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LEGISLATIVE
FINANCE
COMMITTEE

Program
Evaluation
Unit

Program Evaluation: Bilingual and Multicultural Education Programs

June 16, 2022

Report #22-02



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June 9, 2022

Dr. Kurt Steinhaus, Secretary of Education
300 Don Gaspar
Santa Fe, NM 87501

Dear Secretary Steinhaus,

The Legislative Finance Committee (LFC) is pleased to transmit the evaluation, *Bilingual Education Multicultural Programs*. The program evaluation examined student performance, resource allocation and oversight practices within the state bilingual multicultural program. An exit conference was held with your staff on June 6, 2022 to discuss the contents of the report.

The report will be presented to the LFC on June 16, 2022. LFC would like plans to address the recommendations within this report from the Public Education Department within 30 days of the hearing.

I believe this report addresses issues the LFC asked us to review and hope PED will benefit from our efforts. We very much appreciate the cooperation and assistance we received from you and your staff.

Sincerely,

A handwritten signature in black ink that reads "David Abbey".

David Abbey, Director

Cc: Representative Patricia A. Lundstrom, Chair, Legislative Finance Committee
Senator George K. Muñoz, Vice-Chair, Legislative Finance Committee
Senator William P. Soules, Chair, Legislative Education Study Committee
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New Mexico's Bilingual Multicultural Education Programs (BMEP) may not be producing students who are proficient in a second language

The goal of BMEP programs is that all participating students, including English learners (ELs), become bilingual and biliterate and meet the academic content standards and benchmarks in all subjects as defined in statute. **C-2-1** Although BMEP funding per student is at its highest level in recent history, enrollment is declining, even with a growing number of EL students. Per student funding has increased 35 percent since FY13, but student participation has declined by 21 percent since FY13 despite the same number of districts and charters participating (62). In 2022 New Mexico will serve 44,525 students at the cost of \$36.2 million or \$820 per student.

The most recent student performance data (2019) shows deteriorating outcomes suggesting BMEP is having increasing difficulties meeting program goals. Due to Covid-19, the state suspended standardized and language proficiency testing in 2020 and 2021, a statutory requirement. Statutorily, bilinguals and ELs are to achieve academic achievement as well as bilingual and biliteracy growth, as measured by language and literacy assessments in English and the home or heritage language. However, data from the Public Education Department (PED) for 2018-2019 (the last year testing data is available) show that nearly half of students who participate in Spanish BMEPs are not proficient in Spanish. Further, fewer Spanish-speaking BMEP students achieve at least limited proficiency compared to students in Native languages BMEPs.

PED has statutory oversight responsibility for BMEP programs but does not meet those statutory requirements. For example, over the last three years, PED conducted only one site visit to a BMEP program (less than 1 percent of total programs). This drop in productivity occurred despite PED receiving additional resources for its Language and Culture Division. LFC review of district and charter bilingual program applications suggests ongoing issues with statutory compliance, including at least three districts that did not report required information to PED. A lack of accountability partnered with program implementation challenges reflect additional hurdles to meeting the statutory goals of the program.

Additionally, high vacancy rates of bilingual teachers throughout the state make implementing BMEPs challenging for districts and charters. These vacancies will likely be exacerbated by retirements of bilingual higher education faculty and low numbers of education majors at state universities. Interestingly, according to PED records, New Mexico has an untapped resource of BMEP teachers, since it has over 4,000 bilingual endorsed teachers, but many choose not to teach in BMEPs.

Key Findings

New Mexico's Bilingual Multicultural Education Programs (BMEPs) may not be producing students who are proficient in a second language.

Most students participating in BMEPs are not becoming bilingual and biliterate or meeting academic benchmarks in all subjects.

PED's oversight and technical assistance is not meeting statutory requirements.

Evaluation Objectives:

Summarize how bilingual multicultural funds are being utilized by participating districts, and why program participation is declining.

Review PED's organizational capacity for monitoring and providing technical assistance to school districts with bilingual multicultural programs.

Determine what bilingual program models are being implemented and if they align with the most effective, research-based language acquisition models.

Examine the adequacy of the teacher pipeline to meet the goals of BMEPs
Assess outcomes of participating BMEP students.

New Mexico has over 4,000 bilingual endorsed teachers; however, the majority choose not to teach in BMEPs.

Key Recommendations

The Public Education Department should:

- Conduct BMEP on-site monitoring visits for quality improvement every three years, and provide in-person professional development to participating districts.
- Deny BMEP applications that do not meet the statutory goals of providing targeted training to each staffing group, and develop a list of training and professional development activities that meet statutory requirements.
- Report English language proficiency rates by grade level, years in program, and participation in a BMEP program type to evaluate the effects and success of the different program types.
- Evaluate student achievement data by individual BMEP programs to identify successful practices and identify programs that need additional support.
- Assist districts on utilizing federal American Rescue Plan Act (ARPA) funds to address the disproportionate impacts of the pandemic on EL students.
- Update the proficiency exam for bilingual Spanish teacher endorsement (Prueba), which was developed in the '90s.
- Work with HED and Higher Education Institutions (HEIs) to include bilingual/TESOL coursework as part of the standard teacher preparation curriculum.
- Expand middle and high school career technical options to include bilingual education.
- Partner with higher education institutions to prioritize hiring faculty in Schools/Colleges of Education to teach courses in Spanish/Native American languages(s) for bilingual endorsement.



New Mexico's Bilingual Multicultural Education Program (BMEP) law is far-reaching and has clear accountability measures for PED and districts to follow.

New Mexico's BMEP programs are guided by federal law, state law (see Appendix B), and administrative code (see Appendix C), along with ongoing court cases (e.g., *Martinez-Yazzie*). New Mexico has been a leader in bilingual education, becoming the first state to pass a bilingual multicultural education law, the Bilingual Multicultural Education Act in 1969. The current law was passed in 1973 and was amended in 2004 and again in 2018 to align with the federal Every Student Succeeds Act (ESSA).

The New Mexico state constitution acknowledges the rights of children of Spanish descent. Article XII, Section 8 requires the state to train teachers to become proficient in both English and Spanish and qualify them to teach Spanish-speaking students. Section 8 also requires the Legislature provide proper means and methods to facilitate the teaching of English and other branches of learning to such students. Section 10 of the constitution prohibits students of Spanish descent from being housed in separate schools and ensures these students “forever enjoy perfect equality” with other children in the public schools and all state educational institutions. The Legislature must provide penalties for any violations.

Title VI of the federal Civil Rights Act of 1964 and the Equal Educational Opportunities Act of 1974 require public schools to provide equal educational opportunities for English learners (see Appendix E for the history of relevant laws regarding bilingual education). School districts and participating schools can choose the model of bilingual instruction, including those that focus instruction on English as a second language (ESL), bilingual maintenance, and dual language instruction. As stated in the Bilingual Multicultural Education Act, the state's BMEP goals are for all participating students to become bilingual and biliterate in English and a second language, including Spanish, a Native American language, or another language. For Native American languages that are oral only, the literacy component is measured only in the domains of listening, speaking, and comprehension. PED's regulations also require the establishment of parent advisory committees that are representative of the language and culture of the students to assist and advise in the program's development, implementation, and evaluation. The act requires research-based BMEPs to include professional development for teachers and instruction and assessment for students.

In 2018, PED adopted rule changes to increase BMEP accountability to ensure all participants' academic language proficiency in English and a second language. The updated rule is aligned with the federal Every Student Succeeds Act. The final adopted rule, 6.32.2 NMAC, *Guidelines for Implementing Bilingual Multicultural Education Programs*, requires all school district personnel to be knowledgeable of statutory and regulatory requirements for BMEPs and provide evidence of tribal consultation.

Key Terms

- **Bilingualism:** Refers to the ability to command two languages existing on a continuum of language skills.
- **Biliteracy:** The ability to effectively communicate or understand thoughts and ideas through two language systems and vocabularies, using both written symbols.
- **EL:** English learner.
- **IFEP:** Initial fluent English proficient.
- **RFEP:** Reclassified fluent English proficient, refers to a student who has reached English proficiency and is thus no longer classified as an English learner.
- **Enrichment Model:** A BMEP model designed to further develop the home language of fully English proficient students and to teach the cultures of the state.
- **Heritage Language Model:** A BMEP model designed to support and revitalize a student's native language and culture through oral and/or written language instruction.
- **Transitional Model:** A BMEP model designed to gradually transition students from home language instruction to an all-English curriculum.
- **Maintenance Model:** A BMEP model designed to develop and maintain proficiency and literacy in the primary or home language while developing a student's literacy and oral skills in English.
- **Dual Language Immersion Model:** A BMEP model designed to develop high academic achievement in two languages, additive bilingual and biliterate proficiency, and cross-cultural skills.

See Appendix D for a comprehensive list of key terms.

However, Section 22-8-18B NMSA 1978 gives local school boards wide authority to implement BMEPs to best serve their respective communities. If a program fails to make sufficient progress toward meeting the state's targets for language and academic proficiency during the three-year period, PED is required to notify and require the district to develop an action plan to adjust the curriculum, program, method of instruction, or discontinue the program altogether. However, PED has not reported any incidences of failure to make sufficient progress occurring in recent annual reports.

The Martinez-Yazzie court ruling stated New Mexico violated students' constitutional rights by not providing a sufficient public education. The court ruled all New Mexico students had a right to be college and career ready and ordered the state to take immediate steps to fix the educational system. As evidence, the judge pointed to New Mexico's low graduation rate (70 percent—the lowest in the nation), low proficiency rates in reading and math (70 percent of New Mexico students cannot read or do math at grade level), and high rates of college remediation (almost 50 percent attend college remedial courses).

22-23-4. Department; powers; duties.

A. The department shall issue rules for the development and implementation of bilingual multicultural education programs.

B. The department shall administer and enforce the provisions of the Bilingual Multicultural Education Act.

C. The department shall assist school boards in developing and evaluating bilingual multicultural education programs.

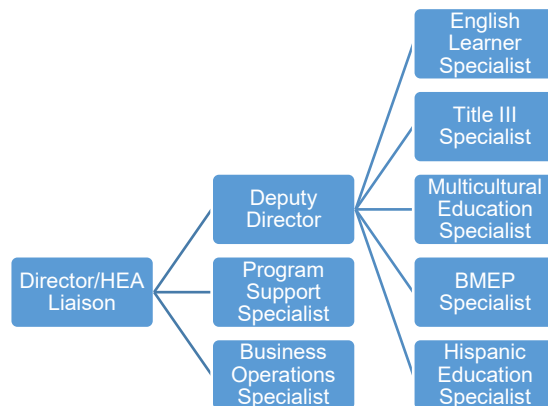
D. In the development, implementation and administration of the bilingual multicultural education programs, the department shall give preference to New Mexico residents who have received specialized training in bilingual education when hiring personnel.

Source: Article 23 NMSA 1978, "Bilingual Multicultural Education Act"

PED's Language and Culture Division (LCD) has oversight over BMEPs and is responsible for program compliance and accountability.

PED's LCD oversees implementation of the state Bilingual Multicultural Education Act (Chapter 22, Article 23 NMSA 1978), related New Mexico Administrative Code (6.32.2 NMAC), the Hispanic Education Act (Chapter 22, Article 23B NMSA 1978), and federal obligations to English Learner students and immigrant children and youth under ESSA. LCD is responsible for evaluating programs for effectiveness and the appropriate use of funds. The department does this by reporting annually the number of students served, reporting whether students have made significant growth toward meeting state targets for language and academic achievement, verifying professional development plans, and reporting on program expenditures. If a program is determined to be non-compliant after receiving three consecutive non-compliance notices, LCD must notify the district and discontinue the program at the end of the third school year. LCD has a staff of 9 FTE, which was recently increased from 5 FTE, and is the largest the LCD has ever been.

Figure 1. PED Language and Culture Division Personnel Organization



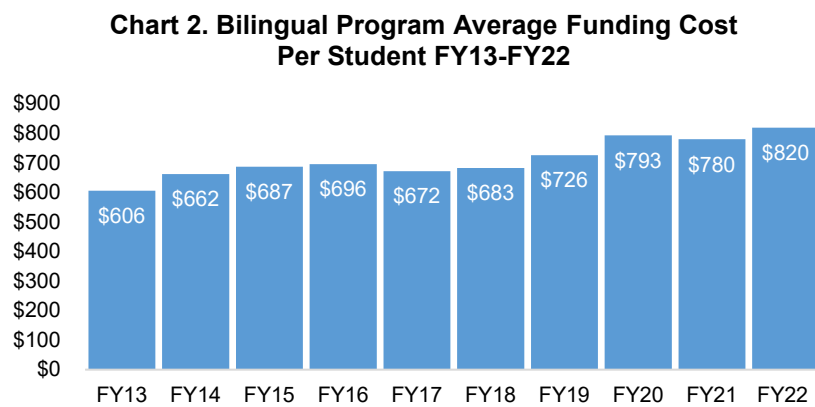
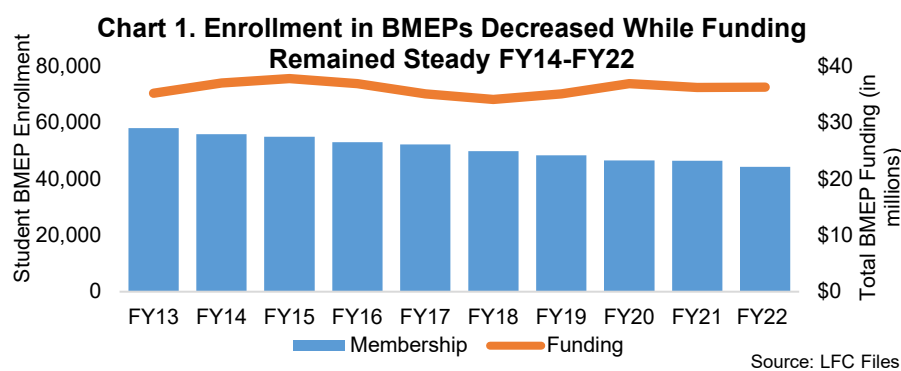
Source: PED

Mirroring statewide enrollment declines, BMEP participation has declined by 9,586 students since FY13, while per student funding has increased 35 percent, and EL numbers have risen.

While total funding for BMEP programs has remained around \$40 million since FY13, participation has declined by 9,586 students. This has contributed to a 35 percent increase in average funding per student. Average funding per student will vary based on program type. School districts generate bilingual education program funding through the state equalization guarantee (SEG) funding formula based on average prior-year membership in one-, two-, and three-hour programs. Student enrollment in specific program hours should correspond with the program model offered based on student language assessments. Although the Legislature changed the funding formula, which calculates bilingual units in FY20, the adjustment reduced other unit factors in the overall formula proportionately, effectively maintaining the same share of SEG dollars for BMEPs.

School administrators told LFC staff they chose not to participate in BMEPs for various reasons:

- Not worth the time or paperwork;
- Already serving kids through ESL;
- Very few EL students; and
- Can't find or retain endorsed teachers.

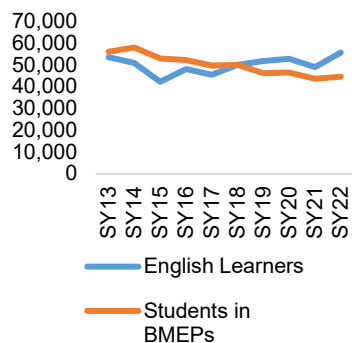


The funding formula uses factors to differentiate the cost of serving students with different needs and other specifics of a school district or charter school. The formula starts with school "membership," basically enrollment, then uses multipliers for the number of students in different grades, the number of students receiving special education or bilingual education, the education and experience of the teachers, the size of the district and school, the number of students at risk for developing problems, and other factors.

Source: PED

Bilingual funding is a cost differential calculated as part of the SEG and is meant to supplement programmatic costs above and beyond the expected costs of educating students. To be eligible for bilingual funding, the state requires programs to address students' cultural and linguistic needs, prioritize funding for students in kindergarten through third grade, use two languages of instruction, employ teachers who have an endorsement in bilingual education, emphasize the history and cultures associated with the students' home language, establish a bilingual multicultural parent advisory committee, and notify parents annually before students are placed in a program.

Chart 3. English Learners Compared to Number of Students Participating in BMEPs



Source: PED

Despite a growing number of English learners in New Mexico, fewer students are participating in BMEPs. In FY22, 44,525 students participated in a BMEP at a cost of \$36.5 million, or an average of \$820 per student. Sixteen percent (56,041) of New Mexico’s K-12 students are considered English Learners (ELs).ⁱ This number has increased steadily since 2016 when the percentage of ELs was 13 percent. EL student participation in BMEPs fluctuates yearly, and more EL students do not participate in BMEPs than do. ELs might not participate in bilingual programs for various reasons. For example, some parents may choose to opt their children out of participating in bilingual programs in order to focus on English language acquisition. Other families may choose to teach their heritage language at home and forgo participating in a BMEP.

Native American student participation in BMEPs declined by 13 percent over the last five years, despite the Native American student population decreasing by only 6.3 percent. Less than one in four (22 percent) Native American students were enrolled in bilingual programs. In SY20, bilingual and multicultural education funding supported 109 Native American language programs at 102 schools. Students from Native American communities participating in BMEPs are assessed for proficiency in Native American languages. According to PED, these assessments are developed by each tribe or by Native American leaders and educators. The languages for which data are available are Jicarilla Apache, Keres, Navajo (Diné), Tiwa, Tewa, Towa, and Zuni.

The Legislature provided additional resources for the Tribal Remedy Framework, which could help support BMEPs. In FY19, the Tribal Education Alliance (TEA) – a coalition of tribal education leaders, experts, and advocates, including the Santa Fe Indian School Leadership Institute and UNM’s Native American Budget and Policy Institute – published the tribal remedy framework to address findings from the *Martinez-Yazzie* lawsuit. TEA’s framework includes budget and policy recommendations endorsed by New Mexico’s 23 tribes, pueblos, and nations to improve tribal infrastructure, expand tribal government operations, develop indigenous resources, and enhance the pipeline of Native American professionals in various fields. In FY23, the Legislature provided funding for local tribal education departments to develop culturally and linguistically relevant curricula and assessments. In FY23, the Legislature provided \$5.2 million in funding for local tribal education departments to develop culturally and linguistically relevant curricula and assessments. The Legislature also funded additional initiatives in the 2021 and 2022 sessions (see Appendix F).

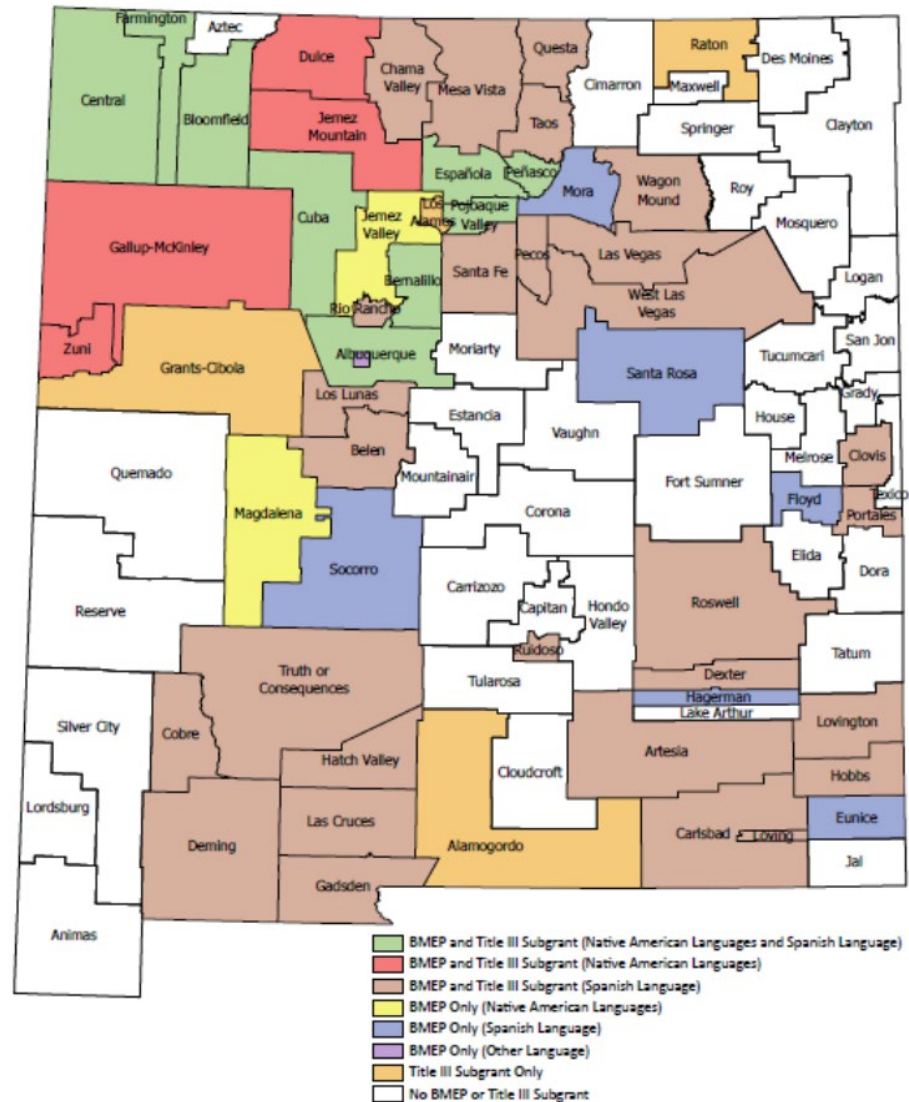
In the 2020 school year, 55 percent of school districts and 26 percent of state charters in New Mexico implemented state-funded BMEPs. Districts participating in a BMEP might not have BMEP programs in all schools within the district. Variations also exist among districts and state charters to the extent of participation in the state’s BMEP program, language taught, and type of program offered. This variation is by design since each bilingual program is tailored to serve the needs of its local community.

