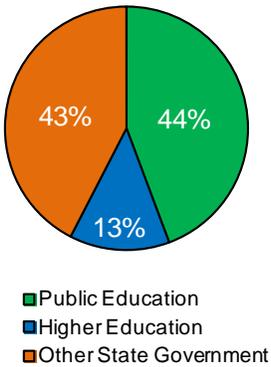


LFC AND LESC PRELIMINARY PUBLIC SCHOOLS ACCOUNTABILITY REPORT

Fiscal Year 2016

FY17 General Fund Appropriations



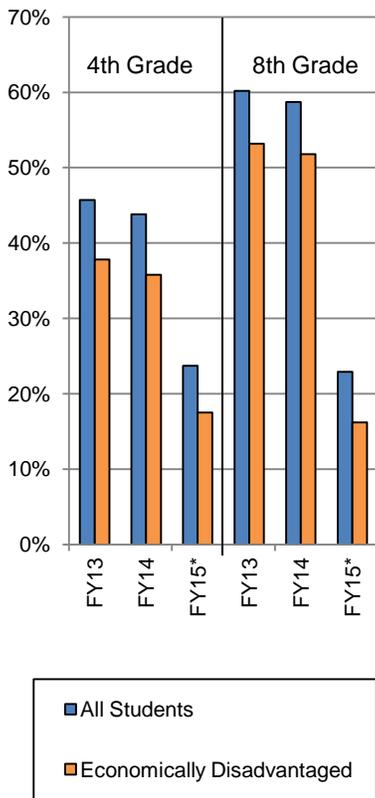
Source: LFC Files

BACKGROUND INFORMATION

Since the recession, the state has allocated \$264 million in new revenues to public education. Annually, the state allocates 44 percent of general fund revenues to public education programs, education initiatives, and the Public Education Department. In exchange for large investments in public schools, policymakers expect to see significant improvements in student learning. However, improvements have been modest. Going forward, calculated decisions must be made at the state and local level to focus spending on practices and programs proven to increase student achievement and ensure the state is getting the best return on its investment. Particular attention should be focused on how resources are used to serve the state’s economically disadvantaged students, the most likely to perform poorly, and narrow the achievement gap.

LFC and LESC staff are working collaboratively to provide the Legislature with quarterly accountability information for public school support, related recurring “below-the-line” appropriations, Public Education Department (PED) operations, and other relevant public education issues.

Reading Proficient or Above FY13-FY15



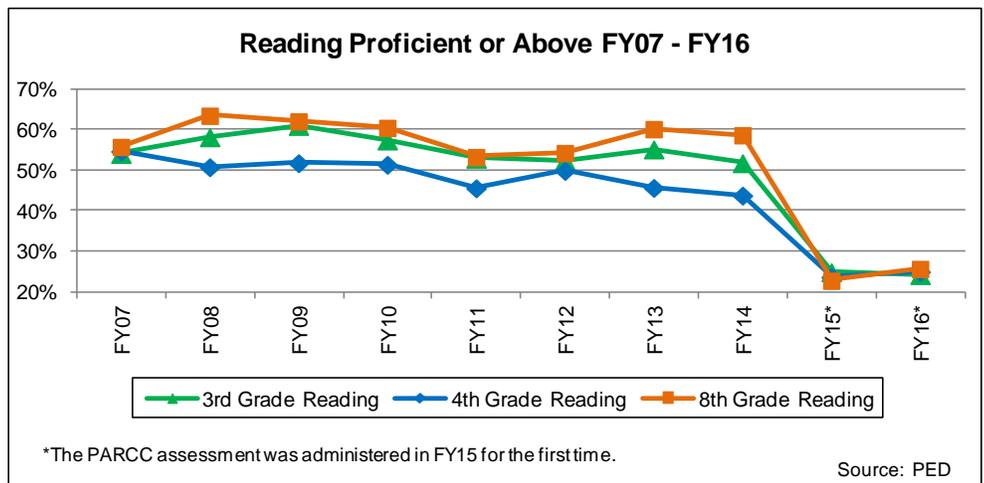
*The PARCC assessment was administered in FY15 for the first time.

Source: PED

State Equalization Guarantee (SEG) Accountability

Funding allocated through the state equalization guarantee (SEG) distribution (referred to as the public education funding formula) represents both the bulk of state spending on public schools and the primary way school districts and charter schools receive most of their funding. Including mid-year reductions in the General Appropriation Act of 2016, the general fund appropriation to the SEG in FY16 totaled \$2.493 billion, an increase of 0.5 percent over FY15. For FY17, the general fund appropriation to the SEG totals \$2.519 billion, an increase of \$26.6 million, or 1.1 percent over the reduced FY16 appropriation.

Reading Proficient or Above FY07 - FY16



*The PARCC assessment was administered in FY15 for the first time.

