

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT

LOUISE MARTINEZ, *et al.*,

Plaintiffs,

v.

No. D-101-CV-2014-00793

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

Defendants.

Consolidated with

WILHELMINA YAZZIE, *et al.*,

Plaintiffs,

v.

No. D-101-CV-2014-02224

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

Defendants.

Court's Findings of Fact and Conclusions of Law
And Order re Final Judgment

Following a bench trial which extended from the end of May through the beginning of August 2017, the parties were given the opportunity to present written closing arguments. Briefing on the closing arguments was completed on February 8, 2018. Thereafter the Court entered its decision on July 20, 2018. That decision

is incorporated into these findings and conclusions by this reference.¹ After the decision was rendered the parties were given 28 days to determine if any party intended to appeal. Shortly before the 28-day deadline was to expire, the State gave informal notice that it did desire to appeal on behalf of Defendants. That informal notice triggered the due date for filing proposed findings of fact – September 13, 2018. A timely motion to extend the time for filing to October 13, 2018, was granted. Plaintiffs filed joint proposed findings and conclusions totaling 554 substantive pages and Defendants filed proposed findings and conclusions totaling 572 substantive pages. The Court has now reviewed the proposed findings and conclusions and such other briefs, pleadings, exhibits, and testimony as were necessary to enter its own findings. The Court finds as follows:

¹ The Court wishes to note that it is familiar with the statements in cases like *Los Vigiles Land Grant v. Rebar Haygood Ranch, LLC*, 2014-NMCA-017, ¶ 2, 317 P.3d 842:

[W]e think it appropriate to repeat our continuing concern about the practice of some trial courts of adopting, verbatim, all or virtually all of a prevailing party's extensive requested findings of fact and conclusions of law in complex cases. This practice can all too often result in unsupported, ambiguous, inconsistent, overreaching, or unnecessary findings and conclusions. This Court looks askance at wholesale verbatim adoption of the prevailing party's extensive requested findings of fact and conclusions of law.

See also Bernier v. Bernier ex rel. Bernier, 2013-NMCA-074, ¶ 15, n. 4, 305 P.3d 978. Despite these admonitions, even though there may be similarities between the findings adopted herein and a party's proposed findings, the Court believes that it has demonstrated that it exercised independent judgment when it issued a seventy-six page decision prior to the proposed findings of fact and conclusions of law being tendered. In the Court's opinion this suffices to comply with the requirement in *Pollock v. Ramirez*, 1994-NMCA-011, ¶ 28, 117 N.M. 187, 870 P.2d 149, "that the trial court is required to exercise independent judgment in arriving at its decision[.]"

FINDINGS OF FACT

I. NEW MEXICO'S PUBLIC EDUCATION SYSTEM VIOLATES THE EDUCATION CLAUSE OF THE NEW MEXICO CONSTITUTION

A. Educational Inputs Are Inadequate

1. At-Risk Students Can Be Benefitted by Adequately Funded Programs

520. 1. Unless the context indicates otherwise, e.g., in the case of the at-risk formula, for purposes of this case at-risk students include children who come from economically disadvantaged homes, children who are English Language Learners, children who are Native American, and children with a disability. At-risk students begin school with certain disadvantages that are not the making of the school system. These disadvantages may include poor nutrition, lower parental resources and involvement, challenging home environments, high mobility rates, and fewer out-of-school educational opportunities. *See* P-2793 at 38:24-39:13; P-2799 at 9:23-10:2, 10:16-22; P-2793 at 38:24-39:13. Studies by the LFC confirm that students from low-income families often enter school far behind their wealthier peers; these studies demonstrate that language status and economic status are the largest determinants of the student achievement gap. Tr. 21:4-21 (Sallee) (7/21/17(AM)). Unfortunately, “children of lower socioeconomic status . . . face serious challenges at greater rates than . . . their peers.” Tr. 23:3-18 (Wallin) (6/20/17). In New Mexico, the problem is particularly concerning because the State consistently has the first or second highest percentage of poverty in the country.

Tr. 79:14-21 (Contreras) (6/19/17(AM)); P-1666 at 40; *see also, e.g.*, Tr. 26:19-25, 53:8-9, 55:1-3 (Wallin) (6/20/17). That means that more kids in New Mexico “enter school with greater needs and less preparation.” Tr. 72:15-74:12 (Contreras) (6/19/17(AM)).

2. All students – even those who are at risk – can learn if provided with adequately funded programs that have been shown to enhance academic achievement. This potential was demonstrated by testimony from State officials. New Mexico Legislative Finance Committee Deputy Director Charles Sallee testified that children from low-income families can and do learn and achieve at high levels if given the proper support and intervention. Sallee, 7/21/17-a.m. at 21. Acting New Mexico Education Secretary Christopher Ruskowski testified that all New Mexico students, including English Language Learner (ELL) students, Hispanic² students, Native American students, and students with disabilities “can learn at high levels.” Ruskowski 7/17/17 at 61:12-62:3, 195:1-5. Acting Secretary Ruskowski further testified that regardless of a student’s zip code, family circumstances, and community situation, the same expectations must apply. Ruskowski 7/17/17 at 261:24-262:3. New Mexico Public Education Department (PED) Deputy Secretary Hipolito Aguilar testified that he absolutely believed that economically

² In his testimony Dr. Phillip B. Gonzales, a professor at the University of New Mexico, who is an historical sociologist, uses the terms “Nuevomexicano,” “Spanish-American,” “Mexican-American,” “Latino,” and “Hispanic” inter-changeably. To the extent that these findings use these terms, they are used inter-changeably; the Court, however, tends to use the phrase “Hispanic” because that is the term used in the Hispanic Education Act.

disadvantaged students can achieve at the same rate as other students. Aguilar, 8/4/17 at 59:25-60:3. District superintendents' testimony affirmed the principle that all children can learn and succeed. Efren Yturalde, Superintendent of Gadsden Independent School District, testified that ELL students can perform at the same level as non-ELL students with the proper training, instruction, and background. In fact, ELL students can excel. Yturalde, 6/29/17 at 113:12-18. More generally, any student can succeed if you give that student the appropriate education setting and hard-working, dedicated teachers, administrators, and other personnel. Yturalde, 6/29/17 at 253:25-254:2. ELL students are capable of learning and that bilingual students "sometimes cognitively function higher" than non-bilingual students. Garcia, 6/15/17 at 137:25-138:5. All students can learn and all students could improve their achievement if given "an enriched environment with relevant curriculum and engaging with structures." Perry, 6/29/17 at 42:20-43:3.

3. The obstacles facing at-risk students and their schools, while daunting, can be overcome if at-risk students are presented with the kinds of quality programs and interventions discussed below. Indeed, the Legislature determined it is a sound principle that "every child can learn and succeed." As found by the legislature, "[N]o education system can be sufficient for the education of all children unless it is founded on the sound principle that every child can learn and succeed and that

the system must meet the needs of all children by recognizing that student success for every child is the fundamental goal.” NMSA 1978, § 22.1.1.2(A) (2015).

4. Programs have been proven to provide at-risk students with the support they need; however, not all at-risk children can participate in such programs. Various programs have been shown to provide the support that at-risk students need to learn. These include quality full-day pre-K, which addresses the issue of at-risk students starting school behind other children (Berliner, 6/12/17 at 138-39, 144-47; Sallee, 7/21/17-a.m. at 89); summer school which addresses the loss of skills over the school break (Berliner, 6/12/17 at 140, 148); after school programs, smaller class sizes, and research-based reading programs (*id.*; Sallee, 7/21/17-a.m. at 90). The Court credits these witnesses’ opinions on this issue.

5. Defendants, however, have failed to provide students with educational inputs that are adequate to provide students with an education that prepares them for college and career. The State has recognized the efficacy of programs that can provide at-risk students with proper support (5/10/17 Stip. 11; P-2797 at 20-21), but the State has not funded these programs to the extent that all at-risk children can participate in such programs. Sallee, 7/21/17-a.m. at 26-27, 82-84; Abbey, 7/25/17 at 90-91, 101; Grossman, 6/14/17 at 19; Yturalde, 6/30/17 at 9-10; Rounds, 7/12/17 at 102-03; Space, 6/29/17 at 170-71; Cleveland, 7/11/17 at 185;

P-0255 at 5 (K-3 Plus lowers achievement gap); P-0327 at 9 (after school programs can improve student outcomes).

(a) Quality full-day Pre-K

6. Both Plaintiff and Defendant witnesses testified that early childhood education for 3 and 4-year olds (Pre-K) is an important component of providing a sufficient education and equitable educational opportunities. Early childhood programs must be high quality to help at-risk students close the achievement gap. Tr. 37: 9-14 (Lenti) (7/26/17).

7. Studies have shown the importance of early interventions such as high quality Pre-Kindergarten programming for children who are not performing at grade level; such interventions produce demonstrable, positive learning impacts, including higher achievement on state assessments, fewer special education services and overall higher graduation rates and college attendance. D-5040, at 10:24-11:11 (Lenti). Research shows that early childhood education, such as Pre-K programs, are crucial to address the achievement gaps between low-income and non-low-income students, as well as with students of color, and ELL students. P-2797 at 20:10-14. Plaintiffs' expert Dr. Linda Goetze gave credible testimony that "quality preschool services can significantly improve early learning and development, help close the achievement gap and have lasting positive effects on long term school success and other life outcomes that result in benefits to participants and to society

that far outweigh preschool program costs.” P-2797 at 20:10-14. Dr. Goetze testified that “preschool education produces an immediate average effect size gain of about half a standard deviation on cognitive development,” and the “size of these effects indicate that preschool programs could by themselves close half the achievement gap between low-income and other children through the end of high school.” P-2797 at 21:13-23. As Dr. Goetze testified, high-quality, intensive, and properly implemented Pre-K programs could cut in half the achievement gap between low-income and other children through the end of high school. *See* P-2797, at 21:8-23. Dr. Goetze testified that effective preschool programs can be especially beneficial for ELL students. *Id.* at 19:20-20:4, 27:19-28:3.

8. Dr. Goetze testified that all “early childhood programs do not produce the same gains for children. . . [f]or example, in some cases child care has small negative effects on social and emotional development, particularly for children from economically disadvantaged families relying on child care subsidies.” *See* P-2797 at 22:1-4.

9. The New Mexico Pre-K system was created by the legislature in 2005 to empower CYFD and PED to develop and implement a state-wide, voluntary program for Pre-Kindergarten services that would address a child's total developmental needs, including physical, cognitive, social and emotional needs, as well as health care, nutrition, safety and multicultural sensitivity. D-5040 13:13-20

(Lenti). The New Mexico Public Education Department (PED) and the New Mexico Children, Youth & Families Department (CYFD) jointly administer the New Mexico Pre-K program. The Legislature splits New Mexico Pre-K funding between these two agencies: CYFD awards funding for Pre-K programs to childcare programs and PED awards funding for Pre-K programs to school districts. P-2797 at 42:8-10.

10. A study conducted by NIEER compared students who did not enroll in state-funded PreK based on their eligibility by age cutoff for the program with students who did enroll in PED or CYFD PreK. *See* P-2797 at 23:6-9. The NIEER study found a significant increase in vocabulary, math, and early literacy scores for students who participated in state-funded PreK compared with those that did not participate. The effect size gain was about .24 in vocabulary, .37 for early math scores, and 1.3 for early literacy. P-2797 at 23:9-16.

11. PreK provides important skills to New Mexico students. *See* P-2797 at 23:9-16. Two of the most important areas of development for three- and four-year-olds are the acquisition of oral language and early literacy skills. Dr. Goetze testified that, for that reason, quality preschool programs can be especially beneficial for children who are learning English. P-2797, at 27:19-28:3. Dr. David Berliner, an expert in the needs of low-income children, testified that early childhood education provides the kind of teaching that children from low income families might need to

start school on an even setting. Berliner, 6/12/17 at 138:16-139:15. In Dr. Berliner's expert opinion, to improve educational outcomes of low-income students, New Mexico should investment in high-quality, full-day early childhood education. Berliner, 6/12/17 at 144:22-25; 147:18-23. The Court credits the testimony of Drs. Goetze and Berliner.

12. Dr. Clive Belfield is an educational economist at Queens College, City University of New York and has extensively studied economics in education. In Dr. Belfield's expert opinion, more widespread preschool participation is an effective educational intervention that helps reduce the dropout rate. P-2793 at ¶ 17. The Court credits this opinion.

13. Dr. Jesse Rothstein is an expert in teacher quality and the economics of education. Rothstein, 7/10/17 at 10:4-8. Dr. Rothstein gave credible expert testimony. Dr. Rothstein's expert opinion is that PreK has a positive causal effect on student achievement. Rothstein, 8/1/17 at 123:17-25. Dr. Rothstein testified that high quality prekindergarten programs can reduce the achievement gap. Rothstein, 8/1/17 at 127:14-16.

14. Dr. Veronica Garcia has 40 years of experience in education. She was the first Secretary of Education in New Mexico. Ex. P-2863 at 2-3. In Dr. Garcia's experience, low-income children need access to quality early childhood education, such as PreK. Garcia, 6/12/17 at 94:20-25. The Court credits this testimony.

15. Michael Grossman, M.A. in education, has been the superintendent of the Lake Arthur Municipal Schools for sixteen years. Grossman, 6/14/17 at 7:21-25; P-2868. Superintendent Grossman testified that a PreK program would assist economically disadvantaged children in the Lake Arthur School District. Grossman, 6/14/17 at 19:8-10. The Court credits this testimony.

16. Myra Martinez is the Associate Superintendent for curriculum and instruction for the Española Public Schools. She has worked for Española Public Schools for the past 17 years. Martinez, 6/14/17 at 156:14-21. Ms. Martinez testified that PreK offers early intervention for economically disadvantaged students, which helps them enter kindergarten ready to learn. Martinez, 6/14/17 at 212:8-213:8. The Court credits this testimony.

17. Dr. Marc Space has 38 years of educational experience and is the superintendent of Grants-Cibola School District. Space, 6/28/17 at 240:17-22. Dr. Space testified that Native American students in Grants-Cibola have a greater need to receive PreK because it helps improve the English acquisition skills of Native American students. Space, 6/29/17 at 156:11-157:7. The Court credits this testimony.

18. Frank Chiapetti, M.A. in educational leadership, has 25 years of experience and was the superintendent of Gallup-McKinley County Schools. Chiapetti, 6/28/17 at 36:23-37:13; Ex. P-2865 at 2. Superintendent Chiapetti testified that one of the

best interventions for at-risk children is to enroll them in PreK programs at age four. Chiapetti, 6/28/17 at 69:24-70:8. Mr. Chiapetti testified that, based on his experience, at-risk students, including economically disadvantaged and ELL students, require early learning and early intervention programs, such as (3 and 4-year old) PreK programs. Chiapetti, 6/28/17 at 69:24-70:8, 73:14-74:14. The Court credits this testimony.

19. Melinda Webster, the Director of the Literacy and Early Childhood Education Bureau at PED, 5/5/16 Melinda Webster, Depo. Des. at 16:22-17:1, testified that at-risk children, including children who are economically disadvantaged, ELL and those in special education need PreK more than other students. 5/5/16 Melinda Webster, Depo. Des. at 50:12-18 and 50:24-51:5. The Court credits this testimony.

20. Superintendent Vanetta Perry, Perry, 6/29/17 at 11:7-12:6, testified that Magdalena Municipal Schools has a PreK program because the earlier children have the opportunity to interact with other children, to hear the English language, to practice the English language, and to begin work in literacy, the more prepared they will be for kindergarten. Perry, 6/29/17 at 22:17-21. The Court credits this testimony.

21. The expert testimony and the testimony from experienced educators leads to the factual conclusion that high quality preschool education in the United States

and in New Mexico produce significant improvements in academic outcomes for students. Ex. P-2797 at 15:1-2.

22. Preschool programs by themselves could close the achievement gap between low-income and other children through the end of high school. P-2797 at 21:20-21.

23. Preschool programs contribute significantly and positively to child cognitive development. P-2797 at 20:21-21:1.

24. Methodologically rigorous studies show that quality preschool services can significantly improve early learning and development, help close the achievement gap and have lasting positive effects on long term school success and other life outcomes that result in benefits to participants and to society that far outweigh preschool program costs. P-2797 at 20:10-15.

25. The effects of high quality preschool programs are stronger for more disadvantaged students than for middle and higher income families, although all students show academic and even long-term life benefits from participation. P-2797 at 6-9.

26. If full-time PreK were available to all New Mexico students, it would have short and long-term benefits and would improve academic outcomes for economically disadvantaged and ELL students. P-2797 at 19:20-22.

27. Dr. Berliner credibly testified that an investment in high quality Pre-K would have to be in a program that is “a full day where parents can go to work, drop the kid off, and parents pick them up after work, and there’s facilities for kids to nap, get a lunch.” Berliner, 6/12/17 at 144:16-147:23.

28. Charles Sallee oversees the LFC’s Program Evaluation Unit. Sallee, 7/21/17 a.m. at 13:15-16. Mr. Sallee testified that PED had “been doing independent outcome assessment and performance assessment” on Pre-K, and that PED found “that kids who go through that program are showing up more ready to learn in kindergarten [, and that Pre-K] is having a lasting impact through third grade on reading and math scores.” Salle, 7/21/17 a.m. at 88:24-89:21; P-2533 at 2. The Court credits this testimony.

29. The NIEER State Yearbook [D-0156] identifies a checklist of 10 research-based quality standards that identify characteristics of highly effective preschool programs. See P-2797 at 25:13-16. The checklist of New Mexico standards reviewed statewide policies, not implementation. *Id.* at 25:16-17.

30. Dr. Goetze testified that the ten quality standards in the 2015 NIEER Yearbook and corresponding benchmarks are:

NIEER Quality Standard	Benchmark
Early learning standards	Comprehensive
Teacher degree	BA (public); HSD or equivalent (non-public)

Teacher specialized training	Early Childhood license
Assistant teacher degree	Other*
Teacher in-service	45 clock hours/year
Maximum class size	20 or lower
Staff-child ratio	1:10 or better
Screening/referral and support services	Vision, hearing, health; and at least 1 support service
Meals	At least 1/day
Monitoring	Site visits

See P-2797 at 26, Table 1; D-0156. Dr. Goetze testified that four “of the 10 standards relate to the credentials of teachers and training they receive[, and that these] four standards include requirements of a bachelor’s degree for teachers, specialization in preschool education, assistant teachers must have at least a Child Development Associate (CDA) or equivalent based on coursework, and at least 15 hours of annual in-service training.” *See* P-2797 at 26:21-27:2.