Additionally, to teach in a bilingual program, teachers must complete the required semester hours in bilingual education and pass the Prueba examination, which assesses Spanish language proficiency. Native American language teachers must apply through the appropriate tribe and prove proficiency in the language. The tribe may then award them with a 520 license to teach a Native language.

Five BMEP models are funded by the state of New Mexico: heritage, enrichment, transitional, maintenance, and dual language immersion.

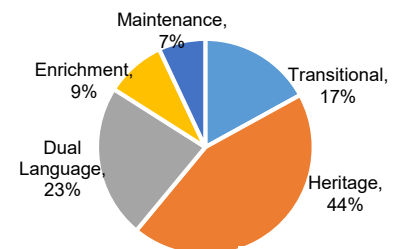
The five models differ in length of instruction, targeted students, and purpose (see Table 1). School districts have discretion to choose a model they see fit for their student population and typically offer more than one model to try to meet the needs of various student groups. Some programs offer more flexibility than others regarding implementation and instructional time. Some emphasize language comprehension and proficiency, whereas others focus on cultural instruction. The intensity of program(s) a school district or charter school provides to students determines the amount of funding they receive. Schools receive maximum funding if they implement a three-hour bilingual program. On the low end, a school district must provide a minimum of one hour of home or heritage language arts instruction to students enrolled in the BMEP. Programs must also provide a second hour of English language development for English learners enrolled in the program. Teachers providing English language development instruction must be endorsed in either bilingual education or Teaching English to Speakers of Other Languages (TESOL). Dual language programs are required to provide a third hour of content area instruction in the home or heritage language, and research suggests these programs are the most effective for producing bilingual and biliterate students. Other programs may offer this third hour, but it is only a requirement for dual language programs. The majority of New Mexico students participate in a heritage language

Figure 2. Bilingual Multicultural Education Programs and Title III Sub-Grantees by New Mexico School Districts SY20



Source: PED

Chart 4. Percent of Bilingual Multicultural Education Programs by Model, SY19-20



Source: PED

program; a large percentage of these students are from homes whose families speak Spanish or a Native American language. The student may not be a fluent bilingual, but a heritage language model is designed to revitalize the student's home or heritage language.

Table 1. Bilingual Multicultural Education Program Models, Purpose, and Target Students

Model	Target Students	Instructional Time	Purpose
1. Heritage	EL; IFEP; RFEP	1 – 3 hours per day	To support and revitalize a student's native language and culture through oral and/or written language instruction.
2. Enrichment	IFEP; RFEP	1 – 2 hours per day	To further develop the home language of fully English proficient students and to teach the cultures of the state.
3. Transitional	EL only	2 – 3 hours per day	To gradually transition students from home language instruction to an all-English curriculum.
4. Maintenance	EL only	2 – 3 hours per day	To develop and maintain proficiency and literacy in the primary or home language while developing a student's literacy and oral skills in English.
5. Dual Language Immersion	EL; IFEP; RFEP	3 hours in target language; 3 hours in English	To develop high academic achievement in two languages; its focus is additive bilingual and biliterate proficiency and cross-cultural skills.

Note: EL = English learner student; IFEP = Initially Fluent English Proficient; RFEP = Reclassified Fluent English Proficient

Source: PED

Successful program models for promoting the academic achievement of English learners are those that enable these students to develop academic skills while learning English. The best program organization is one that is tailored to meet the linguistic, academic, and affective needs of students; provides ELs with the instruction necessary to allow them to progress through school at a rate commensurate with their native-English-speaking peers; and makes the best use of district and community resources.

Source: ERIC Digest

Bilingual multicultural education is a cornerstone of academic opportunities for culturally and linguistically diverse students in New Mexico because it offers them a way to learn a language and to use language to learn content. Each of the five BMEP models supported by the state have as a purpose the development of language and concepts in two languages of instruction: English and a language other than English, typically Spanish. Dual language and maintenance are the state's only two late-exit bilingual education models that explicitly include biliteracy as a goal. The transitional (early-exit) bilingual education model may include some attention to biliteracy in the early grades as instruction supports students in their transition to an all-English curriculum. Heritage and enrichment program models include some efforts toward developing literacy skills in Spanish, but biliteracy is not a stated goal. While not every BMEP model in New Mexico explicitly states a commitment to biliteracy development, effective instruction in an academic setting includes the development of all four domains for written languages—listening, speaking, reading, and writing.ⁱⁱ

In SY21, 29.7 percent of all graduates in New Mexico were English learners.

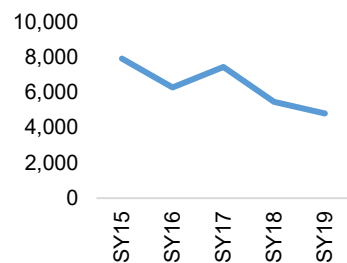
Source: PED

Researchers have consistently reported the higher quality of the dual language education model, which results in stronger academic outcomes for English learners as compared to English-only instruction.ⁱⁱⁱ Conversely, English learners who participate in a mix of different programs demonstrate the lowest outcomes.^{iv} Thus, a consistent, sustained dual language education program is crucial, ideally one with a prekindergarten–12 pathway.^{vi} See Appendix G for a theory of change from Dual Language New Mexico regarding effective dual language implementation.

The progress of BMEP students since the COVID-19 pandemic is unknown, but 2019 data shows low English and second language proficiency rates.

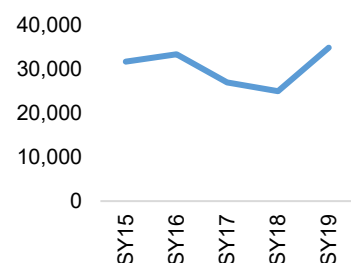
As previously discussed, state law requires annual language proficiency testing. Native American advanced language proficiency rates remained between five percent and ten percent between SY15-19. Although language proficiency testing was waived throughout the pandemic, testing resumed in the 2022 school year, and results will be available later this year. Statutorily, bilingual and English learners are to show academic achievement and bilingual and biliteracy growth as measured by language and literacy assessments in English and the home or heritage language. However, the number of students tested in Native American languages decreased by 36 percent (2,700 students), which has outpaced the decrease in Native American student participation rates in BMEPs. Whether the increase in proficiency is due to the effects of educational programs or a smaller sample of students participating in assessments is unclear. Participation in BMEPs and Native American language assessments are important factors for measuring progress toward maintaining Native American languages in New Mexico. The proficiency rates for students in Spanish bilingual programs are slightly higher for students with advanced Spanish proficiency than those in Native American language programs.

Chart 5. Number of Native American BMEP students assessed SY15-19



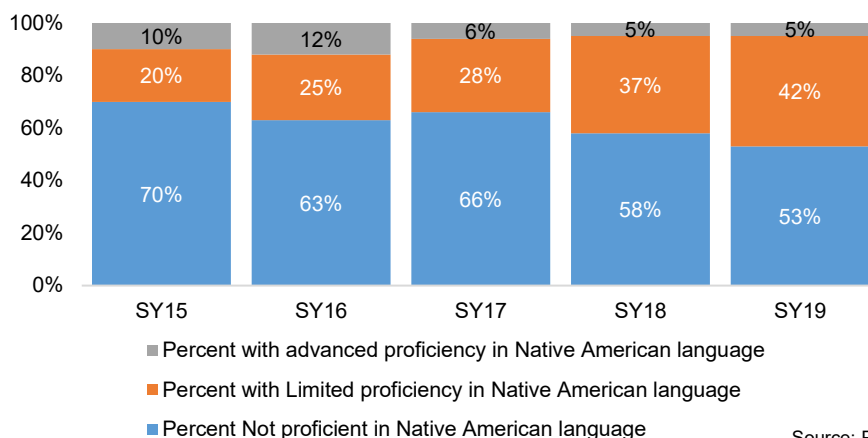
Source: PED

Chart 6. Number of BMEP students assessed in Spanish language proficiency



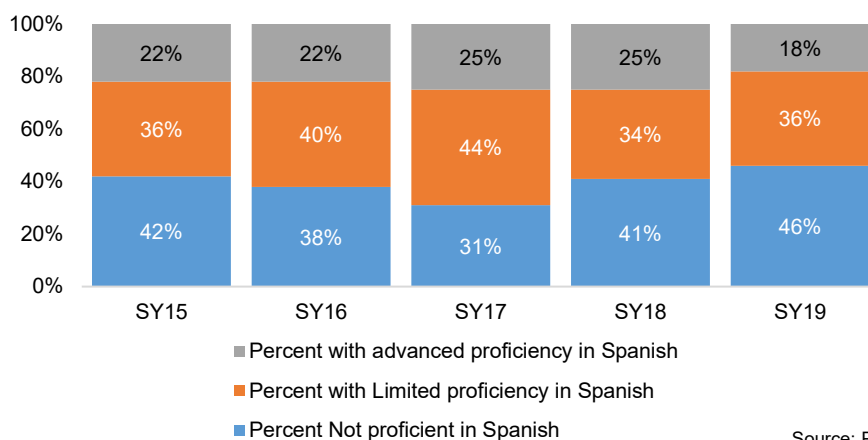
Source: PED

Chart 7. Native American Students' in BMEPs Language Proficiency Results SY15-19



Source: PED

Chart 8. Spanish Language Students' in BMEPs Spanish Language Proficiency Results SY15-19



Source: PED

LFC has previously noted issues with BMEP implementation in past reports, and the program's non improvement was cited in the *Martinez-Yazzie* sufficiency lawsuit.

A 2004 LFC evaluation of the State Bilingual Multicultural Program identified the program had become convoluted and confusing to administer, participation was declining, school district expenditure of bilingual funding could not be determined, and program design would significantly increase future funding needs by over-identifying students as in need of EL support. An LFC evaluation of the public school funding formula in 2011 found that although PED was visiting and auditing BMEP programs, it did not complete enough audits of bilingual programs, and home language surveys (required yearly by federal law) were not uniform across the state, likely resulting in over identification of students in bilingual programs. The report noted at the current rate of bilingual audits (in 2011), PED would only reach districts and charters every 17 years. With an increase in available funds provided by the Legislature and increased technical support, school districts have had the opportunity to expand BMEP. However, between FY13 and FY20, participating schools decreased from 496 to 429, a drop of 13 percent.

Since the 2004 LFC evaluation, PED stated they had completed rule updates twice, implemented standards for English language development, approved one Spanish proficiency exam, provided a uniform statewide EL identification process, and worked on instructional materials.

New Mexico can do a better job of using data to support high-needs schools and school districts. On December 20, 2018, the 1st Judicial District Court found New Mexico education's system was not constitutionally sufficient nor uniform for all students. The court included Native American students in the definition of "at-risk students," or students that can learn and achieve at high levels with the proper support and intervention but begin school with certain disadvantages outside of the school system.

In the *Martinez-Yazzie* education sufficiency lawsuit, the District Court ruled:

- Outputs are 'dismal' and, therefore;
- inputs (funding and programming) must be insufficient; and
- oversight over public education should be enhanced.

Regarding EL and bilingual students, the court found:

- It is important for schools to provide EL students a language program that is relevant to their culture;
- All ELs should have access to a program that is sound theoretically and pedagogically;
- Efforts to address the learning needs of ELs must be made across all age groups;
- Quality bilingual programs include the following components: A clearly articulated cross-grade level program, well-qualified and prepared teachers and administrators, culturally responsive materials, opportunities to learn a language and to use language to learn content, opportunities to learn about language and how language works, parent engagement opportunities; and
- An adequate English as a Second Language program for EL students should include the following elements: An underlying philosophy or theory of second language development that is consistent across all grades and time, a program director who supports the theory, teachers who are

"Absent from Defendants' motion is evidence of a system that ensures all ELL students a sufficient education in accord with the constitutional standard, as measured by both inputs and outputs. The State does not show that it is now in compliance with federal and state law; that all ELL students now have access to qualified ELL instructors, adequate programs, and ELL curriculum; or that the State is now tracking ELL students. Defendants also do not show that any investments were made to address the statewide shortage of qualified ELL instructors. Instead, Defendants mention a small amount of increased funding to expand bilingual programs without explaining how those amounts were determined to be sufficient, or their measurable impact on ELL students. Motion at 21-22. Although Defendants claim that districts are now reporting that 98% of all ELL students are now in ELL programs (Motion at 23), Defendants say nothing about the quality of those programs – whether those programs comply with federal and state law – or the impact on ELL student learning. Again, the State asks the Court to take its word that programs for ELL students are now being tracked but provides no evidence that this is so or whether performance (outputs) of ELL students is improving in New Mexico."

Source: Yazzie Plaintiffs Response to State's Motion to Dismiss

TESOL (Teaching English to Speakers of Other Languages) endorsed, materials that support the theory, and professional development for teachers and administrators.

In February of 2019, due to the *Martinez-Yazzie* education sufficiency lawsuit, the 1st Judicial District Court ordered the state to immediately ensure schools had the resources necessary to give at-risk (including Native American) students the opportunity to obtain a uniform and sufficient education. The order did not specify remedies but broadly required the state to increase financial resources for evidence-based education interventions and hold schools accountable for providing sufficient materials, staffing, and curricular offerings to at-risk students.

In the middle of March 2020, as public schools were closing to in-person learning in response to the public health crisis of the Covid-19 pandemic, the state filed a motion to dismiss the *Martinez-Yazzie* lawsuit. The court dismissed the motion, ruling that the State had not complied with its constitutional duties or provided at-risk students with the opportunity to be ready for college and career. Specifically, for EL students, the court ruled the state had not complied with the ruling because increasing funding to expand bilingual programs by a small amount without providing evidence demonstrating how the increased amounts would be sufficient to impact EL students. The state could not demonstrate how funding for EL programs alone translated to the quality of those programs or improved outcomes for EL students.

In May 2022, PED outlined an action plan regarding how they planned to address the decisions from the *Martinez-Yazzie* sufficiency suit. Regarding EL and bilingual students, PED's plans include:

- developing a framework for bilingual literacy;
- incentivizing bilingual students to go into teaching through financial aid, grants, and pathways; and
- partnering with HED, colleges of education, and ECECD to promote bilingual education.

At-risk funding has increased by 183 percent since 2006. A 2006 LFC report on the Indian Education Act recommended the Legislature increase at-risk funding to assist high-poverty Native American students. Since then, the Legislature has increased the weighting of the at-risk multiplier within the SEG public school funding formula four times (Laws 2014, Chapter 55, House Bill 19; Laws 2018, Chapter 55, House Bill 188; Laws 2019, Chapter 207, House Bill 5; Laws 2020, Chapter 23, House Bill 59), more than doubling it from 0.1 to 0.3. Due to these changes and overall increased funding to the SEG, total statewide funding for at-risk students in the funding formula was \$71 million in FY06 and \$255 million in FY20. According to the Bureau of Labor Statistics, when adjusted for inflation, the \$71 million in FY06 represent \$90.2 million in FY20 dollars; this represents an inflation-adjusted increase in at-risk allocations of 183 percent.

Title III supports ELs and immigrant students and is overseen by the Language and Culture Division.

Title III is part of ESSA and is officially known as the Language Instruction for English Learner (EL) and Immigrant Students Act (see Appendix H). The overarching purpose is to ensure EL students, including immigrant children

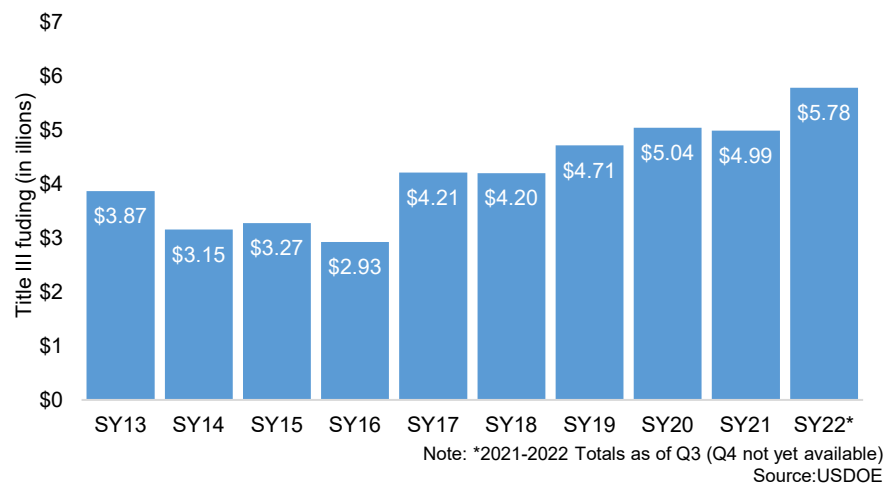
and youth, **attain English language proficiency and meet the same challenging state academic standards** other students are expected to meet. School districts and state charters in New Mexico must use Title III funds to *supplement* state language instruction educational programs to assist EL students' achievement goals. PED, districts, state charters, and schools are accountable for increasing EL students' English proficiency and core academic content knowledge.

The purpose of this additional supplemental funding for ELs includes supporting students to:

- attain English proficiency and develop high levels of academic achievement;
- achieve at high levels in core academic subjects to meet the same challenging state academic content and student academic achievement standards that all students are expected to meet;
- develop, implement, enhance, and sustain high-quality language instruction educational programs for teaching ELs;
- promote parental and community participation in language instruction educational programs for parents and communities of ELs; and
- supplement federal, state, and local funds that would have been expended for programs for EL students and immigrant children and youth without Title III funds.

Title III is a formula grant awarded to districts as sub-grants. The sub-grant amount is based on the number of ELs in all the schools within the district and is calculated using the average of the previous school year's 80th and 120th day EL count. In order to qualify for a Title III sub-grant, a district must submit a Title III local plan to the language and culture bureau. The Immigrant Award is a competitive grant under Title III. Districts for whom there has been a significant increase of immigrant children and youth and who propose high-quality programming are eligible for the grant.

Chart 9. Total Title III funding SY13-SY22





Most students participating in BMEPs are not becoming bilingual and biliterate or not meeting academic benchmarks in all subjects.

The state's Bilingual Multicultural Education Act stated goals are that all students, including English language learners, become bilingual and biliterate and meet the academic content standards and benchmarks in all subjects. To monitor the state's progress along these goals, statute requires that schools administer state-approved language proficiency assessments in English and the home or heritage language annually until students reach proficiency in each language and that schools comply with federal assessment requirements. Statute also requires that BMEP students participate in the New Mexico standards-based assessment program, and in grades in which students do not participate in the New Mexico standards-based assessment program, the public school district is required to develop and implement an assessment and evaluation program. The federal government also mandates public schools to test all ELs annually to assess their progress in acquiring English language proficiency.

The state's bilingual multicultural education program goals are for all students, including English language learners, **to become bilingual and biliterate** in English and a second language, including Spanish, a Native American language, where a written form exists and there is tribal approval, or another language

Source: Article 23 NMSA 1978, "Bilingual

Rates of student language proficiency have remained consistent over the last several years. Title III requires EL students receive three years of support, and research indicates it takes five to seven years to become academically literate in a second language. However, PED does not report BMEP English learner student progress. Therefore, how the program impacts student progress toward second language acquisition cannot be determined. Furthermore, students participating in BMEPs are proficient on assessments of student achievement at lower rates than their peers, falling short of the statutory goal.

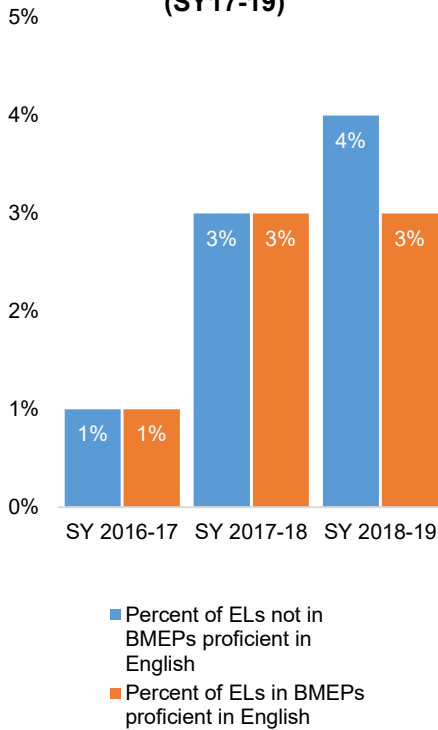
PED has set annual goals for English Learner (EL) students. These annual goals were developed based on the expectation that an EL student attains English language proficiency within five years of initial identification. The annual goals take into account the student's grade level and level of English language proficiency at the time the student is identified as an EL student.

Source: PED

PED's statutory goal of promoting second language acquisition and proficiency is unmet.

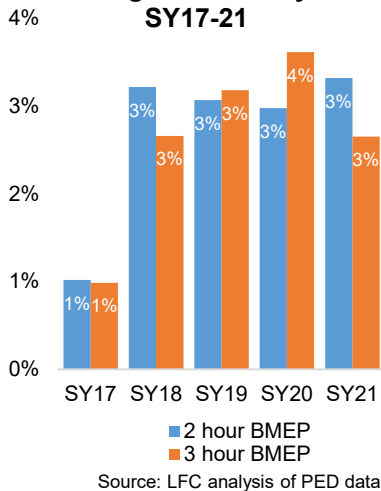
To monitor BMEPs progress toward the statutory goals of participating students becoming bilingual and biliterate, the Language and Culture Division at PED collates district-collected data on language proficiency for students participating in BMEPs. To meet ESSA assessment requirements, New Mexico administers the ACCESS for ELs to all identified English learners. This federal law mandates that all ELs in public schools be tested annually to assess their progress in acquiring English language proficiency. To assess Spanish language proficiency, participating districts utilize Avant STAMP. Students from Native American communities, who participate in BMEPs, are assessed for proficiency through formative assessments developed by each tribe or Native American community leaders and educators. Native languages assessed are Jicarilla Apache, Keres, Navajo (Diné), Tiwa, Tewa, Towa, and Zuni. Since PED was granted an assessment waiver due to the Covid-19 pandemic, the most recent student achievement data comes from the 2019 school year.