Source: PED

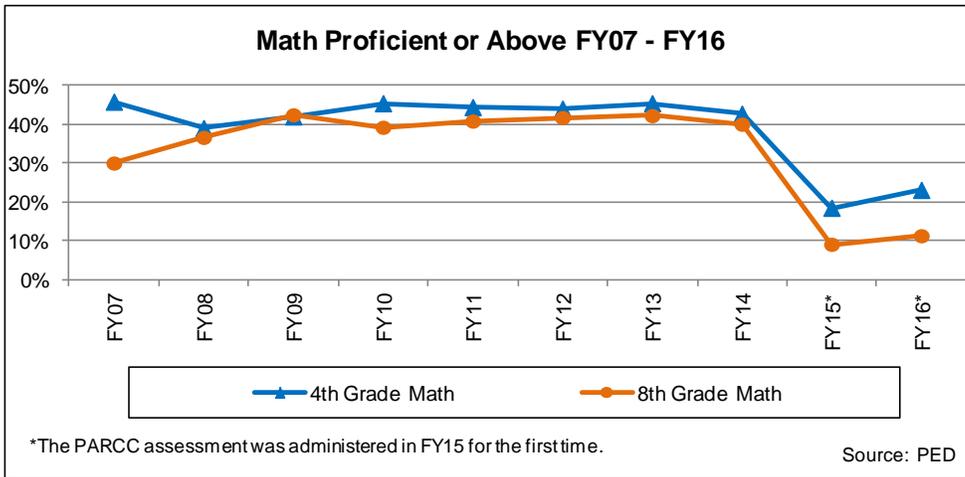
Student Performance

The percent of students achieving proficient scores on the new Partnership for Assessment of Readiness for College and Careers (PARCC) assessment in math and English dropped by more than half when compared with FY14 results on the previous standards-based assessment (SBA). While proficiency rates indicate there

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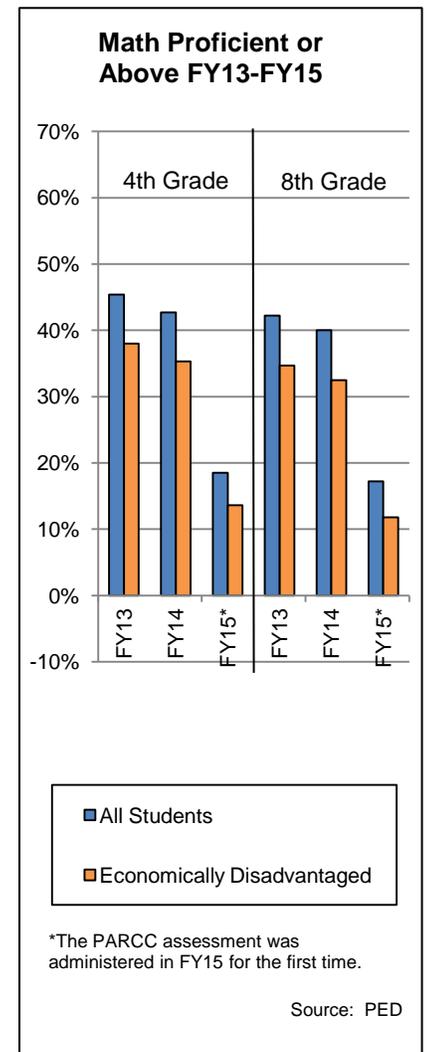
is room for improvement, results from FY15 and FY16 should be considered new baseline data and are not directly comparable to FY14 results. In FY16, reading and math proficiency scores improved slightly for fourth and eighth grade students. Third grade reading scores decreased slightly from FY15. The percentage of third, fourth, and eighth grade students reading on grade level in FY16, as measured by PARCC, was 24.2 percent, 25 percent, and 25.7 percent respectively. The percentage of third, fourth, and eighth grade students doing math on grade level was 29.9 percent, 23.1 percent, and 11.3 percent.



The Achievement Gap. Some children fare worse than others, resulting in a large achievement gap, or disparity in performance between groups of students defined by gender, race, language, and socioeconomic status. Research has shown the achievement gap is largely a function of poverty and language. New Mexico has high rates of students at risk of academic failure, primarily students from low-income families and students learning English. An October 2014 LFC evaluation noted 12 percent of all low income elementary students missed 10 or more days of school in FY14, compared with only 6 percent of non-low income students, noting the need to address school attendance and “time-on-task” to close the achievement gap. Additionally, many students are not proficient in either their home language or English, creating unique challenges. When not adequately addressed, the achievement gap persists well into high school, postsecondary education, and the workforce.

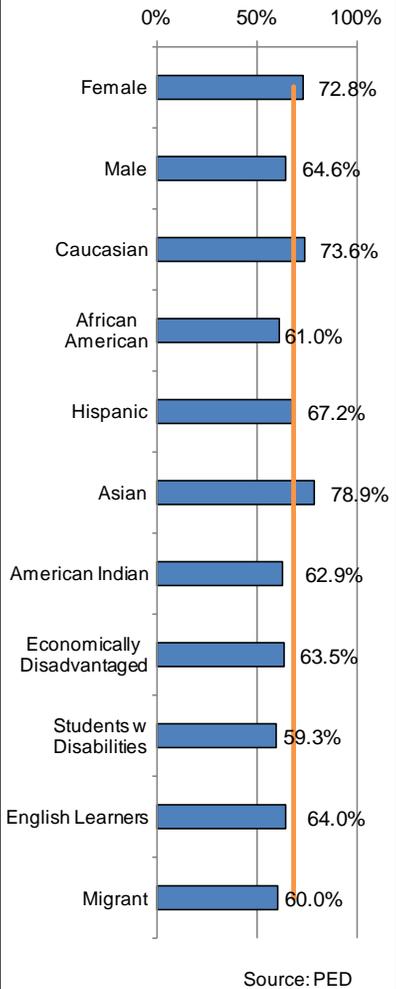
Graduation Rates

Lagging high school graduation rates in New Mexico produce significant drains on the state’s economy. National research suggests adults without a high school credential are more likely to live in poverty, become incarcerated at some point in their lives, rely upon public assistance, and cost taxpayers \$200 thousand over their lifetimes. In New Mexico, adults without a high school credential earn an annual median income of \$17 thousand, compared to high school graduates who earn an annual median income of \$25 thousand, and over 50 percent of the adults incarcerated in New Mexico lack a high school credential. Though the state’s four-year graduation rate has increased since FY08, New Mexico’s dropout rate has increased as well. A September 2014 LFC report noted nearly 7,700 ninth grade students failed to graduate in four years, and in FY13 nearly 7,200 students dropped out of the state’s public school system.