31. Dr. Goetze testified that “[o]ne of the key recommended practices for a rigorous, articulated early learning policy is that programs should be at least a full school day to ensure that the program is intensive enough to achieve desirable cognitive outcomes.” *See* P-2797 at 27:8-11.

In addition, half-day programs without wrap-around services cause lower-income working families not to participate because they cannot manage arrangements required to accommodate work schedules. Children who attend child care programs do not receive the same development benefits. *See* P-2797 at 27:11-18.

32. The purpose of New Mexico PreK is to ensure that every child in New Mexico has the opportunity to attend a high quality early childhood education program before kindergarten. 5/5/16 Melinda Webster, Depo. Des. 46:25-47:5.

33. New Mexico PreK is the only state-funded Pre-k program, and it is administered by both PED and CYFD. 5/5/16 Melinda Webster, Depo. Des. 44:17-22; Martinez Stip. #1.

34. Despite NIEER standards, the evidence shows that New Mexico PreK does not fully meet those standards. Goetze, 6/19/17 p/m. at 45:12-23, 100:2-7.

35. PED does not ensure that Pre-K teachers meet baseline standards. P-2797 at 28:13-29:20, 43:13-47:2. Although the State reports having professional development available for Pre-K teachers, it is essentially an “unfunded mandate.” Goetze, 6/19/17 p.m. at 101:9-16. In addition, there are a number of administrative and data problems statewide. *Id.* at 67:21-23. Pre-K teachers are not evaluated under NM TEACH, for example. Rebolledo, 7/28/17 at 139:17-19. Although the State requires that two-thirds of students be from Title I schools, there are no available data documenting the poverty or Free-or-Reduced-Lunch (“FRL”) status

of individual Pre-K four-year-olds served in their programs. Goetze, 6/19/17 p.m. at 47:21-25.

36. New Mexico's CYFD-run Pre-K programs do not require lead teachers to have a bachelor's degree and do not require assistant teachers to have a CDA or equivalent. *See* P-2797 at 28:13-15. Dr. Goetze testified that "[c]ertified teachers are not typically employed to lead CYFD PreK programs [, and] Educational Assistants in PED and CYFD aren't required to have an educational assistant license to teach in a PreK classrooms but must show regular progress toward that license." P-2797 at 28:22-29:2.

37. NM TEACH funds, which help teachers and assistants achieve the licenses that are key to a high quality program, are in short supply. PED programs pay Educational Assistants (EAs) between \$14,000 and \$16,000, which is below the poverty level, and which prevents EAs from paying for the coursework needed to meet PreK requirements without TEACH funds. P-2797 at 29:2-8. 37. It is likely that only a fraction of teachers and educational assistants complete 45 hours of in-service training each year. P-2797 at 29:15-20.

38. There is a current shortage of TEACH scholarships to support tuition for PreK teachers and EAs in New Mexico, and that this creates a strong barrier to obtaining an associate's and bachelor's degrees, or any other degrees. P-2797 at 29:15-20.

39. Pre-K availability in New Mexico is limited and many school districts are unable to provide adequate PreK services. Lake Arthur Municipal School District, for example, has no PreK program. Grossman, 6/14/17 at 19:6-12.

40. Limited and inadequate PreK provided by the State leads in part to persistently poor achievement across grades because PreK education builds a strong foundation for future learning. Indeed, children who attend high-quality Pre-K education programs do better in school from the first day of kindergarten. P-2797 at 20:6-21:7); Rothstein, 8/1/17 at 123:17-25.

41. A student's ability to read at grade level by the third grade is the number one indicator of whether that student will complete high school. *See* 4-20-17 Stip. 1105; P-2793 ¶ 117.

42. PED does not monitor the availability of preschool or PreK to children who attend school in school districts that have not applied for New Mexico PreK funding. Martinez Stip. #111.

43. New Mexico PreK is a voluntary program. P-2797 at 42:10-11.

44. Neither PED nor CYFD tracks the socio-economic status of individual students who are enrolled in the PreK program. P-2797 at 37:12-13.

45. Not all children enrolled in PreK in New Mexico are low-income. Yazzie Stip. #1080.

46. CYFD teachers are not required to have a bachelor's degree and assistant teachers are not required to have a Child Development Associate Credential or equivalent. P-2797 at 28:14-15.

47. Headstart and high-quality child care do not offer the same academic level as New Mexico PreK. Sallee, 7/21/17-a.m. at 73:10-12.

48. New Mexico PED PreK, New Mexico CYFD PreK, Head Start, and Title I and IDEA preschool programs are not funded the same way, are not all monitored by the same entities, have different requirements in terms of teacher qualifications, and vary in terms of eligibility requirements. Martinez Stip. #10.

49. Full-day PreK is more beneficial for children than half-day PreK as they receive more instructional time. 5/5/16 Melinda Webster, Depo. Des. 356:12-24. 924.

50. It is more difficult for low-income children to attend half-day PreK programs, rather than full-day programs because working families have a difficult time finding transportation and child care after the half-day program ends. 5/5/16 Melinda Webster, Depo. Des. at 355:23-356:11; P-2797 at 27:12-15. Amber Wallin is the Kids Count Director at New Mexico Voices for Children and does data and policy analysis and research around issues in child well-being in the state. Wallin, 6/20/17 at 12:25-13:1. Amber Wallin is an expert in data and indicators regarding child well-being in New Mexico. Wallin, 6/20/17 at 15:1-6. Amber

Wallin gave credible testimony that it is difficult for parents to have a child in a half-day PreK program and to find care for the other half of the day; from a family economic standpoint, full-day PreK is preferable for parents who are working full-time. Wallin, 6/20/17 at 67:21-68:10.

51. Dr. Garcia testified that in Santa Fe Public Schools, some parents want their children in PreK but do not avail themselves of a half-day PreK program because it is inconvenient to find transportation for their child if they are working full-time. There are no wrap-around services to take care of children after PreK is over. Garcia, 6/12/17 at 77:16-78:9.

52. Full-day PreK programs better meet the needs of students because they have more of an opportunity to experience the educational environments and the skills they need to be prepared for kindergarten. Perry, 6/29/17 at 23:22-24:5.

53. The Superintendent of Gadsden testified that if he could offer full-day PreK to his students he would because students who attend full-day PreK are more successful when they enter kindergarten. Yturralde, 6/30/17 at 9:17-25.

54. The Superintendent of Hatch testified that the district had half-day PreK, but it did not work because the parents could not take time off of work to pick up their children. Linda Hale Depo. Des. at 155:20-156:3.

55. Melinda Webster testified that there are barriers to attending half-day PreK due to lack of transportation and that a full-day option is more attractive for working

parents than half-day PreK. 5/5/16 Melinda Webster, Depo. Des. at 128:16-129:9, 145:3-7.

56. CYFD has trouble recruiting families for half-day PreK programs and most parents request full-day programs. Rea, 7/28/17 at 148:16-149:3.

57. Dr. Goetze found that neither CYFD nor PED PreK programs in New Mexico offer all the necessary elements of a high-quality PreK program, such as transportation, highly qualified direct service staff, and full-day. P-2797 at 18.

58. David Abbey is the Director of the New Mexico Legislative Finance Committee (LFC). Abbey, 7/24/17 at 127:18-19. Mr. Abbey testified that PreK is a good investment and it improves educational outcomes and school readiness for low-income children. Abbey, 7/25/17 at 101:22-102:10. In particular, the LFC has consistently found that PreK significantly improved math and reading proficiency for low-income four-year-olds. Abbey, 7/25/17 at 102:16-22. LFC Deputy Director Charles Salle testified that students who go through New Mexico PreK show up more ready to learn in kindergarten, and PreK has a lasting impact through third grade on reading and math scores. Sallee, 7/21/17 a.m. at 89:16-21. Children who participate in PreK continue to demonstrate benefits sustained through third grade. P-0236 at 33. Among all third graders, students who attended PreK were more likely to score at proficient levels on the New Mexico Standards-Based Assessment (SBA) than those who did not attend prekindergarten. P-0236

at 33. The LFC has found that PreK boosts student performance, including third grade reading scores. P-0237 at 20.

59. A July 12, 2012 LFC Report states that in school year 2010-2011, third-graders who attended New Mexico PreK were proficient at nearly identical rates as the overall population of New Mexico third-graders (52 percent v. 53 percent), even though these PreK programs serve higher percentage of Hispanic, Native American, ELL, and FRL students than the overall population of third-graders. (Martinez Stip. #7).

60. Third grade students who attend PreK are less likely to be enrolled in special education and less likely to be retained than are students who do not attend prekindergarten. P-0236 at 34.

61. Defendants' expert Dr. Eric Hanushek testified that preschool is particularly important for disadvantaged students. Hanushek, 8/3/17 p.m. at 69:3-6. Dr. Hanushek testified that sound investment in a quality education starts with early childhood education. Hanushek, 8/3/17 p.m. at 69:7-9. Dr. Hanushek testified that there is evidence that preschool helps low-income students and ELL students overcome their achievement gaps in the early grades. Hanushek, 8/3/17 p.m. at 69:10-14.

62. Former New Mexico Secretary of Education Hannah Skandera testified that PreK has a positive impact on preparing low-income children for kindergarten. Skandera, 9/30/16 at 235:15-23.

63. Some cost-benefit research demonstrates a high return on investment for money spent on early childhood care and education for at-risk children. Martinez Stip. #6.

64. Research shows that a number of state-funded programs targeted to the state's most at-risk students have positive impacts on student achievement, including PreK. P-0236 at 5, 33-35.

65. Providing a multicultural and bilingual education to preschoolers is an important part of preparing a child to be successful. 5/5/16 Melinda Webster, Depo. Des. at 138:19-139:4.

66. Prekindergarten provides economically disadvantaged, ELL students, and students of color with educational opportunities that enhance cognitive and social development and enable these children to start kindergarten ready to learn and on more equal footing with their non-disadvantaged peers. Hanushek, 8/3/17-p.m. at 69:3-6, 10-14; 6-12-17 Tr. 138:16-139:15 (Berliner).

67. In comparison to their peers who do not attend PreK, students that attend PreK have higher achievement test scores, repeat grades far less often, need less special education, graduate from high school at substantially higher rates, and are more

likely to graduate. D-154 at 6; Martinez Stip. #11. Children who attend high-quality PreK do better in school from kindergarten through their postsecondary years. D-0154 at 6; P-2797 at 21:8-23; D-154 at 6. A January 2012 report to the Legislature by the LFC stated that average third-grade scores in reading proficiency steadily increased from 27.9 in 2007 to 39.5 in 2011. During that time, New Mexico invested heavily in early childhood education programs to improve early literacy, including full-day kindergarten, PreK, and the extended school year program Kindergarten-Three-Plus (K-3 Plus), reading coaches, and other school-based interventions, though funding for these programs only covered a small percentage of eligible students statewide. Yazzie Stip. #1226.

68. Dr. Berliner testified that “economists pretty much agree that for every dollar you put into early childhood education . . . you will get back about \$8 for every \$1 invested.” New Mexico’s investments in PreK have resulted in measurable, significant effects on third-grade reading proficiency rates. P-237 at 5. A January 2012 report to the Legislature by the LFC stated that cost-benefit analyses for early childhood programs indicate the returns to society for each dollar invested can extend from \$1.80 to \$17.07. Yazzie Stip. #1225. Research shows investments in early childhood programs have the potential to generate savings that more than repay the costs of the investment, have returns to society through increased taxes paid by more productive adults, and have significant reductions in public

expenditures for special education, grade retention, welfare assistance, and incarceration. Yazzie Stip. #1224.

69. Many eligible students in New Mexico receive no PreK services because of insufficient slots and funding. P-2797 at 41:24-43:2.

70. Pre-K does not generate additional units under the SEG, Martinez Stip. ¶ 14, and PreK programs “supplement funding with operating and/or Title I funds.” P-2797 at 18:12-13.

71. In New Mexico, PED pre-kindergarten classrooms are funded by below the line funding that requires school districts to put in a grant application to PED for money for pre-K education. Yazzie Stip. #1084.

72. Not all students have access to quality PreK programs because some school districts do not apply for PreK funding. Martinez Stip. #4.

73. The per-pupil PreK funding is inadequate to cover all the costs of PreK services that are provided by schools and school districts in New Mexico, and district programs have to supplement PreK funding with operating and/or Title I funds. Ex. P-2797 at 18:11-13.

74. In 2016, forty-two out of 89 school districts and two Regional Educational Cooperatives received funding through PED for New Mexico PreK. P-3025 at 37-38.

75. Dr. Belfield testified that “[o]nly 30 percent of four-year olds (and only 3 percent of three-year olds) are enrolled in state programs with funding of \$4,700 per child.” He noted that these “figures are far below optimal coverage.” P-2793 ¶ 117.

76. From fiscal year 2015 to fiscal year 2018, funding and enrollment in PreK have remained flat. P-1671 at 60; P-1676 at 2; *see also* Wallin, 6/20/17 at 70:11-71:7.

77. Funding for PreK remained flat at \$21 million from fiscal year 2015 to fiscal year 2017. D-4972 at 41; Stewart, 6/20/17 at 247:14-24.

78. NIEER reported that in the 2013-14 school year, New Mexico’s PreK per pupil spending of \$3,555 per student was below the U.S. per pupil spending of about \$4,125. Martinez Stip. #5.

79. Some districts do not participate in PreK because they cannot afford to subsidize the program with their operational budget or other funding sources. P-2797 at 49:1-4.

80. Even where PreK is available, there are substantial shortages for full-day PreK in New Mexico. P-2797 at 17:6-14. Funding shortages for PreK inhibits the delivery of quality services and full implementation of program components that are effective for students and that make the programs accessible for families. P-2797 at 20:1-3.

81. The majority of New Mexico PreK funds is used for direct service staff, teachers, and educational assistants, leaving very little, if any, funding to cover administration, materials and supplies, curriculum, transportation, utilities, and custodial costs. P-2797 at 48:3-6.

82. Children of economically disadvantaged parents have less access to quality early education than children from families that are non-disadvantaged. P-2797 at 20:9-10.

83. Few at-risk students have access to a full continuum of early childhood education programs, despite the need for extra learning time. P-237 at 8.

84. According to a 2015 LFC report, approximately 20,000 of the 27,000 four-year olds in New Mexico are economically disadvantaged. Yazzie Stip. #1227.

85. There are approximately 27,000 four-year olds eligible for PreK in New Mexico. 5/5/16 Melinda Webster, Depo. Des. at 186:2-4.

86. New Mexico PreK does not provide enough half or extended day slots to serve all students who are eligible to participate in PreK. P-2797 at 17:6-7.

87. In fiscal year 2015, only 5,082 students were enrolled in half-day PreK programs in New Mexico. Yazzie Stip. #1081.

88. In fiscal year 2015, 896 students requested enrollment in full day PreK programs in New Mexico. However, only 493 enrolled. Yazzie Stip. #1082-83

89. In fiscal year 2017, 23,359 four-year-olds did not have access to a full-day PreK program in New Mexico. P-1671 at 60.

90. The LFC estimates that over 9,000 four-year-olds in New Mexico – about one-third of four-year-olds in the state – do not have access to *any* type of PreK program, whether it's CYFD, PED, or Head Start – full-day or half-day. P-1671 at 60; *see also* Wallin, 6/20/17 at 63:7-66:19.

91. With additional state funding that Grants-Cibola County Schools recently received for PreK programs, the district was able to expand the Pre-K programs in locations where one is already in place. Yazzie Stip. #1291. Grants-Cibola County Schools, however, currently does not offer PreK programs at Bluewater and Seboyeta schools. Yazzie Stip. #1292; Space, 6/29/17 at 170:19-171:10. Grants-Cibola County Schools does not have available space and sufficient funding to offer full day, or even half-day, PreK programs to all schools that need it. Space, 06/29/17 at 157:22-158:6, 228:9-13.

92. Gallup-McKinley County Schools (“GMCS”) serves approximately 850 kindergarten students, most of who are considered economically disadvantaged and ELL. Chiapetti, 6/28/17 at 69:3-17. Due to insufficient funding, GMCS does not provide PreK programs in all of its schools; it provides one PreK program specifically to developmentally delayed (DD) students and students with disabilities. Chiapetti, 6/28/17 at 67:6-9, 67:17-68:3. Due to insufficient funding,

GMCS offers one full-day PreK program to non-special education four-year olds (the State does not fund 3-year old programs) in 9 of 19 elementary schools, which, in total, serves twenty students per program or approximately 180 children. Chiapetti, 6/28/17 at 68:4-69:1. Due to insufficient funding, including insufficient transportation funds, GMCS can only provide PreK programs to about one-third of the entire population of four-year old children that require it. Chiapetti, 6/28/17 at 70:9-22, 71:12-15, 71:22-25; 72:15-23, 74:18-75:8.

93. Dr. Garcia testified that about 40 percent of Santa Fe School District's four year-olds do not have access to PreK. Garcia, 6/15/17 at 53:17-54:24. James Lujan, Associate Superintendent of the Santa Fe School District, testified that there are no open spots for PreK in Santa Fe and that there is usually a waitlist for students to get into a program. 8/10/16 James Lujan, Depo. Des. at 36:14-17. Mr. Lujan testified that without more funding from the State, Santa Fe cannot expand its capacity for PreK in the district. 8/10/16 James Lujan, Depo. Des. at 37:15-21.

94. Moriarty-Edgewood School District only provides Pre-K education to developmentally delayed students. Sullivan, 7/12/17 at 177:19-178:2. The district provides 50 developmentally disabled three- and four-year-olds PreK out of its 180 four-year-old population. Sullivan, 7/12/17 at 180:7-25.

95. Gadsden ISD provides only half-day PreK services. Yturralde, 6/30/17 at 9:17-10:2.

96. Rio Rancho School District also does not provide PreK for all students because of lack of funds. Cleveland, 7/11/17 at 185:3-8. Dr. Sue Cleveland, Rio Rancho Superintendent, testified that the district only serves about 30 percent of students who would like to have access to PreK. Cleveland, 7/11/17 at 185:3-8.

97. In Española, the district has about 300 kindergarten class each year, but the district can only provide PreK services to 60 students. Martinez, 6/14/17 at 217:10-19.

98. The Superintendent of Magdalena testified that its district can offer PreK to only 10 of its 28 students. Perry, 6/29/17 at 53:18-25. In the 2016-2017 school year, Magdalena Municipal School District did not have the funding to offer a full-day of PreK to four-year-olds. Yazzie Stip. #1333.

99. The Superintendent of Los Lunas testified that about 360 four year-olds do not have access to New Mexico PreK. Sanders, 7/10/17 at 192:13-22. The Superintendent of Los Lunas testified that Los Lunas would offer more PreK to its students if it had the funding to do so. Sanders, 7/10/17 at 193:12-14.

