



TRANSFORM EDUCATION

NM



PLATFORM FOR TRANSFORMATION

UPDATED FEBRUARY 2021

TRANSFORM EDUCATION NM IS A COALITION OF EDUCATION, TRIBAL AND COMMUNITY LEADERS ADVANCING A NEW VISION FOR OUR PUBLIC EDUCATION SYSTEM IN NEW MEXICO.

Our platform is endorsed by: ABC Community School Partnership, Center for the Education and Study of Diverse Populations, CHI St. Joseph's Children, Coalition for the Majority, College Horizons, Community Schools Project, Disability Rights New Mexico, Dual Language Education of New Mexico, Educators Rising, Future Focused Education, La Semilla Food Center, Learning Action Buffet, Learning Alliance NM, National Education Association of New Mexico, Native American Budget and Policy Institute, New Mexico Association of Bilingual Educators, New Mexico Center on Law and Poverty, New Mexico Dream Team, New Mexico Voices for Children, Ngage New Mexico, Partnership for Equity and Education Rights, Tribal Education Alliance

To transform education, the State of New Mexico must make fundamental changes, rooted in equity and the vision of our communities. The path is not a labyrinthine goose chase. There are clear and actionable steps forward. Our students, parents, educators and local experts and leaders know what works. Now is the time to achieve it.

Tribal Consultation & Informed Consent

Support Native American Student Funding and Community-Based Education

- Invest in a Native teacher pipeline and require anti-racism and IEA training for all teachers and staff
- Provide permanent funding for community-based indigenous language programs
- Invest in tribal education resource centers and libraries, technology, and early education centers
- Make tribal education departments eligible for recurring SEG funding

Funding

Ensure Funding Sufficiency:

- School districts
- Teacher salaries
- Bilingual multicultural education
- Technology
- Transportation
- Instructional Materials
- At-risk Students

Multicultural & Multilingual Foundation

Embrace the unique cultural and linguistic assets of students

- Align to the HEA, BMEA, and IEA
- Ensure culturally and linguistically curricula and instructional materials
- Increase funding for bilingual programs and ensure a biliteracy framework
- Professional development for culturally and linguistically responsive pedagogy

Teachers & School Staff

Build teacher capacity and workforce for New Mexico's diverse students

- Ensure teacher pay honors the profession and is nationally competitive
- Increase funding to address dire teacher shortages
- Expand professional development programs

Student Supports

Ensure students needs are met across the state

- Expand funding for special education services
- Increase funding for technology, transportation, and out of school enrichment
- Strengthen college and career readiness for at-risk students
- Establish a student bill of rights

Student Equity

Health & Wellness

Expand Health and Social Services for Students and Families

- Map social services assets and needs statewide and develop locally responsive solutions
- Fully fund health and social services for every school
- Expand the Community Schools model

Curriculum & Instruction

Close opportunity gaps through quality curricula and instructional programs

- Fund full-day Pre-K and early childhood programs
- Meet the needs of all students who require special education and related services
- Invest in reading, literacy, and biliteracy programs



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Introduction

New Mexico has a historic opportunity to transform our public schools to embrace the strengths of our students and lay the foundation for learning and success. In 2018, the court ruling in *Yazzie/Martinez v. State of New Mexico* declared that our public education system is insufficient under the state constitution, and ordered sweeping and comprehensive changes to programs, services and resources, including adequate funding.

The Transform Education NM Platform is based on the vision of New Mexico's families and leaders, and the overwhelming evidence from the trial, expert reports and findings. The platform was developed by hundreds of students, parents, educators, tribal leaders, community organizations, and the *Yazzie* plaintiff school districts and families that came to consensus in 2018 on the actions the state to must take to truly transform education. The Platform was subsequently revised in 2020 to reflect additional recommendations by our educational partners.

The Platform serves as a starting point for harnessing our cultural and linguistic assets and leveraging what we know works for New Mexico. The proposed remedies represent the minimum the state must do to meet its constitutional obligation, and spells out what needs to happen as, quickly as possible, to ensure that all of our students are provided a sufficient educational opportunity to prepare for college and the workforce. The Court's decision focuses particularly on the cultural, linguistic, and academic needs of Native American, Hispanic, English Language Learners (ELL), low-income and students with disabilities (termed "at-risk" by the court).

The platform is a working document that will be continuously reviewed and updated moving forward with plaintiff groups, experts, stakeholders, the community, the State, and a growing number of TENM Coalition members.

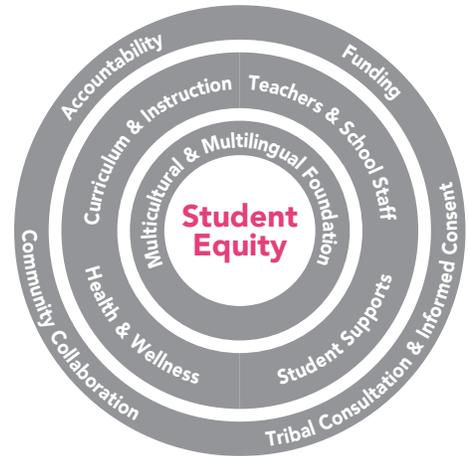
The following abbreviations will be used throughout the platform:

- **BMEA** - New Mexico Bilingual Multicultural Education Act
 - **CLR** - Culturally and Linguistically Responsive
 - **CYFD** - New Mexico Children, Youth, and Families Department
 - **ECECD** - Early Childhood Education & Care Department
 - **ELL** - English Language Learner
 - **ESL** - English as a Second Language
 - **ESSA** - Every Student Succeeds Act
 - **FRL** - Free or Reduced Lunch
 - **HEA** - New Mexico Hispanic Education Act
 - **IDEIA** - Individuals with Disabilities Education Improvement Act
 - **IEA** - New Mexico Indian Education Act
 - **IEP** - Individualized Education Program
 - **IHE** – Institutions of higher education
 - **LEA** – Local education agency
 - **LESC** - New Mexico Legislative Education Study Committee
 - **LFC** - New Mexico Legislative Finance Committee
 - **NMSA** - New Mexico Statutes Annotated
 - **PED** - New Mexico Public Education Department
 - **REC** - Regional education cooperative
 - **SEG** - State Equalization Guarantee (funding formula)
 - **TESOL** – Teach English as a Second Language
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Student Equity

Student equity is at the core of the Transform Education NM Platform. We must acknowledge and dismantle oppressive systems in our public education system to ensure that students across the state have access to and receive a high quality, equitable education. The Yazzie/Martinez court ruling recognized the educational system has deepened opportunity gaps, especially for Native Americans, English language learners, low-income students and students with disabilities. Despite New Mexico's deep multicultural and multilingual heritage, barriers persist along racial, ethnic, and tribal lines. These barriers have only been exacerbated by the COVID-19 pandemic, demanding urgent action.

Yet, we are in a moment of opportunity. By working together, we can bring equity to our public education system. An intentional, well-planned, anti-racist approach to ensuring equity in our state's public education system is paramount to the future our state. That's why Student Equity is at the center of the TENM Platform and is at the core of our work to rebuild a just and decent education system that not only responds to our state's unique heritage, but honors and works to build upon and leverage the multicultural and multilingual heritage that makes New Mexico students and families strong.





Multicultural and Multilingual Equitable Foundation

Our education system must be rebuilt on core values of honoring our students' well-being and ending the decades of racism and discrimination that has failed them. The state must deeply engage students, families and tribal leaders to shape educational priorities and build a multicultural and multilingual foundation that provides culturally and linguistically responsive curriculum and instructional materials, bilingual education and dual language programs, and teacher preparation to create learning environments that embrace the cultures, languages and heritages of our students. To develop and sustain this framework, higher education institutions, Tribal Education Departments, and community programs must have adequate resources. The state must build this capacity to fully implement the Indian Education Act, Hispanic Education Act, and Bilingual Multicultural Education Act. The state must also ensure meaningful consultation and collaboration with tribal governments, as part of the government to government relationship with tribes.

