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LEGISLATIVE EDUCATION STUDY COMMITTEE

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May 28, 2015

MEMORANDUM

TO: Legislative Education Study Committee

FR: Ian Kleats

RE: REQUESTS FOR INFORMATION

Since the conclusion of the 2015 legislative session, the Legislative Education Study Committee (LESC) staff have received the following information requests either through the *Inspection of Public Records Act* (IPRA) or requests for production with respect to open litigation:

- a request for production from the plaintiffs in *Yazzie v. State of New Mexico*;
- an IPRA request from Mr. Jonathon Lipschutz; and
- an IPRA request from J. Edward Hollington & Associates, P.A.

The Legislative Council Service (LCS) is the custodian of the Legislature's records for purposes of IPRA. As such, LESL staff have been working closely with LCS staff to identify all materials responsive to these IPRA requests and to relay those materials to the requesters.

Request for Production: *Yazzie v. State of New Mexico*

On Monday, April 27, 2015, LESL staff received a request for production from the plaintiffs in *Yazzie v. State of New Mexico* by way of Mr. Dan Hill, general counsel for the Public Education Department (PED). This follows a request for production given to LESL staff by PED counsel in December 2014 from *Martinez v. State of New Mexico*, which since been consolidated with *Yazzie*.

As noted in the attached documents, PED counsel has requested that LESC staff produce documents responsive to some, but not all, of the requests for production under *Yazzie*. Since some of the requested items, however, are broad enough in scope to encompass much or all of the committee's work, LESC staff have begun the process of scanning into a digital format all meeting materials dating back to the 2005 interim. LESC staff expect that further document submissions to Montgomery & Andrews P.A., which is under contract to represent the State and all of its agencies as Special Assistant Attorneys General in the lawsuit, may be necessary as they are able to hone in on the material that would be responsive to the requests.

It also appears, in some instances, that existing committee and staff documentation may be potentially responsive to items in the request for production for which PED counsel had not requested documents from LESC staff. LESC staff are currently having discussions with counsel at Montgomery & Andrews, P.A. about the extent to which LESC staff are obligated to produce those potentially responsive materials as well.

IPRA Request: Mr. Jonathon Lipschutz

On Friday, May 1, 2015, LESC staff received an IPRA request from Mr. Jonathon Lipschutz by way of LCS, which sought any and all records of communication between the LESC and the list of individuals or organizations contained in the attached documents.

LESC staff were able to produce email exchanges between members of their office and Mr. Matthew Clifton Ladner concerning arrangements for a presentation made to the LESC at its November 2010 interim meeting and the minutes for that meeting. These documents were forwarded to LCS in fulfillment of the IPRA request.

IPRA Request: J. Edward Hollington & Associates, P.A.

On Tuesday, May 5, 2015, LESC staff received an IPRA request from J. Edward Hollington & Associates, P.A. The request sought a document entitled "HB 212 Public School Reform – Questions & Answers for School Districts and Constituents by Section," which was prepared by the State Department of Education and potentially presented to the LESC at its June 2003 interim meeting.

Being initially unsuccessful in finding the document in past LESC meeting notebooks or correspondence, LESC staff contacted the former Governor's education policy advisor at the time for potential background information on when the document might have been presented. That individual was able to locate and send a copy of the document to LESC staff, who then sent it onto J. Edward Hollington & Associates, P.A. in fulfillment of the IPRA request on May 7, 2015.



STATE OF NEW MEXICO
PUBLIC EDUCATION DEPARTMENT
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SANTA FE, NEW MEXICO 87501-2786
Telephone (505) 827-5800
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RECEIVED

APR 27 2015

LESC

HANNA SKANDERA

SUSANA MARTINEZ

April 23, 2015

Via Email and First Class Mail

Frances Ramirez-Maestas
Director, Legislative Education Study Committee
New Mexico Legislature
325 Don Gaspar, Suite 200
Santa Fe, NM 87501
frances.maestas@nmlegis.gov

Re: Martinez v. State – Requests for Production of Documents

Dear Frances Ramirez-Maestas:

I have previously written to you concerning the lawsuit known as *Martinez v. State*, in which the State of New Mexico is a defendant. I am writing to you today concerning a second and similar lawsuit, known as *Yazzie v. State*. Enclosed, please find a copy of the Amended Complaint for Declaratory Judgment and Injunctive Relief to Bring New Mexico's Public Schools Into Compliance With the Educational Mandate of the New Mexico State Constitution. Like *Martinez*, *Yazzie* is a broad-based attack on the manner that the State funds and administers public education. The two cases have been consolidated before Judge Singleton in the First Judicial District Court.