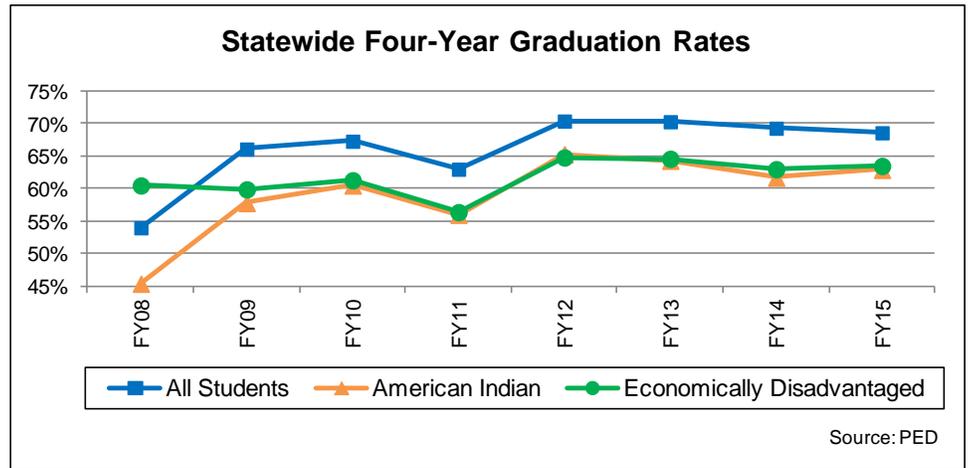
In FY15, economically disadvantaged fourth graders scored 6.2 percentage points, or 26.2 percent, below the statewide average on reading and 4.9 percentage points, or 26.5 percent, below the statewide average on math. For eighth graders the difference was slightly higher, with economically disadvantaged students scoring 6.7 percentage points, or 29.3 percent, below the statewide average on reading and 5.4 percentage points, or 31.4 percent, below the statewide average on math. It is unclear how the gap in FY15 compares with previous years’ gaps, given the new PARCC assessment.

2015 Four-Year Graduation Rate by Sub-Group with Statewide Average



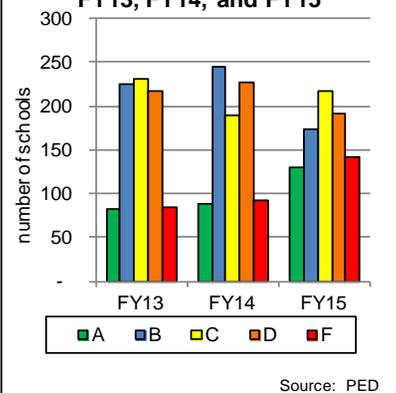
The statewide four-year cohort graduation rate has declined annually since FY12, from 70.4 percent in FY12 to 68.6 percent in FY15. The rate decreased by 0.7 percentage points from FY14 to FY15. Generally, the four-year cohort graduation rate follows a cohort of students entering ninth grade through four years of high school; when calculated considering those students that need an additional year to complete high school, the five year graduation rate increases modestly. The five-year rate for FY14—which accounts for students that entered high school during the 2010-2011 school year and graduated five years later during the 2014-2015 school year—was 70.5 percent, 1.3 percentage points higher than the four-year graduation rate. The five-year graduation rate has also been declining over the past several years.

Statewide Four-Year Graduation Rates



Increasing the number of students who graduated annually by 2,600 would result in an estimated \$700 million net benefit to taxpayers, society, and these students over their lifetimes. Evidence-based strategies, including alternative education programs, case management, mentoring and counseling, and vocational training increase the likelihood that at-risk students will graduate. However, promising initiatives are being implemented inconsistently across the state or not at all, and efforts are not targeted in schools and school districts where dropouts tend to be concentrated. PED has been developing a system to identify students at risk of dropping out early in order to provide targeted interventions; however, the system has not been implemented statewide and only a few schools are using the system. Additionally, LFC found the state is spending millions on adults over the age of 22 in the public school system that never earn a high school credential.

School Grade History FY13, FY14, and FY15



School Grades

The state’s school grading formula is used for both state and federal accountability purposes to gauge how schools are performing annually. The system gives schools a letter grade between A and F based largely on student performance on standards-based and other assessments, with small values awarded for student surveys, attendance, student and parent engagement, and other factors. For FY15, 129 schools received an “A” grade, an increase of 46.6 percent, or 41 schools, from FY14. However, the percent of schools receiving an “F” grade increased by 53.2 percent, or 48 schools, from FY14 to FY15.