Indian Education Act (IEA)

Judge's Findings

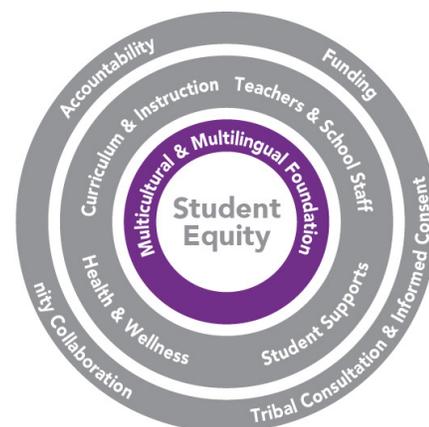
The New Mexican Indian Education Act (IEA) sets forth the legislative determination of a constitutionally adequate education for Native American children in New Mexico's public schools. A culturally and linguistically relevant education must be achieved through the cooperation of schools and tribal communities, which has not been realized in districts serving Native students. The State has failed to comply with the IEA and the Public Education Department (PED) has failed to provide a framework for districts to follow in providing a multicultural and multilingual education.

Solutions:

- Fully implement the IEA. PED & Local Education Agencies (LEA) must collaborate with Pueblos, Tribes, and Nations to develop a plan and process to ensure implementation of the IEA at the state and local levels.
- PED & LEAs must collaborate with Pueblos, Tribes, and Nations to address institutional racism, develop trauma informed practices, and use Indigenous

justice models to end school pushout.

- Formalize LEA-Tribal Education Department consultation and collaboration through a local governance and accountability framework.
- Allocate sufficient and sustained funding for fully implementing the IEA, including by investing in the solutions contained in the Tribal Remedy Framework (TRF), which consist of but are not limited to:
 - ▶ Align the status of LEAs and Tribal Education Departments (as recommended by Legislative Finance





Committee) to expand tribal capacity through eligibility for recurring State Equalization Guarantee funding, for the purposes of collaborating with LEAs and providing community-based educational programming and student support services.

- ▶ Invest in education infrastructure within tribal communities to expand capacity for delivering educational and support services, including tribal libraries, tribal education resource centers, early education centers, and technology.
- ▶ Invest in Native language research, curriculum development, and teacher training at state and tribal higher education institutions with expertise in working with local tribal language communities, and provide permanent funding for school-based and community-based Native language programs.
- ▶ Establish and resource community-led curriculum development centers, operated jointly by tribes and institutions of higher education (IHE).
- ▶ Invest in student programs and services provided by state and tribal education institutions to help Native students be college, career and community ready, and to become professionals who can contribute to building the capacity of their respective tribal communities.
- ▶ Fund a Native American teacher, administrator, and school support staff (e.g., nurses, counselors, social workers) pipeline within state and tribal

IHEs in collaboration with tribal government departments.

- PED & LEAs must collaborate with Tribal Education Departments to implement a systematic framework that includes student need assessments, accountability plans and mechanisms, and shared governance processes, including financial governance, for aligning program and budget plans with Native American student needs, as required by HB 250 (2019).
- Create and fund two specific Native American Regional Education Cooperatives (REC) to respond to needs of Native American students to be housed at UNM and Navajo Technical University/Diné College.
- Staff 3 regional offices with experts in Indian education and Native language and culture instruction.

Hispanic Education Act (HEA)

Judge's Findings:

The Hispanic Education Act (HEA) was passed into law to provide for the study, development, and implementation of educational systems that close the achievement gap and increase graduation rates for Hispanic students. The HEA recognizes the importance of bilingual and multicultural learning programs but PED has failed to provide a framework for districts to use in providing multicultural and multilingual education.

Solutions:

- Fully implement the HEA. Amendments to the HEA must strengthen the law and include accountability measures.
- Establish a HEA Division and Assistant Secretary of Hispanic Education within PED to:
 - ▶ Guide development of research on Hispanic students using culturally appropriate metrics (beyond student achievement data).
 - ▶ Guide development and implementation of bilingual education, English language programs, and ethnic studies.
 - ▶ In partnership with Higher Education Department, identify evidence based practices for improving teacher efficacy, professional and leadership development, and instructional strategies to ensure linguistic, academic, and socio-cultural student success.
 - ▶ Monitor/assess effectiveness of bilingual and multicultural programs.
 - ▶ Review and approve BME applications for programs and funding.
 - ▶ Develop culturally and linguistically responsive curriculum for early childhood to 12th grades.
 - ▶ Collaborate with New Mexico institutions of higher education on teacher pipelines and professional development standards.
 - ▶ Require semi-annual meetings with HEAC..
 - ▶ Hire a liaison to work with Hispanic families statewide.
 - ▶ Include per diem for Hispanic Education Advisory Council members to attend meetings.
 - ▶ Ensure development of Hispanic partnerships throughout all PED divisions and initiatives.
- Develop an Equity Index Scorecard that:
 - a) ensures LEAs are prioritizing student needs and equity in staffing, budgeting, instructional materials; b) maps HEA students' and districts' strengths statewide; and c) requires LEAs to respond to the HEA needs-assessment/ Scorecard with training and adequate and equitable staffing, budgets, and materials.
- Establish a Hispanic Education Fund by statute.
- Ensure District Equity Councils: a) meet regularly; b) meaningfully engage and partner with the communities they represent; c) share best practices across the state; and d) provide professional development and capacity building topics focused on equity.

Bilingual Multicultural Education Act (BMEA)

Judge's Findings:

As PED has failed to create a framework for districts to use in providing a multicultural and multilingual education, it has also failed to create monitoring programs of ELL students and their ELL programs. The State is not meeting requirements set forth under the BMEA for ELL students, knowing that BME Programs are far more effective to ensure academic, linguistic and cultural competence.

Solutions:

- Fully implement the BMEA.
- Establish a Bilingual Multicultural Education Division and Assistant Secretary of Bilingual Multicultural Education within PED to:
 - ▶ Guide development and implementation of bilingual and multicultural education.
 - ▶ Provide technical assistance and support to LEAs and RECs using NM IHEs and local experts.
 - ▶ Provide annual training to districts on developing and implementing effective BMEA programs using NM IHEs and local experts.
 - ▶ Require on-going BME related trainings.
 - ▶ Conduct research in partnership with NM IHEs and local experts to identify best practices in improving teacher efficacy, professional and leadership development, and instructional strategies to ensure linguistic, academic, and social-cultural student success.
 - ▶ Require the Assistant Secretary of BME to have 5 years teaching experience in a bilingual setting, a state certified bilingual endorsement, and an administrative license.
- Amend state law to require Student Assistance Teams (SAT) include an EL expert in the decision-making process.
- Establish and fund mandatory training for administrators and EL instructors on EL and Bilingual students' learning needs as identified through the SAT process.
- Amend the BMEA to create an Expert Bilingual Mentorship program, in consultation with NM bilingual experts, in all districts in which an "expert bilingual teacher" provides mentorship and technical support to 1st & 2nd year bilingual teachers. Provide sufficient funding for districts



to offer stipends of \$1500 (min.) to expert bilingual teachers.

- Fund the UNM American Indian Language Policy Research Center (AILPRTTC) to provide basic instructional and pedagogical strategies to Native language instructors pursuing a 520 License
- Provide sufficient funding to each Tribe to work with AILPRTTC's indigenous language experts to establish each Tribe's expectations for indigenous language growth.
- Require LEA Bilingual Education Directors to obtain an administrative license and a bilingual education endorsement within two years of employment.

Culturally and Linguistically Responsive Education

Judge's Findings:

The State has failed to comply with federal and state laws for ELL students and has not provided sufficient funding for districts serving ELL students. PED does not track English acquisition among NAEI students nor does it track the training given to ELL teachers. Neither PED nor NM Teach have provided sufficient monitoring programs or metrics to evaluate ELL education.

Solutions:

- The BME Division, in collaboration with district administration and NM IHEs, must ensure all ELLs are provided an EL program that complies with state and federal laws, and are not placed in remedial learning programs.
- Require all pre-service teachers and administrators be TESOL or Bilingual

endorsed and provide funding for all current teachers to obtain the endorsement.