Chart 10. Comparison of English Language Proficiency Rates for ELs in BMEP and not in BMEP (SY17-19)



Note: Students scoring a Level 5 or above on ACCESS for ELs are considered proficient
Source: PED

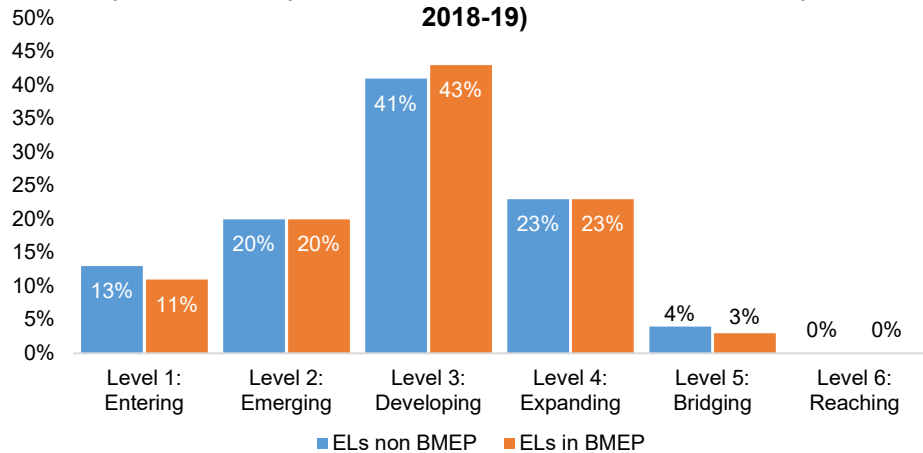
Chart 12. English Language Acquisition Proficiency Rates of BMEP Students by Program Intensity SY17-21



Source: LFC analysis of PED data

Despite its program goal, EL students in BMEPs do not obtain English language proficiency at higher rates than EL students not in BMEP programs. New Mexico public schools test all EL students annually using the ACCESS for ELs by WIDA. The ACCESS test measures students' English language proficiency at six different levels: Entering (Level 1), Emerging (Level 2), Developing (Level 3), Expanding (Level 4), Bridging (Level 5), and Reaching (Level 6). Only 3 percent of all ELs scored at Level 5 (Bridging) or Level 6 (Reaching), indicating that they have reached English proficiency. The majority (43 percent) of ELs in state-funded BMEPs are scoring at Level 3 (Developing), with 23 percent scoring at Level 4 (Expanding). EL students in BMEP programs do not reach English proficiency at higher rates than EL students who do not participate in BMEP programs.^[1] Although English language proficiency rates are important to monitor, the Language and Culture Division at PED needs to evaluate the impacts of ELs participating in BMEPs on timely progress towards obtaining English language proficiency, which incorporates students' grade level and years in the program.

Chart 11. Comparison of English Language Proficiency (WIDA Access) for ELs in BMEP and ELs not in BMEP (SY 2018-19)



Source: PED

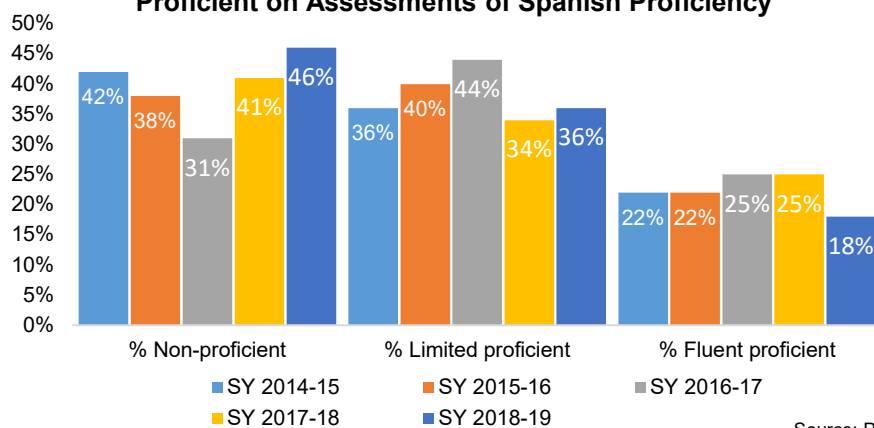
More intensive BMEPs do not lead to higher rates of participating students attaining English language proficiency. Since SY18, participating BMEP students have achieved approximately 3 percent proficiency in English language acquisition, despite BMEP program intensity. Two- and three-hour BMEP programs tend to serve a significantly higher proportion of EL students than one-hour BMEP programs. Seventy-six percent of participating students in two-hour programs are EL students and 60 percent of students in three-hour programs are EL students compared to less than 1 percent of EL students in one-hour programs. Therefore, one-hour BMEP programs are excluded from the current analysis. Three-hour BMEP programs are funded 50 percent more than two-hour BMEP programs through the SEG and consist of a third hour of content area instruction in the home/heritage (target) language. Given the statutory goals that all participating BMEP students, including ELs, become bilingual and biliterate in English and a second language, the Language and Culture Division should continue to monitor student progress towards achieving English proficiency among participating students and provide technical assistance to programs as needed. The LFC continues to work with PED on data analysis as data becomes available.

Nearly half of students in Spanish BMEPs are not proficient in Spanish.

In SY19, 47 districts and six state charter schools implementing English – Spanish BMEPs submitted Spanish language proficiency data. Of the 34,845 Spanish BMEP students assessed by districts in SY19, 46 percent scored as non-Spanish proficient, which increased from the previous year. Eighteen percent scored as proficient or advanced, which was down from previous years.^{vii} Due to the Covid-19 pandemic, PED was granted an assessment waiver, so more recent data is not available. As the LFC has previously reported in its spotlights on the effects of the Covid-19 pandemic on student learning, English learners were disproportionately affected. For students learning Spanish as a second language, it could take five to seven years to become fully academically literate, so the Language and Culture Division at PED needs to evaluate the impacts of participating in BMEPs on timely progress towards obtaining Spanish language proficiency.

Previous to SY21, districts utilized a variety of Spanish-language proficiency assessments, including the Woodcock-Muñoz Language Survey (Woodcock), Language Assessment Scales (LAS), the Individualized Proficiency Test (IPT), or Avant STAMP. In order to better compare student progress across programs, a PED taskforce evaluated and chose to utilize the Avant STAMP state-wide beginning in SY21.

Chart 13. Trends in Percent of Spanish-BMEP Students Proficient on Assessments of Spanish Proficiency

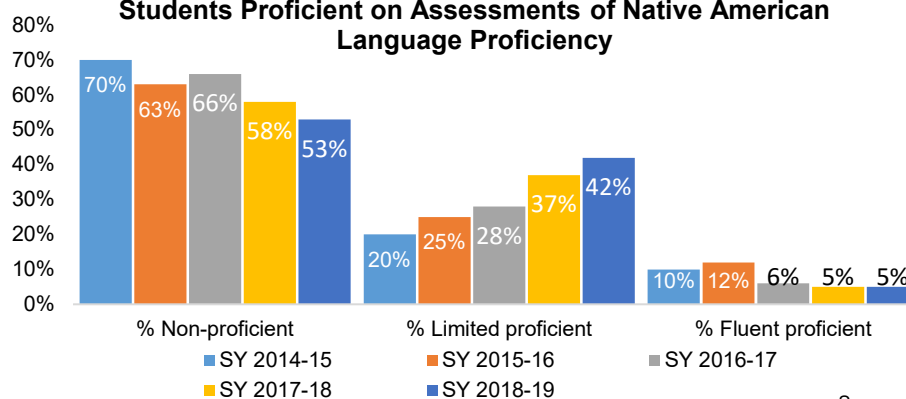


Source: PED

Higher percentages of Native American BMEP students achieve at least limited proficiency in Native American languages.

The number of students tested and reported for Native American language proficiency in 2018–2019 was 4,806, which decreased by 12 percent from the previous year of 5,466. Assessment data indicate progress in increasing Native American language proficiency. The percent of students who performed at the non-proficient level has continued to decrease over the past five years from 70 percent to 53 percent, while the percent of students who achieved the limited-proficient level increased from 20 to 42 percent.

Chart 14. Trends in Percent of Native American BMEP Students Proficient on Assessments of Native American Language Proficiency



Source: PED

22-1-9.1. New Mexico diploma of excellence; state seal for bilingual and biliterate graduates. A. The state seal of bilingualism-biliteracy on a New Mexico diploma of excellence certifies that the recipient is proficient for meaningful use in college, a career or to meet a local community language need in a world language other than English. The graduate's high school transcript shall also indicate that the graduate received the state seal on the graduate's New Mexico diploma of excellence.

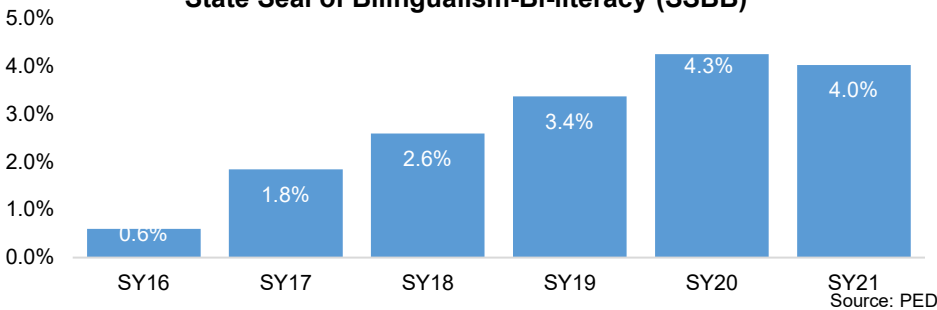
In 1998, several bilingual students at Rio Grande High School (RGHS) in Albuquerque graduated with the very first gold seal of bilingualism placed on their diplomas- the first such seal in the nation.

Source: The Shoulders We Stand On- A History of Bilingual Education in New Mexico

Over 4,300 students have received the State Seal of Bilingualism–Biliteracy (SSBB) since 2015 in various languages. Regardless of whether districts offer a BMEP program, school boards can elect to adopt and apply for approval to provide their students with an SSBB. Since implementing the SSBB in 2015, 26 school districts and four state charter schools have adopted the SSBB. A school district or charter school awards an SSBB to recognize students who, by high school graduation, demonstrate proficiency in a language other than English. In September 2015, PED set the adoption criteria for school districts and state charter schools to award the SSBB. Districts can adopt four pathways by which students show evidence of proficiency. The pathways include tribal language certification provided by an individual tribe, course credits plus an assessment, course credits plus an alternative process portfolio, or an assessment plus an alternative process portfolio. The student-produced portfolio involves a presentation, interview, work sample, and self-reflection. By offering pathways that reflect the state’s cultural and linguistic diversity, the program promotes equity and affirms the value of the student’s first language. A transcript bearing the seal can indicate the student’s proficiency in the non-English language to prospective universities and employers. There is some evidence from California that having the seal may be beneficial for job applicants in the hiring process when employers are seeking bilingual employees.

During the pandemic, 1,005 students graduated with the SSBB during the 2020-2021 school year, representing four percent of all four-year graduates. Given that 29.7 percent of all graduates in New Mexico were English learners, and the goal of the bilingual multicultural education program is for students to become bilingual and biliterate, PED should look to incentivize participation in the SSBB program.

Chart 15. Percent of New Mexico Graduate Who Obtain State Seal of Bilingualism-Bi-literacy (SSBB)



Most students participating in BMEPs do not perform at similar levels as their peers on indicators of academic achievement.

To monitor BMEPs progress towards the statutory goals of participating students meeting state academic content standards and benchmarks in all subject areas, the Language and Culture Division at PED analyzes district-collected data regarding the academic achievement of students participating in BMEPs. To meet statutory assessment requirements, New Mexico administers assessments for reading and math in grades three to eight and once in high school, and science once in grades three to five, once in grades six to nine, and once in grades 10 to 12. Since PED applied for and was granted an assessment waiver due to the Covid-19 pandemic, the most recent student outcome data regarding achievement comes from SY19.

The state's bilingual multicultural education program goals are for all students, including English language learners, **to meet all academic content standards and benchmarks** in all subject areas.

Source: Article 23 NMSA 1978, "Bilingual Multicultural Education Act"

The Language and Culture Division aims to support districts by analyzing, monitoring, and disseminating meaningful demographic and academic performance data to educators in BMEPs to ensure all students' academic and linguistic needs are addressed through effective instruction and program implementation. The Language and Culture Division also states that student achievement and use of funds data can be used by the PED to evaluate BMEP effectiveness and inform how to best provide relevant and timely technical assistance and support across the state.^{viii} However, data is not collected and reported in a way to meaningfully evaluate which programs are meeting statutory goals and which require technical assistance.

Most students participating in BMEPs do not outperform their peers on indicators of academic achievement. In the most recent year in which student achievement data is available (SY19), students who are proficient on assessments of reading, math, and science are about 10 percent lower for students participating in BMEP programs than their non-BMEP peers. Only kindergarteners and first graders participating in a BMEP program perform at comparable rates to their peers. PED has consistently reported these gaps in proficiency rates between BMEP and non-BMEP participating students in the Bilingual Multicultural Education annual reports dating back to SY17. Bringing state BMEP programs to align with best practices, such as by expanding dual language programs, may help close the gap for English learners.^{ix} PED currently does not report or analyze student achievement outcome data by participation in BMEP program type or intensity. To accomplish their goal of strengthening BMEPs, PED should continue to monitor student achievement outcomes and provide technical assistance to BMEPs as needed.

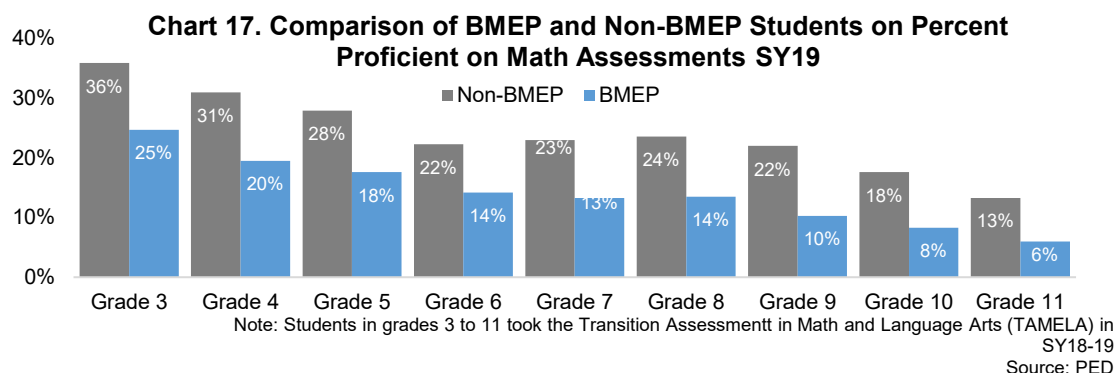
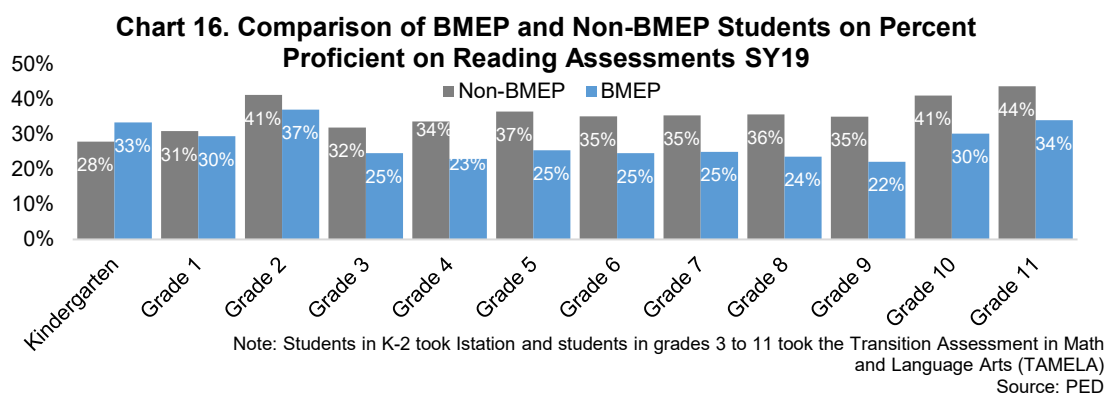


Chart 18. Comparison of BMEP and Non-BMEP Students on Percent Proficient on Science Assessments SY19

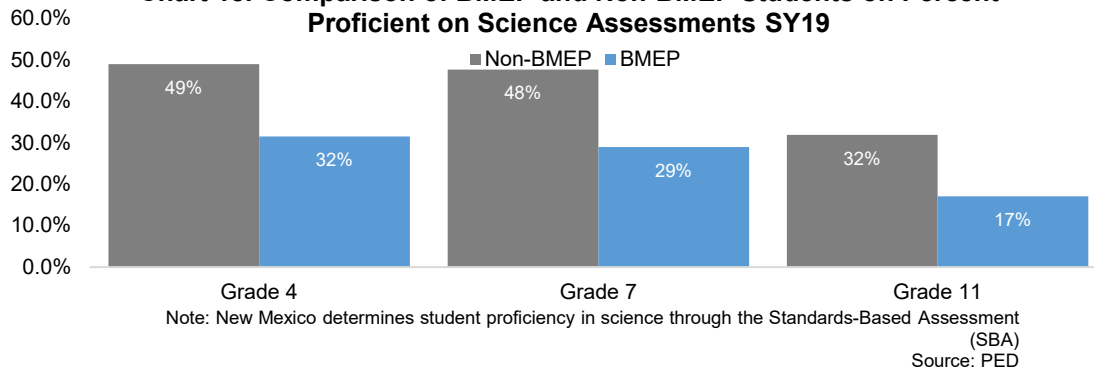


Chart 19. SY19 Math Proficiency Rates of BMEP Students by Program Intensity

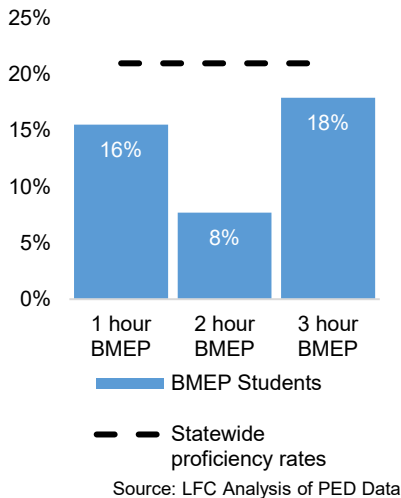
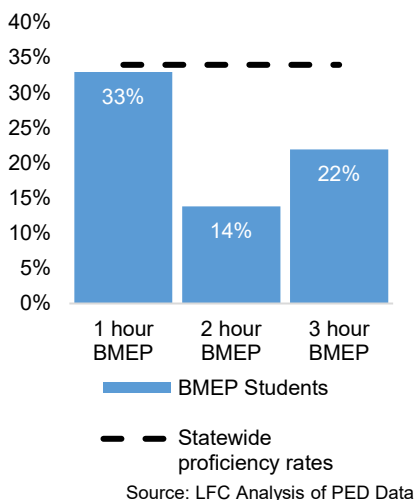


Chart 20. SY19 Reading Proficiency Rates of BMEP Students by Program Intensity



Three-hour BMEPs relate to higher rates of math proficiency but not reading proficiency. In SY19, 18 percent of students who participated in three-hour BMEPs were proficient in math, compared to eight percent among students who participated in two-hour programs and 16 percent who participated in one-hour programs. Math proficiency among participating BMEP students still lags behind their peers for all three program intensity levels. Regarding reading, students in one-hour BMEP programs performed at higher rates of proficiency, followed by students in three-hour programs. In SY19, 22 percent of students who participated in three-hour BMEPs were proficient in reading, compared to 14 percent of students who participated in two-hour programs and 33 percent who participated in one-hour programs. The Language and Culture Division should continue to monitor the academic progress of participating BMEP students to ensure the state is meeting its statutory goal that participating students are meeting all academic content standards and benchmarks in all subject areas. As data becomes available, the LFC will continue to work with PED on data analysis to answer these research questions.

The pandemic disproportionately impacted EL students. The LFC has previously reported in a series of spotlights on the pandemic's effect on education that EL students are more likely to fall behind due to lost instructional time than their peers. A 2020 report by the U.S. Department of Education on the impact of the Covid-19 pandemic on education found that English learners were among the hardest hit by the pandemic's disruptions to in-person learning. EL students had disproportionately limited access to computers and the internet, were no longer immersed in an English-speaking environment, had fewer opportunities to converse with teachers and peers in English, were more likely to face food insecurity, and were more likely to live in an unstable home environment with working parents.^x To address these disproportionate impacts, Dearborn public schools district in Michigan implemented a summer school program for K-12 EL students who will receive some remedial teaching and front-loading of academics for the next grade and an introduction back into a regular physical classroom environment.^{xi} To address the educational needs of EL students effected by the Covid-19 pandemic, the LFC has previously recommended that the Legislature should consider mandating extended learning time programs for all districts and charters, should consider requiring K-5 Plus in districts that serve a high proportion of at-risk students, and that PED should provide technical support for implementation and accountability.

