Fund the proposed remedies previously discussed

More Resources for At-risk Children

Judge's Finding:

- New Mexico has one of the lowest rates used for at-risk calculations. (pg. 48)
- The at-risk Index has been criticized that it does not correctly steer resources needed to educate ELL and children living in poverty and that it uses the census poverty levels instead of the FRL levels. (pg. 47-48)

Yazzie Proposed Remedies:

- Increase the weighting of the at-risk index so that all at-risk children generate 25% more funding than other students; ensure at-risk money follows the student and is spent on programming for at-risk students.
- Amend legislation to adjust the poverty factor of the funding formula to use the FRPL for poverty.
- Increase the weighting in the dual language section of the formula so that districts have more money to implement dual language programs; ensure that money is actually spent on dual language programming.

Accountability

Judge's Finding: The PED has failed to meet its supervisory and audit functions to assure that the money that is provided has been spent so as to most efficiently achieve the needs of providing at-risk students with the programs and services need for them to obtain and adequate education.

Yazzie Proposed Remedies:

- PED shall monitor the use of at-risk funding through the enforcement of NMSA § 22-8-23.3 so that schools specifically show that they have used their at-risk money on services that improve academic outcomes, for “at-risk” students: poverty, mobility, and ELL.
- Dual language money follows students into dual language programs
- Providing PED with more expertise to work with districts to ensure implementation of NMIEA, BMEA, and HEA.



Together, we can create a high-quality multicultural education system.

Together, we can ensure that all of our children have
the opportunity to be college and career ready.

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