- Appropriate additional funding to contract with NM IHEs and local experts to provide professional development, and to develop and deliver a rigorous ESL training program for all teachers, administrators, and assessment specialists for students not in BLE programs.
- Reinstate full funding for Spanish Immersion Institutions for bilingual teachers at NM IHEs.
- Enact legislation requiring no more than 20 EL students per teacher. For schools that cannot meet this requirement, require an additional certified teacher in the classroom.
- Create and fund a stipend of \$3000 (min.) to recruit and hire bilingual endorsed teachers to provide bilingual and indigenous language instruction.
- Allocate additional categorical funding for districts to provide hiring bonuses of \$2000 to bilingual endorsed teachers.
- In collaboration with local experts from NM IHEs, revise the TESOL licensure test to make it more rigorous.
- Provide funding for: A) community-led curriculum development centers, operated jointly by tribes and IHEs; B) Native American studies curriculum implementation at 10 schools; and C) the development of an ethnic studies curriculum at NMSU.
- Address chronic shortages of bilingual psychologists, educational diagnosticians, and special education teachers in NM.
- Address over-identification and under-identification of ELs in special education and gifted and talented programs.

Teachers and School Staff

To fix the dire shortage of educators (including teachers, instructional support/ancillary providers and other staff), especially for indigenous teachers, bilingual education, special education and early childhood education, pay must be competitive with surrounding states, and we must have pipeline programs and Grow-Your-Own programs to bring in educators who reflect the diversity of our students. All educators should receive appropriate pre-service training and professional development to provide individualized and appropriate education for students with disabilities, be endorsed for bilingual instruction or to Teach English as a Second Language (TESOL), and to provide culturally and linguistically responsive instruction.

Teacher Diversity and Pipeline

Judge's Findings:

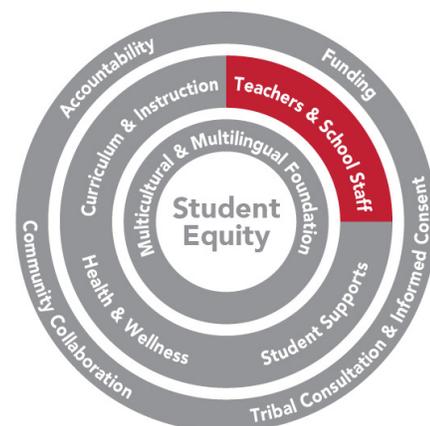
An education system that sufficiently meets the educational needs of Native American students includes a sustainable teacher pipeline that will increase the number of Native American teachers. Both the State of New Mexico and PED have failed to provide sustainable, systemic resources including culturally-relevant training for teachers and a curriculum and pedagogy that is culturally relevant and responsive to Native American students.

Solutions:

- Enact legislation that establishes a comprehensive "teacher pipeline" to increase the number of Native American teachers, dual language and bilingual teachers, special education teachers, and early childhood teachers, by providing scholarships, living stipends/incentives, and teaching supports, in exchange for working in New Mexico for a predetermined number of years.
- Enact legislation to create and fund a minimum stipend of \$3,000 to recruit and hire bilingual endorsed teachers to provide ESL and/or bilingual and indigenous language instruction. Allocate additional categorical funding for districts to provide hiring bonuses of \$2,000 to bilingual endorsed teachers. Legislative, Administrative. Funding.

This bill should also include a pathway for EAs to become teachers with their tuition paid.

- Develop a framework to support middle and high school teachers to create and sustain Educator Rising chapters (including bilingual chapters), and other education and career technical pathways for middle and high school students to become teachers. Provide adequate funding and support for teachers to recruit and retain students, including teacher stipends, student funding, and access to time/resources.
- Bilingual Multicultural Education to expand pre-service teacher preparation training and increase student enrollment, including scholarships for doctoral students who pursue a doctorate in bilingual education, ensuring departments are fully staffed by





allocating funding for IHEs to recruit and hire sufficient faculty and staff, and that salaries for bilingual education faculty at IHEs are competitive within the region.

- Consult school districts, schools/charter schools, and tribal governments to develop and implement guidelines to evaluate the effectiveness of the teacher pipeline.

Teacher Recruitment and Retention

Judge's Findings:

School districts do not have the funds to pay for all the teachers they need, leading to larger class sizes that have a greater, negative effect on at-risk students. It is difficult to recruit rural, special education, STEM, TESOL-endorsed, and bilingual teachers and the quality of teachers for at-risk students is inadequate.

Solutions:

- Provide sufficient funding for teachers based on school district need that would allow districts to fill all teacher vacancies and bring class size within the statutory requirement.
- Develop and fund systemic incentives for experienced teachers to work at high-poverty schools with a large at-risk student population, where quality training is essential. Including living stipends, student loan forgiveness, increased professional training and mentorship, and other in-class supports.
- Establish a framework that requires Bilingual-clinical support teachers from the Institutes of Higher Education to provide instructional support to first and second year bilingual teachers in all districts.
- Consult school districts, schools/charter schools, and tribal governments to develop and implement guidelines to evaluate the

effectiveness of this incentive program intended to achieve equitable distribution of effective teachers, and recruit and retain teachers in high-poverty or low-performing schools.

Teacher Pay

Judge's Findings:

Low teacher pay is an impediment to recruiting and retaining teachers in schools with high at-risk populations

Solutions:

- Provide sufficient funding to increase teacher base salaries so that they are competitive with neighboring states, and competitive with other professions within New Mexico. Raises must be adjusted for inflation.
- Enact legislation must ensure the right to equal pay for tribally certified language teachers.
- Develop and implement a plan to increase qualifications and salaries for Educational Assistants.
- Evaluate whether increased pay and other efforts are enough to address recruitment and retention issues, particularly for categories with the greatest shortage of teachers.

Professional Development

Judge's Findings:

There is insufficient funding to adequately train teachers and provide professional development opportunities. The Legislative Finance Committee and Legislative Education Study Committee found that PED had failed to provide verifiable evidence that its programs were working. Many programs cited by the State, such as Teachers Pursuing Excellence and Principals Pursuing Excellence, have only

minimal participation by the schools in the state. While these programs may be worthwhile, their coverage is too limited and their funding is too ephemeral to justify the State's failure to comply with the constitutional mandate.

Solutions:

- Develop and fund additional teacher pathways and preparation programs to increase teacher diversity and bilingual teachers through:
 - ▶ A Language Revitalization scholarship fund for students pursuing a teaching degree in bilingual and indigenous language education
 - ▶ A teacher certification pathway for immigrants pursuing a career in education
 - ▶ A pathway for bilingual seal recipients to enter an undergraduate teacher program with a scholarship and mentoring within Bilingual Educators Rising
 - ▶ A scholarship application process for students who are bilingual (without the bilingual seal) pursuing bilingual education
 - ▶ A pathway for teacher-candidates to attain early childhood credentials in non-English languages, and remove English-only assessment requirements for non-English speaking teachers
 - ▶ A pathway for indigenous students graduating after 4 years from a post-secondary institution in a career path other than education, to extend for a 5th year at the university to enter a teacher preparation program or other school support program (ex: SLP, Counselors, Psychologist)
- Provide sufficient funding for tribal language teacher certification programs, and for Native teacher and educational leadership training and support at UNM's College of Education and College of Arts and Sciences, Highlands, NMSU Diné College and SIPI.
- Provide funding to the Zuni Tribal Government and the Mescalero Apache Tribal Government for teacher training scholarships.
- Enact legislation that mandates all teachers, including Pre-K teachers, acquire bilingual or TESOL endorsement, and all administrators receive bilingual or TESOL endorsed training by a New Mexico experts. Ensure that all teachers receive pre-service training in pedagogies for literacy development for English learners as well as bi-literacy development (the development of literacy through two languages).
- Provide sufficient funding for all current teachers to acquire bilingual or TESOL endorsement and all administrators to receive the training.
- Impose more substantial and rigorous special education content requirements in basic undergraduate licensure and certification of general education teachers. Require all new teachers and administrators to attain a special education licensure. (HB 394/2019).
- Align the teacher preparation programs at the IHE in the state, and ensure all teachers and administrators are provided training in culturally and linguistically relevant instruction for New Mexico's students.
- Allocate funding to review and revise the Spanish language test ("Prueba") that bilingual teachers must pass in order to attain their Bilingual endorsement.
- In collaboration with EL experts in New Mexico, develop, implement and allocate sufficient funding for a rigorous TESOL licensure test, and best practices. Legislative, Administrative. Funding
- Enact legislation that mandates 10 days of professional development and collaboration for teachers that are embedded in the school year with curriculum development and allow teachers the opportunity to work in professional learning communities (PLCs). Legislative/Administrative.
- Provide increased appropriation to the SEG to fund additional days in teachers' contracts.
- Develop and implement a culturally and linguistically relevant professional development and collaboration model based on the needs of teachers in how to effectively educate New Mexico's at-risk students. Add additional time as needed, with increased funding for extra days of work.
- Create and fund professional development requirements and support for teachers and staff working with English Language Learners, including training and support for teachers in pedagogies for literacy and bi-literacy development for English Language Learners.
- Provide funding for the professional development of Native language teachers.
- Provide funding for HB111 (2019) that builds capacity for the Regional Education Cooperatives to provide professional development to

teachers, administrators, and support staff on education needs of culturally and linguistically diverse students.