Research finds that student participation in dual-language immersion programs leads to higher rates of English proficiency and reading scores. For example, an 18-year longitudinal study of 23 large and small school districts from 15 different states found that dual language enrichment models were substantially more effective for enhancing student outcomes and fully closing the achievement gap in the second language compared to other programs for English learners. In the study, English learners outpaced native-English speakers year after year until they reached grade level performance in their second language when schooled in a high-quality enrichment program that teaches the curriculum through their primary language and English.^{xiii} In a subsequent longitudinal study of academic achievement outcomes among over six million U.S. English learners in grades one to twelve served through different bilingual program models, researchers found that English learners initially served through well-implemented transitional bilingual programs outperformed, on average, those served through well-implemented English as a second language models, as measured on English reading tests. However, the researchers found English learners served through well-implemented dual language immersion models showed, on average, higher academic outcomes than their English learner peers served through any other program model and were the only group in the study to achieve full achievement gap closure with their English proficient peers, which occurred by the middle school years.^{xiv}

xiv

In another four-year study of the efficacy of dual-language immersion education in Portland, Oregon public schools, students who participated in dual-language immersion programs from third to eighth grade performed at higher levels on nearly all language skills tested compared to their peers who took a secondary language as an elective.^{xv} Based on these expectations of student performance from the current research on dual language education, the Language and Culture Division at PED should identify programs that do not meet the statutory goals of fostering timely progress towards second language acquisition and meeting academic benchmarks on student achievement assessments and provide technical assistance.

Current BMEP funding does not allow for incentives due to program type and elements. Regulation for implementing BMEPs defines five bilingual multicultural program models to be offered by public schools in the state of New Mexico: heritage, enrichment, transitional, maintenance, and dual language immersion. School districts typically offer more than one model to try to meet the needs of various student groups. Administration and funding of the BMEPs differ by the level of rigor and daily hours of second language instruction provided. One-hour bilingual multicultural programs provide a minimum of one hour of home or heritage language arts instruction to all students enrolled. Schools must also provide a second hour of English language development for English learners enrolled in the program for two-hour programs. Dual language immersion programs are required to provide a third hour of content area instruction in the home or heritage language. Other programs may offer this third hour, but it is only a requirement for EL students participating in dual language programs.

Key findings from Portland Public Schools dual-language immersion lottery study:

- Portland Public Schools (PPS) students randomly assigned to dual-language immersion programs outperformed their peers on state reading tests by the equivalent of seven months of learning in grade five and nine additional months by grade eight.
- Immersion-assigned students did not show statistically significant benefits or deficits in terms of mathematics or science performance.
- There were no clear differences in the effects of dual-language immersion by students' native language.
- English learners assigned to dual-language immersion were more likely than their peers to be classified as English proficient by grade 6. This effect was mostly attributed to English learner students whose native language matched the classroom partner language.

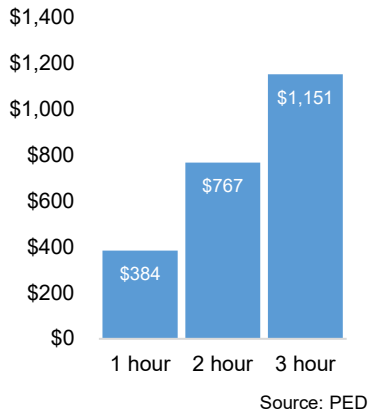
Source: RAND, American Educational Research Journal

Table 2. BMEP Requirements

Program Hours	Instructional Time
1 st Hour	Home/heritage (target) language arts instruction
2 nd Hour	English language instruction (ELs only)
3 rd Hour	Content area instruction in the home/heritage (target) language

Source: PED

Chart 21. Approximate Per-Pupil Funding Allocation Per BMEP Program Hours



These different programs are funded at the same hourly rate through the SEG, but providing more program hours offers more per-pupil funding. Therefore, schools receive maximum funding if they implement a three-hour bilingual program. If the statutory goal of the BMEP program is to produce bilingual and biliterate students, then PED should incentivize and support programs with the best evidence to do so.

PED needs to develop data analysis and reporting systems that can answer research and evaluation questions regarding statutory goals of BMEP effectiveness. The Language and Culture Division states that it aims to strengthen BMEPs by analyzing, monitoring, and providing meaningful information regarding participating students' academic achievement and second language acquisition. Currently, PED collects all the necessary data, but it is not analyzed and disseminated in a way that can answer questions about the effects of BMEPs on participating students. For example, an important evaluation question regarding second language acquisition is not how many students are scoring proficient on second language assessments but rather how many students are on track to obtaining second language proficiency. To answer this question, PED needs to incorporate student's grade and years in program into its analysis. Another important evaluation question to be answered is whether type of program or dosage of participation in BMEPs effects student outcomes. Answering these evaluation questions would help the Language and Culture Division at PED monitor BMEP programs that are successful in achieving their statutory goals regarding student outcomes and identify programs that need additional technical assistance.

Recommendations

The Public Education Department should

- Identify programs that do not meet the statutory goals of fostering timely progress toward second language acquisition and meeting academic benchmarks on student achievement assessments and provide technical assistance; and
- Evaluate the effectiveness of the different BMEP elements and program types on student outcomes.

PED's oversight and technical assistance are not meeting statutory requirements.

Statute requires PED to evaluate programs annually for effectiveness and appropriate use of funds. A 2004 LFC evaluation of the State Bilingual Multicultural Program reported the program had become convoluted and confusing to administer, participation was declining, school district expenditures of bilingual funding could not be determined, and program design would significantly increase future funding needs. A 2011 LFC evaluation of the public school funding formula found PED did not complete enough audits of bilingual programs, likely resulting in over-identification of students in bilingual programs, and also did not have a standardized home language survey to identify home languages of students. (PED has since developed a standard home language survey document that is distributed and utilized by all school districts and charters.) The 2011 LFC report noted PED would only reach participating districts and charters once every 17 years at the rate they had been conducting in-person auditing.

With an increase in funding provided by the Legislature and increased technical support, school districts have the opportunity to expand BMEPs to meet the overall program goal of producing bilingual and biliterate students. However, from FY13 through FY21 program participation decreased by approximately 9,586 students.

PED has only completed one technical assistance-focused monitoring visit in the last three years.

According to the 6.32.2.14 NMAC, BMEPs, “shall be evaluated by the department annually for effectiveness and for the appropriate use of funds.” To accomplish this, PED’s LCD conducts site visits of BMEPs to ensure quality program delivery and compliance with the law, and desktop monitoring three times per year. Site visits are a way to learn and take action, they help observers investigate the evidence of success, allow PED to validate reported data (e.g., participation and program type) and follow up with technical assistance for implementing best practices. When well-planned and thoughtfully coordinated, site visits are a powerful professional learning experience that can significantly contribute to advancing effective school improvement and help ensure accurate reporting and accountability among districts and charters.^{xvi} A 2011 LFC program evaluation recommended PED create an audit bureau to review the accuracy of public education data submitted by districts. Since then, PED has established an audit section within its Accounting and Audit Bureau. However, the audit section primarily focuses on auditing data for the teacher training and experience index (T & E) and teacher cost index (TCI). A 2019 LFC program evaluation recommended PED require school districts and schools to outline comprehensive program-level budgets in state BMEP funding applications, and amend its administrative rules to define expenditures that are allowable or unallowable for state BMEP funding.^{xvii}

Martinez-Yazzie Findings of Fact

PED lacks sufficient monitoring programs to determine if ELL students are receiving adequate assistance.

LCD did not respond to Grants-Cibola County Schools’ request for support, guidance, and technical assistance regarding effective implementation of bilingual programs and ELL programs.

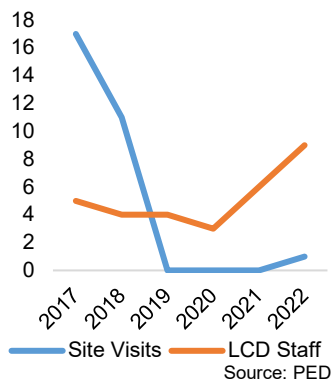
Instead of making actual site-visits or observations of ELL program implementation and/or Title III compliance, the LCD performs only desktop monitoring.

The PED has not provided any technical support to Magdalena Municipal School District in a way that would facilitate the exiting of students from an ELL program.

From school years 2012 to 2016, the Language and Culture Division had little involvement if any at Zuni Public Schools. Staff from the LCD did not observe ZPS classrooms or provide any technical support to ensure that ZPS was implementing bilingual and ELL programs appropriately.

The LCD has not provided any technical support and guidance, including monitoring of ELL programs, in the Gallup McKinley County School District.

Chart 22. PED Technical Assistance Visits by LCD Staff by Year



Site visits are a valuable practice that, if done on a regular basis, can expose funding and/or programmatic discrepancies. In the sole 2022 site visit made to a participating district, LCD staff discovered course code discrepancies, between a world language instruction course and a supposed BMEP course aligned to Spanish Language Arts Standards. LCD's next step would be to provide support to the district, and ensure that this is addressed in the new school year. However, if this visit had not been made, the discrepancy may not have been discovered, and the bilingual funding differential would have been generated in the SEG.

The LCD completed 17 site visits in 2017, but the number of visits subsequently declined and completely stopped in 2019. PED LCD currently does not have a regular site visit schedule or work plan that includes site visits. In 2018, PED completed 11 site visits, but did not complete any in 2019, 2020, or 2021 (schools were closed due to the Covid-19 pandemic in March of 2020, however they re-opened in April of 2021). Only one site visit occurred in 2022 at the request of a new district superintendent.

LFC Site Visits

- Albuquerque Sign Language Academy (State Charter)
- Blanco Elementary (Bloomfield)
- Dixon Elementary School (Española)
- Heights Middle School (Farmington)
- McCormick Elementary (Farmington)
- Chaparral Elementary (Gadsden)
- Desert Trail Elementary (Gadsden)
- Desert View Elementary (Gadsden)
- North Valley Elementary (Gadsden)
- Gadsden Middle School (Gadsden)
- Booker T. Washington Elementary (Las Cruces)
- Organ Mountain High School (Las Cruces)
- Katherine Gallegos Elementary (Los Lunas)
- El Camino Rael (SFPS Charter)

The findings of fact from the *Martinez-Yazzie* lawsuit identified issues with PED's lack of oversight and accountability for BMEPs.^{xviii} For example, the court found the state's actions primarily consisted of an increase in funding for bilingual education, changes in administrative and support functions, such as promulgation of new standards, revisions of assessment and reporting requirements, future professional staff development, and increased PED staffing. However, the court found no actions regarding direct services to help ELs become English proficient, encouraging districts to provide specific supplemental services, such as smaller class sizes or tutoring, for EL students having difficulty learning.

LFC conducted 14 site visits to schools for this project. During LFC site visits to school districts and schools, district administrators and teachers indicated they would prefer PED visit them to observe, offer suggestions for improvement and technical assistance, and provide in-person professional development based on the observations of their bilingual program(s). School district personnel indicated they desired guidance and technical assistance from PED, but currently site visits only occur when they initiate a call to PED. With 9 FTE in the LCD, six of whom are education administrators, PED could complete district site visits at least every three years.

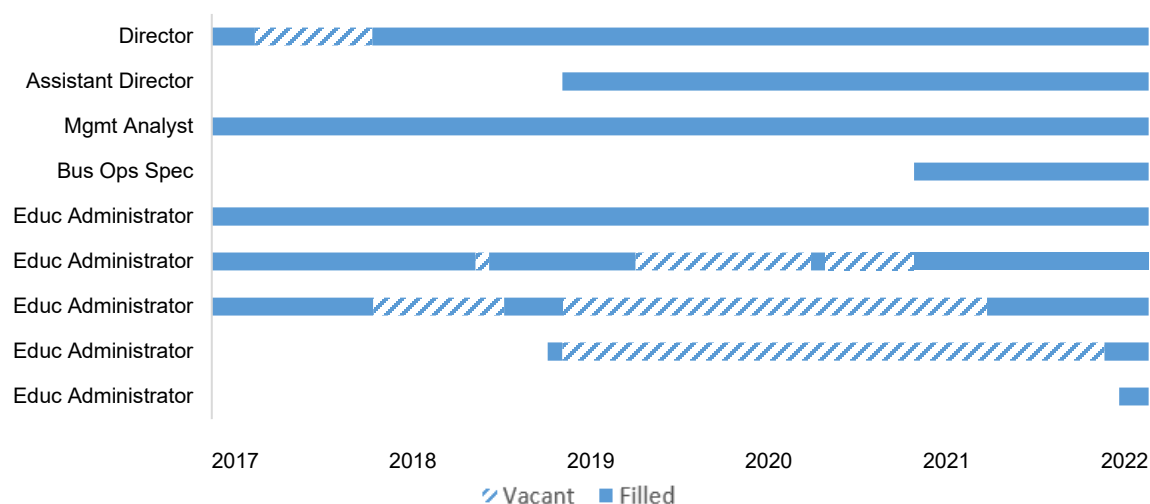
In April 2020, LCD staff increased from 5 FTE to 9 FTE. Since 2017, the vacancy rate of bureau staff has been between 20 and 56 percent. Upon the departure of the director in 2017, PED took eight months to name a replacement to lead the division. The vacancy rate was 56 percent for eight months following the addition of 4 FTE. However, despite the additional FTE, PED completed more site visits with only five staff members than with a staff of nine. LCD should conduct focused monitoring visits and technical assistance for quality improvement every three years.

Total BMEP Funds Allocated to District and Charters

2013: \$35.2 million

2021: \$36.2 million

Chart 23. Language and Culture Staffing and Vacancies from January, 2017 to April, 2022

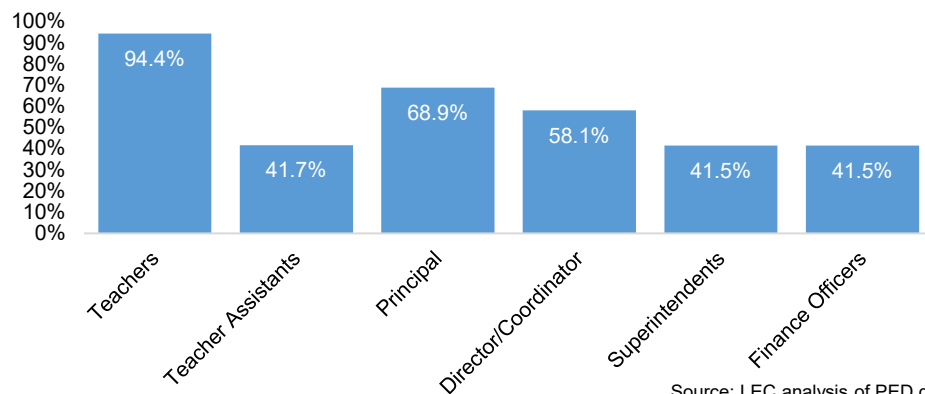


PED’s process for desk audits can be improved by leveraging existing data and analysis resources. PED conducts desk audits after the 40th, 80th, and 120th school days. The audits check for compliance noting if BMEP teachers are licensed, teachers are bilingual or TESOL endorsed, and schools utilize appropriate course codes for program funding. These audits are conducted with data submitted by each participating school district and charter via the Student Teacher Accountability Reporting System (STARS). The audits are time-consuming, and for the largest school districts in the state, PED reports these audits take several weeks to complete. PED should collaborate with their IT department to work on creating reports from STARS to consolidate bilingual program information and make the audit process more efficient.

Numerous schools and districts are not meeting BMEP statutory obligations to provide professional development for all staff. Part of PED’s oversight function is to ensure school districts provide professional development to school personnel, including teachers, BMEP directors, principals, other instructional personnel, and administrative leaders (see Appendix B). For example, school finance officers should be given training in the various codes available in OBMS so they can have a more accurate reporting of actual BMEP expenditures, which would be in line with statutory requirements. Appropriate and relevant educator preparation and professional development is associated with more positive self-assessment regarding perceived ability to serve English learners effectively.^{xix} Teachers licensed through alternative certification need additional support in professional development in order to maintain quality and retention rates, according to a March 2020 publication from the National Association of Secondary School Principals. Suggested strategies for ongoing professional development include one-on-one mentorship for new teachers and training for school administration on how to support targeted peer mentoring.

An LFC staff review of school BMEP applications for SY 2021-22 indicated most are not meeting this statutory obligation. Despite this lack of compliance, PED has not taken action to deny applications nor have they provided technical assistance to those districts which are non-compliant. Ninety-four percent of schools indicated they provide training for teachers, 69 percent for principals, and 58 percent for bilingual directors and coordinators. Only 42 percent of schools provide training for teacher assistants, superintendents, or financial officers. In some of these cases, LCD would flag that professional development was only offered for teachers, but still approve the school's BMEP application. In many cases, applications simply stated professional development would be provided to all staff, without providing more targeted training to specific roles. Furthermore, the Act specifies that professional development should be research-based and reflect best practices of English as a second language. However, PED's review of school's BMEP applications does not currently check whether the training provided meets these statutory requirements. PED only provides schools a description of the appropriate rule and statute on the BMEP application form. PED should develop a list of trainings and professional development activities that meets these statutory requirements to share with districts and consider denying applications, and provide technical assistance should districts not meet the statutory goals of providing targeted training to each staffing group.

Chart 24. Percent of BMEP schools that provide professional development to statutorily required staff



Source: LEC analysis of PED data

PED LCD should work to create a curriculum/scope and sequence for all bilingual program types in the state and conduct professional development on best practices. A 2021 LFC report on implementation of the Indian Education Act recommended the Language and Culture Division catalog culturally and linguistically relevant curricula and materials according to level of approach (contributions, additive, transformative, social action) as listed in PEDs Culturally and Linguistically Relevant guidance handbook. In 2022, the Legislature funded tribal education departments with over \$15 million to develop culturally and linguistically relevant curricula and assessments. Currently, school districts utilize and create their own materials, and districts do not have an organized mechanism to share bilingual materials and resources that are created throughout the state. Some districts, like the Gadsden Independent School District, contract with teachers in the summer to translate and develop equivalent materials to those that are adopted for each content area every school year. This practice ensures all classrooms (bilingual and English speaking) within the district are taught the same content, with equivalent materials. This is a best practice that should be emulated in other districts and charters.

In 2022, the Legislature funded tribal education departments with over \$15 million to develop culturally and linguistically relevant curricula and assessment materials.

Source: LFC Files

BMEP expenditures are not tied to program effectiveness.

The Bilingual Multicultural Education regulation, 6.32.2 NMAC, requires districts to self-report the use of BMEP funds by September 30 of each year. Furthermore, PED must evaluate BMEPs annually for effectiveness and appropriate use of funds. The majority of districts report expending more funds on BMEP programming than the amount allocated, with the majority of funds expended for teacher salaries. However, districts would still be required to provide students with teachers in the absence of BMEPs. The Language and Culture Division notes funds generated by the bilingual education cost differential should cover the unique costs incurred by implementing a BMEP—such as stipends (bilingual and TESOL endorsements and NALC certification), instructional materials, and professional development in the home or heritage language of the BMEP.

While BMEP funding is non-categorical and considered discretionary operational monies, such funding is only provided on the basis of providing effective programs that comply with all applicable state statutes and regulations. According to state law, BMEPs that do not meet program goals or are not compliant with all applicable state statutes and regulations are not eligible for renewal. Yet, PED continues to approve these programs.

In SY20, multiple districts did not report how BMEP expenditures aligned with program goals or were used for program effectiveness, but still received approval for their BMEP application.^{xx} State statute (Section 22-23-5 NMSA 1978) and regulation (6.32.2.15) requires all BMEPs to be evaluated by the department annually for program effectiveness and for the appropriate use of funds. The current process of districts self-reporting how bilingual funds are expended and reported annually by the Language and Culture Division is insufficient to meet statutory goals of evaluating use of bilingual funds and their impact on student outcomes. For example, in FY20, 66 percent of districts indicated expenditures aligned with BMEP goals and 42 percent of districts self-reported utilizing funds to develop effectiveness without providing additional evidence or information. Many districts reported utilizing BMEP funding on salaries and teacher compensation. Again, since the Language and Culture Division has not systematically conducted site visits of BMEPs, PED has been unable to ensure statutory compliance. Furthermore, multiple districts did not even report how BMEP funds were expended, yet their BMEP applications have not been denied for failure to report. To track BMEP program expenditures and how they align with statutory goals, the Language and Culture Division should work with BMEPs to report expenditure information that categorizes effective elements of a bilingual program, decline future applications for failure to report, and provide technical assistance to BMEPs for statutory compliance and quality improvement.

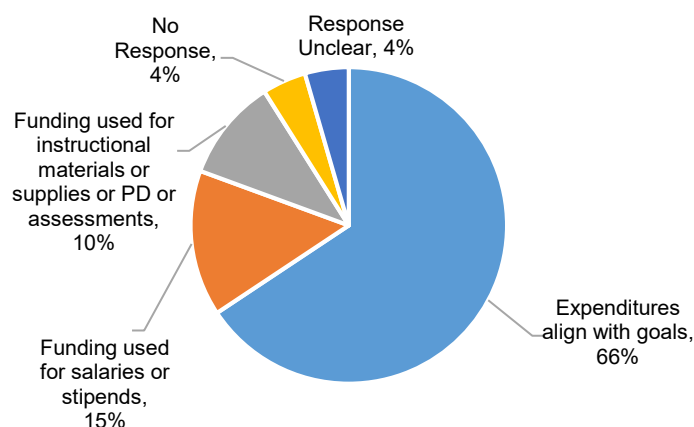
Only 3 percent of actual expenditures for BMEPs goes towards supplies and professional development. The Open Books Public Education Financial Transparency Portal, a result of Senate Bill 96 (2020 Regular Session),

Bilingual multicultural education programs shall be evaluated by the department annually for effectiveness and for the appropriate use of funds.