100. Stan Rounds, the former Superintendent of Las Cruces, testified that Las Cruces Public Schools serves 10 percent of its student population with half-day PreK. Rounds, 7/12/17 at 103:18-22; 102:22-103:3.

101. The New Mexico Legislature has the ability to ensure that every four-year-old has the opportunity to participate in PreK; to do that, it would need to increase

funding substantially. Sallee, 7/21/17 a.m. at 71:13-17. Charles Sallee testified that the State could also make targeted categorical appropriations that would be very specific to ensure that at-risk students are receiving services, including things like PreK and K-3 Plus. Sallee, 7/21/17 a.m. at 27:8-11.

102. However, there is no plan, timeline, or budgeted figures from the State to provide full-day PreK to every four-year-old in the state. Stewart, 6/20/17 at 257:24-258:7.

103. The State has not conducted any analyses to determine how much it would cost to provide full-day PreK to all four-year-olds. Ex. P-0236 at 41. Neither PED nor LFC have a plan to implement and fully fund PreK. Stewart, 6/20/17 at 258:4-13.

(b) K-3 Plus

104. PED administers the New Mexico K-3 Plus Program, which was created to provide additional instructional time for students in kindergarten through 3rd grade. NMSA 1978 §22-13-28; Defendants' Agreed Stipulation No. 27. Research shows that K-3 Plus has a positive impact on student achievement. P-085 at 96.

105. Schools with 80 percent or more children eligible for free and reduced lunch are eligible for the K-3 Plus Program, in addition to any school with a D or F school grade, and schools that have improved their school grade with the K-3 Plus

Program that wish to continue the program. NMSA 1978, § 22-13-28(C); Martinez Stip. #8.

106. A 2011 evaluation of New Mexico's K-3 Plus program conducted by Utah State University found positive effects on third-grade reading, writing, and math SBA performance and estimated the benefits from reduced grade retention and remediation services offset all K-3 Plus costs. P-0237 at 23; 5/5/16 Melinda Webster, Depo. Des. at 222:4-12.

107. The purpose of the K-3 Plus program is to increase literacy and numeracy, to demonstrate that increased instructional time in kindergarten and the early grades narrows the achievement gap between at-risk students and other students, to increase cognitive skills, and to lead to higher achievement scores for all participants. 5/5/16 Melinda Webster, Depo. Des. at 196:17-197:5; P-0255 at 5.

108. K-3 Plus has significant positive effects on literacy and numeracy for students who enroll and attend the program compared with students who do not attend. P-2797 at 24:6-8. The program has increased student performance; scores for K-3 Plus students, as they move through the grades, have increasingly improved at each benchmark over a five-year analysis. D-023 at 25-27. K-3 Plus has a significant and positive impact on low-income students' academic performance. P-0255 at 5; P-0237 at 23-24.

109. If fully implemented, K-3 Plus would have short and long-term benefits and would improve academic outcomes for New Mexico's economically disadvantaged and ELL students. P-2797 at 19:20-22.

110. The largest gains for students enrolled in K-3 Plus were achieved and maintained by students who were able to receive school year services from the same teacher that they had during the summer. P-2797 at 24:8-10.

111. It would be beneficial for all students enrolled in a high poverty schools to be enrolled in the K-3 Plus program. 5/5/16 Melinda Webster, Depo. Des. at 226:13-16.

112. It is necessary for economically disadvantaged students and ELL students to have a longer learning year through the K-3 Plus program. 5/5/16 Melinda Webster, Depo. Des. at 326:14-25.

113. Per statute, PED must administer K-3 Plus and must provide the funding for approved full-day kindergarten and grades one through three to be extended by at least twenty-five instructional days, beginning up to two months earlier than the regular school years. Yazzie Stip. #1229; NMSA § 22-13-28(B); P-2797 at 19:9-10.

114. To be eligible for K-3 Plus, a school must be a D or F school or a school with an 80 percent or higher free and reduced lunch population at the time of

application. The State is unable to fund all schools that meet these qualifications.

NMSA § 22-13-28(C); Stewart, 6/20/17 at 170:7-13.

115. The cost of K-3 Plus per child is 30 percent of the unit value set by the Secretary of Education for the previous year. NMSA § 22-13-28(F); Stewart, 6/20/17 at 242:17-21.

116. In the 2015-2016 school year, the summer daily rate for a 25-day program of K-3 Plus was \$48.09 per day per child. Yazzie Stip. #1099.

117. School districts have to apply for K-3 Plus funding. Goetze, 6/19/17 at 57:23-58:1.

118. PED administrative burdens of the K-3 Plus program prevent some districts from participating. P-2797 at 39:1-2.

119. Districts do not find out whether they will be funded until late in the fiscal year. Coleman, 6/22/17 at 130:22-131:2.

120. Finding out whether a district will receive K-3 Plus late in the fiscal year makes it difficult to enroll students and to secure a teacher in time, leaving many districts unable to provide the program even if they are granted funding. P-2797 at 39:1-12.

121. School administrators reported that they had not received their K-3 Plus grant funding letters from PED with the number of slots that they were awarded by the State until May 2016. P-2797 at 2-4.

122. K-3 Plus programs take place in the summer time. Some K-3 Plus programs begin in June and most begin by July, which leaves little time for recruitment of students and communication with their families about participating in K-3 Plus. Because of this, it can be difficult for districts to ensure there are enough students and teachers to implement the program. P-2797 at 4-7.

123. Districts have to recruit and contract with teachers to staff the K-3 Plus program for the summer. By May of 2016, many teachers had made summer plans, leaving them unavailable to teach during the summer time, so districts were not able to align teacher and student recruitment by grade or language needs and skills. P-2797 at 8-11

124. Districts also report a shortage of bilingual staff willing to teach K-3 Plus, which is consistent with the findings of lower effects for K-3 Plus ELL students. P-2797 at 11-12.

125. Some families enroll in the K-3 Plus program but take their vacation in late July or August, which means those students are unable to attend the K-3 Plus program in its entirety. When a student cannot attend the program in its entirety, the student may not generate funding based on attendance requirements for K-3 Plus funding. P-2797 at 13-16.

126. The funding for K-3 Plus is based on the number of students enrolled on the 15th day that have attended at least 10 days of class. This leaves districts short of

funds to cover classroom costs. This was a huge problem for Albuquerque and Las Cruces last year and is a major reason why districts “give back” K-3 Plus grant funds to PED. P-2797 at 16-19.

127. The return of the funds is not evidence that districts do not need those funds to operate their K-3 Plus grant program since most of their costs are fixed and do not vary with student enrollment or attendance. P-2797 at 19-21.

128. Because funding for K-3 Plus is based on a per pupil amount, small school districts, like Lake Arthur, do not have enough students to generate enough funding to pay for teachers for the program and therefore have never been able to offer it. Grossman, 6/14/17 at 20:17-21:5.

129. There is not enough funding for all districts to participate in K-3 Plus or for all at-risk children in New Mexico to have access to K-3 Plus. Goetze, 6/19/17 at 57:23-58:7; Garcia, 6/12/17 at 79:4-8.

130. A main factor for not expanding K-3 Plus to all students is fiscal constraints. Abbey, 7/25/17 at 91:18-92:2.

131. In fiscal year 2008, the budget for K-3 Plus was \$7.2 million. Yazzie Stip. #1091.

132. In fiscal year 2009, the budget for K-3 Plus was \$7.2 million. Yazzie Stip. #1092.

133. In fiscal year 2010, the budget for K-3 Plus was \$7.9 million. Yazzie Stip. #1093.

134. In fiscal year 2011, the budget for K-3 Plus was \$5.5 million. Yazzie Stip. #1094.

135. In fiscal year 2012, the budget for K-3 Plus was \$5.3 million. Yazzie Stip. #1095.

136. In fiscal year 2013, the budget for K-3 Plus was \$11 million. Yazzie Stip. #1096.

137. In fiscal year 2014, the budget for K-3 Plus was \$15.95 million. Yazzie Stip. #1097.

138. In fiscal year 2015, the budget for K-3 Plus was \$21 million. Yazzie Stip. #1098.

139. The funding for K-3 Plus remained flat from fiscal year 2015 through fiscal year 2017. D-4972 at 41; Stewart, 6/20/17 at 247:25-248:11.

140. Tammy Coleman is the Chief Financial Officer for Albuquerque Public Schools and has 27 years of experience in public schools in New Mexico. Coleman, 6/22/17 at 109:18-110:7. Ms. Coleman testified that the level of funding for K-3 Plus for APS declined by 50 percent from school year 2015-16 to school year 2016-17. Coleman, 6/22/17 at 130:19-21.

141. The Superintendent of Gallup-McKinley County Schools testified that if the state cuts the district's K-3 Plus funding, it does not have the money elsewhere to provide those services to its students. Chiapetti, 6/28/17 at 78:14-20.

142. Sondra Adams, the Assistant Superintendent of Pojoaque Valley Public Schools, testified that the Pojoaque Valley Public School District does not have enough money in its funds to pay for the K-3 Plus program on its own. Sondra Adams, Depo. Des. at 5:13-16, 85:5-8.

143. Ms. Adams also testified that PED told the district to apply for K-3 Plus funding, but the district's application was denied because there were insufficient state funds. Sondra Adams, Depo. Des. at 83:11-17.

144. Superintendent of the Moriarty-Edgewood School District, Tom Sullivan, testified that less than half of the district's students have access to K-3 Plus. Sullivan, 7/12/17 at 184:6-15.

145. The Superintendent of Hatch, Linda Hale, testified that the students in Hatch would benefit from an extended school year, but the district cannot afford to pay the teachers for additional days. 6/26/16 Linda Hale, Depo. Des. at 162:8-19.

146. The Legislature estimates that 52,000 students in kindergarten through third grade who are eligible do not receive K-3 Plus services. The Legislature estimates that \$68 million in funding is needed to serve those students. Wallin, 6/20/17 at 71:12-72:6; P-1671 at 60.

147. The LFC reports that 70,343 students are eligible for K-3 Plus, but only 19,383 received it in fiscal year 2016. P-1671 at 60.
148. The LFC has estimated that 52,206 additional students are in need of K-3 Plus. P-1671 at 60; Wallin, 6/20/17 at 71:12-73:6.
149. K-3 Plus is not available to all at-risk students in kindergarten through third grade in New Mexico. Yazzie Stip. ##1100-01.
150. K-3 Plus is not provided in all high-poverty public elementary schools. Yazzie Stip. #1102.
151. In fiscal year 2008, PED approved 54 K-3 Plus programs for approximately 5,000 students in 17 school districts. Yazzie Stip. #1085.
152. In fiscal year 2009, PED approved 92 K-3 Plus programs for approximately 7,000 students in 25 school districts. Yazzie Stip. #1086.
153. In fiscal year 2010, PED approved 93 K-3 Plus programs for approximately 8,000 students in 25 school districts. Yazzie Stip. #1087.
154. In fiscal year 2011, PED approved 62 K-3 Plus programs for 5,816 students. Yazzie Stip. #1088.
155. In fiscal year 2012, PED approved 50 K-3 Plus programs for 4,564 students in 14 school districts. Yazzie Stip. #1089.
156. In fiscal year 2013, PED approved 75 K-3 Plus programs for 7,163 students in 20 school districts. Yazzie Stip. #1090.

157. From fiscal year 2016 to fiscal year 2017, the number of students enrolled in K-3 Plus declined. Wallin, 6/20/17 at 72:7-10; Ex. P-1671 at 60.

158. In June 2017, PED cut the number of children who receive K-3 Plus by 4,000-5,000 students, forcing districts like Albuquerque, Santa Fe, and Las Cruces to reduce the number of students who could participate. Stewart, 6/20/17 at 168:20-169:4.

159. Dr. Garcia, Superintendent of Santa Fe, testified that in 2017, she received a letter from PED informing her that approximately 250-270 students will not receive K-3 Plus services because the districts' funding had been cut. Garcia, 6/15/17 at 57:10-22.

160. The Legislature has the authority and ability to put more money into K-3 Plus to ensure that every child who needs the program receives it. Sallee, 7/21/17-a.m. at 72:1-12.

(c) Afterschool, Summer School & Extended Learning Time Programs

161. Summer learning programs, can also reduce summer learning loss and close the achievement gap for at-risk students in the early grades. [See P-2797, at 19:11-13, 63:1-5.]

162. Extended learning time, like summer school, is valuable to all students, but especially to low-income students. Berliner 6/12/17 at 147:24-148:13.

163. Dr. Garcia testified that low-income children benefit from extending the school year, like with K-3 Plus and afterschool tutoring. 6/12/17 at 94:20-95:4.

164. Superintendent Grossman testified that K-3 Plus benefits low-income children. 6/14/17 at 20:8-16.

165. Dana Sanders, masters in elementary education, is the superintendent of Las Lunas Public Schools. She has over thirty years of experience in education. Ex. P-2873 at 1-2. Superintendent Sanders testified that extended learning time is important for all students, but especially at-risk students. Sanders, 7/10/17 at 196:5-6.

166. Extended learning time through longer school days, longer school years, and tutoring have a positive causal effect on student achievement. Rothstein, 8/1/17 at 123:17-25.

167. Extended learning time can make a big difference in terms of closing the summer learning gap for low-income children. Goetze, 6/19/17 at 55:2-5

168. Dr. Melville Morgan, Ph.D. in educational administration, has been working in public education for 30 years and is the superintendent of the Pojoaque Valley School District. Morgan Depo.Desig. at 5:11-12; 9:13-15, 18-20. Summer school and afterschool programs are critical in the Pojoaque Valley School District because some children need more time to learn than the required 174 days. Morgan Depo.Desig. at 50:14-24, 51:17-21.

169. Increased time in kindergarten and the early grades improves reading, writing, and math performance and narrows the achievement gap between disadvantaged students and other students. Ex. P-0255 at 5.

170. Denise Koscielniak, masters in educational administration, with twenty-five years of experience in education, Ex. D-5012 at 42-44, testified that extended learning time offers economically disadvantaged students more time on task. Koscielniak, 7/19/17 at 284:22-25. Ms. Koscielniak testified that extended learning time benefits low-income children in New Mexico. Koscielniak, 7/19/17 at 284:13-15.

171. Charles Sallee testified that there are significant benefits from K-3 Plus. Sallee 7/21/17-a.m. at 90:1-4.

172. David Abbey testified that investment in extended school year is one of the best ways to increase graduation rates in New Mexico. Abbey, 7/25/17 at 112:23-113:12.

173. Leighann Lenti is the former Deputy Director of Policy and Programs for PED from 2013-16. Ex. D-5040 at 1. Ms. Lenti testified that additional extended learning time can help low-income students overcome educational challenges. Lenti, 7/26/17 at 34:9-12.

174. Students who participate in after school programs achieve higher grades in school and engage in less risky behaviors. Ex. P-0327 at 39.

175. Many afterschool programs consist, in part, of academic tutoring, which is beneficial to low-income students. Garcia, 6/12/17 at 94:20-95:4.

176. The Superintendent of Magdalena testified that one reason Magdalena is able to achieve a high graduation rate is because the district provides a lot of individual attention to high school students who are struggling, including afterschool tutoring and summer school credit recovery programs. Perry, 6/29/17 at 39:5-40:2.

177. Students that participate in after school activities achieve higher grades in school and engage in less risky behaviors. Ex. P-0327 at 39. (Yazzie Stip. #1230)

178. After school programs can address student performance by offering interventions for struggling students. (Yazzie Stip. #1231) Ex. P-0327 at 39; *see also* Koscielniak 7/19/17 at 284:22-285:11.

179. After school programs can address student performance by extending learning time on task. (Yazzie Stip. #1232) Ex. P-0327 at 39; *see also* Koscielniak 7/19/17 at 284:22-285:11.

180. After school programs can address student performance by keeping students engaged in a positive environment. (Yazzie Stip. #1234) Ex. P-0327 at 39; *see also* Koscielniak 7/19/17 at 284:22-285:11.

181. The 21st Century Community Learning Centers (CCLC) program is a federally funded after school program for high poverty, low-performing schools. (Yazzie Stip. #1235) In New Mexico, the CCLC programs provide academic

enrichment opportunities during non-school hours for children. (Yazzie Stip. #1236) The CCLC programs help students meet state and local student standards in core academic subjects, such as reading and math. (Yazzie Stip. #1237) The CCLC programs offer literacy and other educational services to the families of participating children. (Yazzie Stip. #1238) As of June 2015, in New Mexico, nearly 160,000 students meet the eligibility requirements for the 21st Century Community Learning Centers. (Yazzie Stip. #1239) In 2015, 8,392 students participated in CCLC programs in New Mexico. (Yazzie Stip. #1240)

182. High transportation costs, a lack of private partners, competition for limited community facilities, a limited tax base, and the difficulties of recruiting and retaining qualified staff prevent many school districts from providing after school programs to its students. (Yazzie Stip. #1241)

183. Summer school can similarly address student performance by providing opportunities for elementary students to be exposed to both academic and other enrichment activities in order to be prepared for the next school year, keeping them on track for graduation. Perry, 6/29/17 at 30:16-19; 31:8-13.

184. Summer school for middle school students is targeted to core subject areas that they have not passed, which helps students stay on track for graduation. Perry, 6/29/17 at 30:20-25

185. Summer programs like credit recovery for high school students are critical to help with dropout rates and ensure students graduate on time. Cleveland, 7/11/17 at 196:8-17.

186. Summer programs are particularly important for low-income children in the primary grades; without summer school or summer projects, the gaps between middle class and low-income students get larger and larger, year after year, and sometimes these gaps are insurmountable. Berliner, 6/12/17 at 140:2-17.

187. Districts across the state severely limit extended learning opportunities because the districts do not have the funds to provide after school, tutoring, summer school, and similar opportunities to all students who need such services. Rio Rancho, for example, does not provide after school tutoring, credit recovery, and dual credit for all students because of lack of funds. [7-11-17 Tr. 185:3-8, 191:18-192:1; 193:22-194:23, 197:23-198:9 (Cleveland).]

188. Magdalena Municipal Schools similarly had to cut all tutoring, except for tutoring offered to high school students due to funding cuts. [6-29-17 Tr. 33:21-34:3 (Perry).]

189. Dr. Veronica Garcia also testified that there are ELL students in Santa Fe Public Schools who need summer school but who do not have access to it, and that overall the availability of summer school is limited due to insufficient funding. [6-15-17 Tr. 127:1-14 (Garcia)]; see also [6-20-17 Tr. 173:2-174:11 (Stewart)]

(testifying that summer school for elementary students used to be free, but the Legislature is not giving the districts enough money for summer school programming and therefore there is no elementary summer school in the state anymore).]