- Create and fund pre-service training and professional development requirements and opportunities (not simply online training modules) for all teachers and staff regarding disability-specific instruction and supports, including evidence-based methods for behavioral skill building. This training includes classroom management for regular education teachers in inclusion settings, rethinking classroom management and accounting for bias.
- With consultation from tribal communities, RECs, and other local experts, develop and implement mandated trainings for teachers, district and school administrators, school staff, school board members, and PED employees on culturally and linguistically responsive education, curriculum, anti-racism/ racial equity, and Disability Critical Race Theory.
- Determine what administrative support model the PED will use to support, train, and develop district and school administrators. Once this is determined, it must be funded so that all administrators in the state have access to this type of professional development and collaboration.
- Expand NMPED to build infrastructure at the department level, employing people with expertise in specific disability areas or IDEA eligibility categories (such as autism spectrum disorder, specific learning disability/ dyslexia, other health impairment/ADHD) to develop and implement technical assistance, training, professional development (not simply online training modules) and other supports to be used with districts struggling to provide appropriate special education and related services to students in those eligibility categories.

Instructional Support Providers (ancillary providers) for SWD

Judge's Findings:

Having ancillary personnel in the classroom is important to meet the needs of special education students, and there is not sufficient funding in New Mexico to provide the ancillary personnel for special education students.

Solutions:

- A comprehensive effort must be made to recruit, retain and offer a competitive wage to instructional support professionals, including therapists (speech and language, occupational, physical, behavioral, etc.), diagnosticians, educational assistants, and other instructional support providers.
- Develop and fund systemic incentives for instructional support professionals, including bilingual professionals to work in hard-to-staff-schools, such as living stipends, student loan forgiveness, and increased training and mentorship.
- Develop and fund a three-tiered licensure system for all instructional support providers (like that used for teachers).
- The State must play a more active role in building a workforce of special education professionals to meet the needs of all students in New Mexico who require special education and related services.

Teacher Evaluation System

Judge's Findings:

NMTEACH does not use any metric to evaluate whether or not a teacher is effectively serving ELL students or whether or not a teacher is providing culturally relevant instruction to a Native American student. Teacher evaluations may be contributing to the lower quality of teachers in high-need schools.

Solutions:

- Provide sufficient funding to Tribal Education Departments to develop culturally appropriate teacher evaluation instruments.

Curriculum and Instructional Programs

All students should have access to programs that successfully close opportunity gaps, including: universal Pre-K that is culturally and linguistically responsive to provide full-day options for 4-year old children and half-day options for 3-year old children. Students with disabilities must be timely evaluated for and provided appropriate special education and ancillary services that meet individualized education programs in the least restrictive classroom settings. Every child should have access to a well-rounded curriculum that includes bilingual education, arts, music and physical activity. All schools should be able to offer summer school, extended learning time, literacy programs, smaller class sizes and instructional materials.

Pre-K/Early Childhood

Judge's Findings:

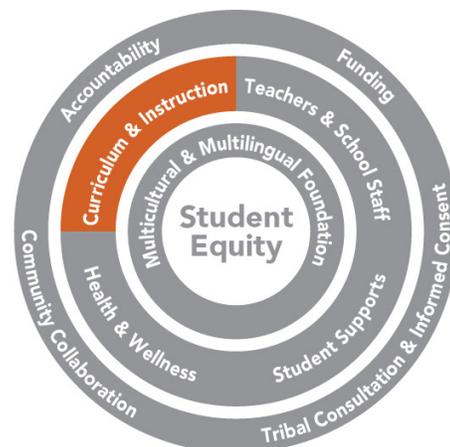
The efficacy of Pre-K has been recognized, but not all at-risk students have access to quality, full-day programs due to insufficient funding.

Solutions:

- Provide sufficient funding to expand full-day Pre-K for all 4 year-old children in New Mexico (only 36% enrolled pre-COVID).
- Implement a plan and appropriate sufficient funding to build or rehabilitate infrastructure for Pre-K classrooms.
- Expand ECE teacher workforce, particularly Native language and bilingual early childhood teachers in collaboration with IHEs with minimum licensure and qualifications. Streamline all Pre-K programs (ECECD, PED, Head Start) so that all programs require teachers to be fully qualified and/or licensed, the same curriculum, and the same standards so that all students receive the same level of quality.
- Enact legislation that mandates all Pre-K programs develop and implement a plan to provide culturally and linguistically responsive programs and practices, including curriculum, instructional materials, training for teachers and staff, based on consultation with local tribes and communities. Ensure program plans allow parent involvement.
- Consult early childhood experts and tribal governments to develop culturally appropriate assessment tools, such as the

definition of school readiness, a rating system for Pre-Kindergarten program quality, a tool to assess teacher-child interaction, and a procedure to transfer data to student's kindergarten teacher.

- Develop regulations to establish an evaluation system that determines whether Pre-K providers are meeting the learning needs of their ELL students and SWD via curriculum, instructional practices, and teacher credentials.
- Require all early childhood teacher preparation programs to credit hours in working with linguistically and culturally diverse students, including second language acquisition, bilingual or ESL methodology, and culturally responsive teaching practices.
- Enact legislation that mandates culturally and linguistically responsive training for early childhood teachers and staff.





“Research-based reading programs have been proven effective, but at-risk students lack access without sufficient state funding.”

Mandate any state department (e.g. PED or Early Childhood Education and Care Department) administering early childhood programs to incorporate culturally and linguistically responsive practices into at least 30% of their required trainings.

- Invest in tribal early education programs. Enact legislation and provide sufficient and recurring funding to all Tribal Education Departments for developing early education strategies and standards, implementing early education programs prioritizing language and culture, determining education infrastructure needs, and developing a tribal community-based certificate/degree program for early education providers who are working full-time.
- Provide sufficient funding to support early childhood practicum programs at Navajo Technical University and fund an early childhood center at Jemez Pueblo.
- Facilitate MOUs between districts and tribes to provide Pre-K services on tribal lands.
- Pass legislation to establish a funding mechanism that allocates recurring funds to develop preschool, native language bilingual programs.
- Enact legislation that requires the PED to develop a statewide system for the identification of English Language Learners in all NM Pre-K programs receive state funding.
- Establish and fund Pre-K programs with capacity to serve students with disabilities in all New Mexico public school districts.
- Improve and expand collaboration between the New Mexico Department of Health Family Infant Toddler (FIT) Program and

LEAs, toward improved transition from early childhood to LEA special education service systems. Extend the time period of FIT agency participation in the transition process.

- Develop and implement a system to monitor program spending.

K-5 Plus Summer Programs

Judge’s Findings:

Evidence shows money spent on classroom instruction programs like quality Pre-K, K-3 Plus, extended school year, and quality teachers can improve performance of at-risk students. The State of New Mexico recognizes the efficacy of these programs but has not provided all at-risk students with access to extended learning programs through sufficient funding measures.

Solutions:

- Provide sufficient funding to expand quality K-5 Plus to all eligible children, including transportation costs.
- Remove statutory and administrative barriers so that all districts have the opportunity to implement the K-5 Plus program for all eligible children, and target unmet need, including the requirement that students participating in the K-5 Plus program must follow the same teacher and cohort of students for the regular school year (at least until the reasons underlying this issue are fully addressed, such as teacher shortages and competitive pay).

- Provide professional development in literacy and reading instruction that is culturally and linguistically responsive.
- Enact legislation that mandates all K-5 Plus programs develop and implement a plan to provide a culturally and linguistically responsive instruction, based on consultation with local tribes and communities.