In connection with the *Yazzie* suit, the Plaintiffs have served a number of discovery requests for the production of documents. I am enclosing a copy for convenience. While the majority of the responses to the requests for production can be adequately responded to by the Public Education Department, a number of them will require the assistance of several other State entities including the Legislative Education Study Committee. Since the State government as a whole is a defendant, all State entities are obligated to use their best efforts to locate and produce the requested documents.

The purpose of this letter is to request your assistance in providing any documents responsive to Requests for Production Nos. 1, 7, 13, 14, 31 and 36 that have not previously been produced in

response to the *Martinez* requests. We would request that these documents be provided to us, either in electronic form or in hard-copy form, within thirty days of this letter or by May 22, 2015, so that they can be put into a general data base for production to the Plaintiffs. Please note that we are obligated to produce to Plaintiffs all responsive and non-privileged documents, including emails and electronic documents, in the form in which they are kept.

The law firm of Montgomery and Andrews, P.A., is representing the State in this case. We expect that they will be in contact with you within the next week to help facilitate the production of these documents and we request that you cooperate with them in responding to the requests for production referenced above. Should you have any questions concerning the foregoing, I suggest you contact either Jeff Wechsler or Steve Hamilton at Montgomery and Andrews (982-3873) so that they may assist you in this process.

Thank you in advance for your help.

Very truly yours,



Dan Hill, General Counsel

Enc. (2): Amended Complaint for Declaratory Judgment and Injunctive Relief to Bring New Mexico's Public Schools Into Compliance With the Educational Mandate of the New Mexico State Constitution; Request for Production of Documents

cc: Paul Aguilar, Deputy Secretary of Education
Jeff Wechsler, Esquire
Steve Hamilton, Esquire
Seth McMillan, Esquire

FIRST JUDICIAL DISTRICT COURT
COUNTY OF SANTA FE
STATE OF NEW MEXICO

LOUISE MARTINEZ, individually and as next
friend of her minor children AN. MARTINEZ,
AA. MARTINEZ, AR. MARTINEZ and
AD. MARTINEZ; *et al.*,

Plaintiffs,

vs.

No. D-101-CV-2014-00793

THE STATE OF NEW MEXICO, *et al.*,

Defendants.

Consolidated with

WILHELMINA YAZZIE, individually and as next
Friend of her minor child, XAVIER NEZ, *et al.*,

Plaintiffs,

vs.

No. D-101-CV-2014-02224

THE STATE OF NEW MEXICO, *et al.*,

Defendants.

**YAZZIE FAMILY PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS**

To: State of New Mexico, Hanna Skandera and NM PED
c/o MONTGOMERY & ANDREWS, P.A.
Jeffrey J. Wechsler
Seth C. McMillan
Andrew S. Montgomery
Special Assistant Attorneys General
P.O. Box 2307
Santa Fe, New Mexico 87504-2307
(505) 982-3873
jwechsler@montand.com
smcmillan@montand.com
amontgomery@montand.com

The requests for production of documents described herein are pursuant to Rules 26 and 34 of the New Mexico Rules of Civil Procedure for the District Courts of New Mexico. Please produce legible copies of the requested documents for inspection at the office of The New Mexico Center on Law and Poverty, 720 Vassar NE, Albuquerque, New Mexico 87106, within thirty (30) days. For purposes of this request, documents include any documents authored by The State of New Mexico, Hanna Skandera, Secretary-Designate of the New Mexico Public Education Department, or The New Mexico Public Education Department (“Defendants”) as well as documents within their possession or control. Any objection must be served upon the Plaintiffs’ counsel within (30) days of the service of these requests for production of documents.

DEFINITIONS

1. “Document” is used in the broadest sense possible and means any written, typed, printed, recorded or graphic matter, including electronically stored information, however produced or reproduced, or any type or description, regardless of origin or location, including without limitation all correspondence, records, memoranda, notes, lists, calendars, telexes, telecopies, messages (including, but not limited to, notes, reports, memoranda, or recordings of telephone conversations), electronic mail messages or transmissions, contracts, agreements, assignments, invoices, statements, acknowledgments, computer-generated or computer-stored documents or information, all other data compilations from which information can be obtained or translated, if necessary, reports and/or summaries of investigations, drafts and revisions of drafts of any documents, invoices, receipts and original preliminary notes. If a document has been prepared in several copies, or additional copies have been made, or copies are not identical, each non-identical copy is a separate document.

2. “ELL” means English Language Learners.