Source: NMAC Bilingual Multicultural Education Act Rule 7/1/2018

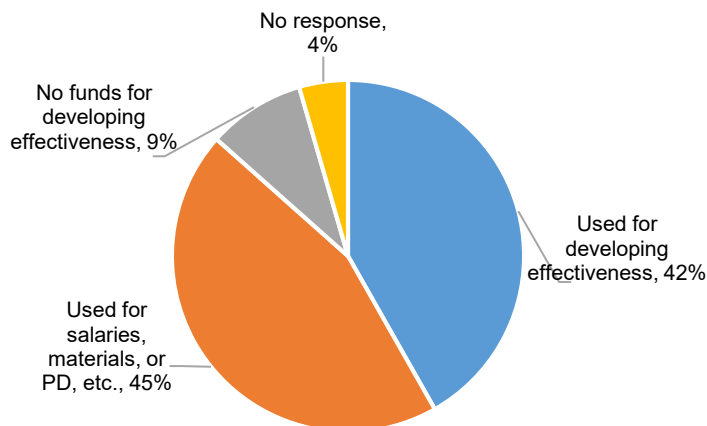
The Language and Culture Division requires districts to report how expenditures align with BMEP statutory and regulatory goals and how it uses funds to support effectiveness, but its current reporting format provides little information on how that is done.

Chart 25. Percent of Districts that Report that BMEP Expenditures Align with Program Goals



Source: PED

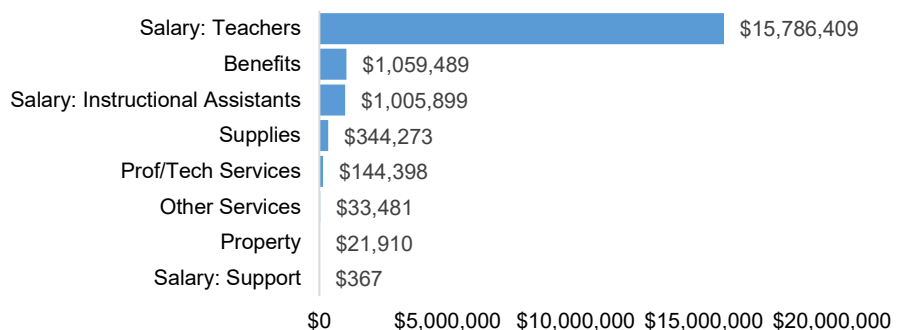
Chart 26. Percent of Districts that Report Amount of BMEP Funding Used to Develop of Support BMEP Effectiveness



Source: PED

provides access to school and district financial information from across New Mexico's public schools. The online portal, launched December 1, 2021, must show how schools budget funds for at-risk student supports, including bilingual multicultural education services.^{xxi} As of May 2022, schools report the majority of actual expenditures for BMEPs going towards teacher salaries and benefits. Out of \$18.3 million of reported actual expenditures, \$17.9 million was expended on salaries and benefits.^{xxii} Since teacher salaries and benefits are already accounted for in the SEG, the Language and Culture Division states that funds provided by the bilingual education cost differential should be used to cover the unique costs incurred by implementing a BMEP, such as instructional materials, professional development, or to cover the costs of endorsements.^{xxiii} Although there are more detailed reporting categories that districts can report, PED School Budget Bureau staff confirmed that BMEPs almost exclusively report BMEP expenditures for teacher salaries.

Chart 27. Actual Expenditures by Fund Category for Bilingual Education Program



Source: PED Open Books Transparency Portal

Recommendations

The Public Education Department should

- Conduct focused monitoring visits for quality improvement every three years, follow statutory requirements by providing technical assistance to districts and charters that exhibit non-compliance in BMEP applications and deny applications if they do not meet the statutory goals of providing targeted training to each staffing group;
- Collaborate with their IT department to create automated reports from STARS to consolidate bilingual program information and make the desk audit process more efficient;
- Develop a list of training and professional development activities that meet statutory requirements to share with districts;

-
- Work to create a curriculum/scope and sequence for all bilingual program types in the state and conduct professional development on best practices; and
 - Work with BMEPs to report expenditure information that categorizes effective elements of a bilingual program, decline future applications for failure to report, and provide technical assistance to BMEPs for statutory compliance and quality improvement.

LFC and DFA should

- Develop a performance measure and goals related to PED BMEP site visits.

New Mexico has over 4,000 bilingual endorsed teachers, but the majority choose not to teach in BMEPs.

Beginning Teacher Pathway to Bilingual Endorsement:

- 24-36 Semester hours in bilingual education
- Pass Prueba examination

Teachers with Existing License Pathway to Bilingual Endorsement:

- 12 semester hours in bilingual education
- Pass the Prueba examination

**Persons who hold an endorsement in teaching English to speakers of other languages (TESOL) on an existing New Mexico teaching license may add an endorsement in bilingual education by passing Prueba and completing at least 6 semester hours in the teaching of bilingual education.*

Teachers in BMEPs must have an endorsement in bilingual, TESOL, or a Native American 520 license.

There has been significant recent discussion of teacher shortage and teacher pipeline issues. Participating school districts and charters are responsible for providing highly qualified, licensed personnel endorsed in bilingual education, TESOL, or licensed through the Native American Language and Culture (NALC) certificate (also known as the 520 certificate). The NALC, also known as the 520 certificate, is unique to New Mexico and authorizes tribal members to teach their native language and culture in public schools in prekindergarten through high school.^{xxiv} In addition to these requirements, teachers who serve in a State funded BMEP at the secondary level must hold a content area endorsement in their designated content area, for example, language arts, mathematics, science, or social studies.

PED requires teachers serving in State funded BMEP to have an endorsement in teaching English to speakers of other languages (TESOL). However, the TESOL endorsement is not federally required to serve ELs in the state. Under Title VI of the 1964 Civil Rights Act, school districts and schools must ensure that ELs have equal access to high-quality education and the opportunity to achieve their full academic potential. Therefore, serving ELs means ensuring that they are provided equal access to content and is the responsibility of all involved in their education. LFC analysis finds that there are significant untapped resources of bilingual endorsed teachers in New Mexico that are not currently teaching in BMEP programs.

There are 4,055 bilingual endorsed teachers, but only 806 (20 percent) currently teach in a BMEP. According to Public Education Department data, New Mexico has an abundance of licensed teachers who hold a bilingual endorsement. Despite the resource of these teachers, only 20 percent currently teach in BMEP programs. Furthermore, 170 teachers in the current school year (2021-2022) who do not have a bilingual endorsement have received a waiver to teach in a BMEP by PED. These are licensed teachers who have not completed a bilingual endorsement. The Public Education Department offers waivers in hard-to-staff areas, bilingual education being identified as one of those. With a teaching waiver, a licensed teacher can teach in a bilingual program for up to three school years. Within that time, they must complete the required semester hours in bilingual education and pass the Prueba examination, which assesses Spanish language proficiency.

The state currently lacks centralized training materials and professional development, and this is sometimes cited as a reason teachers choose not to teach in a BMEP.

The dearth of high-quality instructional materials for addressing students' language and academic needs is a long-standing need expressed by teachers of ELs.^{xxv} This is even more pronounced in middle and high school when students have a wider range of abilities and less time to catch up. The Dine Department of Education has developed a Navajo language curriculum, for the teaching of Navajo; however, the same has not been completed for all Native languages.

EL experts believe that historically the tendency of school districts was to water down curricula so ELs could understand it. However, this fails to build on students' background knowledge, which is crucial to increasing vocabulary and helping language learners catch up with their native English-speaking peers.^{xxvi} Teachers need to be able to use a variety of strategies and techniques to make texts and other materials accessible to students of many different language levels. According to language experts, instructional materials for English learners have been treated as something extra rather than an integral part of the overall instructional program. A lack of bilingual materials contributes to the shortage of bilingual teachers. A study at Georgia State University found that one reason bilingual teachers leave the classroom is due to a lack of appropriate materials, and the additional work of having to translate curriculum.^{xxvii}

Teachers sometimes choose not to teach in BMEP classrooms due to the additional work developing materials and implementing the program.

The shortage of bilingual teachers is uncontested. Yet while many have focused on recruiting and preparing bilingual teachers, New Mexico should further explore how to retain currently practicing bilingual teachers. Based on LFC site visits and structured interviews, many teachers choose to leave bilingual classrooms due to a lack of sufficient materials in the language in which they teach. To fill the gap, they translate English resources as well as create original material. Most are not given additional planning time and most state their administrators are unaware of the time they spend developing curriculum materials for their classrooms. This highlights the manner in which bilingual teachers' bilingualism is perceived to be their natural way of being and therefore translating becomes an expected part of their job. It also highlights the importance of taking a critical look at the additional burdens bilingual teachers have in their work so that we ensure they do not lead to teacher attrition in a field where the teacher shortage is at crisis levels.

PED does not track how many college students are studying to become BMEP teachers. At many universities, undergraduate teacher education numbers are very low.^{xxviii} The result of low numbers of teacher candidates in university undergraduate programs is a further reduction of teacher candidates pursuing bilingual education and TESOL endorsements to accompany elementary, secondary or special education licensure. Yet, there is high demand from school districts all over New Mexico for bilingual and TESOL endorsed teachers to fill vacant positions and keep bilingual education programs alive. PED should work with higher education institutions to track the numbers of education majors and graduates and those seeking bilingual and TESOL endorsements.

As of September 2021, there were 98 bilingual teacher vacancies across the state (nine percent of all teacher vacancies) according to the New Mexico Educator Vacancy report that is published annually by the Southwest Outreach Academic Research Evaluation and Policy Center (SOAR) at New Mexico State University. SOAR examines school district websites to locate job postings. A caveat of the annual report is that the data only includes the 89 state school districts and Bureau of Indian Education (BIE) schools, not charter or private schools. Additionally, the annual report presents information on the teacher pipeline information from New Mexico's colleges and universities on the number of students they admit to and graduate from teacher education programs each year. According to the 2021 report, 49 higher education students completed the requirements for a bilingual/TESOL endorsement. The

Many companies that develop and sell curricula are still simply adding potential modifications for ELs to general materials, rather than developing the supports alongside the main academic content.

Source: Education Week

Oregon school districts were struggling to recruit highly skilled bilingual teachers to meet the demand of dual-language programs. To address this need, Portland Public Schools and Portland State University created a partnership to recruit, develop, and retain bilingual teachers, with an emphasis on bi-literate and bicultural teachers.

With the Regional Educational Laboratory Northwest's (REL) facilitation, the collaborative is working to:

- Build school and district capacity to use data and evidence to better understand their staffing needs and current recruitment, development, and retention practices
- Collect and analyze data on teacher perceptions of the effectiveness of the bilingual pathway program
- Use formative data to plan and support the professional learning of bilingual teachers
- Review and summarize evidence-based practices for recruiting and retaining bilingual teachers of color

SOAR study only looks at point in time and only considers advertised positions rather than needed teachers based on enrollment. Therefore, SOAR should improve their methodology to include not only one point in time, and consider including teacher information based on enrollment.

New Mexico should encourage middle and high school students to take advantage of programs to increase the educator workforce.

New Mexico universities have tried several ways to incorporate the use of the Spanish language into teacher prep programs. Some have relegated this aspect of the program to the Spanish departments because of a lack of faculty with advanced levels of oral and written proficiency within schools of education. Others have developed summer Spanish immersion programs where teachers take coursework in Spanish that prepares them for the Prueba for bilingual endorsement.

Source: The Shoulders We Stand On- A History of Bilingual Education in New Mexico

Educators Rising is a career and technical student organization (CTSO) with intra-curricular learning opportunities integrated into existing education and training programs. Educators Rising is a community-based movement that provides a grow-your-own program through the Educator's Rising curriculum and supporting student activities. With a presence in all 50 states, chapters are provided secondary classroom resources along with the opportunity to attend the national conference where members, teacher leaders, and educators from around the nation come together to showcase the skills they have gained in their education and training programs. The goal of Educators Rising is to create a new generation of highly skilled educators by guiding young people on a path from middle/high school through college and into their teaching careers, by working with aspiring educators who reflect the demographics of their communities and who are passionate about serving those communities through public education. New Mexico should encourage middle and high school students (including Bilingual Seal recipients), to take advantage of the opportunity of Educators Rising to utilize their bilingual skills as educators. This could help alleviate the state-wide shortage of K-12 teachers and introduce middle and high school students to a fulfilling career in education.

Figure 3. Educators Rising Community-Based Model



Source: PED

PED should work with HED to include bilingual education/TESOL courses as part of the standard teacher preparation curriculum at all New Mexico colleges and universities. Through interviews with bilingual education faculty at New Mexico's higher education institutions, concerns were identified about existing teacher preparation programs and the teacher pipeline. Among the biggest teacher pipeline concern was they believe many undergraduate students do not choose to take the bilingual or TESOL endorsement courses concurrently with their undergraduate teacher preparation, as this adds additional coursework, time, and money to a student's degree plan, of which many cannot afford. The State Bilingual Multicultural

Education Advisory Committee drafted a list of recommendations to address the bilingual teacher shortage in August of 2020. Among the recommendations by the committee were:

- For PED to allow institutions of higher education to combine alternative licensure programs with a bilingual/TESOL endorsement by increasing the number of hours in the alternative licensure program by 27 hours. (With this option, PED could incentivize universities to develop combine programs by increasing the maximum number of credit hours permitted).
- The addition of either endorsement be prioritized for scholarship, fellowship, or grant money.

Institutes of higher education should examine a field experience component in lieu of traditional two-semester non-paid student teaching for education majors. During traditional student teaching, a student works alongside a licensed teacher in a classroom setting to gain practical teaching experience. Student teaching is typically conducted in the final semesters of the undergraduate education program and students are required to spend a minimum number of hours, over several consecutive weeks in their student teaching classroom. Field experience gives students the opportunity to apply cumulative knowledge gained during the complete program of study in a workplace setting. An example of field experience could include an assignment in a bilingual classroom one day per week throughout the semester, and meeting the other day as a class with lecture and guidance by the instructor/professor. In field experience, students practice planning, teaching and evaluating students in a classroom setting, and learn from various licensed educators. Field experience is an opportunity for classroom observation and hands-on activities in elementary, middle, or high school classrooms. During this time, undergraduate students have time to explore what it means to be a teacher before taking on the responsibility of teaching in their own classroom. As previously mentioned, many undergraduate students in New Mexico cannot afford to complete student teaching, which is an unpaid responsibility and a requirement of obtaining a teaching degree.

PED should update the Prueba examination for Spanish bilingual endorsement.

Preparing teachers adequately in the Spanish language has been of concern since the early days of bilingual education and continues today. Many states, like New Mexico, have instituted Spanish-language proficiency tests that must be passed before they can teach in a bilingual classroom. In 1979, through a grant from Title VII of the Elementary and Secondary Education Act, the New Mexico State Department of Education (now PED), with the University of New Mexico, developed a test that addressed the language requirements for bilingual endorsement, The Four Skills Exam: A Spanish Language Examination for the Certification of Bilingual Teachers, Grades K-8.^{xxix} In 1992, an evaluation of the exam outlined various concerns with the design, administration and scoring of the assessment. The concerns about the exam were studied by the LESC and later the Legislature passed HB 224, which provided funds to develop and replace the Four Skills Exam. After much work and consideration of the Spanish spoken in New Mexico, in 2005 the Prueba examination was developed and reviewed by national experts in the field of language assessment.^{xxx} The Prueba was aligned with state competencies and is still the examination used for Spanish bilingual endorsement in the state. The LCD should update the Prueba examination rather than introduce a new

language proficiency exam, as the Prueba was created by New Mexico educators, for New Mexico educators. LCD should update the Prueba examination, as is standard in test development.

PED does not track the districts that offer a stipend to teachers of BMEPs or TESOL.

Many school districts and charter schools offer a stipend for teachers who have a bilingual or TESOL endorsement, and who teach in a BMEP classroom. PED does not keep track of which districts offer a stipend and which do not, and they are not statutorily required to. However, in visiting with school districts across New Mexico, administrators expressed concern that districts that offer more of a stipend are able to attract more endorsed bilingual teachers and can offer a more robust bilingual program. School districts gave examples of bilingual teachers working for a few years in their district, then once a neighboring district increases their stipend, teachers move to teach in that district, due to the ability to earn more money for doing the same job. If PED were able to standardize bilingual and TESOL stipends, this would potentially not occur, or could lessen the movement of bilingual teachers from district to district seeking to earn more.

New Mexico has six bilingual education professors for Spanish and one for Native American languages. New Mexico has been a leader in training bilingual educators for decades. However, the challenge of finding education professors who can utilize Spanish in academic settings remains.^{xxxi} In a state where over 26 percent of the population speaks either Spanish or a Native language, the need for professors in our higher education institutions who speak these languages is crucial to our teacher training and the survival of bilingual programs in the state. Eastern New Mexico University, the University of New Mexico, New Mexico Highlands University, New Mexico State University and Western New Mexico University have all experienced retirements of their bilingual education faculty but have not prioritized the hiring of bilingual individuals who can teach in Spanish to replace them. For example, Eastern New Mexico University has had difficulties in recruiting bilingual education faculty and has seen issues with low program enrollment affecting the ability to produce bilingual endorsements and leading to a program review and restructuring of their graduate program. Bilingual education professors serve various other programs, endorsements, and licenses (early childhood, elementary education, secondary education, administration, school counseling, and social work). With the various responsibilities higher education faculty are tasked with, having a minimum of two bilingual professors who can teach in Spanish at each research and comprehensive institution in New Mexico would allow for them to teach, conduct research, supervise students in the field, oversee grants, and be able to recruit students into the bilingual program. Adequate compensation for bilingual education professors should be examined, as beginning in FY23, Level II and III teachers in the state will be paid higher minimum salaries than many higher education faculty.

**Bilingual Education
Professors in New Mexico
2021-2022**

New Mexico Highlands University 2
(Spanish/English)

New Mexico State University 2
(Spanish/English)

University of New Mexico 3
(2 Spanish/English, 1 Native
American)

Western New Mexico University 1
(Spanish/English)

Recommendations

The Public Education Department should

- Fund and update the Prueba examination, keeping in mind the unique Spanish vernacular spoken in New Mexico;
- Work with HED to include bilingual education/TESOL courses as part of the standard teacher preparation curriculum at all state higher education institutions;
- Expand career technical education related to teaching (e.g., Educator's Rising), and dual enrollment programs to support middle and high school students interested in a career in bilingual education and encourage students who have obtained the bilingual seal to enter the field of bilingual education; and
- Partner with higher education institutions to prioritize the hiring of faculty in Schools/Colleges of Education to teach courses in Spanish/Native American languages(s) for bilingual endorsement.

Institutions of Higher Education should consider

- Hire additional bilingual education professors who can teach in Spanish in departments of education to deliver bilingual pedagogy in Spanish and recruit prospective teachers to bilingual/multicultural education;
- Examine a field experience component in lieu of traditional 2-semester non-paid student teaching for education majors; and
- Examine raising compensation for college and university faculty to be more competitive with public school teacher minimum salaries.



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KURT STEINHAUS, Ed.D.
SECRETARY OF EDUCATION

MICHELLE LUJAN GRISHAM
GOVERNOR

June 14, 2022

Sent Via Email

Dear Chairwoman Lundstrom and members of the Legislative Finance Committee:

We appreciate the opportunity to respond to the June 2022 evaluation of Bilingual Multicultural Education Programs (BMEPs). We want to thank the Legislative Finance Committee (LFC) team for their professionalism, collaboration, and thoroughness while conducting this evaluation. The New Mexico Public Education Department (NMPED) is committed to ensuring that students in New Mexico are engaged in a culturally and linguistically responsive educational system that meets the social, emotional, and academic needs of ALL students and BMEPs are an essential part of this vision. BMEPs offer a unique opportunity for students to participate in general education that takes place in two languages and honors the unique history of the state.

We are pleased to have received this report as it highlights areas that are important to consider for continuous improvement of BMEPs. The report acknowledges the yearly application process, desktop monitoring, technical assistance, and the annual reporting process that each district/charter school must complete to ensure BMEPs continue to provide quality program delivery and comply with the Bilingual Multicultural Education (BME) Act. Currently, we support 418 schools with a state-funded BMEP within 48 districts and 14 Public Education Commission (PEC) authorized charter schools.

As your evaluation has found, there are additional opportunities to ensure BMEPs meet their overall statutory goals and deliver on the promise of bilingualism and biliteracy for all New Mexico's students. Please see below for the NMPED's response to the Findings and Recommendations in the June 2022 evaluation of BMEPs.

Finding 1. New Mexico's Bilingual Multicultural Education Programs may not be producing students who are proficient in a second language.

NMPED Response:

The NMPED has collaborated with external partners like Tribes, Nations, Pueblos, The WIDA Consortium, WestEd, The Regional Education Laboratory Southwest, Avant Assessment, and the Center for Culturally Responsive Teaching and Learning. These collaborations have supported efforts to inform districts and charter schools about the many different resources and professional learning opportunities accessible to them to not only support language instruction and track language proficiency in English and the home/heritage language of a BMEP, but also ensure that instruction is culturally and linguistically responsive. The NMPED has hosted virtual webinars and trainings for districts/charter schools and provided professional development through the partnerships listed above to model what is available for their use.

Additionally, the NMPED holds regular technical assistance meetings with BME Directors across the state. In these meetings, the NMPED focuses on professional learning to implement the BME Act and presents on various related topics such as Spanish language arts, how BMEPs differ from World Language Programs, or leveraging available funding. The NMPED will continue collaborating with its partners to assist and support second language acquisition and development.