Students with Disabilities

Judge's Findings:

The State of New Mexico must comply with both federal statutes and the state constitution's education clause concerning students with disabilities. Without adequate personnel and other resources, school districts cannot provide a sufficient education to special education students. Furthermore, the State lacks accountability measures and expertise to ensure special education students receive the education to which they are entitled. New Mexico's education system does not emphasize getting special education students what they need so they can rejoin regular classrooms.

Solutions:

- Full compliance with the Individuals with Disabilities Education Improvement Act (IDEIA), part B, and the Elementary and Secondary Education Act (Every Student Succeeds Act)(ESSA).
- The State must ensure timely evaluation of students suspected of having a disability for eligibility for special education and related services and impose, by rule, a definite timeline governing districts' obligation to respond timely to parental requests for special education evaluation of their children.
- Students receiving special education whose least restrictive environment is the regular education (inclusion) setting still require special education and related services, at appropriate levels, to support them in the regular education classroom.
- The State must play a more active role in building a workforce of special education professionals to meet the needs of all students in New Mexico who require special education and related services.
- Remote learning is a major obstacle for students with disabilities generally, where students struggle not only with broadband issues, but also with difficulties accessing the special education instruction and regular education curriculum and receiving related services required under their IEP's via remote learning.

Extended Learning Time

Judge's Findings:

Extended learning time has been recognized as beneficial for both at-risk and special education students, though the state has failed to sufficiently fund extended learning opportunities.

Solutions:

- After a culturally and linguistically relevant curriculum is in place, fully fund and implement the Extended Learning Time Program, extending the school year to 190 days (or equivalent) for instruction.
- Mandate parent teacher conferences, in addition to instruction time.
- Provide professional development in literacy and reading instruction that is culturally and linguistically responsive (*see teacher section above*).

Reading, Literacy, and Biliteracy

Judge's Findings:

Research-based reading programs have proven effective, but at-risk students lack access without sufficient state funding. Other programs have inadequate funding to fully achieve their goals, such as Reads to Lead, which does not allow for hiring reading teachers and has suffered budget cuts.

Solution:

- Appropriate SEG funding (or above the line) for all districts to meet the need for literacy and biliteracy instruction. All reading funds must be available to support both literacy and biliteracy programs alike.
- Determine the number of reading specialists and instructional coaches needed in each district, including at least one in every small district. Allocate funding to meet those needs.
- Pass legislation to establish funding and support for tribal libraries to build and expand community-based, intergenerational reading programs. Legislative. Funding.
- Evidence-based practices for English literacy development are not the same as those for Spanish literacy, for example, and do not include important cross-language practices critical to biliteracy development. In collaboration with



“All students should have access to programs that successfully close opportunity gaps...”

local experts, ensure that reading programs are based on a framework predicated on evidence-based practices for literacy development in one language (i.e., English) or two languages (i.e., English and Spanish).

- Support Tribal Language Communities as a heritage and second language literacy for Indigenous children.
- Create and fund pre-service training and in-service professional development and support for teachers in pedagogies for literacy development for English learners as well as biliteracy development.

Class Size

Judge’s Findings:

Smaller class sizes, like 15:1, are beneficial for ELL, students with disabilities, and at-risk students. Insufficient funding and an insufficient number of teachers affect students access to reduced class sizes.

Solutions:

- Return to class size limits where districts have the ability to apply and obtain for class size waivers where necessary due to staffing shortage or a special circumstance (lack of funding is not a special circumstance).
- Increase the number of teachers in the system to ensure smaller class sizes.

Instructional Materials

Judge’s Findings:

Funding cuts have prevented schools from purchasing adequate and up-to-date textbooks. For special education classrooms, very little funding is available for instructional materials and there is no curriculum funding. The State has also failed to comply with the Indian Education Act, which requires culturally and linguistically relevant instructional materials.

Solutions:

- Put in place a uniform mechanism for determining the ongoing need for instructional materials that are all culturally and linguistically responsive, up-to-date based on textbook cycles, and available in sufficient quantity that every student has access to these materials at school and at home, including a textbook for each class that conforms to curriculum requirements. Enact legislation requiring every student have access to adequate instructional materials at school and home.
- Put in place a uniform mechanism for determining how much funding is necessary to meet the need identified above and comply with current instructional materials/textbook laws.
- Create and maintain a sustainable funding stream that fully funds the ongoing need for cultural and linguistic responsive instructional materials as identified above.
- Adopt an anti-racist/racial equity requirement to curriculum and instruction.
- Enact legislation with sufficient funding mandating the PED to establish an adoption cycle of English Language Development materials, in collaboration with local experts and tribal governments.
- Develop and implement a system to monitor, evaluate and ensure that school districts purchase and use CLR instructional materials, and that EL students have adequate access to instructional materials in their native language, where a written language exists.
- Establish support and sufficient funding of sites for Native language research, curriculum and instructional materials development, and teacher training: UNM-American Indian language, Policy and Teacher Training Center, Navajo Technical University, Diné College/A:shiwí, and NMSU.
- Increase and fund the capacity of Tribal Education Departments to develop and disseminate curricula and instructional materials.
- Fund educational resource centers at Jemez Pueblo and at Dzil Dit'looi charter school.
- Fund UNM's College of Arts & Science to establish ten projects of excellence to extend Native American studies curriculum to ten high schools that lack such curriculum, and fund NM State University to develop an ethnic studies curriculum for high schools.
- Fully fund and implement evidence-based curriculum and instructional materials appropriate to meet the individual needs of students with disabilities (for example—evidence-based, explicit, direct, multisensory reading instruction for a student with dyslexia, Applied Behavior Analysis for a student with autism, and assistive technology required by students with disabilities.)
- The State must ensure timely evaluation of students suspected of having a disability for eligibility for special education and related services and impose, by rule, a definite timeline governing districts' obligation to respond timely to parental requests for special education evaluation of their children.
- Students receiving special education whose least restrictive environment is the regular education (inclusion) setting still require special education and related services, at appropriate levels, to support them in the regular education classroom.





Health and Wellness

Students do best when their health and social emotional well-being is supported. With proper resources and support systems, students succeed and their families and communities thrive. All schools should offer healthy meals, wellness centers, nurses, counselors and social workers so that students have access to resources to overcome economic barriers. The state should expand school based health centers and Community Schools that actively engage parents and the local community.

Wellness and Health Center, Social Services

Judge's Findings:

High-performing schools have strong non-academic supports, including counseling, social workers, nurses, and health clinics. Access to these resources in schools help low income, at-risk, and students with special needs achieve success. Still, most districts do not have sufficient funding to make social and health services available to all at-risk students. In fact, many districts have had to terminate or reduce hours for counselors, nurses, and social workers due to budget cuts.

Solutions:

- Enact legislation to require districts to develop annual plans with cost estimates for social services based on student need.
- Secure sufficient and sustained funding for districts to hire nurses, counselors, social workers, and behavioral health personnel.
- Fund licensure/certification programs at IHEs for social workers and counselors to increase the number of professionals working in schools.
- Increase funding for school-based health centers.
- Increase funding for RECs to provide professional development and training for teachers, and technical assistance to small school districts

Healthy School Environments

Judge's Findings:

More counselors are needed to work with students who have experienced domestic abuse, neglect, and homelessness in order to address the effects on their cognitive ability.

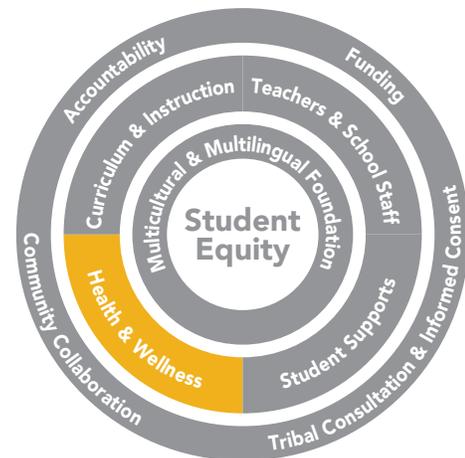
Solutions:

- When students have access to healthy meals, clean water and safe schools, they are able to focus on learning and do well in school. The State must assess the social determinants of education and/or develop a plan to address the needs of the whole child.