190. Martinez Plaintiff parents likewise testified that extended learning opportunities are not available to their children. Plaintiff Rayos Burciaga testified that her daughter struggles with several of her high school subjects, but has not received tutoring and is on the summer school waiting list. [6-15-17 Tr. 246:2-15 (Burciaga).]

191. Plaintiff Roberto Sanchez likewise testified that his sons did not receive tutoring or summer school when they received poor grades over the years. [6-13-17 Tr. 41:17-22, 42:14-19, 50:16-51:4 (Sanchez).]

192. These failings further evidence Defendants' constitutional violation: as Dr. Rothstein testified, after-school and extended-learning programs "have been convincingly demonstrated to have positive causal effects on student achievement." [8-1-17 Tr. at 123:13-124:11 (Rothstein).]

193. Superintendent Frank Chiapetti similarly testified that after school programs are a "vital need with our [low] proficiency rates," but that PED has stopPED funding such programs. [See 7-28-17 Tr. 77:9-78:9 (Chiapetti).]

194. Not all New Mexico schools offer after school programs. (Yazzie Stip. #1103) Even when districts do have a summer or afterschool program, it is limited due to funding. Garcia, 6/15/17 at 127:1-14.

195. Superintendent Chiapetti testified that although summer school and afterschool programs are vital to Gallup's students, the district cannot afford to provide both programs. Chiapetti, 6/28/17 at 77:16-18, 78:10-13.

196. Mr. Chiapetti testified that GMCS received 21st Century grant funding in the 2014 and 2015 SYs for after school and summer programs, which are vital to improving student proficiency scores. As of 2015-16, however, GMCS no longer receives that funding and, therefore, bears the cost of continuing the delivery of those programs, Chiapetti, 77:9-21.

197. Districts often cannot provide afterschool or summer school programs even though students want to participate because the districts cannot afford the transportation for the students. Chiapetti, 6/28/17 at 143:14-17, 224:10-225:13.

Superintendent Chiapetti testified that the district is unable to provide transportation home from afterschool programs because the district cannot afford to run buses outside of the regular school day; the State will not pay for it. Chiapetti, 6/28/17 at 143:14-17.

198. Superintendent Space testified that accessibility to afterschool programs in the Grants-Cibola school district is a challenge because the district is unable to provide

transportation home for the children. Space, 6/29/17 at 158:14-22, 149:11-14. Superintendent Space testified that Grants-Cibola offers after school activities, including tutoring, to all students, but the programs are only accessible to students with personal transportation. Often the district's Native American children who live on the reservation lack access to these programs because they have to find personal transportation. Space, 6/29/17 at 158:14-22.

199. Senator Stewart testified that there is not summer school anymore because the State is not giving districts enough money. Stewart, 6/20/17 at 173:2-11

200. Senator Stewart testified that the State used to have tutoring programs that was paid for with federal funding, but those tutoring programs are gone now. Stewart, 6/20/17 174:24-176:4.

201. Senator Stewart testified that Albuquerque Public Schools used to be able to offer night school from 4:00-9:00 for students who were dropping out because they had to work to help support their families, but this program no longer exists because there is not enough funding. Stewart, 6/20/17 at 177:5-16.

202. Dr. Perry, Superintendent of Magdalena, testified that the district cut all of its tutoring programs except for its high school students due to lack of funding. Perry, 6/29/17 at 33:21-34:22.

203. The Superintendent of Gadsden testified that there is currently tutoring available in his district, but that the funding will soon run out. Yturralde, 6/30/17 at 81:2-6.

204. Losing these programs has a detrimental effect on students. Perry, 6/29/17 at 15-16.

205. Even when districts do have a summer or afterschool program, not all students who need it have access to it. Garcia, 6/15/17 at 127:1-14; 125:6-8; Sullivan, 7/27/17 at 184:6-15 (specific to K-3 Plus).

206. The Hatch School District would offer summer school if it could afford it. Hale, Depo. Desig. at 149:16-19.

207. There are no academic-based afterschool programs for elementary students in the Zuni District. (Yazzie Stip. #1319)

208. Senator Stewart testified that credit recovery is a strategy to try to keep a child on track to graduate. Stewart, 6/20/17 at 177:19-178:9.

209. The State does not provide sufficient funding statewide for credit recovery programs for high school students. Stewart, 6/20/17 at 178:10-12.

210. Dr. Cleveland testified that Rio Rancho has credit recovery available after school, but the district cannot serve every child who needs it. Cleveland, 7/11/17 at 193:22-195:6.

211. The Hatch School District offers minimal summer school for credit recovery at the high school. Hale, Depo. Desig. at 149:14-16.

212. Low income students have fewer educational opportunities such as preschool programs, summer programs and tutoring. (Lenti, 95) (Martinez Stip. #96)

(d) Smaller Class Sizes

213. The State of New Mexico sets by statute the appropriate class size and class load for all grades and content areas. NMSA § 22-10A-20.

214. PED has no programs or initiatives focused on reducing class size even though New Mexico has class size requirements by statute. Montano, 7/18/17 at 225:19-24.

215. Research shows that smaller class sizes are associated with higher achievement, higher earnings, higher high school graduation rates, and higher college completion rates. Belfield, 6/13/17 at 46:16-22; Rothstein, 8/1/17 at 123:17-25.

216. Students who are struggling academically or socially benefit from smaller class sizes because they get more differentiated instruction from their teachers. Martinez, 6/14/17 at 196:11-197:6.

217. PED acknowledges that waiving class size and other requirements “could have a significant negative impact on student achievement, particularly with

students in need of additional assistance, instructional time, and individualized interventions.” P-122 at 2.

218. The PED acknowledges that class-size waivers may have significant impact on student performance in math, reading, and language arts, and that “decreased learning time may affect student learning.” P-122 at 2-3.

219. ELL students, who need more attention, benefit from smaller class sizes. Dr. Kathy Escamilla testified that there is no support for the proposition that class sizes do not matter for ELL students and explained that a low student-teacher ratio of 15-to-1 is ideal for improved language acquisition. Escamilla, 6/26/17 at 35:11-22. The Court credits this testimony.

220. Dr. David Berliner credibly testified that dropping a class size to 15-17 students increases student achievement in the early grades. Berliner, 6/12/17 at 219:15-21.

221. A reduced teacher-student ratio allows teachers to better differentiate instruction and provide additional support for ELL students, but New Mexico is not doing this statewide. Garcia, 6/12/17 at 115:19-22.

222. Because districts do not have the money to pay for teachers at the current statutory class size requirements, they are forced to increase class sizes and, in many cases, seek class size waivers from the state and exceed the State’s statutory maximum class sizes. Stewart, 6/20/17 at 157:6-158:20, 259:20-23.

223. The Legislature has granted these waivers to allow districts to “save money,” but students have paid the price: Class sizes are 7-10 percent larger, and students get less individualized attention from teachers as a result. Stewart, 6/20/17 at 157:6-158:20, 259:20-23.

224. Gadsden ISD, one of the better performing school districts in the state, has had to eliminate over 53 classroom positions and 15 essential teachers since 2008. Yturralde, 6/10/17 at 23, 242-244.

225. Tami Coleman, Chief Financial Officer for APS, said in fiscal year 2017, APS operated “under a 5 percent class-size waiver, which means that all of [the district’s] classes are 5 percent higher than what they really should be based on the numbers that are in the statutes.” Coleman, 6/22/17 at 149:16-150:11.

226. Ms. Coleman testified that for fiscal year 2018, APS “was continuing to budget at the 5 percent class-size waiver.” Coleman, 6/22/17 at 150:15-20.

227. Dr. Vanetta Perry testified that Magdalena Municipal School District has had to reduce staff due to budget cuts, which has resulted in larger class sizes. She stated that at the elementary level, from the 2016-17 to the 2017-18 school year, MMS “reduced two teachers per grade level to one teacher per grade level. And so that means that class size will be doubled without additional help in the classes.” Perry, 6/29/17 at 18:11-17.

228. Dr. Perry testified about the negative consequences of doubling the class size: “Because we have a high percentage of students who are English language learners, and we have students with disabilities, both groups of students that need one-on-one or small group work, it’s going to be detrimental to that educational effort because the teachers won’t have as much time to provide that individual attention as they would have in the smaller class sizes when we had two teachers per grade level.” Perry, 6/29/17 at 18:18-19:2. Dr. Perry also testified that one teacher and an educational assistant is an insufficient substitute for two certified teachers in a classroom. She stated, “An educational assistant does not have the educational or professional background that teachers do. . . .” Perry, 6/29/17 at 81:11-82:9. Dr. Perry testified that students in Magdalena schools need individual attention; the larger the class size, the less individual attention students receive. This has a detrimental effect throughout children’s tenure as a student in the school district. Perry, 6/29/17 at 21:15-22:12. Dr. Perry testified that she has concerns about the district being able to maintain its high graduation rate in the future because the district is losing small class sizes in its elementary school. She is concerned about students’ ability to acquire the skills and knowledge they need to be successful when there are larger class sizes. Perry, 6/29/17 at 40:10-14.

229. Dr. Virginia Sue Cleveland, superintendent of Rio Rancho Public Schools, testified that providing small class size is a factor in schools in Rio Rancho having

higher school grades; however, the district is finding this increasingly difficult to do. Cleveland, 7/11/17 at 159:23-160:4, 162:10-163:5. Dr. Cleveland testified that class sizes in Rio Rancho have increased because the district has to use SEG money and apply it for the shortfall in transportation and instructional materials funding. Cleveland, 7/11/17 at 212:20-24. Dr. Cleveland testified that her district had to reduce 41 teaching positions, which caused class sizes to increase. Cleveland, 7/11/17 at 221:8-15.

230. Dr. Cleveland stated that increased class size “has an impact on all children, but particularly high-need children” because “children that have higher needs . . . children that maybe are not as engaged in school, or maybe children who struggle to be successful in school, or maybe children who need more differentiation in the classroom, that’s all really hard to do when your classes get larger.” Cleveland, 7/11/17 at 221:8-222:2. Dr. Cleveland testified that differentiation of instruction to accommodate different levels of knowledge in the classroom is made more difficult by larger class sizes. Cleveland, 7/11/17 at 221:16-222:18. In school year 2016-2017, Rio Rancho had 28 classrooms without teachers. Cleveland, 7/11/17 at 228.

231. Dana Sanders, Los Lunas school superintendent, testified that small class sizes would help at-risk students. Sanders, 7/10/17 at 209:16-210:1, 236:17-22. However, the district is not able to provide smaller class sizes because its budget

will not allow for it. Sanders, 7/10/17 at 210:2-9. The Los Lunas school district has had to cut 92 instructional staff positions in 2010-2011 due to budget cuts, which significantly increased class sizes. Sanders, 7/10/17 at 217:19-218:6. In school year 2010-11, a \$3 million budget deficit forced Los Lunas to cut 92 staff positions – including 40 teachers and several administrative positions – which resulted in having to cut many electives from the district’s curriculum. Yazzie Stip. #1280.

232. Tom Sullivan, superintendent of Moriarty-Edgewood, testified that the district has not been able to stay within the statutory limits for class size because it cannot afford to hire more teachers. Sullivan, 7/12/17 at 195:4-196:3.

233. School districts’ systemic use of class size waivers demonstrates that funding is insufficient to allow all districts to maintain the smaller sizes recommended by experts and required by statute. Stewart, 6/20/17 at 157-58; 262-63; Sanders, 7/10/17 at 217-218; Cleveland, 7/11/17 at 159-160, 162-163, 212, 221; Sullivan, 7/12/17 at 195-196, 271-272.

234. Some districts, like Santa Fe, have decided to cut or limit other necessary programs and services in order to maintain smaller class sizes for some students. Garcia, 6/12/17 at 114:1-14.

235. The Superintendent of Hatch Valley Public Schools testified that the district has cut positions in central office and from the custodial staff to keep the class

sizes small for its ELL students. Linda Hale, Depo. Des. at 150:13-151:14 (Hatch).

(e) Research-based reading programs

236. Literacy programs and practices that are based on valid research are essential to ensure that low-income students learn how to read at grade level. Webster, Depo. Desig. at 309:4-22.

237. These programs include intensive professional development for teachers on how to teach reading, 90-minutes of reading instruction per day for students, and additional intervention and time for instruction if students are not successful. Stewart, 6/20/17 at 128:17-20, 132:3-12, 153:6-24, 154:1-155:3; Webster Depo. Desig. at 308:15-310:10.

238. Teachers must be trained to teach reading with direct, explicit, sequential, and systematic instruction. Webster, Depo Desig. at 309:14-18; Stewart, 6/20/17 at 133:4-134:25. Additional intervention includes extended learning time and/or additional time with a reading interventionist. Webster, Depo. Desig. at 309:23-310:10.

239. It is critical that children be proficient readers by the end of third grade in order to be successful for fourth grade and beyond. Webster Depo. Desig. at 267:3-5 (Yazzie Stip. #1104)

240. Early reading proficiency is well established as a strong predictor of high school graduation rates and future earning potential. Research shows that students who fail to achieve this critical milestone often struggle in later grades and are at greater risk of dropping out before graduating. (Yazzie Stip. #1242)

241. The following were stipulated: In New Mexico, thousands of children are not given early reading intervention from Kindergarten through 3rd grade, meaning last year just over 12,000 of students were not proficient in reading when they entered the 4th grade. The 2011 study, conducted by the Annie E. Casey Foundation, noted that a student who cannot read at grade level in the 3rd grade is four times more likely to drop out. The focus of PED should never be to hold back students, but rather PED should focus on making sure they have these essential skills so that retention is never part of the process. (Yazzie Stip. #1105)

242. Evidence-based literacy programs and practices are essential to ensure that low-income students learn how to read at grade level. Webster Depo. Desig. at 308:15-310:10.

243. David Abbey testified that reading counselors can help improve reading outcomes for students. Abbey, 7/25/17 at 100:22-24.

244. One in four children in New Mexico reads at grade level by third grade. Ex. P-2401 at 55.

In 2008-2009, the fourth grade reading proficient or above rate on the SBA was 51.8 percent of all students. Webster Depo. Desig. at 269:2-5. (Yazzie Stip. #1106)

In 2008-2009, the reading proficient or above rate on the SBA for economically disadvantaged fourth graders was 44.2 percent. Webster Depo. Desig. at 269:6-10. (Yazzie Stip. #1107)

In 2009-2010, the reading proficiency on the SBA for fourth grade students was 51.4 percent. Webster Depo. Desig. 4/19/16 at 270:15-17. (Yazzie Stip. #1108)

In 2009-2010, the reading proficient or above rate on the SBA for economically disadvantaged fourth grade students was 44.4 percent. Webster Depo. Desig. at 270:18-21. (Yazzie Stip. #1109)

In 2010-2011, proficient or above rate on the SBA was 46.5 percent for fourth grade students. Webster. at 271:9-11. (Yazzie Stip. #1110)

In 2010-2011, the reading proficient or above rate on the SBA for economically disadvantaged fourth grade students was 39 percent. Webster. at 271:12-14. (Yazzie Stip. #1111)

In 2010-2011, the reading proficient or above rate on the SBA for ELL fourth grade students was 25.7 percent. Webster. at 271:15-16. (Yazzie Stip. #1112)

In 2011-2012, the reading proficient or above rate on the SBA for all fourth grade students was 49.9 percent. Webster. at 271:22-25. (Yazzie Stip. #1113)

In 2011-2012, the reading proficient or above rate on the SBA for economically disadvantaged fourth grade students was 42.1 percent. Webster. at 271:22-25. (Yazzie Stip. #1114)

In 2012-2013, the reading proficient or above rate on the SBA for fourth graders was 45.7

percent. Webster. at 273:7-10. (Yazzie Stip. #1115) In 2012-2013, the reading proficient or above rate on the SBA for economically disadvantaged fourth graders was 37.8 percent. Webster. at 273:11-12. (Yazzie Stip. #1116) In 2012-2013, the reading proficient or above rate on the SBA for ELL fourth graders was 17.8 percent. Webster. 4/19/16 at (5/5), pg. 273, lines 13-14. (Yazzie Stip. #1117) In 2012-2013, the reading proficient or above rate on the SBA for ELL exited fourth graders was 49.6 percent. Webster. at 273:13-14. (Yazzie Stip. #1118) In 2013-2014, the reading proficient or above rate on the SBA or above rate for all fourth grade students was 43.8 percent. Webster. at 274:2-7. Yazzie Stip. #1119. In 2013-2014, the reading proficient or above rate on the SBA or above rate for economically disadvantaged fourth grade students was 35.8 percent. Webster. 274:2-7. (Yazzie Stip. #1120) In 2013-2014, the reading proficient or above rate on the SBA for ELL fourth grade students was 17.2 percent. Webster. at 274:2-7. (Yazzie Stip. #1121) In 2013-2014, the reading proficient or above rate on the SBA for ELL exited fourth grade students was 48.2 percent. Webster. at 274:2-7. (Yazzie Stip. #1122) In 2014-2015, the reading proficiency on the SBA for all fourth grade students was 23.8 percent. Webster. at 274:12-16. (Yazzie Stip. #1123) In 2014-2015, the reading proficiency on the SBA for economically disadvantaged fourth grade students was 17.5 percent. Webster. at 274:18-24. (Yazzie Stip. #1124) In 2014-2015, the reading proficiency on the SBA for ELL

fourth grade students was 7.1 percent. Webster. at 274:18-24. (Yazzie Stip. #1125)

245. There is a strong correlation between the State's failure to fund programs to teach students how to read and students' proficiency scores. Stewart, 6/20/17 at 160:2-8.

246. PED has a below-the-line fund called Reads to Lead ("RTL"), which offers some districts funding to hire reading coaches and specialists.

247. Early literacy funding does not specifically target the lowest performing schools or low-income students. (Aguilar, Vol. 1, 166, Ex. 85) (Martinez Stip. #23)

248. In 2012, PED started Reads to Lead. Webster. at 281:3-4. (Yazzie Stip. #1126)

249. In school year 2012-2013, \$8.5 million was spent on Reads to Lead and it was available to 12 school districts and one charter school. Webster. at 281:6-12. (Yazzie Stip. #1127)

250. In school year 2012-2013, to receive funding from Reads to Lead, school districts had to compete for funding by developing a literacy plan on how they would spend the proposed budget. Webster. at 281:23-282:7. (Yazzie Stip. #1128)

251. In school year 2012-2013, PED did not consider district demographics or proficiency rates when determining which districts were selected for Reads to Lead funding. Instead, funding was based on PED's analysis of the strength of the

district's proposal in terms of what literacy program it was going to implement. Webster. at 282:11-22. (Yazzie Stip. #1129)

252. In school year 2013-2014, \$11.5 million was appropriated to Reads to Lead for all 89 school districts. Webster. at 291:2-14. (Yazzie Stip. #1130) In 2013-2014, the State provided every district about \$50,000, which was enough to provide about one reading coach for each district. Stewart, 6/20/17 at 151:18-152:9.