College Remediation

The number of students needing remedial courses in New Mexico postsecondary institutions continues to remain higher than desired, indicating high schools are graduating students that are not ready for college-level courses. Historically, about half of New Mexico high school graduates go on to a New Mexico postsecondary institution, and in that cohort, more than 40 percent require at least one remedial course. PED has not reported on postsecondary remedial rates for FY15 despite this being a quarterly performance measure. A 2011 Office of Education Accountability study found students who are required to take remedial courses in college are less likely to graduate on time, and students with a higher number of remedial courses are less likely to graduate in six years. A student who takes one remedial course has a 67 percent chance of graduating in six years while a student taking four remedial courses has a 1 percent chance. In New Mexico, a higher percentage of Native American and Hispanic students take remedial courses. The high number of students requiring remediation signals a need for better preparation and improved alignment between high schools and colleges in New Mexico.

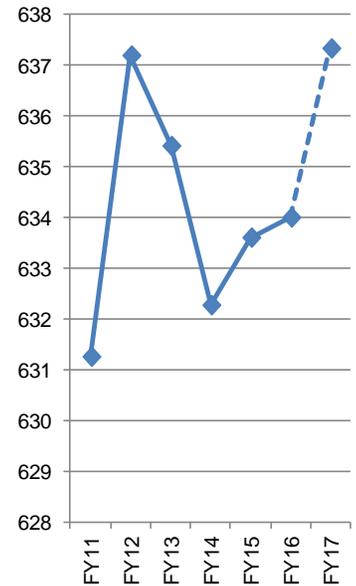
Trends in Student Enrollment and Funding Formula Units

For FY17, the PED secretary set the preliminary unit value at \$4,040.24, an increase of \$2.49, or 0.06 percent, over the FY16 final unit value. PED also estimated a 4,138 increase in total units from FY16 final units, approximately 2,393 more than LFC staff projected. In setting the preliminary unit value, PED assumed \$51 million in projected credits for federal Impact Aid, forest reserve funds and the half mill levy, 26.4 percent below the five year average of actual credits. The Legislature assumed \$63 million in projected credits, still well below actual credits received over the past few years. The initial unit value is an estimate used to determine preliminary SEG distributions for each school district and charter school; significant budget decisions are made with the preliminary unit value. Because school districts and charter schools rely heavily on the initial unit value, it is important the estimate is accurate. Setting a conservative preliminary unit value preserves flexibility, for example, when there is downside risk in revenues and budget sanding is required; however, if the unit value is increased in January, the increased revenue received by school districts and charter schools generally become cash balances since funds are distributed so late in the year.

Below the Line Initiatives Accountability

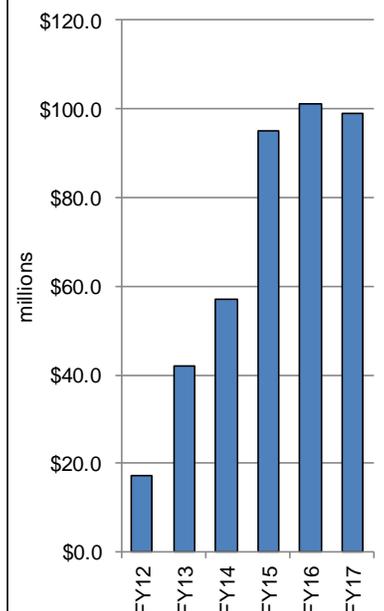
Rapid implementation of high-profile initiatives continues to prove challenging for PED and few performance measures exist for department initiatives. PED continues to advance initiatives aimed at improving student outcomes, including a school grading system, the new PARCC assessment, a teacher and school leader evaluation system, new teacher and school leader training programs, targeted interventions for low performing schools, a new graduation initiative, an early warning system, a merit pay pilot and stipend initiatives, and an early literacy intervention program including a new short-cycle assessment for kindergarten through third-grade students. Below the line appropriations made to PED may disqualify school funding and divert resources away from core educational needs, as well as dilute funding that could be directed to school districts and charter schools through the SEG. Funding for department initiatives increased over 480 percent from \$17.1 million in FY12 to \$99.1 million in FY17.

**Unit History and FY17
PED Projected Units**
(in thousands)

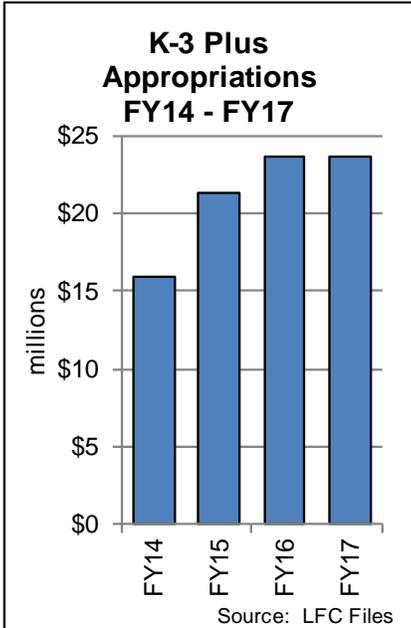


Source: PED and LFC files

**Related Recurring
Appropriations
FY12 - FY17**



Source: LFC Files



Number of Students Served in K-3 Plus

Summer 2014	18,056
Summer 2015	19,383
Summer 2016	18,949

Source: PED

For FY17, the Legislature appropriated \$23.7 million for K-3 Plus, flat with FY16 levels. Due to flat funding, school districts and charter schools were funded at the same level as summer 2015. Since the FY16 final unit value was higher than the FY15 unit value, fewer students will be served in K-3 Plus in the summer of 2016. Also, pilot programs for fourth grade and fifth grade that were authorized in the General Appropriation Act of 2016 were not funded because it would have resulted in cuts to existing programs.