Physical Education

Solutions:

- Students receive academic, health, and social and emotional benefits associated with physical activity. The State must monitor or evaluate physical education





programs and provide resources for districts to offer PE to students.

Reducing school discipline & punitive measures

Overview:

Alarming data has been revealed about the use of seclusion and restraints, and punitive school disciplinary practices in New Mexico's schools. Public schools expel Native students at 1.5 times the average rate, and refer them twice as often as other students to law enforcement. Funding and capacity for schools must be substantially expanded to develop trauma informed practices and use Indigenous justice models to end school pushout in collaboration with tribes.

Solutions:

- Prohibit exclusionary discipline for all incidents not drug, weapon, or violence-related. Minimize the use of out of school suspension in favor of in-school suspension.
- Ensure every middle and high school student has access to school psychologist or social work services, whether or not they are eligible for special education.
- Section 22-5-4.12 NMSA (2017)(Use of restraint and seclusion; techniques;

requirements) should be reworked to align restraint and seclusion as a measure of last resort, further strengthen reporting requirements, and tighten standards and timelines for reviewing incidents of restraint and seclusion to make them more protective of student safety and encourage districts to address the needs of students who exhibit challenging behaviors, including students with disabilities.

- Conduct impact analysis of "threat assessments," collect data on all threat assessments conducted by LEAs to ensure students with disabilities and students of color are not being subjected to the practice disproportionately, and audit LEA use of threat analysis to mitigate overuse.
- Rulemaking or formal guidance from PED clarifying that manifestation determination reviews (MDRs) must precede any disciplinary hearing to suspend or expel a student with a disability, and that if the MDR determines the conduct to be a manifestation of the disability, the proposed disciplinary action may not be taken.
- Prohibit the use of law enforcement officers on school campuses for reports of "disruption of the educational process" or other routine matters for which police would not be engaged if not in a school setting.

Student Supports

Students must have access to technology including the ability to access the internet from the home, after-school programs that offer education support and enrichment, libraries in the community, buses and transportation services so that students can attend summer school and after school programs. The state should expand college, career, civic and culture readiness programs, and career and technical education.

Technology

Judge's Findings:

Access to computers and related infrastructure is "essential" to a constitutionally sufficient education. Lack of access to technology, particularly in rural districts and among Native American English learner students, compromises students' ability to take online standardized classes or courses as well as gain full academic and social competency.

Solutions:

- Provide funding for infrastructure and technology needed in rural and tribal areas to expand broadband internet access and ensure all students have access to devices and internet.
- Develop a uniform funding mechanism for all schools to establish, maintain, and upgrade technology, as needed.
- Invest in education infrastructure such as tribal libraries, tribal education resource centers, and early education centers to serve as a conduit for technology access for students and their families.
- Re-establish the Technology for Education Act Bureau within PED to provide support and technical assistance to school districts.
- Remote learning is a major obstacle for students with disabilities generally, where students struggle not only with broadband issues, but also with difficulties accessing the special education instruction and regular education curriculum and receiving related services required under their IEP's via remote learning. The State must ensure improved evaluation for and expanded access to assistive technology for students with disabilities.

Transportation

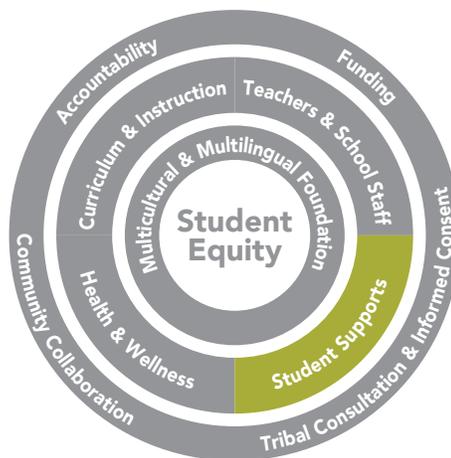
Judge's Findings:

Insufficient funding for transportation requires districts to divert money to pay for it, impacting class size, programmatic offerings, and staff compensation. Without available transportation for extracurricular and summer programs, at-risk students cannot participate in the kind of programs that would enhance their educational achievement.

Transportation is also a necessary element of high-quality Pre-K, though it is not offered by all CYFD or PED programs. Initial transportation fund allocations from the state help pay for maintenance and repair costs, but do not address the full cost of transportation, including salaries and benefits, fuel.

Solutions:

- Provide transportation funding for summer school, after-school, Pre-K, and extended learning programs.
- Increase overall funding for transportation so that districts do not have to supplement funding with other funding streams.





- Ensure ongoing monitoring and analysis of transportation funding sufficiency.
- Increase funding to support rural schools with shorter bus replacement cycles.
- Ensure ongoing monitoring and analysis of transportation funding sufficiency.

After-School and Summer Enrichment

Judge's Findings

Despite recognizing the efficacy of after-school programs, tutoring, and summer school for addressing loss of skills over the school break, the state has not funded these programs sufficiently. Extended learning time, like summer school, is valuable to all students, but especially to low-income and at-risk youth. Tutoring opportunities are important for special education students but there is no funding to support them.

Solutions:

- Provide funding to expand summer, after-school, or tutoring programs for at-risk students in all districts.

- Make Tribal Education Departments eligible for recurring SEG funding for the purpose of collaborating with LEAs and providing community-based educational programming and student support services, including after-school, tutoring, and summer enrichment programs.
- Develop and implement a plan to expand access to CLR after-school and summer programs based on student needs, including community and tribal based programs, credit recovery, and internships.
- Provide funding for transportation to increase students access to after-school and summer school programs.

College and Career Readiness (including technical education)

Judge's Findings:

At-risk students face a number of challenges to a sufficient education and while root causes of poor outcomes may not be wholly attributable to the schools, steps can be taken by the educational system to overcome the adverse impacts of a student's background.

“The state should expand college, career, civic and culture readiness programs, and career and technical education.”

The State of New Mexico has failed to provide at-risk students with programs and services necessary to make them college and career ready.

Solutions:

- Develop a statewide plan that ensures all districts have the capacity and resources to provide technical and vocational training programs.
- PED must fully implement a system that is culturally and linguistically appropriate to measure the readiness of every NM high school student for success in higher education or career.
- Provide tuition waivers for high school graduates who are enrolled members of any federally recognized New Mexico Tribe, Pueblo, Nation attending NM IHEs.
- Fund Tribal Education Departments to provide a network of integrated student support services, e.g., tribal youth leadership institutes, dual credit classes, college prep programs.
- Implement, monitor, and enable the consistent provision of transition services for students with disabilities beginning at age 14, consistent with state law requirements, so that they may transition from high school to post-secondary employment, vocational training or college.
- Create a matching fund for employers to provide paid student internships as part of PED’s qualified program; allow paid internships to count for high school credit for electives and core classes.
- Appropriate funding for tribes to develop strategic plans to align student and tribal capacity/workforce needs.





Funding and Accountability

The state must adequately resource the public schools and ensure funds are meeting student needs. The state should increase the “at-risk” index in the school funding formula and monitor how these funds are used. Small schools in rural areas must also have adequate funding for emergencies and provide equitable opportunities in our geographically diverse state. The State must fund educational centers and Community Schools that actively engage parents and the local community.

Overall Funding

Judge’s Findings:

The State’s overall appropriation is insufficient to fund the programs necessary to provide an adequate education to all at-risk students. Similarly, New Mexico lacks sufficient special education funding to meet the needs of special education students. Evidence shows money spent on classroom instruction programs, such as quality Pre-K- K-3 Plus, extended school year, and quality teachers can all improve performance of at-risk students.

Solutions:

- Identify and analyze student academic, language, and cultural needs, and corresponding gaps in funding. Identify and analyze unmet needs and corresponding gaps in funding for special education. Develop a plan to restructure the budgetary process for education so that it is based on student need (i.e. bottom up). Increase funding based on student need. This may require a study to analyze the gaps.
- Require LEAs and Tribal Education Departments to collaborate in determining the use of formula funding generated by Native American students.
- Designate Tribal Education Departments as eligible recipients of formula funding generated by Native Language and relevant at-risk program units, and for implementing community based education programs.