253. Superintendent Michael Grossman testified that in the Lake Arthur School District, Reads to Lead provided \$50,000 to hire an instructional coach, but the position cost the district \$75,000-80,000. To maintain the instructional coach, the district had to use money from the operational fund. Grossman, 6/14/17 at 46:8-25.

254. The Superintendent of Española testified that the district lost funding for Reads to Lead, which meant that the district lost a professional development coach and the resources for the schools. Martinez, 6/14/17 at 169:5-12.

255. The Assistant Superintendent of Pojoaque Valley Public Schools testified that the district stopped receiving Reads to Lead funding and had to cut an instructional reading coach position because of it. Adams, at 84:22-85:19.

256. In 2016-17, PED defunded districts whose reading scores stayed the same or decreased, requiring those districts to eliminate their reading specialists. Grossman, 6/14/17 at 45:4-22, 100:3-12; Skandera, at 221:22-222:20

257. The Hatch School District applied for Reads to Lead funding for the 2016-17 school year, but its application was not accepted, and the district did not receive funding because its proficiency scores did not meet or exceed the state and did not show growth, so PED did not fund the district. Hale, at 51:19-52:7.

258. In SY 2016-17, only 45 of 89 districts received any funding at all from Reads to Lead. Ex. P-3016 at 123- 124.

259. Superintendent Chiapetti testified that when Gallup did not receive Reads to Lead funding in 2016-17, it chose to allocate some of its limited budget to keep its few reading tutors; but with or without Reads to Lead funds Gallup could not afford a sufficient number of reading specialists to reach all its at-risk students. Chiapetti, 6/28/17 at 80:9-82:5; *See also* P-3016 at 123.

260. Magdalena received the Reads to Lead grant in 2015-16, which the district used to pay a half-time reading interventionist in elementary school. The PED denied Magdalena's 2016-17 application for Reads to Lead because the district did not show sufficient growth in reading proficiency. The half-time reading interventionist position was eliminated. In 2015-16, 29.4 percent of the elementary school students were proficient or advanced in reading. Perry, 6/29/17 at 57-58; Magdalena Elementary School report card 2015-16) (Yazzie Stip. #1331)

261. The Silver District applied for the Reads to Lead grant for the 2016-17 school year and did not receive it. (Candy Milam, pg. 72) (Yazzie Stip. #1335)

260. Zuni District applied for the Reads to Lead grant but PED denied their application, because test scores showed that students had made progress on the tests. (Lewis, at 85: 1-4). (Yazzie Stip. #1321) The two reading interventionists in Zuni are federally funded positions through the District's Title VIII funds (i.e. PL 874 funds). (p. 45, lines 11-16). (Yazzie Stip. #1316)

261. According to Mr. Chiapetti, GMCS no longer receives Reads to Lead funding and, therefore, it does not provide students any specialized reading program, Chiapetti, 6/28/17 at 80:2-11. GMCS subsidizes the cost of providing reading tutors to certain students as a substitute for Reads to Lead programming, Chiapetti, 6/28/17 at 80:12-21. GMCS does not have sufficient reading specialists to serve all children who are in need of such literacy support, which would cost the District about \$10,000 per each of the 19 schools – the same amount that each school received in Reads to Lead funding. Chiapetti, 6/28/17 at 80:22-81:2. In order to improve the literacy of students, Mr. Chiapetti testified that GMCS has hired three reading coaches, which is an extremely insufficient amount to serve all schools where the need exists. Chiapetti, 6/28/17 at 81:3-82:5. In order to provide three reading coaches, GMCS has had to eliminate elective courses at the high school level, including vocational and fine arts electives, in exchange for basic remedial, intervention programs that target 9th and 10th grade students. Chiapetti, 6/28/17 at

82:6-83:2. This tradeoff, however, only serves approximately 50 percent of all students who need remedial interventions. Chiapetti, 6/28/17 at 82:22-83:11.

262. With or without Reads to Lead funds Gallup could not afford a sufficient number of reading specialists to reach all its at-risk students. Chiapetti, 6/28/17 at 80:9-82:5; *see also* P-3016 at 123.

263. The State's budgets have not included sufficient funds for Reads to Lead specialists for all at-risk children or to train teachers with the proven strategies needed to teach reading and provide them instructional materials. Stewart, 6/20/17 at 160:2-8.

264. Districts do not receive enough SEG funding (above-the-line) to provide the kind of professional training teachers need to teach reading. Stewart, 6/20/17 at 156:1-13.

265. PED testified that it needs to be doing more to improve New Mexico's reading proficiency rates. Webster. at 311:13-15. More funding to support and expand PreK, K-3 Plus, and Reads to Lead is necessary to increase reading proficiency overall in New Mexico. Webster, at 329:15-330:3; 331:7-14.

(f) Counselors, social workers, and other non-instructional staff

266. 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. [See 6-28-17 Tr. 89:23-90:10 (Chiapetti) (testifying that counselors are not funded through PED).]

267. 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. Yturralde, 6/30/17 at 9:13-16, 105:11-20, 6/29/17 at 97:22-98:19; Perry, 6/29/17 at 19:21-20:22, 97:17-24; Space, 6/29/17 at 152:21-154:19; Ramirez, 6/21/17 at 225:16-226:8, 232:8-19; Chiapetti, 6/28/17 at 91:4-16, 89:7-19, 89:23-90:16, 90:19-22; Garcia, 6/12/17 at 101:14-102:4; Chavez, 7/7/17 at 75:10-12, 93:15-25; Rounds, 6/12/17 at 103:23-104:15; Sullivan, 7/12/17 at 190:1-21, 191:6-7, 191:11-192:7; Grossman, 6/14/17 at 24:15-20, 137:19-138:1; Martinez, 6/14/17 at 161:23-162:15; Hale, at 152:14-153:17, 156:4-15, 156:23-157:18; Salas, at 45:7-10.

267. Gadsden district has only 12 of 24 needed social workers, [6-30-17 Tr. 8:9-21 (Yturralde)], and 31 of 46 needed counselors, [Id. at 8:22-9:16.] In addition, Gadsden administrators juggle multiple roles usually handled by separate administrators. For instance, an Associate Superintendent of Curriculum is in charge of administering technology, bilingual education, and athletics as well. [Id. at 106:13-23.]

268. Martinez Plaintiff parents testified that neither they nor their children receive any information from their children's schools on applying to college. [6-19-17 P.M. Tr. 7:22-25 (Sanchez); 6-15-17 Tr. 235:1-4, 247:1-21, 261:23-262:4 (Burciaga).]

269. Teacher Janet Kimbrough testified that the two social workers in her school only serve students with disabilities ("SWDs"), despite the general population also needing services. [See 7-20-17 Kimbrough-Hartsock Depo. Desig. 75:22-76:3.]

270. Student counseling, mentoring, and monitoring programs have been shown to reduce high school dropout rates and increase graduation rates to produce fiscal benefits that greatly exceed program costs. [See P-2793 ¶¶ 119-20, 123, 127; see also 8-1-17 Tr. 123:17-25 (Rothstein).]

271. Dr. Veronica Garcia testified that access to counseling and social work in schools helps low-income children be successful. Garcia, 6/12/17 at 93:19-95:4. The State's expert on Indian Education, Keith Moore, testified that having social workers and counselors in schools is necessary to address any out-of-school issues that Native American children may face. 8/2/17 at 60:24-61:2

272. High-performing schools have strong non-academic supports, including counseling, social workers, nurses, and health clinics within schools. Montoya, 7/20/17 at 248:12-249:11.

273. Wrap-around services can improve at-risk students' academic performance. Berliner, 6/12/17 at 163:23-164:4.

274. Gilbert Ramirez, a charter school director and former APS high school counselor, testified that students who receive therapeutic interventions in school experience increased stability, a better ability to attend school, and re-engagement with their school setting. Ramirez, 6/21/17 at 212:23-213:8. Ramirez testified that in his experience 90 percent of the students in his the public high school where he formerly worked needed services, but the school could only serve 2-3 percent of those students. [See 6-21-17 Tr. 216:24-218:23 (Ramirez).]

275. High school support programs that provide additional mentoring and counseling can improve graduation rates. Ex. P-2793 at ¶ 119-125, Table 12 at p. 44.277. LFC staff has found that interventions like mentoring and counseling have strong evidence of effectiveness. Sallee, 7/21/17-p.m. at 22:11-23:1; Ex. P-326 at 24. Additional mentoring and counseling programs are not possible without more counseling services than are currently available. Belfield, 6/13/17-a.m. at 52:5-25 (in reference to Table 12 at p. 44).

276. The recommended student to counselor ratio is 250:1. Chiapetti, 6/28/17 at 89:23-25. When school counselors are working at the recommended student-to-counselor ratio, students have fewer disciplinary problems and higher rates of graduation. Berliner, 6/12/17 at 158:8-12.

277. The ratio of Gallup-McKinley County Schools counselors staffed at the middle and high school is 350:1. Chiapetti, Vol. 2, p. 161, lines 6-19; Yazzie Stip. #1300.

278. Counselors are able to help struggling students attain academic success. Perry, 6/29/17 at 39:5-20.

279. Counselors can address some of the students' issues that stem from living in poverty, such as whether a child has enough food over the weekend or is exposed to domestic violence. Space, 6/29/17 at 173:24-174:4; Chiapetti, 6/28/17 at 89:7-19.

280. Grant-Cibola County Schools does not have a social worker to address the needs of general education students and special education students whose IEP does not require a social worker. (Yazzie Stip. #1286)

281. According to Ms. Chavez, in 2017/18 SY, Cuba Independent School District's Title I funds, which it allocates towards supplemental services, salaries and benefits for staff, and supplies and materials, have decreased by almost \$70,000. Similar reductions to Title I also occurred in the 2016-17 SY. Chavez, 07/07/17 at 92:14-93:2. Title I funds are allocated to districts to support the needs of at-risk children. Chavez, 07/07/17 at 93:6-8. Given the reduction in Title I funds, Cuba Independent School District was forced to cut positions, including a high school counselor position for the 17/18 SY, a position which it could not subsidize

because of simultaneous cuts to its operational budget. Chavez, 07/07/17 at 93:9-25.

282. The Superintendent of Gadsden testified that in order to fully meet the mental health needs of the district, it would have to have a group of professionals visit schools on a daily basis to work directly with students; however, the district does not have the finances to hire the personnel required. Yturralde, 6/30/17 at 105:11-20. Gadsden is short 15 counselors. Yturralde, 6/30/17 at 9:13-16. Due to budget cuts, Gadsden has not replaced some of the counseling positions it has lost in recent years. Yturralde, 6/29/17 at 97:17-24.

283. Dr. Perry testified that in Magdalena, its students may come to school having experienced as young children, domestic abuse, neglect, homelessness, which all contribute to cognitive ability. Perry, 6/29/17 at 19:21-20:4 The Magdalena school district has one counselor and a part-time social worker who work with students, but this is not sufficient to meet the needs of the district's students. Perry, 6/29/17 at 19:21-20:22.

284. The Gallup-McKinley school district uses Title VIII money to the maximum it can to provide counseling services to its students, but the district still has to dip into SEG funds to try to cover counselors' salaries. Chiapetti, 6/28/17 at 89:23-90:16, 90:19-22.

285. Dr. Garcia testified that the ratios between counselors and students are too high for counselors to be able to offer services to all students. Garcia, 6/12/17 at 101:14-102:4.

286. Ms. Chavez testified that the Cuba school district has difficulty finding counselors for its district. Chavez, 7/7/17 at 75:10-12. Ms. Chavez testified that the district recently cut an at-risk counselor position from the district due to cuts in funding. Chavez, 7/7/17 at 93:15-25.

287. Stan Rounds, former superintendent of Las Cruces, testified that the district staffed counselors at a 1:600 ratio because it cannot afford to hire additional counselors. Rounds, 7/12/17 at 103:23-104:7. Though children who are highly mobile or economically disadvantaged benefited from social workers, there is not State funding for it and that the district is horribly short on its support in those areas. Rounds, 7/12/17 at 104:7-14.

288. Moriarty's counselors have been reduced to about six district-wide, which is not enough to address the socio-emotional challenges children face. Sullivan, 7/12/17 at 190:1-21, 191:6-7, 191:11-192:7.

289. The Lake Arthur district does not have a counselor for elementary, middle or high school because of funding cuts to the SEG. The counseling position the district did have was eliminated five years ago. Grossman, 6/14/17 at 24:15-20, 137:19-138:1.

290. Though the Española school district's students could benefit from social workers in schools, the district cannot afford them. Martinez, 6/14/17 at 161:23-162:15.

291. The Superintendent of Hatch testified that it does not have enough counselors at all levels of K-12. Hale, Depo. Desig. at 152:14-19. The Superintendent of Hatch testified that the district used to have counselors in the elementary schools which allowed the district to be proactive and do preventive counseling with kids, but now the district can only offer reactionary counseling after a problem occurs. Hale, Depo. Desig. at 152:20-153:8. The Hatch School District cannot supply counselors or mental health services to students with SEG funding. Hale, Depo. Desig. at 153:9-15. The Superintendent of Hatch testified that college and career readiness counselors are necessary to ensure students succeed in school and pursue college or career after high school. Hale, Depo. Desig. at 156:23-157:13.

292. Adrienne Salas is the Superintendent of Alamogordo Public Schools. Salas, Depo. Desig. at 9:2-5, 15-17. Ms. Salas testified that the Alamogordo school district is in dire need of counselors to serve students' needs. Salas, Depo. Desig. at 45:7-10.

2. Inadequate Funding for At-Risk Students

293. Funding for programs for at-risk students is inadequate.

294. Title I funding is insufficient to provide funding for at-risk programs.

295. Contrary to Defendants' argument, current funding through the at-risk formula and Title I does not provide the money needed to educate at-risk students and to offer these programs. Sallee, 7/21/17-a.m. at 67, 71-72.

296. Indeed, the fact that so many schools have had to seek waivers of the maximum class size requirement due to financial constraints demonstrates that these programs are not adequately funded. See Stewart 6/20/17 at 157-58; 262-63; Sanders, 7/10/17 at 217-218; Cleveland, 7/11/17 at 159-160, 162-163, 212, 221; Sullivan, 7/12/17 at 195-196, 271-272. This demonstrates a lack of reasonable curricula for at-risk students.

3. Inadequate Funding for ELLs

297. Programming for ELL students is inadequate.

298. Nationally, New Mexico public schools served the third largest ELL population from 2008/2009 to 2011/2012 and the second largest in 2012/2013. Yazzie-Stips ## 1150-1154.

299. English language learner (ELL) refers to children who are developing English as a second language. Blum Martinez, 6/26/17-p.m. at 99:20-25.

300. Bilingualism is the daily and constant use of two languages throughout a person or a community's life. Blum Martinez, 6/26/17-p.m. at 99:1-5.

301. An English as a Second Language (ESL) program focuses strictly on English, while bilingual programs focus on English in addition to the student's primary language. Blum Martinez, 6/26/17-p.m. at 101:3-7.

302. An aspect of a reasonable curriculum for students who are not proficient in English is a program to assist such students in acquiring English proficiency and to allow such students to participate comparably with other students in the core curriculum within a reasonable time period. Such programs are required by state statute, federal statute, and by the state constitution. *See* NMSA 1978 § 22-23-1.1 (2004) (concerning bilingual programs); 20 U.S.C. §1703(f) (requiring appropriate action to overcome language barriers that impede equal participation by students in instructional programs); Every Student Succeeds Act, P.L. 114-95, §§ 3001-3004 (December 10, 2015), 129 Stat. 1802 (concerning training necessary to provide high quality language instruction programs to students with limited English proficiency); Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.* (requiring effective language assistance programs for Native American English language learners).

303. New Mexico is not meeting its state and federal requirements to assist students who are not proficient in English. *See, e.g.,* Blum-Martinez, 6/27/17-a.m. at 44, 53-54, 58, 63-64, 80, 82.

304. Effective programs for English language learner (ELL) students must have qualified teachers—meaning bilingual-certified or TESOL-endorsed teachers. P-2795 ¶ 37a; Blum Martinez, 6/27/17-a.m. at 26:25-28:5; *see also* Yturalde, 6/30/17 at 100:15-101:11.

305. Teachers working with ELL students, including teachers in non-language academic subjects, must receive periodic, ELL-specific professional development. P-2795 ¶ 31; Escamilla, 6/26/17-a.m. at 34:24-35:3; Blum Martinez, 6/27/17-a.m. at 33:19-34:18; Pelayo, 7/24/17-a.m. at 93:6-10.

306. Expert for the Yazzie Plaintiffs, Dr. Rebecca Blum Martinez, who is currently a Professor of bilingual and ESL education at the University of New Mexico, gave credible and reliable testimony about the status of ELL programs in New Mexico, with a particular focus on the education of Native American English learners (NAELs) enrolled in New Mexico Public Schools.

307. Dr. Blum Martinez has a Ph.D. in School of Education, with Specialization in Bilingualism/Second Language Acquisition; Literacy for Minority Populations; Curriculum Development for Minority Populations. The Court found Dr. Blum Martinez to be a credible witness.

308. The opinions and findings made by Dr. Rebecca Blum Martinez about ELL programs and NAEL education in New Mexico public schools were based on her

expertise in the field of English as a Second Language and Bilingual Education. Blum Martinez, 6/26/17 at 98:21-24.

309. Dr. Blum Martinez testified that a Department of Justice letter entitled “Dear Colleague,” which she identified as Exhibit D-1225, describes the responsibilities and duties imposed on State and Local Education Agencies to ensure that ELL students’ rights to a meaningful education under federal law are met. The letter describes the standards established by the United States Court of Appeals for the Fifth Circuit in *Castaneda v. Pickard*, 648 F.2d 989 (5th Cir. 1981) and by the United States Supreme Court in *Lau v. Nichols*, 414 U.S. 563 (1974). Blum Martinez, 6/27/17-a.m. at 13:24-14:1, 14:16-15:6, D-1225 at 5-6.

310. Dr. Blum Martinez testified that, under the *Castaneda* and *Lau* standards, any public school that serves ELL students, regardless of whether the school district receives Title III funding, must ensure that ELLs receive assistance in attaining English proficiency. Blum Martinez, 6/27/17-a.m.at 17:6-9, 18:18-22.