3. "Native American student" or "American Indian student" refers to any student that is an enrolled member of any federally recognized tribe, including Alaskan native, who lives on or off reservation land and is a New Mexico resident.
4. "Low-income students" refers to all students who qualify for Free or Reduced Lunch (FRL).
5. "Districts" means any and all of the eighty-nine (89) individual school districts in New Mexico.
6. "2008 AIR Report" means the American Institute for Research published study entitled "An Independent Comprehensive Study of the New Mexico Public School Funding Formula."
7. The "at-risk index" refers to the index of the state's public school funding formula that directs additional resources to districts based on their number of low income, ELL, and Mobile student populations.
8. "At risk students" refers to the students that generate additional revenue based on their demographic status as low income, English language learner, or mobile students.
9. "Program element" is the component to which a cost differential factor is applied to determine the number of program units to which a school district is entitled, including but not limited to MEM, full-time-equivalent MEM, teacher, classroom or public school.
10. "Cost differential factor" is the numerical expression of the ratio of the cost of a particular segment of the school program to the cost of the basic program.

11. "MEM" or "membership" means the total enrollment of qualified students on the current roll of a class or school on a specified day, pursuant to N.M.S.A. 1978 § 22-8-2.
12. "Unit" is the product of the program element multiplied by the applicable cost differential factor, pursuant to paragraphs (1) through (6) in N.M.S.A. 1978 § 22-8-18.
13. "Full Time Equivalency MEM" (FTE) refers to that membership calculated by applying to the MEM in an approved public school program the ratio of the number of hours per school day devoted to the program to six hours or the number of hours per school week devoted to the program to thirty hours (N.M.S.A. 1978 § 22-8-2 (G)).
14. "Public School Funding" means all revenue appropriated by the state to the PED to provide each district's operational revenue, including but not limited to all funds distributed through the Public School Fund, as well as recurring, non-recurring, and supplemental appropriations.
15. "State Equalization Guarantee" ("SEG") distribution, pursuant to N.M.S.A. 1978 § 22-8-25, is that amount of money distributed to each school district for its operating revenue, is part of the Public School Fund (pursuant to § 22-8-14) and is referred to as "Program Cost" in PED's budget.
16. "Funding Formula" refers to the calculations, as set forth in N.M.S.A. 1978 § 22-8-25, which determine the amount of funding that will be appropriate to each school district to cover program cost, through the SEG.
17. "Below the Line" funding means that part of Public School Funding which does not include funding referred to as "Program Cost," but does include "Categorical Public

School Support,” “Supplemental Distributions” or “Special Appropriations,” otherwise referred to as “targeted investments” by Secretary Hanna Skandera and NMPED.

18. “Hard to staff schools” refers to low-performing (receiving a “D” or “F” grade on the A-F school grading system), rural or urban schools.
19. “Early childhood education” means any program of education provided by or in conjunction with the PED serving children from birth to age five.
20. “Pre-kindergarten (pre-k)” means a voluntary developmental readiness program for children who have attained their fourth birthday prior to September 1, defined in N.M.S.A. 1978 § 32A-23-1 through § 32A-23-9.
21. “Kindergarten Three Plus (K-3 plus)” means the program created in the PED to provide funding for additional educational time for disadvantaged students in kindergarten through third grade, defined in NMSA 1978 § 22-13-28 and funded in § 22-13-28.1.
22. “Teacher” means a person who holds a level one, two or three-A license and whose primary duty is classroom instruction or the supervision, below the school principal level, of an instructional program or whose duties include curriculum development, peer intervention, peer coaching or mentoring or serving as a resource teacher for other teachers, as set forth in N.M.S.A. 1978 § 22-1-2.
23. “Tier II” and “Tier III” teacher refers to any and all teachers who have advanced beyond Level I provisional status or otherwise has met required competencies for issuance of level two or level three licensure.

24. “Teaching English to Speakers of Other Languages (TESOL) certified” refers to a teacher or instructional support provider who holds a Teaching English to Speakers of Other Languages endorsed license.
25. “Instructional material” means school textbooks and other educational media that are used as the basis for instruction, including combinations of textbooks, learning kits, supplementary material and electronic media, as set forth in N.M.S.A. 1978 § 22-15-2.
26. “Public school tutoring” means additional instructional time funded through the PED that takes place outside the regular school day provided one-on-one to a student to help that student reach proficiency in a subject area or to help complete a homework assignment.
27. “Specified Districts” include districts that are named-plaintiffs, districts attended by the named-family plaintiffs, as well as districts whose student demographic fairly represents the cognizable interests of all students throughout the State of New Mexico. These districts include: Albuquerque Public Schools, Bernalillo Public Schools, Cuba Independent School District, Gadsden Independent Schools, Gallup-McKinley County Schools, Grants-Cibola County Schools, Hatch Valley Public Schools, Jemez Valley Public Schools, Moriarty-Edgewood Public Schools, Peñasco Independent School District, Rio Rancho Public Schools, Santa Fe Public Schools, Taos Municipal Public Schools, and Zuni Public Schools.
28. “Average Per Pupil Expenditure” refers to the average revenue received by each school district from the state divided by the total district fall enrollment.