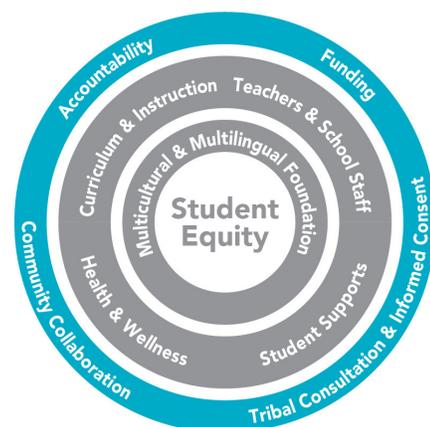
SEG Funding Formula and Recurring Funds

Judge’s Findings:

The Court agreed with district testimony that maintaining sufficient cash balances was necessary in order to maintain cash flow and bond ratings, as districts are often forced to supplant shortfalls in funding streams for various services with such funds – a particularly chronic problem among small and rural districts.

Solutions:

- Increase the bilingual unit of the funding formula from .5 to 1 unit (in order to increase bilingual teaching capacity, teacher preparation and teacher stipends); and create a categorical fund, in addition to funding created by the bilingual unit, for bilingual teacher recruitment, retention and capacity building.
- Create a program unit for Native languages, similar to bilingual/





multicultural program units.

- Amend the rural isolation unit formula to re-establish Gallup-McKinley County Schools district eligibility and expand eligibility to additional districts.
- Pass legislation that creates a categorical basic program, supplemental funding stream for small-micro districts.

At-Risk Student Funding

Judge's Findings:

New Mexico has one of the lowest rates in the nation for at-risk calculations. The at-risk index does not correctly steer resources needed to educate ELL and children living in poverty, quantifying poverty from census levels instead of FRL. Moreover, the funding formula is too complex and out of compliance with charter school and T&E index statutes.

Solutions:

- Increase the at-risk index in the funding formula to .366 so that at-risk students are funded at 25% higher than non-at risk students. Ensure hold harmless clause. Ensure additional money in SEG appropriation to cover additional units.
- Amend legislation to adjust the poverty factor of the at-risk index to use the Free and Reduced Lunch Program for poverty determination. Ensure additional money in SEG to cover additional units.
- Ensure that Tribal Education Departments are

eligible for recurring funding from the at-risk formula for implementing community-based education programs.

- Evaluate whether the increased at-risk index, combined with an adjustment for FRL meets the needs of at-risk students in New Mexico or whether further adjustments are necessary.

Accountability

Judge's Findings:

The PED has failed to meet its supervisory and audit functions to assure that money is provided for and efficiently spent to provide an adequate education, with supportive programs and services, to at-risk and special education students.

Solutions:

- Develop and implement an auditing and monitoring system to ensure: 1) at-risk money is used on programs and services that improve the academic outcomes for "at-risk" students (based on poverty, mobility, and ELL factors), 2) special education money follows special education students and that dual language money follows dual language students/ supports dual language programs, 3) school district funds generated by each Native American student are used to meet Native students' needs, and 4) whether schools are providing culturally and linguistically responsive education.

Tribal Consultation and Informed Consent

Solutions:

- The state must provide funding and accountability to adequately resource public schools and ensure funds are meeting student needs and rights. Accountability must be two-way, with the State and schools accountable to communities, parents and students, and school districts accountable to the state. The State should include Native students in the index calculation and make Tribes eligible for receiving at-risk funds.
- The state must consult and collaborate meaningfully and in good faith with tribal governments to obtain informed consent in the development, implementation and monitoring of the education of Native students. To respect tribal self-determination, state and local education agencies must share governance responsibility for public schools serving Native students, increase tribal education capacity and support tribal community-based education facilities and programs.



Full Court Findings

Bilingual Multicultural Education Act (BMEA)

- Bilingual programs are not necessarily the same as programs for English learners. FFCL, p. 20. See also EEOA, Title III.
- With regard for ELL students, NM is not meeting the requirements under the BMEA. FFCL, p. 31.
- PED lacks sufficient monitoring programs of ELL students and their ELL programs. FFCL, p. 31.
- PED has not provided a framework for districts to use in providing multicultural education. FFCL, p. 32.

Hispanic Education Act (NMHEA)

- PED has not provided a framework for districts to use in providing multicultural education. FFCL, p. 32.
- The [HEA] is to...provide for the study, development and implementation of educational systems that affect the educational success of Hispanic students to close the achievement gap and increase graduation rates...NMSA 1978, §22-23B-2(A) (2010). FFCL, p. 21.
- “This Act recognizes the importance of bilingual and multicultural school programs by requiring PED to report on the number of such programs.” FFCL, p. 21.

Indian Education Act (NMIEA)

- The State has failed to comply with the NMIEA.
- NMIEA sets forth the legislative determination of what constitutes a constitutionally adequate education for Native American children in NM public schools. FFCL, p. 28.
- A culturally relevant education is to be produced through the cooperation of schools and tribal communities, which has not been realized in the Districts serving native students. FFCL, p. 28.
- PED has failed to fill the three regional IED offices. FFCL, p. 28.
- There is a failure to develop government to government relationship to achieve statutory goals. FFCL, pp. 28-29.
- PED has not provided a framework for districts to use in providing multicultural education. FFCL, p. 32.

Culturally and Linguistically Responsive Education

- The State has not complied with state and federal laws pertaining to the education of ELL students. FFCL, pp. 31-32.
- An aspect of a reasonable curriculum is “a program to assist students in learning English.” Id.
- There is a lack of funding for districts to provide adequate services for ELL students. Id.
- PED lacks sufficient monitoring programs to determine whether ELL students are receiving adequate assistance. Id.
- PED has not provided a framework for districts to use in providing multicultural education. Id.
- PED does not track whether NAEL students are acquiring English in a timely manner; nor does it track the training given to teachers who teach ELs. Id.
- NM Teach does not have any metric to evaluate whether a teacher is effectively serving ELL students. Id.

Teacher Recruitment and Retention

- **Number of teachers:** “School districts do not have the funds to pay for all the teachers they need.” (pg. 32); It is difficult to recruit teachers in rural areas and to obtain teachers in special education, STEM, and bilingual education.” FFCL, p. 36; Some districts cannot maintain a sufficient number of TESOL-endorsed teachers. FFCL, p. 36; Lack of sufficient funding or sufficient numbers of teachers has led to larger class sizes. FFCL, p. 36.
- It takes resources to recruit and train skilled special education teachers, psychologist, speech and language pathologists, physical therapists, and social workers. FFCL, p. 456.
- **Class size:** The efficacy of smaller class size has been recognized, but not all at-risk students have access to a smaller class size because of the lack of sufficient funding or sufficient numbers of teachers. FFCL, pp. 29-30, 36; ELL students benefit from smaller class size, like 15:1. FFCL, p. 37.
- **Experienced teachers for at-risk students:** “The quality of teaching for at-risk students is inadequate.” FFCL, p. 33; “Teacher turnover has a negative impact on student achievement.” FFCL, p. 34.

Teacher Pay

- “Low teacher pay is an impediment to recruiting and retaining teachers in schools with high at-risk populations.” FFCL, p. 35.

Professional Development

- **Professional Development and Collaboration:** There are inadequate funds to adequately train teachers. FFCL, p. 36.
- There is not sufficient funding allocated for professional development opportunities necessary to have special education students join more in the general education setting. FFCL, p. 455.
- **Administrative Professional Development and Collaboration:** Participation in the programs lauded by PED is limited; frequently, the LFC and LESC found that PED had failed to provide verifiable evidence that its programs were working. Many programs cited by the State, such as Teachers Pursuing Excellence and Principals Pursuing Excellence, have only minimal participation by the schools in the state. While these programs may be worthwhile, their coverage is too limited and their funding is too ephemeral to justify the State’s failure to comply with the constitutional mandate. FFCL, pp. 43-44.

Instructional Support Providers (ancillary providers) for SWD

- Having ancillary personnel in the classroom is important to meet the needs of special education students, and there is not sufficient funding in New Mexico to provide the ancillary personnel for special education students. FFCL, p. 455.
- PED does not pay ancillary personnel well enough because the legislature is not allocating sufficient funding in order to provide the salary that would be necessary to have these ancillary personnel be employed. FFCL, p. 455.