Little accountability data is reported for department initiatives other than K-3 Plus, prekindergarten, and breakfast after the bell, making it difficult to evaluate the impact of each initiative. Some data continues to be reported inaccurately. For example, PED continues to indicate third grade proficiency scores were 169 percent greater than the statewide average gains in the first year (FY13) of implementing Reads to Lead, the department’s keystone early literacy initiative. However, FY13 gains were actually only 3 percent higher than the statewide gain.

PED has been encouraged to work with the Department of Finance and Administration (DFA) and LFC to develop performance measures for other existing initiatives. Additionally, LFC and LESC staffs are working jointly to compile performance data on department initiatives. Staff is developing a matrix with information on each initiative including: actual expenditure; intervention type; is the initiative targeted and evidenced based; number of students directly served; funds budgeted by PED for department personnel costs; and funds distributed to school districts, charter schools, and regional education cooperatives.

Early Childhood Initiatives

The state invests heavily in early childhood care and learning programs intended to improve school readiness and foundational early literacy skills including prekindergarten, special education prekindergarten, Reads to Lead, and K-3 Plus—an extended school year program. Early experiences influence learning, and quality early care and education programs result in both immediate and long-term benefits. Prioritized investments in early childhood programs are producing positive outcomes for participants, especially where high-quality instructional time is significantly increased and programs are implemented with fidelity to best-practices. However, current needs outweigh available funding, resulting in limited improvements in student achievement data.

K-3 Plus. K-3 Plus adds 25 instructional days before the school year for economically disadvantaged and low-performing students and demonstrates success in improving math and reading skills, closing the achievement gap. For FY16, funding for K-3 Plus increased 11.6 percent over FY15 levels, allowing the department to serve 19,383 students during the summer of 2015. Seventy percent of kindergarten students in K-3 Plus reported meeting benchmarks in early reading skills for phonological awareness on the middle-of-year assessment. For summer 2016, 272 schools serving 18,949 students received initial awards for K-3 Plus.

Prekindergarten. Fiscal year 2016 funding for PED-administered prekindergarten programs increased by almost \$5.3 million, or 27.4 percent. For FY16, PED and the Children, Youth and Families Department (CYFD) were budgeted to serve 8,761 four-year-old children in state-funded prekindergarten, or 30.2 percent of the eligible population.

Teacher Preparation, Recruitment, Retention, and Evaluation

Research clearly demonstrates teacher quality impacts student learning. Research conducted by Dr. Eric Hanushek, a Paul and Jean Hanna Senior Fellow at the Hoover Institution of Stanford University, finds “students of an ineffective teacher

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learn an average of half a year’s worth of material in one school year, while the students of a very good teacher learn 1.5 year’s worth—a difference of a year’s worth of learning in a single year.” Additionally, having a top-quartile teacher rather than a bottom-quartile teacher four years in a row could be enough to close the achievement gap. While New Mexico has made significant progress evaluating teacher performance, other policy levers should continue to be addressed, including teacher and school leader preparation programs, effective recruitment and retention strategies, teacher and school leader placement, and compensation to achieve the highest quality education workforce.

Teacher Quality

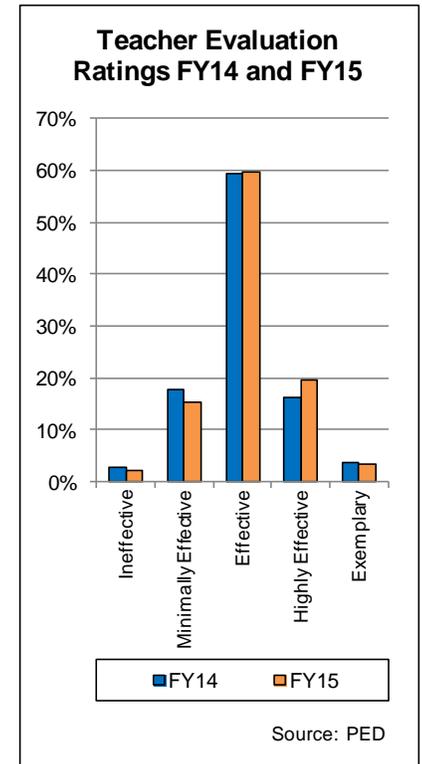
The 2015 State Teacher Policy Yearbook, published by the National Council of Teacher Quality (NCTQ), is a review of state laws, rules, and regulations governing the teaching profession. The report measures progress against a set of 32 policy goals focused on a comprehensive framework in support of preparing, retaining, and rewarding effective teachers. For 2015, New Mexico received an overall grade of “C”, an improvement over 2011 and 2013 when the state’s grade was a “D+”. According to the report, New Mexico made progress in the areas of teacher preparation program accountability, alternate route eligibility, alternate route usage and providers, and licensure advancement based on evidence of teacher effectiveness.