311. Title VI of the Civil Rights Act, which includes the *Castaneda* and *Lau* standards, applies to schools receiving federal funds, including all New Mexico public schools. Blum Martinez, 6/27/17-a.m.at 19:11-18.

312. Requirements under Title III include, in part, a high quality professional development program and a high quality language instruction education program that is based on scientifically-based research. High quality professional

development should include training on how to provide ELL students access to what is required under the Common Core State Standards, which would enable ELL students to learn English and attain an academic understanding of English. Blum Martinez, 6/27/17-a.m.at 17:10-18:17.

313. Placing ELL students in a classroom with a TESOL-endorsed teacher does not constitute a sufficient program under Title III. There must be adequate materials, a curriculum, and specific strategies provided across the board in a consistent manner, as well as cohesion with the heritage language classes. Blum Martinez, 6/27/17-a.m. at 44:24-46:3.

314. Title III funds must supplement and not supplant the general curriculum or school program required under Title VI of the Civil Rights Act. Blum Martinez, 6/27/17-a.m. at 18:23-19:10.

315. Dr. Kathy Escamilla is an expert in the field of bilingual and multicultural education, and she gave credible and reliable testimony regarding: (a) the characteristics of the ELL population in New Mexico and the array of language programs for ELLs, (b) the basic elements and resources necessary to implement a quality educational program for ELLs in New Mexico, (c) the extent of learning achievement by ELLs in New Mexico, (d) the quality of ELL programs in the district across the State of New Mexico, and (e) the availability of Title III funding to support quality programs for ELLs.

316. Dr. Escamilla is a Professor at the University of Colorado, Boulder School of Education and has held this position since 1998. She teaches in the areas of Second Language Acquisition, Sociolinguistics and Education, Bilingual Education (Foundations and Methods), Methods of Teaching ESL, and Research Methods for Bilingual/ESL Education. Dr. Escamilla received her Ph. D. from the University of California, Los Angeles in Curriculum and the Study of Schooling with an emphasis in Bilingual Education. Dr. Escamilla has focused her research on bilingual and multicultural education. P-2795 ¶¶ 1-8.

317. Dr. Escamilla testified that the research regarding quality instruction for ELLs says that quality programs include the following components:

- a. A clearly articulated cross-grade level program (in some cases referred to as a language policy);
- b. Well qualified and prepared teachers and administrators;
- c. Curriculum and materials that include materials to teach English, Spanish and other languages as either native or second languages, materials to teach literacy in English, Spanish and other languages, content area materials in English and non-English languages, and culturally responsive materials;
- d. Opportunities to learn language (English Language Development (ELD) or other languages as second languages);

- e. Opportunities to use language to learn content;
- f. Opportunities to learn about language and how language works; and
- g. Parent Engagement Opportunities. P-2795 ¶¶ 28, 32, 37; *see also* Blum Martinez, 6/26/17-p.m. at 111:6-112:7.

318. Forty years of empirical research has established that bilingual programs that are well-organized and well-resourced are superior and that dual language programs are the gold standard of education for ELL students. While it is not feasible for all ELLs to have access to dual language education programs, all ELLs should have access to a program that is sound pedagogically and theoretically even if biliteracy/bilingualism cannot be part of the school curriculum. P-2795 ¶¶ 29-30.

319. An adequate English as a Second Language program for ELL students should include the following elements: an underlying philosophy or theory of second language development that is consistent across all grades and time; program director who supports the theory; teachers who are TESOL (Teaching English to Speakers of Other Languages) endorsed; materials that support the theory; and, professional development for teachers and administrators. Blum Martinez, 6/26/17-p.m. at 111:6-112:7.

319. Efforts to address the learning needs of ELLs must be made across all age groups, including a focus on early childhood education because ages three to eight

are so important for language development. Further, when ELLs have a seamless instructional and linguistic transition from Pre-K to third grade, they have more time to develop effectively both their linguistic skills and their content knowledge. Additionally, it is not just the language of instruction in these programs that make them effective, it is also the quality of instruction. Preparation for teachers is important because skills may be different for different languages and the need for specialized preparation for bilingual/ELD teachers that is beyond what is needed for preparing teachers for monolingual classrooms. P-2795 ¶¶ 32-33.

320. Research cited by Dr. Escamilla suggests that there needs to be daily, separate direct instruction appropriate to language level, grade, and age until the student reaches level 4 (early intermediate). Sheltering strategies, including Sheltered Instruction Observation Protocol (SIOP), that help students gain access to content material do not constitute an adequate ELL program, because such strategies do not constitute a coherent model of instruction and content used across all grades by all ELL teachers. Blum Martinez, 6/27/17-a.m. at 55:19-22, 57:22-58:8.

321. Research also indicates that teachers should have specialized training in English as a second language and specialist teachers should have knowledge of native language literacy. More stringent requirements lead to the strongest gains;

while lower requirements for training lead to lower reading outcomes. P-2795 ¶ 35.

322. A rigorous and well-designed culturally relevant curriculum has a positive impact on students. "Culturally relevant" describes "a condition where programs or services are planned, designed, implemented, and evaluated respecting and accounting for the client's cultural and linguistic values and heritage." The terms "culturally relevant," "culturally responsive," and "culturally appropriate" have very similar meanings, and are used interchangeably. Ex P-2881 at 7. Such curriculum should include units of study, courses, or programs that are centered around the knowledge and perspectives of an ethnic or racial group, reflecting narratives and points of view rooted in lived experiences and intellectual scholarship of that group. P-2795 ¶ 36. It is important for schools to provide ELL students a language program that is relevant to their culture, in order to help them develop their linguistic abilities and improve their self-efficacy and self-esteem. Blum Martinez, 6/27/17-a.m. at 56:9-18.

323. It is important for Native American English learners (NAEL) to have Native American teachers because they have the ability to relate to and interact with NAEL students effectively, do serve as English proficient models to students, and are likely to remain employed at the school. Blum Martinez, 6/27/17-a.m. at Tr. 75:22-76:11.

324. NAEL students require ample opportunities to interact with the English language in order to develop full competency, both, socially and academically; as well as the integration of indigenous perspectives, cultural values, and recognition of the tribal languages as a resource. Blum Martinez, 6/26/17-p.m. at 112:8-23, 113:4-18.

325. Given certain geographical challenges, including rural isolation factors, NAEL students in New Mexico may not have ample opportunities to interact with different kinds of English because their school locations often lack access to technology and instructional materials. Blum Martinez, 6/26/17-p.m. at 113:19-114:20.

326. Only 2 percent of all teachers in the state are Native American. Blum Martinez, 6/27/17-a.m. at 70:12-71:4.

327. From school years 2004/2005 to 2010/2011, the U.S. Department of Education reported a shortage of New Mexico Bilingual and TESOL teachers. Yazzie-Stips # 1269.

328. Programs for NAEL have unique needs. Dr. Blum Martinez testified to ten elements to evaluate and assess the English language learner acquisition programs provided to Native American ELL students. (The elements are cited as examples of an adequate program and are not intended to be taken as mandatory requirements.)

The elements are as follows:

a. Element No. 1: technical guidance and monitoring by a state educational agency, which is required under applicable law. Blum Martinez, 6/27/17-a.m. at 22:3-20, 23:11-17. A state's duty to monitor includes the duty to ensure that the district's ELL program is functioning and serving ELLs. 06/27 (AM), Tr. 26:7-10).

b. Element No. 2: A district director or coordinator who specializes in English as a Second language (ESL) and expertise in indigenous students. Blum Martinez, 6/27/17-a.m. at 23:18-22. A director must understand second language learning theories, including the application of programs, strategies and approaches for different kinds of ELLs. Blum Martinez, 6/27/17-a.m. at 23:23-24:10.

c. Element No. 3: District staff, including directors, ESL teachers and administration that support learning needs of ELLs. Blum Martinez, 6/27/17-a.m. at 26:13-24.

d. Element No. 4: TESOL endorsed teachers that are knowledgeable about indigenous cultures. Blum Martinez, 6/27/17-a.m. at 26:25-27:8. TESOL endorsed teachers are knowledgeable about second language learning. Blum Martinez, 6/27/17-a.m. at 27:9-21.

e. Element No. 5: Research based ESL and bilingual education programs that are aligned with the basic curriculum. Bilingual programs for

indigenous language-speaking students may vary based on the tribal culture. For example, Navajo and Apache languages are written, and can be aligned with the curriculum. Blum Martinez, 6/27/17-a.m. at 28:8-25. On the other hand, some of New Mexico's Pueblo languages, which are only taught orally, cannot be taught in public school settings. Blum Martinez, 6/27/17-a.m. at 29:13-30:11.

f. Element No. 6: Materials that support the development of oral and written, academic English. Blum Martinez, 6/27/17-a.m. at 30:12-14. Materials must account for language arts, science, social studies, and math. Identifying and disseminating materials specific to ELL students is an obligation of both the State and Local Education Agencies. Blum Martinez, 6/27/17-a.m. at 30:15-31:5.

g. Element No. 7: Appropriate and unbiased assessments. Nearly all assessments are conducted in English, which suggests the need for an evaluation in another language to determine ELL students' attainment of content and knowledge. Blum Martinez, 6/27/17 at 31:6-15.

h. Element No. 8: Attention to the language and culture of indigenous students. Native American students are rarely portrayed in the general curriculum. School administrators and educators must identify ways to

incorporate indigenous culture and language into the general curriculum.

Blum Martinez, 6/27/17-a.m. at 32-13-33:7.

i. Element No. 9: Professional development of teachers and administrators. Professional Development must work to develop understanding among all educators, including TESOL endorsed teachers, and administrators about ELL education and ensuring ELLs have access to the core curriculum. Blum Martinez, 6/27/17-a.m. at 33:19-35:19.

j. Element No. 10: A welcoming environment for parents and families. Blum Martinez, 6/27/17-a.m. at 35:20-36:16.

329. PED collects annual data on the numbers of Bilingual Multicultural Education Programs (BMEPs) in the state's 89 school districts. Table 1 from Dr. Escamilla's prefiled testimony indicates that there were BMEPs in 56 districts and 13 state charter schools in 2014-15. Her prefiled testimony also shows how the number of schools with BMEPs had declined over a six-year period. P-2795 ¶¶ 9-10.

330. The BME Annual Report makes no mention of what types of programs are available for ELL students in those districts which do not have access to bilingual education and that federal statutes required that **all** identified ELLs have access to a program to teach them English and allow them access to content area instruction. P-2795 ¶ 10.

331. Escamilla Table 2, demonstrates via a six-year span of time participation in Bilingual Multicultural programs by both Hispanic and Native American students has dropped by 6,005 students for Hispanics and 433 students for Native Americans from school year 2010-11 to school year 2015-16. P-2795 ¶ 11, Table 2.

332. Escamilla Table 4 reports the number of students over a six-year period who were labeled as ELLs who participated in Bilingual Multicultural programs. It is noteworthy that the reports show there were more students labeled as ELLs who were not in BMEPs as there were ELLs participating in these programs. Dr. Escamilla noted that the number of ELL students not participating in BMEPs has increased by about 3,000 students since 2010. P-2795 ¶ 13, Table 4.

333. Many ELL students, including Native American ELL students, in New Mexico are in danger of or have become long-term English learners (LTEL) because they do not receive the necessary ELL programming.

333. New Mexico administers the WIDA-ACCESS test to ELL students in order to measure their English language proficiency. Blum Martinez, 6/27/17-a.m. at 47:16-48:18. ELL students who are deemed English language proficient by scoring a 5 or 6 on the ACCESS test must be monitored for an additional two years after exiting the program. Blum Martinez 6/27/17-a.m. at 92:10-22. Long-term English Learners (LTELs) are ELL students who have been enrolled in United

States schools for at least 6 years and have failed to attain English language proficiency. Blum Martinez 6/27/17-a.m. at 50:4-10.

334. Many students in New Mexico who enter kindergarten as ELLs are in danger of becoming or have become LTELs. Blum Martinez, 6/27/17-a.m. at 49:20-50:6.

There are several reasons for this. Among them is that ELLs become LTELs is because their school has not provided them with consistent assistance in English language development. A second reason is that the pedagogy and curriculum used by the school district is watered down in order to make it simpler for ELLs to understand, and, as a result, ELLs are not gradually exposed to more complex language. Blum Martinez, 6/27/17-a.m. at 50:11-52:6. A third reason that ELLs become LTELs is that ELL teachers, who are not familiar with second language learning, fail to understand the distinction between an ELL student who is struggling with English versus an ELL student who is struggling with literacy – i.e. whether the student is struggling with a language issue or a reading issue. As a result, ELLs are mistakenly placed in remedial reading programs, which generally use simple, one-syllable words and sentences to help students decode and sound-out words, not gain comprehension. Blum Martinez, 6/27/17-a.m. at 51:5-20.

335. Misunderstandings about how second language learning happens affect the way school districts serve their NAEL students. Educators of ELLs who fail to understand this learning process may mistakenly perceive a learning disability or

speech delay. Blum Martinez, 6/27/17-a.m. at 61:23-62:18. A significant consequence that results from district and school administrators' lack of knowledge about Native American culture and language development needs is that Native American English language learner students are often misidentified as requiring special education services. An overrepresentation of Native American or English language learner students classified as needing Special Education is an issue that the Office of Civil Rights is concerned about. Blum Martinez, 6/27/17-a.m. at 41:15-42:20.

336. Local and State Educational Agencies are generally responsible for ensuring that teachers of ELL students are provided language development training. Blum Martinez, 6/27/17-a.m. at 62:19-63:4.

337. Misidentification of ELL students as speech delayed is generally attributable to a district's lack of knowledge and professional development about ELL education and a lack of technical guidance by the State. Blum Martinez, 6/27/17-a.m. at 63:10-17.

338. Dr. Escamilla examined the Bilingual Multicultural Education (BME) Annual Reports, the ELL School Improvement Reports, and the School Grades Report to assess ELL program quality and academic achievement for ELLs. P-2795 ¶¶ 39-40. With regard to English language acquisition, data from the 2015-2016 BME Annual Report stated that a total of 45,717 students took the ACCESS test with the

following results: 4,914 (11 percent) students at the Entering Level; 6,813 (31 percent) at the Emerging Level; 14,223 (31 percent) at the Developing Level; 12,121 (26 percent) at the Expanding Level; 6,382 (14 percent) at the Bridging Level; and 1,264 (3 percent) at the Reaching Level. According to the report, these levels are virtually unchanged since school year 2010-2011. According to the report, the State of New Mexico sets a standard that 12 percent of its English language learners achieve proficiency every year. Dr. Escamilla testified that this standard for English language acquisition is arbitrary. P-2795 ¶ 41.

339. Based on data from the Bilingual Multicultural Education Bureau (BMEB) Dr. Escamilla found that Hispanic ELLs overall are not doing well on academic measures in reading and math, and Hispanic ELLs in bilingual programs are doing only slightly better than Hispanic ELLs not in bilingual programs. In 2014-15, for Hispanic ELLs in BMEPs, 6 percent were proficient in the Math portion of the PARCC assessment and 11 percent were proficient in the Reading portion of the PARCC assessment. In 2014-15, for Hispanic ELLs not enrolled in BMEPs, 5 percent were proficient in the Math portion of the PARCC assessment and 21 percent were proficient in the Reading portion of the PARCC assessment. In 2015-16, for Hispanic ELLs in BMEPs, 7 percent were proficient in the Math portion of the PARCC assessment and 31 percent were proficient in the Reading portion of the PARCC assessment. In 2015-16, for Hispanic ELLs not enrolled in

BMEPs, 6 percent were proficient in the Math portion of the PARCC assessment and 24 percent were proficient in the Reading portion of the PARCC assessment. P-2795 ¶ 44, Table 6.

340. In Espanola Public Schools, a district that received no Title III funding and that reported only 6 schools with BMEPs in place in school year 2013-14, Dr. Escamilla found that 8 of the 15 schools in the district did not meet their targets for ELL English Language Acquisition and 3 did not report data in school year 2013-14. With regard to district targets for ELLs in reading and writing, Dr. Escamilla noted a similar trend. Ten of the 15 schools did not meet targets in reading and writing for ELLs. At the same time, 7 of these schools scored grades of A or B, but of those 7, none met goals for ELLs for both English language acquisition and reading and writing. P-2795 ¶¶ 47-48, 69-70 Table 7.

341. Dr. Escamilla reported that data she reviewed and gathered made it difficult to assess the efficacy of ELL programs for Albuquerque Public Schools. Albuquerque Public Schools has a total of 153 schools and counts 15 language groups represented by its ELLs. Albuquerque Public Schools reported that it served its ELL students through dual language, maintenance, and enrichment bilingual and ESL, and ESL-Sheltered programs. Overall, the district reported that it met its AMAO target of 12 percent of ELL students attaining English proficiency on its Alternative Language Report, but it did not disaggregate results by school or

program, making it very difficult to assess program efficacy. P-2795 ¶¶ 52-54, App. C.

342. Dr. Escamilla testified that Gadsden Independent School District reported that 8 of its elementary schools implement a 50:50 Dual Language Model and 7 elementary schools implement a Transitional Model. All 3 middle and high schools implement a Transitional Model. Gadsden requires that all core content teachers have a TESOL/Bilingual endorsement, and there are a total of 470 certified bilingual/ESL teachers in the district. Gadsden ISD reported that former ELLs outperform never ELLs on state-mandated tests. The district reported that, during the 2014-15 school year, it initiated professional development on language, culture, second language acquisition, and balanced literacy in two languages, among other professional development. The district reported that it provided summer institutes in literacy and mathematics and an ELD Academy. Dr. Escamilla testified that it was difficult to evaluate Gadsden's ELL program efficacy based on ACCESS test scores and school grades for 2014-15. Thirteen of 23 schools met their goals for ELL English language acquisition, but only 5 schools met their goals for ELL reading and math. Schools not meeting district goals for ELL reading and writing and language acquisition earned school grades of A and B in some cases, while some schools which met one of the goals did not. P-2795 ¶¶ 55-61, App. D.

343. Dr. Escamilla testified that Santa Fe reported it served its ELLs in 29 schools through a variety of programs, including dual language, and maintenance and transitional bilingual education. Santa Fe identified 16 different language groups represented by its ELLs; however, the majority of its ELLs speak Spanish as a first language. Santa Fe reported that it had 209 certified bilingual/ESL teachers. Dr. Escamilla testified that it was difficult to ascertain program efficacy. Sixteen of 29 schools met the district's targets for ELL language acquisition, but only 1 school met its targets for both reading and math. Nevertheless, many schools received a school grade of A or B. P-2795 ¶¶ 62-64, App. E.