Teacher Evaluation System

- NMTEACH does not use any metric to evaluate whether or not a teacher is effectively serving ELL students or whether or not a teacher is providing culturally relevant instruction to a Native American student. (pg. 34-35); Teacher evaluations may be contributing to the lower quality of teachers in high-need schools. FFCL, p. 34.

Students with Disabilities

- The State must comply with federal education statutes concerning students with disabilities in order to comply with the New Mexico Constitution’s education clause. FFCL, pp. 24-25.
- School districts do not have the necessary resources to provide special education students a sufficient education and the state also lacks adequate accountability measures and adequate expertise to ensure special education students receive the education to which they are entitled. FFCL, pp. 65-66.

- There is not a sufficient emphasis on getting special education students in New Mexico what they need so that they can rejoin the regular classroom. Stewart. FFCL, p. 455.
- The state has a role in providing the personnel resources and other resources that are needed for districts to establish and deliver special education programs. FFCL, p. 456.

K-5 Plus Summer Programs

- The efficacy of extended learning time has been recognized, but not all at-risk students have access to an extended learning program because it is inadequately funded. FFCL, pp. 29-30.
- The evidence demonstrated that money spent on classroom instruction programs such as quality Pre-K, K-3 Plus, extended school year, and quality teachers can improve the performance of at-risk students and overcome the gap caused by their backgrounds. FFCL, p. 45.

Pre-K/Early Childhood

- The efficacy of Pre-K has been recognized, but not all at-risk students have access to a quality, full-day program because it is inadequately funded. FFCL, pp. 29-30.

Extended Learning Time

- The efficacy of extended learning time has been recognized, but not all at-risk students have access to an extended learning program because it is inadequately funded. FFCL, pp. 29-30.
- An extended school day would benefit special education children, and there is not sufficient funding to allow all special education students who need extended learning opportunities to access those opportunities. FFCL, p. 455.

Reading, Literacy, and Biliteracy

- The efficacy of research-based reading programs has been recognized, but not all at-risk students have access to them because it is inadequately funded. FFCL, pp. 29-30.
- Other programs have inadequate funding to fully achieve their goals. For example, Reads to Lead does not allow for hiring reading teachers, and funding cuts have been made to this program. FFCL, p. 44.

Class Size

- The efficacy of smaller class size has been recognized, but not all at-risk students have access to a smaller class size because of the lack of sufficient funding or sufficient numbers of teachers. FFCL, pp. 29-30, 36; ELL students benefit from smaller class size, like 15:1. FFCL, p. 37; smaller class sizes have a beneficial effect on students with disabilities. FFCL, p. 455.



Instructional Materials

- Culturally & linguistically relevant materials: The State has failed to comply with the NM IEA which requires culturally and linguistically relevant education [and instructional materials]. FFCL, pp. 27-28.
- Funding cuts have prevented schools from purchasing adequate and up-to-date textbooks. The instructional materials stipend is insufficient. FFCL, pp. 26-27.
- Special education classrooms in New Mexico receive very little supply money and receive no curriculum money. FFCL, p. 455.

Technology

- There is a lack of access to technology, particularly in rural districts, which has compromised students' ability to take on-line tests ...or on-line courses, and it hinders students' ability to become educated in technology. D&O, p. 27.
- Access to computers and related infrastructure is "essential" to a constitutionally sufficient education. D&O, p. 25.
- "[Utilizing] technology" is within the "knowledge and skills that students need to enter college or the workforce[.]" FFCL, p. 167.
- Lack of access to technology compromises students' ability to take online standardized tests or classes, and to become educated in computers and technology. . . [C]hildren in New Mexico are still struggling to have adequate access and reliable access to technology. FFCL, p. 412.
- For Native American English learner students in rural locations, insufficient technology reduces

their opportunity to interact with the English language, a requirement to gain full academic and social competency. FFCL, p. 81.

- Transportation
- There are specific deficiencies in funding in the State of New Mexico for ... transportation. FFCL, p. 413.
- The funding insufficiency for transportation requires districts to divert SEG money to pay for it, which impacts class size, the programs the district can offer, and staff compensation. FFCL, p. 411.
- The lack of funds means that at-risk students cannot participate in the kind programs that would enhance their educational achievement because there is no transportation available for off-hour programs, such as after-school or summer school programs. FFCL, p. 411.
- Transportation is a necessary element of high-quality Pre-K, and it is not offered by all CYFD or PED programs. FFCL, p. 21.
- The costs of providing transportation includes salaries and benefits, diesel fuel, and maintenance and repairs. The State does not provide any additional funding, other than the initial transportation fund allocation, to help pay for maintenance and repair costs to buses. FFCL, p. 409.

After School and Summer Enrichment

- At-risk students can learn if given proper supports, including programs shown to be effective such as summer school and after-school programs. D&O p. 30.
- The state recognizes the efficacy of after school programs, tutoring, and summer school to address loss of skills over the school break, but has not funded these programs sufficiently. FFCL, pp. 46-47.
- Summer learning programs can also reduce summer learning loss and close the achievement gap for at-risk students in the early grades...Extended learning time, like summer school, is valuable to all students, but especially to low-income students. FFCL, p. 40.
- Having tutoring opportunities is important for special education students but there is no funding to provide tutoring to special education students. FFCL, p. 456.

College and Career Readiness

- "At-risk students begin school with certain disadvantages which are not the making of the school system. This fact does not, however, mean that at-risk students cannot learn if given proper support." FFCL, p. 29.
- It is not a sufficient answer to this systemic problem of poor outcomes by at-risk students to urge, as Defendants do, that the problems are caused by the socio-economic factors not attributable to the school system. While the initial cause of the poor outcomes may not be the schools, steps can be taken by the educational system to overcome the adverse impacts of a student's background. FFCL, pp. 44-45.
- The Defendants have failed to provide at-risk students with programs and services necessary to make them college or career ready. FFCL, p. 70.

Wellness and Health Center, Social Services

- Defendants have failed to provide sufficient resources for counselors, social workers, and other non-instructional staff that all students, especially at-risk students, need to succeed. FFCL, p. 64.
- Most districts do not have sufficient funding to make social and health services available to all at-risk students. Many districts have had to eliminate counselors, nurses, and social workers and/or reduce their time in the district due to budget cuts. FFCL, p. 65.
- Access to counseling and social work in schools helps low-income children be successful. FFCL, p. 66.
- District cannot supply counselors or mental health services to students with SEG funding. FFCL, p. 71.
- High-performing schools have strong non-academic supports, including counseling, social workers, nurses, and health clinics within schools. FFCL, p. 69.
- Some districts testified to the lack of social workers to serve students with special needs. FFCL, pp. 65, 68

Healthy School Environments

- More counselors are needed to work with students who may come to school having experienced as young children, domestic abuse, neglect, homelessness, which all contribute to cognitive ability. FFCL, p. 69.

Overall Funding

- The overall appropriation is insufficient to fund the programs necessary to provide an opportunity for all at-risk students to have an adequate education. FFCL, p. 53.
- The evidence demonstrated that money spent on classroom instruction programs such as quality Pre-K, K-3 Plus, extended school year, and quality teachers can all improve the performance of at-risk students and overcome the gap caused by their backgrounds. FFCL, p. 45.)
- Categorical or below-the-line funding are insufficient to provide sufficient moneys to all the districts to provide programs and other resources needed by ED and ELL students. FFCL, p. 49.
- Special education funding in New Mexico is not sufficient to meet the needs of special education students. FFCL, p. 456.

At-risk Student Funding

- New Mexico has one of the lowest rates used for at-risk calculations. (pg. 48)
- The at-risk index has been criticized that it does not correctly steer resources needed to educate ELL and children living in poverty and that it uses the census poverty levels instead of the FRL levels. FFCL, pp. 47-48.
- The funding formula has been criticized as being too complex and for not being in compliance with statute as it relates to charter schools and the T&E index. FFCL, p. 48.

Accountability

- The PED has failed to meet its supervisory and audit functions to assure that the money that is provided has been spent so as to most efficiently achieve the needs of providing at-risk students with the programs and services needed for them to obtain an adequate education.
- PED's statutory obligation to "supervise all schools" "is broad enough for PED to review and assure that districts are using the money provided by the State to provide programs to assist at-risk students." FFCL, p. 52.
- There is inadequate supervision and oversight of how special education funds are being used in New Mexico. FFCL, p. 454



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