Teacher evaluation ratings for FY16 will not be released; PED has changed the data that will be included in teacher evaluations to include the most current school year’s data. This means results released in early FY17 will include student achievement data from FY16, FY15, and FY14. Under previous calculations, results of FY16 would have been based on FY15, FY14, and FY13 data. While this will provide a more accurate picture of teacher performance in the previous school year, results are being issued mid-school year, after hiring decisions have been made rather than at the end of the school year before new contracts are negotiated. Additional changes have been made to the system to streamline the assessments that can be included in teacher evaluation calculations.

School leaders are the second most important school-based factor impacting student achievement. Data for administrators is still not available, despite the fact that administrators are required to be evaluated annually. PED staff indicates the department is not collecting administrator evaluation data and does not know if administrator evaluations are being conducted annually.

Teacher Evaluation Lawsuit

A trial set in a lawsuit brought by the American Federation of Teachers New Mexico, the Albuquerque Teachers Federation, and other plaintiffs, claiming the state’s teacher evaluation system is unfair and could put teachers at risk of being punished or fired, has been postponed until October 24. PED requested the delay so the department could move forward with the plan it announced in January to simplify the evaluation process. PED plans to streamline the evaluation system and make it more uniform across the state by reducing the number of tests included in calculating teachers’ scores, ending the use of student achievement data that is over a year old, and releasing evaluation results in the fall rather than the spring. A separate lawsuit, brought by the National Education Association of New Mexico claiming the evaluation system unlawfully takes control of teacher evaluations and



2015 NCTQ State Teacher Quality Yearbook Grade for New Mexico and Surrounding States

New Mexico	C
Arizona	C-
Colorado	C
Oklahoma	B-
Texas	C-
Utah	C+

Source: NCTQ

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Public Education Department

- Total FY16 Op Bud: \$11,951.3
- Assumed FTE: 240.8
- Average Filled FTE Q4: 233.7

Funds from the following FY17 below-the-line appropriations are budgeted for PED personnel:

- Teachers Pursuing Excellence, \$79 thousand (7.9 percent of FY17 appropriation);
- Prekindergarten, \$240 thousand (1 percent of FY17 appropriation);
- IDEAL-NM, \$200 thousand (80 percent of FY17 appropriation);
- K-3 Plus, \$220 thousand (0.9 percent of FY17 appropriation);
- Parent Portal, \$88 thousand (8 percent of FY17 appropriation); and
- Interventions and Support for Students, Struggling Schools, and Parents, \$360 thousand (3.4 percent of FY17 appropriation).

supervision away from local school districts, has been postponed until October 11. In March, the court of appeals denied PED's request for interlocutory, or emergency, review of the partial injunction that prevents PED from using teacher evaluations to inform employment, advancement, or licensure decisions. It appears PED will be prevented from enforcing sections of the evaluation regulation barred by the interlocutory appeal during the 2016-2017 school year. The 2016-2017 school year is the last year both PARCC and SBA data will be included in teacher evaluations. However, PED recently selected Istation as the new short-cycle assessment that will be included in evaluations for teachers teaching kindergarten through second-grade students. It is unclear how this will affect teacher evaluations and whether the department will be able to crosswalk data from the two assessments during the 2016-2017 and 2017-2018 school years.

Department Operations

The Public Education Department (PED) is focused on the following five strategic imperatives: expect a smarter return on New Mexico's investment; require real accountability for real results; ensure students are ready for success; reward effective educators and leaders; and provide effective options for parents.

Data reported by PED in the third quarter report shows mixed results, and accuracy of reported information continues to be a concern. The department resumed data validation audits of funding formula components and program compliance, auditing five local education agencies in the third quarter. To ensure equitable distribution of the SEG and other categorical grant funding, the department needs to focus on completing more audits expeditiously. PED is not meeting FY16 targets for processing school district budget adjustment requests for both state and federal grants; also, it is taking longer in the third quarter to process budget adjustment requests for direct grants than the first two quarters of FY16. PED took 35 days on average to process federal reimbursements to school districts and charter schools in the third quarter, or 9 days longer than the average in FY15 and 11 days over the FY16 target. Processing time affects cash flow for many school districts and charter schools, especially those with small cash balances. PED indicates the increase in process time is primarily due to personnel turnover and an increase in questioned costs for noncompliance.

According to the organizational listing report, PED averaged 233.7 filled FTE in the fourth quarter, a decrease of 6.7 FTE over the third quarter. PED ended the year with \$56 thousand, or 0.4 percent, of their FY16 personal services and employee benefits appropriation. The department has steadily increased FTE since FY13 to address high turnover and ended FY15 with a 5 percent vacancy rate, the lowest rate in recent years. In FY16, the department had an average vacancy rate of 3 percent, or approximately 7 vacant positions. Increased FTE should improve PED's management of education initiatives and day-to-day department operations. However, turnover continues to be a concern and could negatively affect department operations.

In FY16, PED budgeted \$1.6 million of related recurring "below-the-line" appropriations intended to directly support school districts and charter schools for department personnel costs. For FY17, PED budgeted approximately \$1.2 million of related recurring appropriations for department personnel costs. The \$1.2 million of below-the-line appropriations budgeted for PED personnel costs are in

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addition to PED's operating budget and did not appear in PED's FY17 operating budget request. In the past, it has been customary for PED to budget funds for department personnel from appropriations for Indian education, prekindergarten, IDEAL-NM, and K-3 Plus. LFC staff has raised concerns about the FY17 operating budget with DFA.