344. Dr. Escamilla testified that Las Cruces Public Schools had 40 schools in its district. The district reported that it offered Dual Language and Maintenance Bilingual Programs. Dr. Escamilla testified that it appeared the district was doing well in teaching ELLs English acquisition, but not in teaching reading and writing. Twenty-seven of 40 schools met the district's goal for ELL language acquisition in school year 2014-15, but only two schools met district goals for ELL reading and math. Further, Dr. Escamilla testified that school grades do not align with academic outcomes of ELLs. For example, one school, Camino Real Middle School, received a school grade of "B" for school year 2014-15, but ELLs at this school did not meet district targets for English language acquisition or reading and writing. P-2795 ¶¶ 65-66, App. F.

345. Dr. Escamilla testified that Magdalena Municipal School District reported that it has three total schools and it does not provide bilingual programs in its schools. Only Magdalena Elementary met district goals for English language acquisition, and none of the schools met district targets for reading and math. Dr. Escamilla reported that the school grading system did not reflect ELL achievement. Magdalena Elementary received a school grade of “F,” but the middle and high schools, which did not meet any district goals for ELLs, received higher school grades. P-2795 ¶¶ 67-68, App. G.

346. Dr. Blum Martinez evaluated and assessed ELL programs in six school districts that serve high-concentrations of Native American students: Cuba Independent Schools (Cuba), Gallup McKinley County Schools (GMCS), Grants-Cibola County Schools (GCCS), Jemez Valley Public Schools (JVPS), Zuni Public Schools (Zuni) and Bernalillo Public Schools (BPS). Blum Martinez, 6/27/17-a.m. at 19:22-20:6.

347. Geographical factors were important to Dr. Blum’s analysis, because many of the children living in the outlying areas of New Mexico’s rural districts require hours-long transportation services, which can account for multiple hours of the day. Blum Martinez, 6/27/17-a.m. at 65:18-66:2.

348. Dr. Blum Martinez requested from district officials the ACCESS scores of NAEL students. Blum Martinez, 6/27/17-a.m. at 39:18-21.

349. Dr. Blum Martinez determined that NAEL students in Cuba, Zuni, GMCS, and JVPS were placed in remedial reading programs. Blum Martinez, 6/27/17-a.m. at 52:3-16.

350. The six districts often lacked knowledge about the second language learning process. Blum Martinez, 6/27/17-a.m. at 83:11-17.

351. Several districts' bilingual education directors knew about the second language learning process, but district educators and administrators did not. Blum Martinez, 6/27/17-a.m. at 83:21-84:3.

352. With the exception of Zuni, there was a general lack of understanding by staff in the five districts about the language and culture of their students. Blum Martinez, 6/27/17-a.m. at 88:13-22.

353. Each of the six districts experienced challenges in hiring and retaining TESOL-endorsed teachers. Blum Martinez, 6/27/17-a.m. at 84:4-11.

354. Administrators and educators in the six districts lacked direction and guidance from the BMEB about effective implementation of bilingual program models. The BMEB did not visit any of the schools within the six districts. Blum Martinez, 6/27/17-a.m. at 84:15-85:7.

355. In three of the six districts, there were an insufficient amount of materials for ELLs. Blum Martinez, 6/27/17-a.m. at 87:22-88:6.

356. Dr. Blum Martinez reviewed the ACCESS scores among a subset of NAEL students, those who speak a New Mexico tribal language, in the six districts from 2011-2015, as well as the percentage of students who scored a 1 through 6 for each year. Blum Martinez, 6/27/17-a.m. at 90:10-91:22; P-2163-RBM.

357. In New Mexico, many NAEL children do not enter school performing at level 1 on the ACCESS test, because they are often exposed to English early on. Generally, NAEL students enter Kindergarten at levels 2 or 3, which means they can express themselves in English in a rudimentary way. Blum Martinez, 6/27/17-a.m. at 48:19-49:3.

358. At best, English language proficiency scores on the WIDA ACCESS test were stagnant at levels 3 and 4 among NAEL students in the six districts, with very little movement across the years towards levels 5 and 6. Blum Martinez, 6/27/17-a.m. at 89:7-21. The percentage of students who achieved a level 6 on the ACCESS Test declined from 2011-2015. At BPS, from 2011-15, there was a lower percentage of students reaching proficiency; at CIS, proficiency scores declined from 11 percent in 2011 to 6 percent in 2015; at GMCS, proficiency scores dropped from 14 percent in 2011 to 8 percent in 2015; at GCCS, proficiency scores dropped from 13 percent in 2011 to 6 percent in 2015; at JVPS, proficiency scores dropped from 27 percent in 2011 to 6 percent in 2015; and at ZPS, the scores dropped from 29 percent in 2011 to 8 percent in 2015. Blum Martinez, 6/27/17-a.m. at 92:25-93:25.

359. ELL Students attending Bernalillo Public Schools (BPS) were not provided an adequate English language acquisition program. At BPS, about 40 percent of all students are Native American, of whom about 40 percent are ELLs. About 22 percent of NAELs required special education services, which, is significant and indicates that BPS administration likely lacks knowledge and training to accurately identify language versus special education issues. Blum Martinez, 6/27/17-a.m. at 40:23-42:4. In Santo Domingo Elementary and Bernalillo High, some NAEL students were provided an ESL class or a bilingual class (Keres language) by Pueblo instructors. Blum Martinez, 6/27/17-a.m. at 43:8-22. Generally, NAEL students were placed in classes with TESOL endorsed teachers, which, by itself, does not constitute an ELL program. Blum Martinez, 6/27/17-a.m. at 43:23-44:11, 44:20-23. Overall, there were an insufficient number of TESOL teachers. Most TESOL teachers were located in Bernalillo proper and not in the NAEL-concentrated schools. Blum Martinez, 6/27/17-a.m. at 44:8-19. BPS conducted a significant amount of professional development, including an Academic Language Development 4 All training and a workshop delivered by experts about Pueblo cultures and teaching vocabulary to ELLs; trainings were a good start for BPS. Blum Martinez, 6/27/17-a.m. at 46:10:47:2. Dr. Blum Martinez determined that, based on her assessment, BPS was not fully compliant with the *Castaneda* and *Lau* standards. Blum Martinez, 6/27/17-a.m. at 46:4-9.

360. ELL Students attending Cuba Independent Schools (CIS) were not provided an adequate English language acquisition program. Cuba is located in a rural, isolated area of New Mexico. CIS offers elementary, middle, and high school education. About 60 percent of the 540 students are Native American, of which, almost 50 percent are ELLs. About half of all ELLs are Navajo (180 students). Blum Martinez, 6/27/17-a.m. at 47:3-15. About 69-75 percent of ELL students at CIS scored between 3-4 on the ACCESS test, which concerned the District's administration. Blum Martinez, 6/27/17-a.m. at 47:19-48:1; 49:12-19, 52:18-23. While the CIS Director of ELL education had very little knowledge about bilingual education or Navajo students, the Navajo language teachers were quite competent in their delivery of the curriculum. Blum Martinez, 6/27/17-a.m. at 52:18-53:6. CIS did not have an English language acquisition program for NAELs. Native students were placed in classrooms with TESOL-endorsed teachers. CIS had nine TESOL endorsed staff, but not all of them taught ELL students. Blum Martinez, 6/27/17-a.m. at 53:7-16. CIS did not provide ELL students an adequate ELL program, even though it provided professional development and cultural competency trainings, and organized teacher groups. Blum Martinez, 6/27/17-a.m. at 53:17-54:9. Dr. Blum Martinez determined that, based on her assessment, the ELL services provided to NAEL students at CIS were not sufficient for compliance

with the *Castaneda* and *Lau* requirements. Blum Martinez, 6/27/17-a.m. at 54:10-13.

361. ELL Students attending Grants Cibola County Schools (GCCS) were not provided an adequate English language acquisition program. Most Native American students at GCCS are members of the Pueblos of Laguna and Acoma or the Navajo Nation. Almost half of all 3,680 students are Native American. Blum Martinez, 6/27/17-a.m. at 54:14-24; *see also* P-2943; Space, 6/28/17 at 244:2-5, 246:1-9. The GCCS bilingual director, who did not have a background in ESL or bilingualism, made great efforts to establish some kind of program for ELL teachers. She ensured that K-5 teachers were provided TESOL and SIOP trainings; but she struggled to provide teachers of grades 6-12 the same. Blum Martinez, 6/27/17-a.m. at 54:25-56:25. According to several interviews with administration, Dr. Blum Martinez determined that several TESOL teachers had left GCCS for better salaries in urban districts, while others refused to educate ELL students. Blum Martinez, 6/27/17-a.m. at 57:9-21. GCCS provided ELL “sheltering strategies,” which do not constitute a program under Title III. While GCCS purportedly was in the process of developing a program, it had not provided NAEL students an adequate English language acquisition program. Additionally, NAEL students were not provided any Native language classes in Keres (Pueblo) or Navajo. Blum Martinez, 6/27/17-a.m. at 56:3-8; 57:1-8. Dr. Blum Martinez

determined that, based on her assessment, the ELL services provided to NAEL students at GCCS were not sufficient for compliance with the *Castaneda* and *Lau* standards. Blum Martinez, 6/27/17-a.m. at 58:9-15.

362. ELL Students attending Jemez Valley Public Schools (JVPS) were not provided an adequate English language acquisition program. JVPS serves mostly Jemez Pueblo children and some Zia Pueblo children. Of the 492 students who attend JVPS, about 58 percent are Native American; of whom, about 34 percent are NAEL students. Blum Martinez, 6/27/17-a.m. at 59:6-14. The JVPS administration attended regular meetings with Jemez and Zia Pueblo leadership in an effort to establish a working relationship with them, which is an important step towards developing a NAEL program. Blum Martinez, 6/27/17-a.m. at 64:5-12. Many NAEL students at JVPS have entered kindergarten at level 1 on the ACCESS test, partly because many Jemez children attend an early childhood language immersion program that focuses strictly on their heritage language (Towa). Blum Martinez, 6/27/17-a.m. at 49:3-9, 61:2-21. JVPS also does not employ a bilingual program. Blum Martinez, 6/27/17-a.m. at 59:15-60:1. The superintendent of JVPS, who is also the director of bilingual education, lacked sufficient knowledge about ELL student learning. Blum Martinez 6/27/17-a.m. at 60:13-61:1. Dr. Blum Martinez determined that JVPS teachers invited speech pathologists to come work with their ELL students because they were under the

mistaken belief that their ELL students were language delayed. Blum Martinez, 6/27/17-a.m. at 61:23-62:18. NAEL students at JVPS were not provided an English language acquisition program. The JVPS Superintendent admitted to needing technical assistance and support. JVPS generally lacked funding to provide adequate training for teachers. Blum Martinez, 6/27/17-a.m. at 63:18-64:2. Dr. Blum Martinez determined that, based on her assessment, the ELL services provided to NAEL students at JVPS were not sufficient for compliance with the *Castaneda* and *Lau* standards. Blum Martinez, 6/27/17-a.m. at 64:3-5.

363. ELL Students attending Gallup McKinley County Schools (GMCS) were not provided an adequate English language acquisition program. GMCS is one of the largest districts in the nation, geographically. It covers almost 5,000 square miles, and serves the eastern part of the Navajo Nation. Blum Martinez, 6/27/17-a.m. at 65:1-17. Of the 12,000 GMCS students about 35 percent are ELL and about 83 percent are Native American. The majority of all ELL students are Navajo. Blum Martinez, 6/27/17-a.m. at 67:9-15. GMCS struggles to provide transportation to students who live in the outlying areas during inclement weather. Blum Martinez, 6/27/17-a.m. at 66:3-8. The Director of ELL education at GMCS, who has a background in bilingual and ESL education and who possesses some knowledge about Navajo culture, attempted to develop a coherent approach for ELL education, including professional development for teachers. Prior to the

employment of the Director, however, GMCS had not taken any initiative to meet the needs of NAEL students. Blum Martinez, 6/27/17-a.m. at 68:1-17. The programs and services provided to ELL students at GMCS have been inconsistent. Some, but not all, K-2 schools implemented a language immersion program, allowing NAEL students to learn both their heritage language and English simultaneously. Blum Martinez, 6/27/17-a.m. at 67:16-25, 68:18-69:19. About 188 of all GMCS teachers were TESOL-endorsed, which is not a sufficient amount for the large ELL student population. Blum Martinez, 6/27/17-a.m. at 74:21-75:5. GCCS struggles to retain TESOL-endorsed teachers, because of inadequate funding. Blum Martinez, 6/27/17-a.m. at 75:5-21. GMCS employed about 37 Native American Certified Language instructors, which is an insufficient number to serve the large Native American student population throughout all 36 schools. Blum Martinez, 6/27/17-a.m. at 69:20-70:11. GMCS is in great need of Navajo language and culture instructors. Blum Martinez, 6/27/17-a.m. at 70:3-11. Navajo Pine, a K-12 school, which employed both Navajo administrators and teachers, had placed two TESOL-endorsed teachers into a history course to help ELL students access the content. The ELL strategy used at Navajo Pine ELL classes, however, was not observed at other high-concentrated Navajo schools. Blum Martinez, 6/27/17-a.m. at 71:5-24, 72:11-25. Overall, the strategies for NAEL students at GMCS, while helpful, did not fully help children to gain access to the curriculum.

Blum Martinez, 6/27/17-a.m. at 72:25-73:21. GMCS was working to develop a full-fledged ELL program, but a complete ELL program did not exist. Blum Martinez, 6/27/17-a.m. at 76:12-20. GMCS provided an insufficient amount of professional development training around ELL education. Blum Martinez, 6/27/17-a.m. at 76:21-24. Dr. Blum Martinez determined that, based on her assessment, the ELL services provided to NAEL students at GMCS were not sufficient for compliance with the *Castaneda* and *Lau* standards. Blum Martinez, 6/27/17-a.m. at 77:16-25.

364. ELL Students attending Zuni Public Schools (ZPS) were not provided an adequate English language acquisition program. About 98 percent of the 1,352 students attending ZPS are members of Zuni Pueblo. About 576 students are Native American ELL students. Blum Martinez, 6/27/17-a.m. at 78:1-10. Dr. Blum Martinez determined that, based on her interview of the Zuni administration, NAEL students were placed with TESOL-endorsed teachers; however, based on classroom observations, Dr. Blum Martinez determined that not all teachers of ELL students were TESOL-endorsed. Blum Martinez, 6/27/17-a.m. at 78:11-22; 79:20-24. Based on several classroom observations, Dr. Blum Martinez determined that NAEL students were provided a remedial reading program and materials. Blum Martinez, 6/27/17-a.m. at 78:19-79:6. At ZPS, there were only three TESOL-endorsed teachers and two alternatively-licensed Zuni language

teachers in the entire district. Blum Martinez, 6/27/17-a.m. at 80:23-81:9, 82:19-83:1. Dr. Blum Martinez determined that, based on her assessment, the ELL services provided to NAEL students at ZPS were not sufficient to comply with the *Castaneda* and *Lau* standards. Blum Martinez, 6/27/17-a.m. at 82:15-18.

365. Santa Fe Public Schools cannot provide all ELL students bilingual education, tutoring, and summer school because it lacks the funds to do so. Garcia, 6/15/17 at 121:7-16, 125:24-6, 127:1-3.

366. Las Cruces Public Schools cannot implement a proven ELL program because of insufficient funds. Rounds, 7/12/17 at 114:2-117:15.

367. Gadsden ISD requires all teachers to be TESOL-certified, but it cannot pay for TESOL certification. Yturralde, 6/29/17 at 106:21-23, 108:9-109:6. As a result, only 30 percent of the district's teachers are TESOL-certified. Yturralde, 6/30/17 at 10:8-17.

368. Rio Rancho Public School District struggles to recruit TESOL-certified teachers because its compensation is too low, especially when surrounding states offer better financial incentives. Cleveland, 7/11/17 at 169:1-13.

369. Grants-Cibola County Schools do not have a sufficient force of TESOL-endorsed teachers and, currently, the district is unable to offer valuable incentives for current teachers to pursue their TESOL endorsements. Space, 6/29/17 at 146:25-147:25.

370. Cuba Independent School District, which has a shortage of TESOL-endorsed teachers, can only offer a \$500 stipend to incentivize TESOL recruits. Chavez, 7/7/17 at 74:2-9. CIS also has a shortage of bilingual-endorsed teachers and can only offer bilingual teachers a stipend of \$1000. Chavez, 7/7/17 at 74:10-17, 75:10-18. Stipends to recruit TESOL and bilingual teachers to CIS are not competitive in comparison to the surrounding districts, where stipends often range from \$1500-\$3000. Chavez, 7/7/17 at 74:18-75:2.

371. Magdalena Municipal School District Superintendent Vanetta Perry testified that English language acquisition is the most important educational opportunity that Magdalena can provide to its Native American student population. Perry, 6/29/17 at 43:22-44:10. In Magdalena, however, many students have not been exposed to the English language and struggle to keep up with their peers. Perry, 6/29/17 at 15:10-18. About 20-24 percent of all Magdalena students are English language learners, most of whom are Native American. A significant number of Native American ELLs are neither proficient in English nor Navajo. Perry, 6/29/17 at 13:19-24, 30:2-7. Due to insufficient instructional support and language development resources, many ELL students in the Magdalena have become Long-Term ELLs. Perry, 6/29/17 at 29:13-22. Additionally, about 25 percent of all SPED students in Magdalena are Native American, which is much higher than the State average. Perry, 6/29/17 at 44:11-45:1. Due to a reduction in elementary

teaching staff in two grade levels, in 2016-17, ELL students in Magdalena, who needed smaller class sizes and one-on-one and one-to-three ratios to help them grasp the English language, experienced a detrimental effect to their education. Perry, 6/29/17 at 18:11-19:2, 21:15-22:12, *see also* Yazzie-Stips # 1334. In the 2015-16 school year, Magdalena teachers of ELL students who held a TESOL endorsement were paid a \$1000 stipend; in the 2016-17 school year, however, TESOL stipends were reduced to \$500. Perry, 6/29/17 at 26:5-10.

372. Gallup McKinley County School District is unable to provide all of the bilingual and ELL programs that are necessary to educate the large Native American student population. Chiapetti, 6/28/17 at 91:17-22. The State's Funding Formula allocates bilingual funding to districts based on the number of TESOL-endorsed teachers who teach ELL students. Chiapetti, 6/28/17 at 94:19-22. GMCS struggles to hire TESOL-endorsed teachers and, as a result, does not generate sufficient bilingual funding under the Funding Formula. Chiapetti, 6/28/17 at 92:3-5, 94:23-95:6. While PED provides additional funds to help GMCS recruit teachers, the amount is insufficient to pay TESOL- and bilingual-endorsed teachers a salary that is competitive with neighboring districts and nearby states in the Southwest. Chiapetti, 6/28/17 at 92:11-93:22.