Finding 2. Most students participating in BMEPs are not becoming bilingual and biliterate or meeting academic benchmarks in all subjects.

NMPED Response:

The NMPED will continue to support districts and charter schools with timely technical assistance, desktop monitoring, and technical assistance and focused monitoring (TAFM) visits. However, it is important to note that in New Mexico districts and charter schools have much local control. With all statewide assessments having been implemented again this school year, districts and charter schools will now have the opportunity to evaluate their BMEPs to ensure they meet both statutory goals of students becoming bilingual and biliterate and meeting academic benchmarks in all subjects.

Since the school year (SY) 2020-2021 there is only a single statewide Spanish language proficiency assessment, Avant STAMP, for state-funded BMEPs with the home/heritage language of Spanish. The BMEP Assessment Taskforce that convened in 2018 recommended the assessment. It is important to note, the pandemic has greatly impacted districts and charter schools in the last two years, and the recent wildfires have added additional strains to some school communities, which has also then affected completion of all statewide assessments. Thus, SY 21-22 is the first year most districts and charter schools administered the Avant STAMP assessment making this school year's data the baseline to measure growth toward Spanish language proficiency within BMEPs across the state. The NMPED will be able to utilize this data to report statewide Spanish language proficiency levels for districts, schools and charter schools that implement state-funded BMEPs, and later, to consider setting yearly targets.

Finding 3. NMPED's oversight and technical assistance is not meeting statutory requirements

NMPED Response:

The NMPED, through the Academic Language Development for All (ALD4ALL) in New Mexico initiative supported by the W. K. Kellogg Foundation and after conducting numerous TAFM visits in the spring of 2017, learned that districts and charter schools did not have all the necessary elements available for improving the quality of their BMEPs. Thus, the NMPED focused their theory of action on ensuring desktop monitoring was thorough and that various items were in place so that BMEPs were positioned for success.

To this end, the NMPED adopted Spanish language arts standards specifically for BMEPs with the home/heritage language of Spanish, which came into effect on July 1, 2018. The NMPED also highlighted the importance of leveraging existing Diné Content Standards of the Navajo Nation for BMEPs with the home/heritage language of Navajo. The NMPED also provided professional learning and technical assistance on respecting sovereignty and working with Tribes and Pueblos to ensure that they decide how BMEPs in their languages are implemented in districts/charter schools. Furthermore, the NMPED, for the first time, included Spanish language arts and English language development materials in the high quality instructional materials reviews for K-8th grades in 2021 and for 9-12th grades in 2020. And, as mentioned earlier, through the NMPED BMEP Assessment Taskforce, a statewide Spanish language proficiency assessment was implemented in 2020-2021 school year.

The NMPED is committed to developing systems that will best serve students and school communities across the state as well as modifying our process to ensure stronger accountability and oversight. The NMPED currently conducts desktop monitoring three times a year for every district/charter school who has a state-funded BMEP. This process is thorough and is conducted to ensure quality program delivery and compliance with the BME Act. Evidence of this process, which triangulates students, course codes, teacher credentials, and program intensity (hours), is reflected in funding generated by the bilingual differential in the funding formula (SEG) for the past several years. As we look forward, the NMPED will implement a system to track different BMEP models and hours of programming reported by districts and charter schools to the state more accurately. With the transition from the current Student Teacher Accountability Reporting System (STARS) to a new NOVA system, we anticipate an improved validation system will alleviate time taken by the desktop monitoring process and be more accurate, efficient, accessible, and user friendly.

The NMPED will continue to adjust the BMEP Application and Annual Reporting process in consideration of the recommendations outlined in this report. Currently, districts and charter schools that fail to submit an annual report are not allowed to apply for the following school year; however, there may be additional considerations for BMEP accountability. The NMPED will continue to desktop monitor, provide technical assistance, and will perform additional TAFM visits.

Lastly, the NMPED only has one position dedicated for BMEPs and may further explore the possibility of expanding its capacity to offer more support for districts and charter schools.

Finding 4. New Mexico has over four thousand bilingual endorsed teachers; however, the majority choose not to teach in BMEPs

NMPED Response:

The NMPED looks forward to working with districts and charter school leaders to understand why teachers with a Bilingual Education endorsement are choosing not to teach in BMEPs and consider solutions. Additionally, the Bilingual Multicultural Education Advisory Council has asked questions that relate to this finding and the NMPED will collaborate with them in this effort.

Again, we would like to thank you for your time, partnership, and diligence in highlighting areas of continuous improvement that serve to better the education of our current and future students.

Sincerely,



Kurt Steinhaus, Ed.D.
Secretary of Education



Mayra Valtierrez
Director of Language and Culture

KS/MV/rr/sf/ld/kl/ca

cc: David Abbey, Director, Legislative Finance Committee
Legislative Finance Committee staff
Dr. Vickie C. Bannerman, Deputy Secretary, Identity, Equity and Transformation



Appendix A: Evaluation Scope and Methodology

Evaluation Objectives.

- Summarize how bilingual multicultural funds are being utilized by participating districts, and why program participation is declining.
- Review PED's organizational capacity for monitoring and providing technical assistance to school districts with bilingual multicultural programs.
- Determine what bilingual program models are being implemented and if they align with the most effective, research-based language acquisition models.
- Examine the adequacy of the teacher pipeline to meet the goals of BMEP
- Assess outcomes of participating BMEP students

Scope and Methodology.

- Reviewed:
 - Applicable laws and regulations
 - LFC file documents
 - Agency policies and procedures and data for the bilingual multicultural education program
- Analyzed data from PED to determine the effect of the bilingual multicultural education program
 - Obtained pertinent data from PED
- Conducted site visits and interviewed appropriate staff
 - The evaluation team met with 14 participating schools located in eight cities
 - The evaluation team interviewed
- Reviewed relevant performance measures, administrative data, and related documents
- Researched PED annual reports, information from other states and national groups as well as academic literature

Evaluation Team.

Janelle Taylor Garcia, Ph.D., Lead Program Evaluator

Ryan Tolman, Ph.D., Program Evaluator

Authority for Evaluation. LFC is authorized under the provisions of Section 2-5-3 NMSA 1978 to examine laws governing the finances and operations of departments, agencies, and institutions of New Mexico and all of its political subdivisions; the effects of laws on the proper functioning of these governmental units; and the policies of statutory responsibility, LFC may conduct inquiries into specific transactions affecting the operating policies and cost of governmental units and their compliance with state laws Exit Conferences. The contents of this report were discussed with the Secretary of Public Education and his staff on June 3, 2022.

Report Distribution. This report is intended for the information of the Office of the Governor, Public Education Department, Office of the State Auditor, and the Legislative Finance Committee. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Jon R. Courtney
Deputy Director for Program Evaluation

Appendix B: Bilingual Multicultural Education Act

ARTICLE 23

Bilingual Multicultural Education

22-23-1. Short title.

22-23-1.1. Legislative findings.

22-23-2. Definitions.

22-23-3. Repealed.

22-23-4. Department; powers; duties.

22-23-5. Bilingual multicultural education program plan; evaluation.

22-23-6. Bilingual multicultural education programs; eligibility for state financial support.

22-23-7. Bilingual multicultural education advisory council; created; membership; duties

22-23-1. Short title.

Chapter 22, Article 23 NMSA 1978 may be cited as the "Bilingual Multicultural Education Act".

22-23-1.1. Legislative findings.

The legislature finds that:

A. while state and federal combined funding for New Mexico's bilingual multicultural education programs was forty-one million dollars (\$41,000,000) in 2003, the funds do not directly support bilingual multicultural education program instruction;

B. the state's bilingual multicultural education program goals are for all students, including English language learners, to:

(1) become bilingual and biliterate in English and a second language, including Spanish, a Native American language, where a written form exists and there is tribal approval, or another language; and

(2) meet state academic content standards and benchmarks in all subject areas;

C. districts do not fully understand how to properly assess, place and monitor students in bilingual multicultural education programs so that the students may become academically successful;

D. because inaccurate reporting on student participation in bilingual multicultural education programs has a direct impact on state and federal funding, accountability measures are necessary to track bilingual multicultural education program funds;

E. the federal No Child Left Behind Act of 2001 does not preclude using state funds for bilingual multicultural education programs;

F. Article 12, Section 8 of the constitution of New Mexico recognizes the value of bilingualism as an educational tool;

G. professional development is needed for district employees, including teachers, teacher assistants, principals, bilingual directors or coordinators, associate superintendents, superintendents and financial officers in the areas of:

(1) research-based bilingual multicultural education programs and implications for instruction;

(2) best practices of English as a second language, English language development and bilingual multicultural education programs; and

(3) classroom assessments that support academic and language development;

H. parents in conjunction with teachers and other district employees shall be empowered to decide what type of bilingual multicultural education program works best for their children and

their community. Districts shall also provide parents with appropriate training in English or in the home or heritage language to help their children succeed in school;

I. because research has shown that it takes five to seven years to acquire academic proficiency in a second language, priority should be given to programs that adequately support a child's linguistic development. The state shall, therefore, fund bilingual multicultural education programs for students in grades kindergarten through three before funding bilingual multicultural education programs at higher grade levels;

J. a standardized curriculum, including instructional materials with scope and sequence, is necessary to ensure that the bilingual multicultural education program is consistent and building on the language skills the students

have previously learned. The instructional materials for Native American bilingual multicultural education programs shall be written, when permitted by the Indian nation, tribe or pueblo, and if written materials are not available, an oral standardized curriculum shall be implemented;

K. equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials for all students participating in the program. For Native American students enrolled in public schools, equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials are required to satisfy a goal of the Indian Education Act [Chapter 22, Article 23A NMSA 1978]; and

L. the Bilingual Multicultural Education Act 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 bilingual multicultural education program;

(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.

22-23-2. Definitions.

As used in the Bilingual Multicultural Education Act:

A. "bilingual learner" means a student whose bilingualism is emerging through the development of English and a language other than English;

B. "bilingual multicultural education program" means a program using two languages, including English and the home or heritage language, as a medium of instruction in the teaching and learning process;

C. "culturally and linguistically different" means students who are of a different cultural background than mainstream United States culture and whose home or heritage language, inherited from the student's family, tribe or country of origin, is a language other than English;

D. "district" means a public school or any combination of public schools in a district;

E. "English language learner" means a student whose first or heritage language is not English and who is unable to read, write, speak or understand English at a level comparable to grade level English proficient peers and native English speakers;

F. "heritage language" means a language other than English that is inherited from a family, tribe, community or country of origin;

G. "home language" means a language other than English that is the primary or heritage language spoken at home or in the community; and

H. "standardized curriculum" means a district curriculum that is aligned with the state academic content standards, benchmarks and performance standards.

22-23-3. Repealed.

22-23-4. Department; powers; duties.

A. The department shall issue rules for the development and implementation of bilingual multicultural education programs.

B. The department shall administer and enforce the provisions of the Bilingual Multicultural Education Act.

C. The department shall assist school boards in developing and evaluating bilingual multicultural education programs.

D. In the development, implementation and administration of the bilingual multicultural education programs, the department shall give preference to New Mexico residents who have received specialized training in bilingual education when hiring personnel.

22-23-5. Bilingual multicultural education program plan; evaluation.

A. A school board or, for charter schools, a governing body of a charter school may prepare and submit to the department a bilingual multicultural education program plan in accordance with rules issued by the department.

B. At regular intervals, the school board or governing body of a charter school and a parent advisory committee from the district or charter school shall review the goals and priorities of the plan and make appropriate recommendations to the department.

C. Bilingual multicultural education programs shall be delivered as part of the regular academic program. Involvement of students in a bilingual multicultural education program shall not have the effect of segregating students by ethnic group, color or national origin.

D. Each district or charter school shall maintain academic achievement and language proficiency data and update the data annually to evaluate bilingual multicultural education program effectiveness and use of funds. The department shall annually compile and report these data to the appropriate interim legislative committee.

E. Districts and charter schools shall provide professional development to employees, including teachers, teacher assistants, principals, bilingual directors or coordinators, associate superintendents, superintendents and financial officers in the areas of:

(1) research-based bilingual multicultural education programs and implications for instruction;

(2) best practices of English as a second language, English language development and bilingual multicultural education programs; and

(3) classroom assessments that support academic and language development.

F. Bilingual multicultural education programs shall be part of the district's or charter school's professional development plan. Bilingual educators, including teachers, teacher assistants, instructional support personnel, principals and program administrators, shall participate in professional development and training.

22-23-6. Bilingual multicultural education programs; eligibility for state financial support.

A. To be eligible for state financial support, each bilingual multicultural education program shall:

(1) provide for the educational needs of linguistically and culturally different students, including Native American children and other students who may wish to participate, in grades kindergarten through twelve, with priority to be given to programs in grades kindergarten through three, in a district;

(2) fund programs for culturally and linguistically different students in the state in grades kindergarten through three for which there is an identifiable need to improve the language capabilities of both English and the home language of these students before funding programs at higher grade levels;

(3) use two languages as mediums of instruction for any part or all of the curriculum of the grade levels within the program;

(4) use teachers who have specialized in elementary or secondary education and who have received specialized training in bilingual education conducted through the use of two languages. These teachers or other trained personnel shall administer language proficiency assessments in both English and in the home language until proficiency in each language is achieved;

(5) emphasize the history and cultures associated with the students' home or heritage language;

(6) establish a parent advisory committee, representative of the language and culture of the students, to assist and advise in the development, implementation and evaluation of the bilingual multicultural education program; and

(7) provide procedures to ensure that parental notification is given annually prior to bilingual multicultural education program placement.

B. Each bilingual multicultural education program shall meet each requirement of Subsection A of this section and be approved by the department to be eligible for state financial support.

22-23-7. Bilingual multicultural education advisory council; created; membership; duties.

A. The "bilingual multicultural education advisory council" is created and shall advise the secretary and department staff on the effective implementation of the Bilingual Multicultural Education Act and the support of all bilingual multicultural education students, including bilingual learners and English language learners, to have equitable access to instruction and learning as required by state and federal education and civil rights laws. The secretary and department staff shall provide biannual reports to the council regarding progress on yearly advisements.

B. The bilingual multicultural education advisory council consists of fifteen members who have technical knowledge of and expertise in bilingual multicultural education and teaching English to English language learners as follows:

(1) five members appointed or designated by the Indian nations, tribes and pueblos to include one member each from the Navajo Nation, the Mescalero Apache Tribe, the Jicarilla Apache Nation, the southern pueblos and the northern pueblos;

(2) eight members who represent pre-kindergarten through twelfth grade teachers, principals, superintendents, other education administrators and higher education faculty who are from different geographical areas of the state and at least one of whom has a special education background; and

(3) two parents whose students are enrolled in bilingual multicultural education programs.

C. The department shall appoint the council members noted in Paragraphs (2) and (3) of Subsection B of this section from a list generated and approved by both the department and the existing ad hoc bilingual multicultural education advisory council co-chairs that is representative of various stakeholder groups.

D. The bilingual multicultural education advisory council shall elect two members to serve as co-chairs of the council. The co-chairs shall assist with the selection of new members for the council.

E. New members of the council shall begin to serve their appointments on July 1, 2021 for a term of three years. Members who are currently serving their appointments prior to the effective date of this 2021 act shall continue to serve through the remainder of their appointed term. All council members may serve two consecutive terms, and co-chairs may serve one additional year to assist with transition.

F. The council shall:

(1) study issues of bilingual multicultural education for all students, including the needs of bilingual learners and English language learners; and

(2) provide advice to the department in the areas of curriculum, instruction, assessment, teacher preparation, teacher evaluation, professional development, licensure and student and family services to:

(a) strengthen the quality and effectiveness of bilingual multicultural education programs;

(b) promote rigorous culturally and linguistically responsive instruction in bilingual multicultural education programs;

(c) support effective classroom teaching for participating bilingual multicultural education program students, including bilingual learners and English language learners who may or may not be part of standalone federal language acquisition programs;

(d) recruit, develop and train effective bilingual multicultural education teachers and teachers of bilingual learners and English language learners;

(e) identify professional development best suited and appropriate for the languages being taught to support teachers, educational assistants and other licensed employees to work effectively with bilingual multicultural education program students, including bilingual learners and English language learners;

(f) promote professional development opportunities to build the capacity of public education administrators to effectively lead bilingual multicultural education programs and become knowledgeable regarding second language acquisition research, theory and pedagogy, including culturally and linguistically responsive teaching practices, biliteracy and assessments in English and the home or heritage language;

(g) develop solutions for streamlining and strengthening program management, implementation and monitoring of bilingual multicultural education programs at the state, district and school site levels;

(h) develop family and community partnerships representative of the languages and cultures of all students in the bilingual multicultural education program, to assist and advise in the development, implementation and evaluation of the program; and

(i) support bilingual learners and English language learners to achieve programmatic goals, including academic achievement in two languages and bilingual biliteracy growth as demonstrated and measured by language and literacy assessments in English and the home or heritage language, and with regard to tribal languages, language-appropriate programmatic goals with progress determined in accordance with tribal priorities and sovereignty.

G. Members of the council may receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978].

Appendix C: Bilingual Multicultural Education Rule

TITLE 6 PRIMARY AND SECONDARY EDUCATION

CHAPTER 32 EDUCATIONAL STANDARDS - BILINGUAL MULTICULTURAL EDUCATION

PART 2 GUIDELINES FOR IMPLEMENTING BILINGUAL MULTICULTURAL EDUCATION PROGRAMS

6.32.2.1 ISSUING AGENCY: Public Education Department herein after the department

[6.32.2.1 NMAC - Rp, 6.32.2.1 NMAC, 7/1/2018]

6.32.2.2 SCOPE: This regulation applies to public schools receiving bilingual state funding, K-12.

[6.32.2.2 NMAC - Rp, 6.32.2.2 NMAC, 7/1/2018]

6.32.2.3 STATUTORY AUTHORITY: This regulation is adopted pursuant to Sections 22-2-1, 22-23-1 through 22-23-6 NMSA 1978.

[6.32.2.3 NMAC - Rp, 6.32.2.3 NMAC, 7/1/2018]

6.32.2.4 DURATION: Permanent; in the event that any provision of this regulation is deemed to be legally void, the remainder of the provisions of the regulation shall remain in full force and effect until otherwise repealed or expired.

[6.32.2.4 NMAC - Rp, 6.32.2.4 NMAC, 7/1/2018]

6.32.2.5 EFFECTIVE DATE: July 1, 2018, unless a later date is cited at the end of a section.

[6.32.2.5 NMAC - Rp, 6.32.2.5 NMAC, 7/1/2018]

6.32.2.6 OBJECTIVE: This regulation provides requirements for developing and implementing bilingual multicultural education and language revitalization programs in accordance with Section 22-23-4 NMSA 1978 and standards for excellence, Subsection B of 6.30.2.11 NMAC and supports the state of New Mexico's long-standing policy in furthering bilingual multicultural education.

[6.32.2.6 NMAC - Rp, 6.32.2.6 NMAC, 7/1/2018]

6.32.2.7 DEFINITIONS: As used in the Bilingual Multicultural Education Act, Section 22-23-1 NMSA 1978:

A. "bilingual multicultural education program" means a program using two languages, including English and the home or heritage language, as a medium of instruction in the teaching and learning process;

B. "culturally and linguistically different" means students who are of a different cultural background than mainstream United States culture and whose home or heritage language, inherited from the student's family, tribe or country of origin, is a language other than English;

C. "district" means a public school or any combination of public schools in a district;

D. "English language learner" means a student whose first or heritage language is not English and who is unable to read, write, speak or understand English at a level comparable to grade-level English proficient peers and native English speakers;

E. "heritage language" means a language other than English that is inherited from a family, tribe, community or country of origin;

F. "home language" means a language other than English that is the primary or heritage language spoken at home or in the community;

G. "school board" means a local school board; and

H. "standardized curriculum" means a district curriculum that is aligned with the state academic content standards, benchmarks and performance standards.

[6.32.2.7 NMAC - Rp, 6.32.2.7 NMAC, 7/1/2018]

6.32.2.8 DEPARTMENT DUTIES: The department shall be responsible for carrying out the powers and duties as provided in the Bilingual Multicultural Education Act, Sections 22-23-1 through 22-23-6 NMSA 1978.

[6.32.2.8 NMAC - Rp, 6.32.2.8 NMAC, 7/1/2018]

6.32.2.9 PROGRAM GOALS: As stated in the Bilingual Multicultural Education Act, Section 22-23-1 NMSA 1978, the state's bilingual multicultural education program goals are for all students, including English language learners, to:

A. become bilingual and biliterate in English and a second language, including Spanish, a Native American language (with appropriate approval from tribal councils or from other appropriate tribal entities with authority to make educational decisions on behalf of Native American children) or another language. For Native American languages that are oral only, the literacy component shall be measured only in the skill areas/domains of listening, speaking, and comprehension; and

B. meet state academic content standards and benchmarks in all subject areas.
[6.32.2.9 NMAC - Rp, 6.32.2.9 NMAC, 7/1/2018]

6.32.2.10 PROGRAM ELIGIBILITY: To be eligible for financial support, each program shall:

A. provide for the educational needs of linguistically and culturally different students, including Native American children and other students who may wish to participate, in grades kindergarten through 12, with priority to be given to programs in grades kindergarten through three, in any public school or any combination of public schools in a district;

B. fund programs for culturally and linguistically different students in the state in grades kindergarten through three, for which there is an identifiable need to improve the language capabilities of both English and the home language of these students, before funding programs at higher grade levels;

C. use two languages as mediums of instruction for any part or all of the curriculum of the grade levels within the program;

D. establish a parent advisory committee, representative of the languages and cultures of all the students in the program, to assist and advise in the development, implementation, and evaluation of the program;

E. provide procedures to ensure that parental notification is given annually prior to program placement; and

F. provide personnel endorsed in bilingual education, modern classical and native languages, TESOL, or certified in Native American language and culture. The secretary of education may authorize other personnel to implement programs if qualified personnel are not available by the submission of an approved program design that addresses recruitment, professional development, and staffing patterns.