LFC staff received preliminary data on the results of the department's special education ancillary FTE data validation from PED. PED indicated 15 school districts and charter schools reopened their 80th day count to adjust reported ancillary FTE after 120th day data was reported. Four school districts and charter schools increased their reported ancillary FTE after reopening their 80th day count. The impact of the FTE data validation is still unclear; different information has been provided to LFC and LESC staff and information provided to LESC from school districts appears to be different than information provided to the committees by PED. Any adjustments to a school district's reported ancillary FTE affects the level of funding a district receives. In the funding formula, each special education ancillary FTE claimed generates 25 program units, or approximately \$101 thousand in funding. Any net reduction of ancillary FTE will likely have a negative impact on the level of state support for special education maintenance of effort.

Special Education Maintenance of Effort (MOE)

In 2013, the U.S. Department of Education (USDE) alleged New Mexico fell short of the maintenance of effort (MOE) requirements for state special education support in FY10 by \$48.1 million and FY11 by \$34.1 million. PED submitted waiver requests for FY10 and FY11, citing precipitous declines in financial resources during those years. USDE granted the state's request for a waiver in FY10 but not for FY11. Additionally, USDE noted the state failed to meet MOE requirements in FY12 by approximately \$26.4 million and may have failed to meet MOE requirements in FY13. In response, the Legislature made multiple unique appropriations to meet MOE requirements in FY13, FY14, and FY15 in Sections 4, 5, and 6 of the General Appropriation Acts of 2013 and 2014 outside of the SEG distribution appropriation. Additionally, during the 2013 legislative session, \$36 million in operating reserve was appropriated to PED in Laws 2013, Chapter 191 (House Bill 628) to ensure MOE was met in FY13 and FY14, contingent on final negotiation and settlement with USDE.

Of the FY13 special appropriations made to PED, only \$16.9 million was distributed to school districts and charter schools. The remaining balances appropriated in FY13 and FY14 were booked as "contingent liabilities," but were never distributed because of disputes in the calculation methodology PED asserted. PED was concerned they would distribute more than was needed to meet MOE, thereby increasing the MOE requirement for future years. An FY15 appropriation of \$3 million was not encumbered or distributed, resulting in a \$3 million reversion to the general fund at the end of FY15.

Laws 2016, Chapter 12 (House Bill 311) swept the \$36 million operating reserve appropriations to PED made in Laws 2013, Chapter 191, into the general fund. As a result of these actions, \$13.1 million of the general fund appropriations made remains encumbered as a contingent liability but may only be allocated for the purposes for which they were appropriated. Without further legislative action, these funds may not be used to meet any settlement PED and USDE reach.

Maintenance of Effort

In 2012, the U.S. Department of Education (USDE) notified the Public Education Department (PED) that the state failed to meet the maintenance of effort (MOE) provision pursuant to Part B of the federal Individuals with Disabilities Education Act (IDEA-B) in FY10 and FY11 and was facing potential reductions to federal IDEA-B funding as a result.

The MOE provision of IDEA-B – 34 CFR §300.163(a) – requires states to maintain state-level financial support of special education as a condition of continued receipt of federal IDEA-B funds and effectively prohibits states from supplanting state revenues appropriated for special education students with federal IDEA-B dollars.

Provisions of IDEA-B allow the U.S. Secretary of Education to grant a waiver to a state that does not meet annual MOE requirements based on (1) a showing of precipitous declines in financial resources and exceptional and uncontrollable financial circumstances, or (2) clear and convincing evidence that all children with disabilities have available to them a free appropriate public education (FAPE), notwithstanding the state's failure to maintain fiscal effort.

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MOE Appropriations and Distributions FY13 to FY15

	FY13 ¹	FY14	FY15
Sources²			
Operating Reserve	\$20.00	\$16.00	\$0.00
General Fund	\$15.40	\$10.00	\$3.00
Other State Funds	\$4.60	\$0.00	\$0.00
Total	\$40.00	\$26.00	\$3.00
Uses			
Distributions	\$16.90	\$0.00	\$0.00
Total Remaining	\$23.10	\$26.00	\$3.00

Source: DFA, PED, and LESC files

¹In FY13, \$4.6 million of other state funds and \$12.3 million of the \$15.4 million general fund appropriations were distributed to school districts and charter schools.

²Appropriations made from the operating reserve were made by Laws 2013, Chapter 191 (House Bill 628); all other appropriations were made in the General Appropriation Acts of 2013 and 2014.

On February 10, 2016, PED staff notified legislators and legislative staff that the department reached a settlement with USDE on previous years' shortfalls. According to PED, the department and USDE initially settled on a methodology to calculate MOE that resulted in \$85 million in total shortfalls from FY11 through FY15. However, to date, an agreement has not been formally reached and it is unclear if the provisions of a negotiated settlement framework proposed by PED remain unchanged.

According to PED, USDE agreed to PED's calculation methodology, which includes funding allocated through program units generated by A/B, C, and D level special education students, 3- and 4-year-old developmentally disabled special education students (excluding basic membership units), and ancillary staff. However, PED indicated USDE will not allow the state to take credit for retirement swaps in FY11 and FY12 or take credit for reduced workload from fewer special education units being generated year over year.