REQUESTS FOR PRODUCTION

1. Please provide all documents relating to discussions that any PED representative or legislator or legislative staff member engaged in concerning the sufficiency or adequacy of any public school budget starting in the 2005-2006 SY to the present.

ANSWER:

2. Please provide all documents that demonstrate how the at-risk index aligns with the needs of at-risk children.

ANSWER:

3. Please provide all documents related to the 2008 AIR Report.

ANSWER:

4. Please provide all documents related to the operational budget of each of the specified districts, starting in SY 2006 to the present, including each district's proposed annual budget, estimated program cost, school-based budgeting plan, and budget proposal amendments made by PED, increased funding requests that exceed one thousand dollars (\$1,000); and, all instances where a district failed to submit a budget.

ANSWER:

5. Please provide all documents related to the calculation of total Program Units for each of the specified districts, disaggregated by the following program units, FTEs or MEMs: a) at-risk units, b) ELL and/or bilingual FTEs, c) early childhood units, and d) bi-lingual multicultural education programs units, e) fine art units, starting in the 2006 SY to the present.

ANSWER:

6. Please provide all documents related to the total amount of state supplemental distribution funds distributed to each of the specified districts, starting in the 2006 SY to the present, and disaggregated by the following categories: a) out-of-state tuition funds, b) emergency funds, c) and emergency capital outlay funds.

ANSWER:

7. Please provide all documents from any district or school administrator, legislator or legislative committee, or PED representative regarding the request or need for additional public school funds, including State Equalization Guarantee funds, transportation funds, and/or supplemental distributions, starting in the 2006 SY to the present.

ANSWER:

8. Please provide all documents relating to Interrogatory No. 5 regarding assessments of whether the state is providing a uniform system of free public schools sufficient for the education of all school aged children.

ANSWER:

9. Please provide all documents relating to Interrogatory No. 35 regarding "how Defendant PED manages any shortfalls or shortages in any District's operational budget."

ANSWER:

10. Please provide all documents that show or provide an explanation for how NMPED accounts for and spends any cash balance carry-over by the local school districts.

ANSWER:

11. Please provide all documents related to the total amount of public school funding received and distributed annually to each of the specified districts, starting in the 2006 SY to the present.

ANSWER:

12. Please provide all documents related to how public school funding for transportation are determined and allocated for each of the specified districts, starting in the 2006 SY to the present.

ANSWER:

13. Please provide all documents that the Legislature relied on or considered in deciding whether to amend the funding formula, starting in the 2006 SY to the present.

ANSWER:

14. Please provide all documents that the Legislative Finance Committee, Legislative Education Study Committee, or Public Education Department relied on when deciding or making recommendations to amend the funding formula, starting in the 2006 SY to the present.

ANSWER:

15. Please provide all documents that demonstrate the average per pupil expenditure rate for all districts, and how it was calculated, starting from the 2006 SY until the present.

ANSWER:

16. Please provide all documents related to educational programs for children who are 3 and 4 years old, including early childhood education and pre-K programs, funded through Defendant PED, starting in the 2006 SY to the present, and identified separately by: a) analyses of continued needs and gaps in services, b) current accountability data being collected, c) disbursement and allocation of public school funds, d) identified barriers to program expansion, and e) identified potential funding options to meet continued needs.

ANSWER:

17. Please provide all documents related to Interrogatory No. 17 regarding programs for low income children.

ANSWER:

18. Please provide all documents related to Interrogatory No. 18, regarding programs for ELL students.

ANSWER:

19. Please provide all documents related to Interrogatory No. 19, regarding American Indian students

ANSWER:

20. Please provide all documents related to Interrogatory No.20 regarding summer school programs.

ANSWER:

21. Please provide all documents related to Interrogatory No. 21 regarding after school programs.

ANSWER:

22. Please provide all documents related to Interrogatory No. 22 regarding tutoring programs.

ANSWER:

23. Please provide all documents related to Interrogatory No. 23 regarding curriculums.

ANSWER:

24. Please provide all documents related to Interrogatory No. 25 regarding preparedness for post-secondary education.

ANSWER:

25. Please provide all documents related to Interrogatory No. 26 regarding vocational and career readiness.

ANSWER:

26. Please provide all documents related to or that refer to the 2012 and 2014 Quality Counts reports regarding the condition of education and educational opportunities in the State.

ANSWER:

27. Please provide all documents related to or that refer to the 2013 and 2014 Annie E. Casey Foundation's Kids Count report regarding the well-being of children across the 50 states.

ANSWER:

28. Please provide all documents related to the National Achievement Educational Performance test results for every participating school and school district, starting in the 2006 SY to the present.