[6.32.2.10 NMAC - Rp, 6.32.2.10 NMAC, 7/1/2018]

6.32.2.11 PROGRAM APPROVAL:

A. A public school district shall submit an initial application to the department by the date of the preceding school year as specified by the department for each school requesting program approval. A proposed bilingual multicultural education program shall be eligible pursuant to Section 22-23-1 NMSA 1978 and 6.32.2 NMAC.

B. The initial application shall include:

(1) projected number of students to be served;

(2) assurances that all district and school personnel are knowledgeable of the requirements to comply with Section 22-23-1 NMSA 1978 and 6.32.2 NMAC; signatures of school board president, superintendent, bilingual multicultural education director, school principal, and a parent advisory committee representative who shall not be employed by the district or school;

(3) a program plan;

(4) a resource allocation plan that supports program implementation;

(5) evidence of prior tribal consultation in program planning in accordance with the Indian Education Act 22-23A-1 through 22-23A-8 NMSA 1978; public schools providing a Native American language revitalization program, or other approved Native American bilingual multicultural education model, shall obtain approval from tribal councils or from other appropriate tribal entities with authority to make educational decisions on behalf of Native American children; and

(6) districts providing a Native American language revitalization program, or other approved Native American bilingual multicultural education model, shall provide notification of approval and the application approved by the department to tribal councils or other appropriate tribal entities with authority to make education decisions on behalf of Native American children.

C. The department shall review initial applications for approval. Districts with approved applications shall submit by the fortieth day of the target school year the following:

(1) instructional plan; and

(2) actual number of students to be served.

[6.32.2.11 NMAC - Rp, 6.32.2.11 NMAC, 7/1/2018]

6.32.2.12 PROGRAM ELEMENT - INSTRUCTION:

A. Public schools providing an approved bilingual multicultural education program shall include:

(1) instruction to attain language proficiency and literacy skills in two languages, one of which is English;

(2) instruction to attain academic achievement in two languages, one of which is English;

(3) sheltered content instruction;

(4) standardized curriculum, including instructional materials with scope and sequence, that is aligned with the state academic content standards, benchmarks and performance standards;

(5) instruction in the history and cultures of New Mexico; and

(6) culturally and linguistically responsive instruction designed to develop cross-cultural skills.

B. Public schools providing a Native American language revitalization program, or other approved Native American bilingual multicultural education model, shall obtain approval from tribal councils or from other appropriate tribal entities with authority to make educational decisions on behalf of Native American children. An approved program shall include:

- (1) instruction to attain language proficiency and literacy skills in English and a Native American language (where tribal language is written); for Native American languages that are oral only, the literacy component shall be measured only in the skill areas or domains of listening, speaking and comprehension;
- (2) instruction to attain academic achievement in English and a Native American language;
- (3) sheltered content instruction;
- (4) standardized curriculum, including instructional materials with scope and sequence, that is aligned with the state academic content standards, benchmarks and performance standards, unless otherwise agreed to in writing by the department in accordance with the Indian Education Act Article 23A;
- (5) instruction in the history and cultures of New Mexico Native American tribes; and
- (6) culturally and linguistically responsive instruction designed to develop cross-cultural skills.

C. The following content areas shall be included as appropriate:

- (1) language arts in the home or heritage language - for funding purposes, time allotted for instruction in the home language must be equivalent to the time provided for English language arts and must be consecutive in nature (that is, not fragmented throughout the day);
- (2) English language development - English language instruction to develop the English language proficiency of English language learners based on the student's English language proficiency level; instruction shall be distinct from content area instruction; and
- (3) depending on the time allotted for program:
 - (a) content area instruction in the home or heritage language of the program that utilizes the student's language, history, and culture; or
 - (b) fine arts instruction in the home or heritage language of the program that utilizes the student's language, history, culture, and the arts traditions of the student's community.

D. All programs shall implement one or more of the following bilingual multicultural education models in the public school:

- (1) dual language immersion: designed to develop proficiency in two languages;
- (2) enrichment: designed to further develop the home language, as defined in Subsection G of Section 22-23-2 NMSA 1978, of fully English proficient students;
- (3) heritage language: designed to support and revitalize a student's heritage language and culture through oral and written communication; for Native American languages that are oral only, the literacy component shall be measured only in the skill areas or domains of listening, speaking and comprehension;
- (4) maintenance: designed to develop and maintain proficiency and literacy in the home language while developing a student's literacy and oral skills in English; and
- (5) transitional: designed to develop skills in the home language and culture while developing continued skills and proficiency in English.

[6.32.2.12 NMAC - Rp, 6.32.2.12 NMAC, 7/1/2018]

6.32.2.13 PROGRAM ELEMENT - PROFESSIONAL DEVELOPMENT: Districts shall provide professional development to employees.

A. Public school districts shall provide professional development to teachers, Native American language and culture teachers, teacher assistants, instructional support personnel, principals, bilingual directors or coordinators, associate superintendents, superintendents, other instructional personnel, and financial officers in the areas of:

- (1) research-based bilingual multicultural education, language revitalization programs and implications for instruction;
- (2) best practices of English as a second language (ESL); English language development (ELD), bilingual multicultural education and language revitalization programs;
- (3) classroom assessments that support academic and language development;
- (4) principles of first and second language acquisition, including language revitalization, differentiated language instruction and sheltered content instruction; and
- (5) effective practices of program implementation and program evaluation.

B. Bilingual multicultural education or language revitalization programs shall be part of the district's professional development plan as required in Subsection E of Section 22-23-5 NMSA 1978.

[6.32.2.13 NMAC - Rp, 6.32.2.13 NMAC, 7/1/2018]

6.32.2.14 PROGRAM ELEMENT - ASSESSMENT:

A. Trained personnel shall administer state-approved language proficiency assessments in English and the home or heritage language annually until proficiency in each language is achieved; public schools providing a Native American language revitalization program, or other approved Native American bilingual multicultural education model, shall obtain approval for language proficiency assessments from tribal councils or from other appropriate tribal entities with authority to make educational decisions on behalf of Native American children; for Native American languages that are oral only, the literacy component shall be measured only in the skill areas or domains of listening, speaking, and comprehension.

B. Public school districts shall comply with federal assessment requirements.

C. Students enrolled in this program shall participate in the New Mexico standards-based assessment (NMSBA) program.

D. In those grades that students do not participate in the New Mexico standards-based assessment program, the public school district shall develop and implement an assessment and evaluation program.
[6.32.2.14 NMAC - Rp, 6.32.2.14 NMAC, 7/1/2018]

6.32.2.15 PROGRAM EVALUATION:

A. Bilingual multicultural education programs shall be evaluated by the department annually for effectiveness and for the appropriate use of funds generated by the bilingual cost differential in the funding formula. For the purposes of such evaluation, each district shall maintain academic achievement and language proficiency data for each school year of each program, which shall be updated annually. This data shall be provided to the department in an annual progress report submitted to the department by September 30 of the following school year. The annual report shall include the following, by school and by model(s):

(1) verification that the program has identified and served students most in need (with priority given to K-3) based on language proficiency (English and home or heritage language) and academic achievement;

(2) a current analysis of language and academic assessment results demonstrating that participating students have made measurably significant growth toward meeting the state targets for language and academic proficiency;

(3) specific and measureable goals for the following school year, based on Paragraph (2) of Subsection A of 6.32.2.15 NMAC;

(4) verification that teachers, Native American language and culture teachers, teacher assistants, instructional support personnel, principals, bilingual directors or coordinators, associate superintendents, superintendents, other instructional personnel, and financial officers have participated in the districts professional development plan for the program;

(5) an expenditure report from the general ledger on the use of funds generated by the bilingual cost differential in the funding formula for the program; and

(6) districts providing a Native American language revitalization program, or other approved Native American bilingual multicultural education model, shall provide the annual progress report submitted to the department to tribal councils or other appropriate tribal entities with authority to make education decisions on behalf of Native American children.

B. The department shall compile and analyze the data submitted by public school districts and shall report annually to the appropriate interim legislative committee.

[6.32.2.15 NMAC - Rp, 6.32.2.15 NMAC, 7/1/2018]

6.32.2.16 PROGRAM RENEWAL:

A. Based on program monitoring and review of the annual report, the department will determine whether the bilingual multicultural education program is compliant pursuant to Section 22-23-1 NMSA 1978 and 6.32.2 NMAC.

(1) If the department determines that a program is compliant, the public school district may continue the program as authorized in the approved application; districts providing a Native American language revitalization program, or other approved Native American bilingual multicultural education model, shall notify tribal councils or other appropriate tribal entities with authority to make educational decisions on behalf of Native American children of compliance and program continuation.

(2) If the department determines that a program is not compliant, the department shall notify the district of such non-compliance, including specific areas of non-compliance.

(a) Upon receipt of a notice of non-compliance from the department, the district shall develop a program improvement plan, with technical assistance from the department, to address the non-compliance. This plan shall include provisions to adjust the curriculum, program components or method of instruction, as necessary. The plan must be submitted to the department within 30 days, or, with prior written approval of the department, additional time not to exceed 90 days, from receipt by the district of the notice of non-compliance. The district shall implement this plan during the school year in which the district received the notice of non-compliance.

(b) A district in the process of implementing a program improvement plan shall submit its annual report to the department and will be evaluated by the department for compliance based on the standards articulated in 6.32.2.15 NMAC, and not solely on the basis of whether they have fully implemented and complied with the program improvement plan.

(c) If upon review, after receipt of the annual report submitted by a district with a program improvement plan, the department determines that the district remains non-compliant; the department shall so notify the district. If the district remains non-compliant after the first year of implementation of the program improvement plan, the district will be required to re-evaluate the program improvement plan and make necessary adjustments. The district must report the results of this evaluation and any revisions to the original program improvement plan to the department within 30 days, or, with prior written approval of the department, additional time not to exceed 90 days, of receipt of the notice of non-compliance.

(d) If a program is determined to be non-compliant after receiving three consecutive notices of non-compliance, the department shall notify the district and shall discontinue the program at the end of the third school year unless the district can verify compliance to the satisfaction of the department.

(e) A district may not apply for approval for a bilingual multicultural education program for the school year immediately following a discontinuation by the department.

(f) Districts providing a Native American language revitalization program, or other approved Native American bilingual multicultural education model, shall notify tribal councils or other appropriate tribal entities with authority to make educational decisions on behalf of Native American children of non-compliance and provide evidence of tribal consultation in the development of a program improvement plan in accordance with the Indian Education Act, Sections 22-23A-1 through 22-23A-8 NMSA 1978 and the Bilingual Multicultural Education Act, Section 22-23-1 NMSA 1978.

(g) All districts, regardless of any discontinuation by the department, shall submit the annual report to the department, for any year in which the district has provided assurances to the department.
[6.32.2.16 NMAC - Rp, 6.32.2.16 NMAC, 7/1/2018]

HISTORY OF 6.32.2 NMAC:

PRE-NMAC HISTORY: The material in this regulation is derived from that previously filed with the State Records Center and Archives under: State Board of Education Regulation 73-21, Guidelines for Submitting Bilingual Multicultural Education Proposals, filed June 18, 1973 and
State Board of Education Regulation No. 75-19, Guidelines for Implementing Bilingual Multicultural Programs, filed January 22, 1976.

HISTORY OF REPEALED MATERIAL: 6.32.2 NMAC, Guidelines for Implementing Bilingual Multicultural Programs, repealed effective 7/1/2003; 6.32.2 NMAC, Guidelines for Implementing Bilingual Multicultural Education Programs, repealed effective 11/30/2005; 6.32.2 NMAC, Guidelines for Implementing Bilingual

Appendix D: Bilingual Multicultural Education Terms & Acronyms

Terms & Acronyms	Interpretation
ACCESS for ELLs®	New Mexico's state-wide, standards-based, criterion-referenced English language proficiency (ELP) assessment designed to annually measure K–12 English language learners' social and academic proficiency in English.
Bilingualism	Refers to the ability to command two languages existing on a continuum of language skills.
Biliteracy	The ability to effectively communicate or understand thoughts and ideas through two language systems and vocabularies, using both written symbols (Hargett, 1998).
BMEAC	Refers to the bilingual multicultural education advisory council that has been created in the BME Act to advise the Secretary and NMPED staff on the effective implementation of the BME Act.
BMEB	The Bilingual Multicultural Education Bureau of the NMPED that worked to ensure the implementation of the provisions of the State's Bilingual Multicultural Education Act (2004) and Title III, English Language Acquisition of the ESEA. Please see LCD.
BMEPs	Means bilingual multicultural education programs that provide instruction in, and the study of, English and the home or heritage language of the student. It may also include the delivery of the content areas in the home or heritage language and English, and it incorporates the cultural heritage of the child into specific aspects of the curriculum.
CLD	Means culturally and linguistically diverse students who are of a different cultural background than dominant United States culture and who may have inherited a home or heritage language other than English from their family, tribe, or country of origin.
Dual Language Immersion (BMEP Model)	A BMEP model designed to develop proficiency in two languages.
EL	Means English learners. These are students whose home or heritage language influence is not English, and who are unable to speak, read, write, and understand English at a level comparable to their grade-level English proficient peers, as determined by objective measures of proficiency. The term <i>EL</i> replaces <i>ELL</i> .
ELD	Means English Language Development and refers to instruction designed specifically for ELs to further develop their listening, speaking, reading, and writing skills to achieve English language proficiency.
ELD Standards	Means state-adopted English language development standards under 6.29.5 NMAC .
ELL	English Language Learner. See EL above.
ELP	Means English language proficiency.
Enrichment (Bilingual Education Model)	A BMEP model designed to further develop the home language of fully English proficient students.
ESL	Means English as a second language. It is an educational approach in which EL students are provided explicit instruction in the use of the English language. Instruction is based on a targeted curriculum that focuses on English language learning (not subject matter content). ESL is traditionally taught as a separate course for ELs only.
FEP	Means fluent English proficient. See IFEP and/or RFEP.
Heritage Language (Bilingual Education Model)	A BMEP model designed to support and revitalize a student's heritage language and culture through oral and written communication; for Native American languages that are oral only, the literacy component shall be measured only in the skill areas or domains of listening, speaking and comprehension.
Heritage Language	The language other than English that is inherited from a family, tribe, community, or country of origin—whether the student is proficient in the language.
Heritage Speaker	A student whose first (dominant) language is English and home/heritage language(s) include both English and a language(s) other than English. Heritage speakers may be initially classified as either IFEP or EL as a result of the language screening.
Home Language	Means a language other than English that is the primary or heritage language spoken at home or in the community
IFEP	Initial Fluent English Proficient, formerly known as “never ELL”. May refer to a student whose language usage survey indicated that there is no influence of languages other than English in the student's home (Native English speaker) OR it may refer to a student who scored proficient on the English language proficiency screener (WIDA Screener for Kindergarten or WIDA Screener for Grades 1-12).
Language Acquisition	The process of acquiring a language.
Language Proficiency	Measure of how well an individual can speak, read, write, and comprehend a language comparable to the standard expected for native speakers of the language. Language proficiency is composed of oral (listening and speaking) and written (reading and writing) components, as well as academic and non-academic language and comprehension of said language. The methods and assessments used for measuring language proficiency are varied. Language proficiency is an agreed-upon construct dependent on tribes, communities, and/or institutions.
LCD	Language and Culture Division of the NMPED that works to, meet federal obligations to ELs by providing policy and guidance on EL programs, leverage Title III English Language Acquisition Subgrants to maximize positive outcomes for ELs and Immigrant students, implement state-funded BMEPs, provide effective World Language

Terms & Acronyms	Interpretation
	instruction, provide guidance on the Seal of Bilingualism-Biliteracy on the NM Diploma of Excellence, and implement Culturally and Linguistically Responsive Instruction.
Maintenance (Bilingual Education Model)	A BMEP model designed to develop and maintain proficiency and literacy in the home language while developing a student's literacy and oral skills in English.
NALC Certificate	Native American language and culture certificate available to tribally approved proficient speakers of the tribe's language and/or licensed New Mexico teachers
Native English speaker	A student whose first and home language is English OR a student whose first (dominant) language is English and home/heritage language(s) include both English and language(s) other than English. <i>See related entries: heritage language, heritage speaker, home language.</i>
Native Language	See home language and L1.
SBAC	Means State Bilingual Advisory Council. It was an ad hoc group that advised the NMPED through the LCD on all matters pertaining to bilingual multicultural education. Please see BMEAC.
SEG	Means State Equalization and Guarantee which is also known as the New Mexico public school funding formula. This applied school funding formula determines an equitable distribution of funds that are allocated state-wide in order to equalize educational opportunity for all children in New Mexico.
TAFM	Means technical assistance and focused monitoring. This is the approach of the LCD to support district/state charters conduct required self-monitoring to evaluate whether their EL Program, use of Title III Funding, and BMEP are producing results.
TESOL Endorsement	Teachers of English to speakers of other languages is an endorsement given to elementary- and secondary-licensed teachers qualified to teach English as a second language classes.
Title III	Title III is supplemental federal funding provided through formula-based subgrants for eligible districts/state charters to assist in increasing the English language proficiency and academic achievement of its current English Learners (ELs).
Title III-Immigrant Program	Competitive subgrants used to enhance instructional opportunities for districts experiencing significant increases in immigrant children and youth
Title VI	Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin in programs or activities that receive federal financial assistance.
Transitional Bilingual Education Model	A BMEP model designed to develop skills in the home language and culture while developing continued skills and proficiency in English.
Two-Way, Bilingual Multicultural Programs	See dual language immersion.
WIDA Screener for Kindergarten/WIDA Screener for Grades 1-12	The department-approved English language proficiency screening tests used in the English learner identification process.
WIDA	A multi-state consortium that has developed a proprietary ELD standards framework for language learning, aligned assessments, resources, and provides professional development opportunities that support educators of language learners.

Appendix E: History of Laws and Provisions that Support Bilingual Multicultural Education Programs

HISTORY OF LAWS AND PROVISIONS THAT SUPPORT BILINGUAL MULTICULTURAL EDUCATION PROGRAMS ^{xxxii xxxiii 1}	
1911	Constitutional provisions stipulate that New Mexico must maintain a bilingual citizenry.
1912	The New Mexico Department of Education hires two school supervisors; one is Hispanic and is responsible for supervising rural schools.
1915	Senator A. Sena from San Miguel County introduces a mandate to implement bilingual education in Spanish and English in all school districts that enroll 50 percent or more Hispanic students.
1919	Governor Larrazolo recommends a law to the legislature for all teachers in rural schools where students speak Spanish to have bilingual skills (this law was revoked in 1923).
1923	Meyer v. Nebraska The 1919 Nebraska statute claiming that “no person, individually or as a teacher, shall, in any private denominational, parochial, or public school, teach any subject to any person in any language other than the English language” is overturned. The US Supreme Court ruled that the state’s ability to impose such restrictions “upon the people” was in violation of the Fourteenth Amendment to the US Constitution and overstepped the state’s role. The Meyer decision led to the reversal of <i>Bartels v. State of Iowa</i> , which included three other cases in the suit, dealing with English-only statutes.
1941	Senate Bill 3 passes. Spanish shall be taught in all public schools in grades 5–8, in schools having three or four teachers and/or with 90 students or more (this mandate was revoked in 1963).
1943	Senate Bill 129 passes. It establishes a position of supervisor of Spanish in the Department of Education to improve instruction in that language in the public schools.
1963	The New Mexico Department of Education receives a grant from the Ford Foundation to implement a Spanish Language Arts and Social Studies Program taught in Spanish in Pecos.
1964	Civil Rights Act, Title VI Congress passes the historic Civil Rights bill that prohibits discrimination on the basis of race, color, or national origin. Title VI of the Act states, “No person shall, on the grounds of race, color, or national origin, be denied the benefits of, or be subjected to, discrimination under any program or activity receiving federal financing assistance.”
1968	Bilingual Education Act The Elementary and Secondary Education Act (ESEA) of 1965 is amended to include Title VII—The Bilingual Education Act. This program establishes federal policy recognizing bilingual education as a viable method of education for economically disadvantaged, language minority students; allocates funds for innovative programs; and recognizes the unique educational disadvantages faced by non-English speaking students.
1969	The First Bilingual Education Law in the Nation New Mexico Senate Bill 270 passes. It ensures that the language and culture of the children of the state are maintained and enrich the curriculum.
1971	NM House Bill 270 adds \$100,000 funding with priority for K–3 to develop competence in English and in speaking two languages. Qualifying students are those with the greatest limitations in English.
1973	State Bilingual Multicultural Education Law—First in the Nation Senate Bill 421 passes. \$700,000 is appropriated for bilingual education for elementary students.
1975	Teaching Endorsement for ESL is Developed—First in the Nation

¹ For a list of federal laws, court decisions, and OCR policy concerning English learners, see Tool 1 of the *Serving English Learners Technical Assistance Manual*.