Shortfalls After Adjustments for Workload and Retirement Swap				
	FY11	FY12	FY13	FY14
Shortfall ¹	\$35.2	\$29.4	\$8.4	\$12.7
Workload	(\$5.7)	(\$2.8)	(\$12.8)	(\$2.6)
Retirement Swap	(\$4.2)	(\$8.7)	(\$4.2)	\$0.0
Adjusted Shortfall	\$25.3	\$17.9	(\$8.6)	\$10.1

Source: PED and LESC files

¹The FY13 shortfall includes \$16.9 million in special appropriations distributed to school districts and charter schools.

PED indicated USDE agreed to increase the base MOE amount by \$3 million a year over the next five years, resulting in an MOE target five years from now that is \$15 million higher. Additionally, the department agreed to bind the state to appropriating an additional \$9 million a year for five years beginning in FY17 (totaling \$45 million) for proven special education programs. PED indicated the annual \$9 million appropriation would not be distributed to school districts and charter schools based on their proportion of formula funding but rather in a manner similar to related recurring "below-the-line" initiatives. Lastly, if the base appropriation each year would be insufficient to increase the MOE requirement by \$3 million, up to \$3 million of the \$9 million appropriation could be used to ensure the growth requirement in base spending. This means the amount used to ensure base growth would be allocated to school districts and charter schools through the formula. The agreement appears to commit the Legislature to spend a minimum of \$45 million over the next five years to ensure \$85 million in federal IDEA-B funds are distributed to the state; however, the agreement also appears to commit the state to spend at least \$15 million more in year six and subsequent years, raising questions about the merits of the deal.

It is also unclear if the department could make a successful waiver request pursuant to the free appropriate public education (FAPE) provision. To date, PED has been unwilling to advance an argument pursuant to the FAPE provisions, noting USDE has indicated the state would likely be unable to meet the burden of proof. However, in its June 3, 2013, letter to the state, USDE references the FAPE waiver and notes PED did not seek a waiver pursuant to the FAPE provision.

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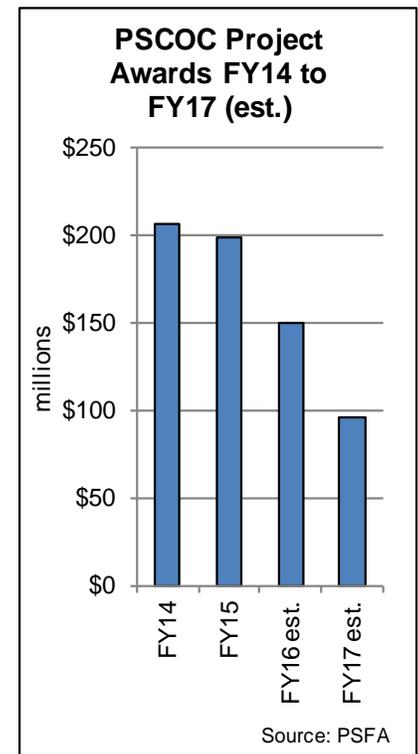
Fiscal Year 2016

School District and Charter School Finance

Data on Statewide School Expenditures	2014-2015 Actual		2015-2016 Budgeted	
	Expenditure	Percent	Expenditure	Percent
Direct Instruction	\$1,588,533,652	61.9%	\$1,707,805,778	60.9%
Instructional Support Services	\$973,349,531	37.9%	\$1,092,718,983	38.9%
Students	\$249,086,583	9.7%	\$271,532,966	9.7%
Instruction	\$70,893,721	2.8%	\$77,384,529	2.8%
General Administration	\$50,752,506	2.0%	\$56,262,241	2.0%
School Administration	\$174,330,104	6.8%	\$180,586,692	6.4%
Central Services	\$88,183,007	3.4%	\$95,840,294	3.4%
Operations & Maintenance	\$331,237,360	12.9%	\$373,250,565	13.3%
Student Transportation	\$4,752,256	0.2%	\$4,719,613	0.2%
Other Support Services	\$4,113,994	0.2%	\$33,142,083	1.2%
Non-Instructional Support	\$4,736,759	0.2%	\$5,859,458	0.2%
Food Service	\$2,993,211	0.1%	\$3,409,618	0.1%
Community Service	\$1,743,548	0.1%	\$2,449,840	0.1%
Capital Outlay	\$1,506,339	0.1%	\$0	0.0%
Total Expenditures	\$2,568,126,281		\$2,806,384,219	

*Includes General Fund Only

Source: PED Stat Book



Public School Capital Outlay

In the fourth quarter of FY16, the Public School Capital Outlay Council (PSCOC) awarded \$6.6 million for construction at West Las Vegas Middle School, \$4.4 million for construction at San Antonio Elementary School, and \$400 thousand for turf assistance at Laguna-Acoma Junior-Senior High School. Additionally, PSCOC authorized up to \$1.9 million of state matching funds for fiber optic projects in 14 school districts through the broadband deficiency correction program. The state funds are matched with funds from the federal E-rate program, which matches fiber optic construction at a rate of 90 percent federal funds to 10 percent state funds. Since E-rate will match the state's participation, the 14 school districts will not be required to fund any portion of the fiber optic construction if awarded E-rate funding. The total estimated cost of the fiber optic projects is \$33.4 million.

PSCOC Project Awards (in millions)

Quarter 1	\$27.2
Quarter 2	\$52.5
Quarter 3	\$49.0
Quarter 4	\$21.3
FY16 YTD	\$150.1

Source: PSFA