ANSWER:

29. Please provide all documents related to the concerns raised by the United States Office of Civil Rights about the lack of bi-lingual reading instruction in New Mexico.

ANSWER:

30. Please provide all documents showing the number and percentage of students qualifying for free and/or reduced price lunch disaggregated by race, ethnicity, English Language Learner ("ELL") status for every school in each of the specified districts, starting in the 2006 SY to the present.

ANSWER:

31. Please provide all documents related to any of the specified school district's ability or inability to hire, retain, or fund any administrative staff, teaching staff, and other faculty, including but not limited to principals, basic education teachers, TESOL certified instructors, Native American certified instructors, educational assistants, dual-credit instructors, and elective instructors at each district and statewide, starting from the 2006 SY to the present.

ANSWER:

32. Please provide all documents related to any school district's request or expressed need for increased administrative staff, teaching staff, and other faculty, including but not limited to principals, basic education teachers, TESOL certified bilingual instructors, Native American certified instructors, educational assistants, dual-credit instructors, and elective instructors at each district and statewide, starting in the 2006 SY to the present.

ANSWER:

33. Please provide all documents showing the number of bilingual and TESOL certified instructors and teachers per school in every district, starting in the 2006 SY to the present.

ANSWER:

34. Please provide all documents related to any fiscal solvency waivers from the class load requirements, set forth in section 22-10A-20 NMSA 1978, starting in the 2006 SY to the present.

ANSWER:

35. Please provide all documents related to the size and composition of classes, the ratio of teachers per students, pursuant to N. M. S. A. 1978, § 22-10A-20, and the number of educational assistants per teachers at every school in each of the specified districts, starting in the 2006 SY to the present.

ANSWER:

36. Please provide all documents related to any formal or informal request or expressed need to reduce class size and compositions by any school district administrator or legislative committee, starting in the 2006 SY to the present.

ANSWER:

37. Please provide all documents related to Interrogatory No. 15 regarding the alignment of "Tier II and Tier III teachers with schools that have student populations that are at least 75% free or reduced lunch."

ANSWER:

38. Please provide all documents related to Interrogatory No. 29 regarding trainings on working with New Mexico's at risk students for every school in each of the specified districts, starting in the 2006 SY to the present.

ANSWER:

39. Please provide all documents related to Interrogatory No. 14 regarding “any formula, equation, data or statistics that demonstrates how Defendants determine the amount of money necessary for **instructional materials** for students to reach state academic standards and goals.”

ANSWER:

40. Please provide all documents related to the annual amount of funding allocated to every school in each of the specified districts for instructional materials, starting in the 2006 SY to the present.

ANSWER:

41. Please provide all documents that show the increases and decreases to the average per-pupil expenditure rate for all districts, disaggregated by ELL and low-income students, starting in the 2006 SY to the present.

ANSWER:

42. Please provide all documents related to statutory-mandated instructional time disaggregated by the number of hours per school year for each grade that students spent in each mandated subject, starting in the 2006 SY to the present.

ANSWER:

43. Please provide all documents related to the K-3 Plus program, from the date of enactment to the present, including but not limited to, which districts and schools the program exists, student enrollment by district and school, the number of districts and schools that have sought to implement or increase K-3 Plus and have or have not been able to, the number of students on a waiting list for K-3 Plus, the budget and money spent on K-3 Plus, and the results of K-3 Plus.

ANSWER:

44. Please provide all documents related to Interrogatory No. 31 regarding fine arts programs.

ANSWER:

45. Please provide all documents related to Interrogatory No. 32 regarding PE programs.

ANSWER:

46. Please provide all documents related to Native American language and culture certificates awarded, pursuant to N. M. S. A. 1978, § 22-10A-13, at each school in every district and statewide, starting from 2006 SY to the present.

ANSWER:

47. Please provide all documents showing all standards that NMPED is required to assess and evaluate, including standards of curriculum, organization and administration of education, records keeping, and teacher preparation.

ANSWER:

48. Please provide all documents showing the numbers of students who were unable to meet state academic content and performance standards, disaggregated by socio-economic status, English Language learner status, and race/ethnicity, starting in the SY 2006 to the present.

ANSWER:

49. Please provide all documents related to the statewide standards-based assessments for Limited English Proficient students, including the number of LEP students by grade allowed to take the standards-based assessment in their primary language, the different types of languages spoken by those students, and the reading scores for those students by grade, starting in the 2006 SY to the present. .

ANSWER:

50. Please provide all documents showing the amount of funds used by each of the specified districts to provide remediation programs, intervention programs, and academic improvement programs for students in grades 1-8, and 9-12 separately, who have not demonstrated academic proficiency, as well as the content of those programs, and the number of children enrolled in those programs, starting in the 2006 SY to the present.