HISTORY OF LAWS AND PROVISIONS THAT SUPPORT BILINGUAL MULTICULTURAL EDUCATION PROGRAMS^{xxxii xxxiii 1}

	NM State Department of Education (SDE) endorsement is approved for teaching English as a second language—ESL.
1978	BME Endorsement Approved—First in the Nation The SDE endorsement in bilingual multicultural education is approved—again, a first for New Mexico.
1980	The SDE develops the Four Skills Examination in Spanish to assess teachers who are seeking endorsement in bilingual education.
1986	SDE licensure for Navajo language is approved.
1987	Expansion of BMEPs to the twelfth grade is approved, with a phase-in from 1988 to 1991.
1989	NM State Legislature adopts House Joint Memorial 16—English Plus Declaration in New Mexico, supporting language rights in the US and providing opportunities to learn English and develop proficiency in a second or multiple languages.
1990	Pueblo Language Endorsement—First in the Nation SDE establishes Pueblo language endorsement—again, a first for New Mexico.
1992	State Board of Education approves CITE initiative: Competency in two languages—one of which is English—for all students in New Mexico’s schools.
1994	House Bill 224 appropriates \$89,250 to the New Mexico Department of Education for the purpose of creating a new position in the department, developing a new bilingual proficiency exam, and funding three part-time coordinators for university immersion institutes.
1997	SDE pilots two-way dual language immersion programs in five public schools in Albuquerque, Las Cruces, and Gadsden.
1999	The New Mexico State Legislature appropriates funding for pilot schools to implement dual language immersion programs. Ten new schools begin to implement two-way dual language immersion.
2001	The SBE approves New Mexico <i>Standards for Excellence</i> (6.30.2 NMAC), which sets expectations for proficiency in English, an understanding of other cultures, and competence in at least one language, in addition to English for <u>all</u> students in the schools of the state.
2002	NALC certification—First in the Nation The New Mexico state legislature passes the Native American Language and Culture (NALC) certification for teachers—again, a first for New Mexico. The SBE reviews and approves a new state <i>Bilingual Multicultural Education Regulation</i> (6.32.2 NMAC), which extends services to <u>all students</u> in New Mexico public schools.
2003	HB 212 passes. Instruction in a second language is required in addition to English for <u>all</u> students, grades 1–8.
2004	The New Mexico State Legislature has a busy session. It <ul style="list-style-type: none"> • passes Senate Bill 471a, the Bilingual Multicultural Education Act of 2004, the second Bilingual Multicultural Education Law in New Mexico • amends the Bilingual Multicultural Education Act of 1973 • passes House Bill 2. The General Appropriations Act of 2004 requires the Pubic Education Department (PED) to evaluate the effectiveness and use of funds in bilingual multicultural education programs. • passes House Memorial 3. This memorial requires an audit of BMEPs • passes House Joint Memorial 18. The <i>Feasibility of Testing Students in the Home Languages</i> passes and is implemented.
2005	The New Mexico State Legislature appropriates \$100,000 to the PED to develop three new forms for <i>Prueba de Español Para la Certificación Bilingüe</i> (Spanish language proficiency test for teachers seeking an endorsement in bilingual multicultural education). <i>Bilingual Multicultural Education Regulation</i> is revised to correspond with the <i>Bilingual Multicultural Education Act of 2004</i> . The new regulation is approved by the secretary of education in November.
2006	Governor Bill Richardson issues an official proclamation declaring New Mexico a multicultural state.

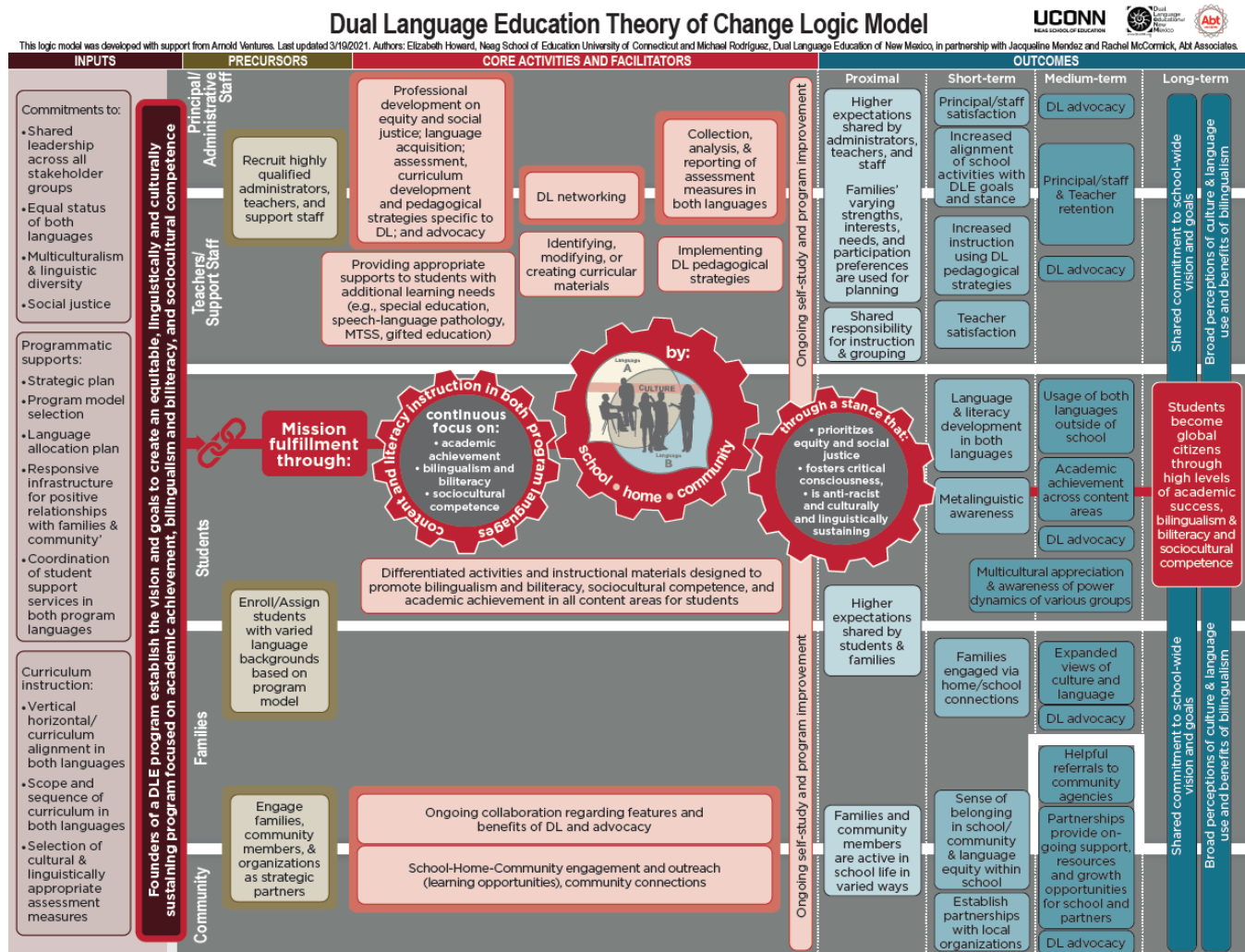
HISTORY OF LAWS AND PROVISIONS THAT SUPPORT BILINGUAL MULTICULTURAL EDUCATION PROGRAMS ^{xxxii xxxiii 1}	
	Ten bilingual schools are recognized during the legislative session for exemplary programs serving the needs of English language learners.
2007	<p>The PED renews the memorandum of understanding (MoU) with the government of Spain.</p> <p>Twenty bilingual schools are recognized during the legislative session for exemplary programs serving the needs of English language learners.</p>
2008	<p>During the legislative session, 27 schools in 12 districts are honored for their English language learners' stellar language and academic performance.</p> <p>The New Mexico Association for Bilingual Education recognizes representatives Ben Lujan, Speaker of the House; Rick Miera; and Regis Pecos for their advocacy of and support for bilingual multicultural education in the state.</p> <p>The Navajo Language Assessment Advisory Committee pilots a Navajo language proficiency assessment in six school districts.</p>
2009	<ul style="list-style-type: none"> • New Mexico becomes the 23rd member of the national WIDA Consortia. • The TESOL endorsement rule is revised, requiring coursework in addition to the test. • NM PED, in partnership with Office of Education and Accountability and the Center for the Education and Study of Diverse Populations, hosts the English Learners (EL) Summit. • The Office of the Governor hosts the Hispanic, Indian, and African American Education Summits.
2010	<p>The Hispanic Education Act is passed—first in the nation</p> <ul style="list-style-type: none"> • NM state legislature passes the <i>Hispanic Education Act</i>. • Governor Richardson initiates <i>Graduate New Mexico!</i> The goal of his initiative is to graduate and present diplomas to 10,000 high school dropouts by fall 2011. • ACCESS for ELLs® is administered for the first time in New Mexico schools. • Thirty-five bilingual schools in 14 districts receive recognition during the legislative session for serving the needs of ELLs through exemplary programs.
2014	<p>The NM state legislature passes the New Mexico Diploma of Excellence; State Seal for Bilingual and Biliterate graduates. NM follows four other states in instituting this recognition of biliteracy and bilingualism in its graduates.</p> <p>Governor Martinez signs HB330 into law, and it becomes New Mexico State Statute (NMSA) 22-2-9.1. Local school boards may choose to elect the seal process into their policies, and local high schools may implement the seal process.</p>
2014	6.29.5 NMAC updates the English language development (ELD) standards regulation to adopt the 2012 WIDA Amplification of these criteria. This modernization is undertaken to ensure that NM's standards correspond to the NM Common Core State Standards (CCSS). Additionally, the rule amendment adds new sections regarding the EL identification process and the state's EL exit criteria.
2015	6.32.2 NMAC is added to correspond to 22-2-9.1 NMSA and department regulation regarding the implementation of the New Mexico state seal of bilingualism and biliteracy.
2016	6.29.5 NMAC updates the English language development (ELD) standards regulation. The rule amendment clarifies the EL identification process, monitoring for academic progress, and includes the department-approved New Mexico Language Usage Survey.
2017	<p>6.29.15 NMAC Spanish language arts (SLA) standards is added to support the goals of the Bilingual Multicultural Education Act and 6.32.2 NMAC which are for all students, including English Learners, to become bilingual and biliterate in English and a second language and meet state academic content standards and benchmarks in all subject areas.</p> <p>6.29.16 NMAC Spanish language development (SLD) standards regulation is added to adopt the 2013 WIDA SLD standards.</p>

Appendix F: Tribal Remedy Framework Request and FY23 Appropriations

No.	Agency	Purpose	FY22 Tribal Remedy Framework Request	FY22 OpBud Recurring	FY22 OpBud Nonrecurring	Agency	FY23 OpBud Recurring	FY23 OpBud Nonrecurring
1	PED	Native language education formula factor	\$ 53,400.0		\$ 100.0	PED		\$ 13,310.3
2			\$ 53,400.0	\$ -	\$ 100.0		\$ -	\$ 13,310.3
3		Tribal Government - Education Blueprints	\$ 5,750.0		\$ 4,500.0			\$ 3,000.0
4	IAD	Tribal education departments (TED) - culturally and linguistically relevant (CLR) curricula, assessment	\$ 3,400.0	\$ 5,250.0		PED	\$ 14,988.8	
5		Tribal Libraries - CLR afterschool and summer programs	\$ 5,750.0		\$ 4,500.0			\$ 3,000.0
6		Native Language Programs	\$ 3,400.0		\$ 1,615.7			\$ 1,077.1
7		TED - IT departments and broadband	\$ 3,400.0			IAD	\$ 220.0	\$ 300.0
8	UNM	School of Architecture	\$ 1,000.0					
9			\$ 22,700.0	\$ 5,250.0	\$ 10,615.7		\$ 15,208.6	\$ 7,377.1
10		Tribal Libraries Capital Outlay and Acquisitions	\$ 66,682.9		\$ 1,267.9	PED		\$ 12,000.0
11		Broadband - Tribal schools and libraries	\$ 4,600.0					
12		Broadband/IT - Navajo Nation	\$ 6,000.0		\$ 5,226.2	IAD	\$ -	
13		Broadband - Jicarilla Apache Nation	\$ 500.0					
14	IAD	Curriculum Materials Development - NTU	\$ 2,500.0					
15		Curriculum Materials Development - Zuni	\$ 1,500.0	\$ 5,067.8		PED	\$ 5,100.0	
16		Curriculum Materials Development - Mescalero Apache	\$ 1,500.0					
17		Early Childhood Practicum - NTU**	\$ 1,500.0					
18		Education Resource Center - DEAP	\$ 1,500.0					
19		Education Resource Center - Jemez Pueblo	\$ 2,500.0					
20		Early Childhood Center - Jemez	\$ 1,000.0					
21		Child care and development center - Kewa	\$ 5,000.0			ECECD	\$ 1,575.0	
23			\$ 94,782.9	\$ 5,067.8	\$ 6,494.1		\$ 6,675.0	\$ 12,000.0
24		Hispanic Studies	\$ 316.0	\$ 266.2	\$ 125.0			\$ 50.0
25		African American STEM	\$ 316.0	\$ 369.1	\$ 50.0			
26		College of Education (COE) - American Indian Ed. Institute	\$ 550.0					
27		AI Language Policy Research and Teacher Training Center	\$ 500.0					
28		AI Curriculum and Material Development Center	\$ 500.0					
29		NA Leadership Doctoral Cohort	\$ 450.0					
30		NA Educational Leadership Programs	\$ 1,300.0					
31		Bilingual Ed. Degree Programs (English/Navajo/Spanish)	\$ 545.0					
32		Gallup Branch - Dual License in SPED/Elem.	\$ 170.0					
33	UNM	Technical Assistance Center	\$ 550.0					
34		AI Student Services	\$ 946.2	\$ 744.3				
35		NA Studies program	\$ 2,810.0	\$ 232.4	\$ 50.0			
36		School of Medicine	\$ 1,430.0	\$ 328.6				
37		School of Law	\$ 393.0	\$ 185.4				
38		School of Architecture	\$ 950.0					
39		School of Social Policy - NA Budget and Policy Institute	\$ 484.0					
40						UNM	\$ 1,050.0	
41						UNM	\$ 100.0	
42						UNM-G	\$ 100.0	
43		UNM Subtotal	\$ 12,210.2	\$ 2,126.0	\$ 225.0	\$ -	\$ 3,810.8	\$ 50.0
44		Ben Lujan leadership institute and COE	\$ 850.0	\$ 487.7				
45		Center for Education and Study of Diverse Populations	\$ 775.0					
46	NMHU	School of Social Work	\$ 350.0	\$ 209.9	\$ 50.0	NMHU	\$ 907.2	
47		AI Student Services	\$ 250.0					
49		AI college, workforce and civic readiness	\$ 850.0	\$ 159.6				
50						NMHU	\$ 200.0	
51		NMHU Subtotal	\$ 3,075.0	\$ 857.2	\$ 50.0	\$ -	\$ 1,107.2	\$ -

No.	Agency	Purpose	FY22 Tribal Remedy Framework Request	FY22 OpBud Recurring	FY22 OpBud Nonrecurring	Agency	FY23 OpBud Recurring	FY23 OpBud Nonrecurring
52	NMSU	COE - AI program	\$ 350.0			NMSU	\$ 255.7	
53		Career Exploration Camp	\$ 100.0					
54		Outreach and Recruitment - Ethnic Studies	\$ 250.0	\$ 255.7				
55	NMSU	Outreach and Recruitment - Teacher Preparation	\$ 250.0			NMSU	\$ 200.0	
56								
57								
58		NMSU Subtotal	\$ 950.0	\$ 255.7	\$ -	\$ -	\$ 555.7	\$ -
59	NNMC	AI Affairs Program	\$ 350.0			NNMC	\$ 150.0	
60		Pueblo Indian Studies Program	\$ 350.0					
61		Teacher Preparation Program	\$ 250.0					
62						SJCC	\$ 100.0	
63						WNMU		\$ 50.0
64	HED	NTU - Curriculum and Materials Development Center	\$ 800.0			HED	\$ 500.0	
65		NTU - Public School Literature						
66		NTU - Education Outreach	\$ 750.0					
67		NTU - Early Childhood Practicum	\$ 1,795.8					
68		NTU - Nursing Program	\$ 422.0	\$ 225.0				
69		NTU - Dual Credit	\$ 210.0	\$ 263.0				
70		NTU - Technical Assistance Center	\$ 500.0					
71		Dine College - BMEP teacher recruitment	\$ 1,500.0					
72		Dine College - Navajo curriculum and IM	\$ 500.0					
73		Dine College - Dual language teacher education center	\$ 500.0					
74		Dine College - CLR education and ELTP	\$ 800.0					
75		SWIPI - Teacher prep	\$ 248.0					
76		SWIPI - Outreach and recruitment (Behavioral Health and Social Work Students)	\$ 200.0					
77		SWIPI - Outreach and recruitment (High School Students)	\$ 200.0					
78		SWIPI - Dual credit and scholarships	\$ 100.0	\$ -				
79		HED Subtotal	\$ 8,523.8	\$ 488.0	\$ -	\$ -	\$ 500.0	\$ -
80		SUBTOTAL	\$ 25,709.0	\$ 3,726.9	\$ 275.0		\$ 6,223.7	\$ 50.0
GRAND TOTAL			\$ 196,591.9	\$ 14,044.7	\$ 17,484.8		\$ 28,107.3	\$ 32,737.4

Appendix G: Dual Language Education Theory of Change



Source: Dual Language New Mexico

Appendix H: Title III: English Language Acquisition, Language Enhancement, and Academic Achievement Act

SEC. 3101. (20 U.S.C. 6811) “English Language Acquisition, Language Enhancement, and Academic Achievement Act”.

SEC. 3102. (20 U.S.C. 6812) PURPOSES. The purposes of this part are—

(1) to help ensure that English learners, including immigrant children and youth, attain English proficiency and develop high levels of academic achievement in English;

(2) to assist all English learners, including immigrant children and youth, to achieve at high levels in academic subjects so that all English learners can meet the same challenging State academic standards that all children are expected to meet;

(3) to assist teachers (including preschool teachers), principals and other school leaders, State educational agencies, local educational agencies, and schools in establishing, implementing, and sustaining effective language instruction educational programs designed to assist in teaching English learners, including immigrant children and youth;

(4) to assist teachers (including preschool teachers), principals and other school leaders, State educational agencies, and local educational agencies to develop and enhance their capacity to provide effective instructional programs designed to prepare English learners, including immigrant children and youth, to enter all-English instructional settings; and

(5) to promote parental, family, and community participation in language instruction educational programs for the parents, families, and communities of English learners.

Appendix I: TESOL Pathways

A. BEGINNING TEACHER PATHWAY

Teacher candidates seeking to add a TESOL endorsement to an initial level 1 teaching license shall meet the following requirements:

- Passage of the Content Knowledge Assessment (CKA) exam from PRAXIS **English to Speakers of Other Languages ESOL** or a department-approved licensure test in TESOL from another state; and
- Complete a minimum of 24 credit hours in TESOL coursework in alignment with the key competencies defined in **TESOL NMAC**
- 12 hours shall be upper division or post-baccalaureate credits in alignment with the key competencies defined in **TESOL NMAC**

B. TEACHER WITH EXISTING LICENSE PATHWAY

Teachers seeking to add the endorsement to an existing teaching license shall meet either the requirement of Paragraph (1) of Subsection B of 6.64.11.8 NMAC or the requirements of Paragraph (2) of Subsection B of 6.64.11.8 NMAC.

Option 1

- Passage of the Content Knowledge Assessment (CKA) exam from PRAXIS **English to Speakers of Other Languages ESOL**, a department-approved licensure test in TESOL from another state, or a predecessor New Mexico teacher licensure examination in TESOL; and
- Earn 12 semester hours of credit in TESOL
 - (i) *Six hours shall be in one language other than English or any combination of coursework in applied linguistics, second language acquisition, or second/foreign language teaching methodology.*
 - (ii) *Six hours shall be upper division or post-baccalaureate credits in alignment with the key competencies defined in **TESOL NMAC***

Option 2

- Earn a minimum of 24 semester hours of credit in TESOL in alignment with the key competencies defined in **TESOL NMAC**
 - (i) *Six hours shall be in one language other than English or any combination of coursework in applied linguistics, second language acquisition, or second/foreign language teaching methodology.*
 - (ii) *Six hours shall be upper division or post-baccalaureate credits in alignment with the key competencies defined in **TESOL NMAC***

C. LICENSED TEACHERS WITH TESOL CERTIFICATION FROM THE NATIONAL BOARD FOR PROFESSIONAL LEARNING STANDARDS SHALL PASS THE CONTENT KNOWLEDGE ASSESSMENT FROM PRAXIS ENGLISH TO SPEAKERS OF OTHER LANGUAGES ESOL OR A DEPARTMENT-APPROVED LICENSURE TEST IN TESOL FROM ANOTHER STATE.

D. TEACHERS WITH A RECIPROCAL LICENSE FROM A COUNTRY OUTSIDE THE UNITED STATES SHALL MEET THE FOLLOWING TESTING AND COURSEWORK REQUIREMENTS:

- pass the content knowledge assessment from PRAXIS **English to Speakers of Other Languages ESOL**
- earn a minimum of 24 semester hours of credit in TESOL; and
- pass an English language proficiency examination.

E. TEACHER CANDIDATES SEEKING TO WAIVE CREDIT HOURS IN ONE LANGUAGE OTHER THAN ENGLISH SHALL PROVIDE DOCUMENTATION THAT THE CANDIDATE:

- has passed the language proficiency examination(s) for bilingual education in Spanish; **or**
- has passed the language proficiency examination for any language other than English; **or**
- holds a Native American language and culture certification pursuant to 6.63.14 NMAC; **or**
- holds a New Mexico diploma of excellence with the state seal of bilingualism-biliteracy in a language other than English or its equivalent from another state; or
- holds either a bachelor of arts or science degree, master of arts or science degree, or doctorate degree in a language other than English from an accredited college or university outside the United States.

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