ANSWER:

51. Please provide all documents related to how Defendant PED implements, assesses and evaluates the effectiveness of a salary system, pursuant to N. M. S. A. 1978, § 22-10A-4, for teachers and school administrators, from the date of implementation until the present.

ANSWER:.

52. Please provide all documents demonstrating how Defendant PED implements, funds and evaluates "a systemic framework for professional development that provides training to ensure quality teachers, school principals and instructional support providers and that improves and enhances student achievement," pursuant to N.M.S.A. 1978, § 22-10A-19.1.

ANSWER:

53. Please provide all documents that Defendants relied on to deny paragraph 16 of Plaintiff's Amended Complaint that "Defendant, the State of New Mexico, is the legislative body responsible for appropriating money and enacting laws that together form the New Mexico public school budget and public school system."

ANSWER:

54. Please provide all documents that Defendants relied on to deny paragraph 24 of Plaintiff's Amended Complaint that "New Mexico's children have the lowest likelihood of success of all children in the country, due, in large part to their lack of opportunities to succeed at school."

ANSWER:

55. Please provide all documents that Defendants relied on to deny paragraph 47 of Plaintiffs' Amended Complaint that "New Mexico public schools fail to prepare students to meet the minimum admissions requirements for postsecondary institutions and community colleges."

ANSWER:

56. Please provide all documents that Defendants relied on to deny paragraph 118 of Plaintiffs' Amended Complaint that "the state budget, dedicated to education has declined, with Defendant's making sufficient education funding less...of a priority, and leaving New Mexico's public schools less...able to provide necessary opportunities and resources to sufficiently education New Mexico's children."

ANSWER:

57. Please provide all documents that Defendants relied on to deny paragraph 124 of Plaintiffs' Amended complaint that the funding formula provides additional money to districts and state charter schools due to their geographic location.

ANSWER:

58. Please provide all documents that Defendants relied on to deny paragraph 128 of Plaintiffs' Amended Complaint that "the 2008 AIR Report concluded that state support for public schools should increase by \$334.7 million in 2007-08."

ANSWER:

59. Please provide all documents that Defendants relied on to deny paragraph 138 of Plaintiffs' Amended Complaint that per pupil funding ranks lower than 37th in the country and "is significantly too low to provide a sufficient education to New Mexico's children," when the high proportion of economically disadvantaged and ELL students are considered.

ANSWER

60. Please provide all documents that Defendants relied on to deny paragraph 151 of Plaintiffs' Amended Complaint that "Defendants continue to implement a funding formula that does not provide sufficient additional resources to economically-disadvantaged and ELL students," despite legislative recommendations to do so.

ANSWER

61. Please provide all documents that Defendants relied on to deny paragraph 156 through 158 of Plaintiff's Amended Complaint regarding "below the line funding."

ANSWER

62. Please provide all documents that Defendants relied on to deny paragraph 159 of Plaintiffs' Amended Complaint that "the programs funded through the below the line funding that target at-risk students are severely underfunded."

ANSWER

63. Please provide all documents that Defendants relied on to deny paragraph 160 (second sentence) of Plaintiffs' Amended Complaint that "only 1/3 of the school districts had pre-kindergarten classrooms, leaving 2/3 of the schools districts without them" in SY 2012-2013.

ANSWER

64. Please provide all documents that Defendants relied on to deny paragraphs 162 and 163 of Plaintiffs' Amended Complaint regarding below the line funding.

ANSWER

65. All documents that Defendants relied on to deny paragraphs 170 and 173 of Plaintiffs' Amended Complaint regarding the loss of educator positions in all school districts throughout the State of New Mexico.

ANSWER

66. Please provide all documents that Defendants relied on to deny paragraph 180 (fourth sentence) of Plaintiffs' Amended Complaint that "Except for a \$2,000 a year increase for incoming level I teachers beginning in FY 2015, defendants have not increased these salary scales in the 11 years that this payment structure has been in place."

ANSWER

67. Please provide all documents that Defendants relied on to deny paragraph 185 (third sentence) of Plaintiffs' Amended Complaint that "only 40 to 50% of elementary schools in the state currently receive funding for their PE courses."

ANSWER

68. Please provide all documents that you relied on to deny paragraph 186 of Plaintiffs' Amended Complaint that "Reading proficiency rates have generally declined in New Mexico during the past 10 years."

ANSWER

69. Please provide all documents that defendants relied on to deny paragraph 187 of Plaintiffs' Amended Complaint that New Mexico's schools do not provide research based-methods of literacy instruction which have proven effective in other states at improving reading among Hispanic and ELL students.

ANSWER

70. Please provide all documents that Defendants relied on to deny paragraph 188 (third sentence) of Plaintiffs' Amended Complaint that, when federal funding ended, defendants cut rather than funded the Reading First program and reading proficiency rates declined.

ANSWER

71. Please provide all documents that Defendants relied on to deny paragraph 190 (second sentence) of Plaintiffs' Amended Complaint that "all districts except two – Las Cruces and Albuquerque – were awarded a small amount of money for "Reads to Lead," following the 2012-2013 school year.

ANSWER

72. Please provide all documents that Defendants relied on to deny paragraph 190 (third sentence) of Plaintiffs' Amended Complaint that "the average reading improvement rates for "Reads to Lead" schools are not different than the reading improvement rates of the state's schools overall."

ANSWER

73. Please provide all documents that Defendants relied on to deny paragraphs 191 through 193 of Plaintiffs' Amended Complaint that that school districts across the state have had to cut staffing positions and various programs and services, due to the lack of funding.

ANSWER

74. Please provide all documents that Defendants relied on to deny paragraph 194 of Plaintiffs' Amended Complaint that schools in New Mexico have inadequate supplies, equipment, and access to technology.

ANSWER

75. Please provide all documents that Defendants relied on to deny paragraph 197 and 198 of Plaintiffs' Amended Complaint that "New Mexico provides an insufficient number of health and safety prevention and intervention programs (such as those listed in paragraph 198) to the 23 school districts that serve American Indian students."

ANSWER

76. Please provide all documents that Defendants relied on to deny paragraph 201 of Plaintiffs' Amended Complaint that "as of 2013, many of the school districts containing large populations of Hispanic and American Indian students failed to provide all students with adequate language programs."

ANSWER

77. Please provide all documents that Defendants relied on to deny paragraph 205 (first sentence) of Plaintiffs' Amended Complaint that "more than 2/3 of the school districts do not have pre-kindergarten programs and those that do only operate them in a few classrooms."

ANSWER

78. Please provide all documents relating to any of the hearings, formal meetings or discussions identified in response to the Interrogatories served contemporaneously herewith.

ANSWER:

79. Please provide all documents used or relied upon in responding to the Interrogatories served contemporaneously herewith.

ANSWER:

Respectfully Submitted:

NM CENTER ON LAW AND POVERTY

By: /s/ Gail Evans
Gail Evans and Preston Sanchez
NM Center on Law and Poverty
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Attorney for family plaintiffs

Rec'd 4/30/15

Jonathan Lipshutz
8214 2nd St NW, Suite A
Albuquerque, NM 87114

RECEIVED

April 27, 2015

MAY 01 2015

LESC

Mr. John Yaeger
Assistant Director for Legislative Affairs
New Mexico Legislative Council Service
411 State Capitol
Santa Fe, NM 87501

Dear Freedom of Information / Open Records Officer:

Pursuant to New Mexico Inspection of Public Records Act, 14-2-1 NMSA 1978 et seq., I request copies of all public records and documents, including but not limited to:

- Any and all records of communication (such as letters, written requests, reports, telephone records, electronic communication, complaints, investigations, violation and memos) between your department (and all divisions and agencies under your jurisdiction) and the following individual:
 - 1) Foundation for Excellence in Education [2007 – present]
 - 2) Chiefs for Change [2010 – present]
 - 3) Excellence in Education National [2007 – present]
 - 4) Foundation for Florida's Future [2007 – present]
 - 5) Foundation for Florida's Future Action Fund [2007 – present]
 - 6) Mr. John Ellis "Jeb" Bush, Chairman or Founder of Foundation for Excellence in Education, or Chairman or Founder of Foundation for Florida's Future, or Chairman or Founder of Jeb Bush & Associates. [2007 – present]
 - 7) Ms. Patricia Levesque, Chief Executive Officer of Foundation for Excellence in Education or Chief Executive Officer of Foundation for Florida's Future or Member of Meridian Strategies LLC. [2007 – present]
 - 8) Ms. Deirdre Finn, Deputy Executive Director of Foundation for Excellence in Education, or Deputy Executive Director of Foundation for Florida's Future, or Member of Meridian Strategies LLC, or Owner at Finn Strategies LLC. [2007 – 2013]
 - 9) Ms. Mary Laura Bragg, Vice President of Advocacy at Foundation for Excellence in Education. [2007 – present]
 - 10) Mr. John Bailey, Vice President of Policy at Foundation for Excellence in Education, or Executive Director at Digital Learning Now!, or Director at Whiteboard Advisors. [2009 – present]
 - 11) Mr. Mike Murphy, Chairman Partner or Principle at Revolution Agency.
 - 12) Mr. Tom Vander Ark, Partner at Vander Ark/Ratcliff, or Principle at Vander Ark Associates. [2011 – present]

- 13) **Dr. Eric J. Smith of Dr. Eric J. Smith LLC. [2011 – present]**
- 14) **Ms. Jaryn Enhof, Vice President of Communications at Foundation for Excellence in Education, or National Communications Director at Foundation for Excellence in Education. [2010 – present]**
- 15) **Ms. Sara Clements, State Advocacy Director at Foundation for Excellence in Education, or Legislative Analyst at Foundation for Florida’s Future. [2012 – present]**
- 16) **Ms. Christy Hovanetz, Senior Policy Fellow at Foundation for Excellence in Education. [2008 – present]**
- 17) **Mr. Neil Campbell, Policy Director for Personalized and Blended Learning at Foundation for Excellence in Education, or Independent Education Consultant. [2013 – present]**
- 18) **Ms. Whitney Chapa, State Policy Director of K-12 Funding at Foundation for Excellence in Education. [2014 – present]**
- 19) **Mr. Matthew Ladner, Senior Advisor for Policy and Research at Foundation for Excellence in Education, or Vice President for Research at Goldwater Institute. [2007 – present]**
- 20) **Mr. Clifton Ladner, Senior Advisor for Policy and Research at Foundation for Excellence in Education, or Vice President for Research at Goldwater Institute. [2007 – present]**
- 21) **Ms. Cari Miller, Policy Director at Foundation for Excellence in Education. [2011 – present]**
- 22) **Mr. Adam Peshek, State Policy Director of School Choice at Foundation for Excellence in Education. [2007 – present]**
- 23) **Ms. Allison Aubuchon, Director of State Communications at Foundation for Excellence in Education. [2012 – present]**
- 24) **Ms. Marilyn Dwyer, Research and Policy Coordinator at Foundation for Excellence in Education. [2012 – present]**
- 25) **Ms. Minda Corso, Deputy Director of Digital Communications at Foundation for Excellence in Education. [2011 – present]**
- 26) **Ms. Kristy Campbell, Communications Director at Foundation for Florida’s Future, or National Communications Director at American Conservative Union, or Common Core And Communications Outreach at Foundation for Excellence in Education, or Spokeswoman at Foundation for Excellence in Education. [2008 – present]**

- Any and all freedom of information requests filed with your department (and all divisions and agencies under your jurisdiction) since 2007 mentioning the aforementioned organizations and individuals.

If this request would generate a substantial number of documents, I request an index of the documents (which does not preclude any later requests for any or all of the documents included in this index). Where possible, I request that the information requested be provided in an easily-accessible electronic format.

I am willing to pay fees for this request up to a maximum of **\$25.00**. If you estimate the fees will exceed this limit, please inform me first. I also request a waiver of all fees for this request since the disclosure of the information I seek is not primarily in my commercial interest, and is likely to contribute significantly to public understanding of the operations or activities of the government, making the disclosure a matter of public interest.

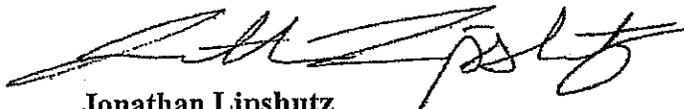
I request your acknowledgement within three (3) business days and response no later than fifteen (15) calendar days after receiving the request, or as soon as practicable without delay. If access to these records is likely to exceed this time period, please contact me with information about when access can reasonably be expected. If it is not possible to fulfil all or part of this request, please advise the basis for this denial in writing, including the relevant statutory authority (as required by s. 14-2-8(D)) and any avenues for appeal.

I will contact your office within **one week** to discuss when I may expect fulfillment of my request, and payment of any statutorily prescribed fees.

If you have any questions in the interim, you may contact me at **[phone number]** or **[email]**. Please send any hard copy documents to the address provided above.

Thank you for your prompt assistance in this matter.

Regards,

A handwritten signature in black ink, appearing to read 'Jonathan Lipshutz', written over a horizontal line.

Jonathan Lipshutz
505-830-3650

RECEIVED

MAY 05 2015

LESC

J. Edward Hollington & Associates, P.A.

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Trained Mediator
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May 5, 2015

Via email: frances.maestas@nmlegis.gov

Ms. Frances Ramirez-Maestas, Director
Legislative Education Study Committee
325 Don Gaspar, Suite 200
Santa Fe, NM 87501

Re: Inspection of Public Records Request

Dear Ms. Ramirez-Maestas:

This letter request is submitted pursuant to the New Mexico Inspection of Public Records Act. I request a complete copy of the following:

Publication entitled "HR 212 Public School Reform - Questions and Answers for School Districts and Constituents by Section" prepared by the New Mexico State Department of Education Legislative Education Study Committee, June 2003.

Your prompt response to this request is appreciated.

Sincerely,

J. EDWARD HOLLINGTON & ASSOCIATES, P.A.

/s/
J. Edward Hollington
Attorney at Law

JEH/dl