373. Title III funds, federal grants that deal with English Language Acquisition, are insufficient to support necessary ELL programming.

374. Only 49 of 89 school districts in New Mexico participate in Title III programs and receive Title III funding. P-3042 ¶ 2. For those school districts that receive Title III funding, all such districts report that 99 percent of their Title III funds go toward personnel spending. P-3042 ¶ 2. There are many additional expenses related to providing quality programs for ELLs that Title III funds do not cover. P-3042 ¶ 2.

375. Based on Dr. Escamilla's estimates, the Court finds:

h. that Gadsden ISD incurred the following extra expenses related to teaching ELLs:

1. Personnel:

(A.) Bilingual Director's Salary = \$60,000 plus benefits

(B.) Paraprofessionals = \$20,711 plus benefits

(C.) Parent Liaison = \$22,415 plus benefits

(D.) Instructional Specialist = \$73,863

(E.) Translators = \$44,595

2. Stipends for certified teachers:

(A.) TESOL Certified = \$1,000 per teacher x 420 teachers =
\$420,000

(B.) Bilingual Certified = \$1,500 per teacher x 237 teachers
= \$355,500

3. Professional development:

(A.) Costs vary depending on number of teachers receiving professional development and numbers of substitute teachers for professional development

(B.) Materials:

(1) Costs for materials purchased for ELLs are in addition to materials purchased for English language classrooms. P-3042 ¶ 3.

b. Santa Fe Public Schools incurred the following extra expenses related to teaching ELLs:

1. Personnel:

(A.) Bilingual Director = \$60,000 plus benefits

(B.) Special Assistant to the Chief of Staff with special focus on outreach and engagement of immigrant, Chicano, and Latino communities = \$75,000 plus benefits

(C.) Translator services for parent academies

(1) Parent Liaison = \$25,000 plus benefits

(D.) Stipends for certified teachers:

(1) Bilingual/TESOL Certified Teachers = \$1,500 x 209 certified teachers = \$313,000

2. Professional development:

(A.) Professional development related to curriculum for ELLs and substitute teacher costs

3. Materials:

(A.) Newcomer kit: 1 per school (29 schools have ELLs)

(B.) Imagine learning: \$150 per student at elementary

(C.) Side by side curriculum at secondary. P-3042 ¶ 4.

c. Magdalena Municipal School District incurred the following extra expenses related to teaching ELLs:

1. Overall: The district generates about \$45,000 each year in Bilingual Funding for a Navajo program and the program costs well over \$100,000 to operate.

2. Personnel:

(A.) Parent Liaison: \$14,070 plus benefits

(B.) Teacher Salaries and materials for bilingual/ESL classes:
Over \$100,000 for ESL teacher increments, bilingual teacher salaries, supplies and materials for bilingual classes, and bilingual cultural training for staff

3. Materials:

(A.) ELL-National Geographic Inside and Edge

(B.) iStation reading and math, Read 180, System 44

(C.) The district has no money to buy materials for the Native American program

4. Professional development: \$55,172.63

5. Parent Involvement:

(A.) Costs related to parent engagement activities. P-3042 ¶ 5.

376. PED fails to monitor and support districts and schools in their education of ELL students.

377. Dr. Icela Pelayo, PED's former Director of Bilingual and Multicultural Education (BMEB), testified that PED has never defined what the Education Clause requires for ELL students. Pelayo, 7/24/17-p.m. at 40:21–41:6.

378. With regard to the education of ELL students, "PED is responsible for setting standards, providing guidance, and monitoring school district compliance with state and federal laws and standards." "[T]he State itself is responsible for the support of PED in that role," and that "the State is also responsible to fund the school districts to implement their role." Pelayo, 7/24/17-a.m. at 87:19-88:8.

379. Defendants admit that federal and state laws require Defendants to ensure that EL students are provided EL programs and services, Pelayo, 07/24/17-PM at 41:23-42:9; 43:6-12, and that Defendants admit that English learner students require programs. Pelayo, 07/24/17-PM at 43:13-15. Defendants have a duty to monitor and ensure that the districts are providing English learner students an EL program that meets the standards required under federal law. Pelayo, 07/24/17-PM at 44:13-45:23.

380. The PED Technical Assistance Manual, also known as the "toolkit," indicates that ELs are to be provided appropriate English language assistance programs and services. Pelayo, 07/24/17-PM at 43:16-22. See also EX P-1938 at 5.

381. The State failed to adopt standards for Spanish-English Bilingual Multicultural Education Plans (BMEPs) until 2017. Pelayo, 7/24/17-a.m. at 88:16-89:25. Dr. Pelayo agreed that these are standards that “set the expectations for what should be happening instructionally in [...] Spanish.” Pelayo, 7/24/17-a.m. at 88:13-21. Dr. Pelayo further testified regarding these standards: “it’s important that the rigor and instruction happens across all programs and in multiple languages.” Pelayo, 7/24/17-a.m. at 88:22-24.

382. The BMEB does not work with districts unless they implement Bilingual and Multicultural Education Plans (BMEPs) or Title III programs. Pelayo, 7/24/17-a.m. at 92:3-6. Not all ELL students have access to BMEPs, even in those districts with BMEPs. Pelayo, 7/24/17-a.m. at 86:12–19. New Mexico “may have some English learners who are in districts for which they have not reported a program code, [so] [PED] would not know with specificity how they're being served.” Pelayo, 7/24/17-a.m. at 129:8-13.

383. The State has never evaluated whether the funding that school districts receive is enough to implement effective programs for ELLs. Pelayo, 7/24/17-p.m. at 14:9-16:3.

384. Dr. Pelayo could not state with any certainty whether districts have sufficient funding to meet their responsibilities to ELL students and could not know that

because she had not undertaken analysis to explore how specific districts use their resources. Pelayo, 7/24/17-p.m. at 16:4-14.

385. Dr. Pelayo testified that she had no idea if the money generated through the SEG at-risk index is based on actual costs to the district to support ELL students. Pelayo, 7/24/17-p.m. at 16:15-18.

386. Districts appear to spend far more on their bilingual programs than allocated. Pelayo, 7/24/17 at 77:21-78:13; P-1898, at 27.

387. PED found, in the course of its budget reviews conducted regarding BMEP programs, that districts were not using their funding in ways that go toward the intent of the BMEPs under state regulations promulgated pursuant to the BMEA. Pelayo, 7/24/17-a.m. at 103:23-104:21; P-1957-IP. Thirty-three percent of districts responded that they did not use their bilingual funding for parent advisory committees (PAC) at all. Pelayo, 7/24/17-a.m. at 105:18-23; P-1957-IP.

388. A number of districts were discovered in a PED audit regarding BMEPs not to have used BME funds to support professional development for teaching in the target language and English. Pelayo, 7/24/17-a.m. at 106:2-9; P-1957-IP. Twenty-five percent of districts audited said that they had to use funding other than BME funding to support professional development for teaching in the target language and English, and some districts spent no funds on such professional development. Pelayo, 7/24/17-a.m. at 106:10-18; P-1957-IP. The State does not track what

training or professional development teachers who serve ELL students receive. Pelayo, 7/24/17-a.m. at 94:12-15.

389. Dr. Pelayo testified that she knew of no effort by the State to calculate the cost to districts to ensure fidelity to all of the components regarding staffing of ELL programs listed in a U.S. Department of Education guidance document. Pelayo, 7/24/17-a.m. at 92:7-93:14; P-1931 at 1. P-1931 at 1.

390. In response to a PED audit regarding BMEP expenditures by districts, some districts did not explain how they spent SEG funds to develop program effectiveness and some districts reported no expenditures on development of program effectiveness. Pelayo, 7/24/17-a.m. at 106:19-107:3; P-1957-IP.

391. PED's Bilingual Multicultural Education Bureau did not monitor how districts are spending their non-categorical funding to support the needs of ELL students. Pelayo, 7/24/17-a.m. at 107:24-108:4.

392. In 2015, less than 50 percent of the state's ELL students were enrolled in BMEPs. Pelayo, 7/24/17-a.m. at 108:10-15; D-1247.

393. The coding that PED provides for English Language Development programs that are neither Title III or BMEP programs does not provide information about the discrete practices and strategies of such programs. Pelayo, 7/24/17-a.m. at 117:20-119:3; P-1938 at 1. Furthermore, such coding would not indicate whether or not a

district has correctly identified the services or program that it actually offers. Pelayo, 7/24/17-a.m. at 119:4-11; P-1938 at 1.

394. Sheltered instruction focuses on trying to ensure that English learners have access to grade level content, and multiple elements of multiple strategies are needed to implement sheltered instruction properly. Pelayo, 7/24/17-a.m. at 120:3-122:13; P-1938 at 1. The program codes that PED uses for sheltered instruction do not indicate anything about the model used or even the elements. Pelayo, 7/24/17-a.m. at 122:14-123:8; P-1938 at 1. If a district is using sheltered instruction, the State would not know whether or not the district is also using English language development for that student in a district that does not have a BMEP or Title III program. Pelayo, 7/24/17-a.m. at 124:3-15; P-1938 at 1.

395. GLAD, a sheltered instruction model that districts use in New Mexico, has never been formally evaluated by PED. Pelayo, 7/24/17-a.m. at 124:19-125:5; P-1938 at 1.

396. Dr. Pelayo testified that as of April 13, 2017, PED had done nothing to determine whether districts are actually implementing the language approaches that they report, other than BMEPs and Title III programs. Pelayo, 7/24/17-a.m. at 126:4-127:9.

397. Dr. Pelayo testified that there is no bureau of PED that attends to districts that have neither BMEPs nor Title III programs for serving ELL programs. Pelayo, 7/24/17-a.m. at 127:12-128:11.

398. Dr. Pelayo, as director of the BMEB and whose job it was to oversee Title III programs and BMEPs, did not know how many “districts in the state that are not compliant [...] with federal guidelines for EL students.” Pelayo, 7/24/17-a.m. at 129:14-25.

399. PED does not track long-term ELLs for the purpose of reporting to the public or to school districts. Pelayo, 7/24/17-a.m. at 136:16-18.

400. In the school grading report cards produced by PED, a school can get an “A” or “B” score and still miss their student growth target rates for ELL students. Pelayo, 7/24/17-p.m. at Tr. 8:8-11:7; P-3010 at 2.

401. PED brings teachers from Mexico and Spain to teach in New Mexico, but Dr. Pelayo admitted that just because a teacher speaks Spanish does not mean that they are properly trained to meet the needs of ELL students or the cultural needs of students. Pelayo, 7/24/17-p.m. at 17:18-18:2.

402. Dr. Pelayo testified that Article XII, Section 8, the Teacher Training Clause, of the New Mexico Constitution requires that teachers who are going to be qualified to teach Spanish-speaking pupils would need to have proficiency in that language, and agreed that the Teacher Training Clause requires the State to provide

training so that teachers are qualified to teach Spanish-speaking students and to provide the proper means and methods to facilitate the learning of English for those students. Pelayo, 7/24/17-p.m. at 23:24-24:20.

403. The methodology behind the assertion that TESOL-endorsed teachers are not necessarily more effective than non-TESOL-endorsed teachers is not reliable. The analysis by Dr. Goldschmidt that Dr. Pelayo used to support her assertion was preliminary and does not support determinative conclusions about the issue without further analysis. Pelayo, 7/24/17-p.m. at 27:13-31:7.

404. The assertion that reclassified former ELL students have higher proficiency rates than ELL students is not reliable. Dr. Pelayo used SBA data from 2013-14 and did not include among the reclassified ELL students those ELL students who drop out or those ELL students who never gained English proficiency. Pelayo, 7/24/17-p.m. at 31:11-33:7.

405. Dr. Pelayo testified that Title III programs are successful if they meet AMAO targets, but there is no relationship between meeting AMAO targets and college and career readiness. Pelayo, 7/24/17-p.m. at 33:8-34:14; D-1093.

406. The duties of BMEB director to English language learners apply equally to Native American English language learners. Pelayo, 7/24/17-p.m. at 41:14-18.

407. Defendants have not disaggregated the graduation rates for EL students by ethnicity, which would be important for understanding the performance and

proficiencies of Native American English learners. Pelayo, 07/24/17-PM at 49:19-50:14.

408. Defendants do not dispute the findings made by Plaintiff s' Expert Dr. Blum Martinez in her assessment of six school districts that serve a high-concentration of Native American students. Pelayo, 07/24/17-PM at 51:17-53:1.

409. Defendants do not dispute the finding made by Plaintiffs' Expert Dr. Blum Martinez in her assessment that there was a lack of knowledge about second language learning in six districts serving a high concentration of Native American students. Pelayo, 07/24/17-PM at 53:2-17.

410. Defendants admit at a remedial reading program is not a satisfactory language assistance program as required under federal law. Pelayo, 07/24/17-PM at 53:24-54:6. Defendants do not dispute that the programs in the six districts serving a high concentration of Native American students were mostly remedial reading programs, which are not designed to help struggling readers and not EL students. Pelayo, 07/24/17-PM at 54:2-13.

411. Defendants do not dispute that the six districts serving a high concentration of Native American students lacked researched based ESL programs. Pelayo, 07/24/17-PM at 54:14-17.

412. Defendants do not dispute that only one high school among the six districts serving a high concentration of Native American students provided a class

dedicated to indigenous students and other EL students. Pelayo, 07/24/17-PM at 54:18-21.

413. Defendants do not dispute that in some of the “six districts,” TESOL endorsed teachers were refusing to teach Native American English learners because of their beliefs that the low test scores of Native American English learners negatively affect their teaching evaluations. Pelayo, 07/24/17-PM at 55:3-9.

414. Defendants do not dispute that three of the “six districts” lacked ELD and ESL specific materials necessary for EL students, and that those districts provided remedial reading materials instead. Pelayo, 07/24/17-PM at 55:10-18.

415. Defendants do not dispute that the six districts generally lack knowledge about the language and culture of New Mexico’s Native American communities. Pelayo, 07/24/17-PM at 55:19-22.

416. PED’s monitoring system completely ignores ELL students who speak neither Spanish nor any Native American language, such as the 68 Vietnamese speakers in Rio Rancho Public School District. P-2795 ¶ 15; Cleveland, 7/11/17 at 223:24-224:6.

417. When the state introduced the PARCC, it did not provide additional support for ELL students. Cleveland, 7/11/17 at 171:19-172:2.

418. Districts develop their own programs, trainings, and strategies for ELL education because the State does not provide technical assistance in the form of

professional development or support for best practices in its reports and manuals.

P-2795 ¶ 37a; Yturralde, 6/29/17 at 110:8-17.

419. New Mexico funds BMEPs through a weighted mechanism that adds 50 percent of the educational costs of a general education student through the funding formula, and then that amount is capped up to four hours. Therefore, BMEP funding in New Mexico is not based on the operational needs of the school district. Montano, 7/18/17 at 274:1-275:16.

420. There is no below-the-line funding available specifically for services that target the needs of ELL students. Montano, 7/18/17 at 275:19-22.

421. For those students who are not in BMEPs, other than English language arts classes, PED does not know if those students are being served in language proficiency programs to help them learn English. Montano, 7/18/17 at 276:6-10.

422. PED does not monitor what language proficiency programs, if any, are serving ELL students who are not enrolled in BMEPs or Title III programs. Montano, 7/18/17 at 276:11-16.

423. The State has never conducted any analysis to determine the effectiveness of ELL programs in the state that are not BMEPs. Montano, 7/18/17 at 276:17-20.

424. PED has never evaluated the quality of the guidance it provides to school districts on implementing ELL programs that are not BMEPs. Montano, 7/18/17 at 277:4-7.

425. PED lacks sufficient monitoring programs to determine if ELL students are receiving adequate assistance. For example, Grants-Cibola County Schools has had a weak relationship with the BMEB. Space, 6/29/17 at 143:16-19.

426. Since 2013, the BMEB has not provided any meaningful support or technical assistance to Grants-Cibola County Schools regarding bilingual funding and program implementation. Space, 6/29/17 at 143:20-144:10.

427. BMEB did not respond to Grants-Cibola County Schools' request for support, guidance, and technical assistance regarding effective implementation of bilingual programs and ELL programs. Space, 6/29/17 at 144:11-145:5, 146:13-20.

428. Instead of making actual site-visits or observations of ELL program implementation and/or Title III compliance, the BMEB performs only desktop monitoring. Space, 6/29/17 at 145:22-146:12.

429. The PED has not provided any technical support to Magdalena Municipal School District in a way that would facilitate the exiting of students from an ELL program. Perry, 6/29/17 at 29:23-30:1.

430. From school years 2012 to 2016, the Bilingual Multicultural Education Bureau had little involvement if any at Zuni Public Schools. Staff from the BMEB did not observe ZPS classrooms or provide any technical support to ensure that ZPS was implementing bilingual and ELL programs appropriately. Lewis, 6/30/17 at 179:16-180:2, 184:9-11.

431. The BMEB has not provided any technical support and guidance, including monitoring of ELL programs, in the Gallup McKinley County School District since Mr. Chiapetti has been employed. Chiapetti, 6/28/17 at 98:19-25.

432. The ELL population in New Mexico is growing over time and, therefore, the number of students with more educational needs related to the acquisition of English proficiency is growing. Montano, 7/18/17 at 278:19-25.

433. The LESC produced a report describing best practices for English Language Development for ELLs. P-0106

434. PED has never looked at the amount of funding generated through SEG to determine a district's recruitment or retention needs when it comes to teachers serving ELL students. Montano, 7/18/17 at 284:12-19.

435. Defendants admit that the districts are not allowed to use Title III funds to reimburse spending on one-day or short-term language development conferences, such as those provided by NMABE and La Cosecha. Pelayo, 7/24/17-a.m. at 94:19-95:18; D-1192.

436. Dr. Pelayo testified that she does not know why districts choose to leave remaining balances from Title III funding on the table without seeking reimbursements. Pelayo, 7/24/17 at 95:21-99:10; D-1061.

437. The U.S. Department of Education only evaluates the State with regard to Title III grants, and PED has a separate process for site visits to districts as Title III

subgrantees. Pelayo, 7-24-17-a.m. at 100:5-101:3; D-1093 at 28. There is no one indicator that automatically triggers a visit by PED to school districts with regard to Title III subgrants, and districts might be chosen for a visit in consecutive years or they may not be chosen for a visit at all, according to Dr. Pelayo and PED's 2016 Title III technical manual. Pelayo, 7-24-17-a.m. at 101:4-101:14; D-1093 at 28.

438. As of 2017, and because of the transition to ESSA, the Department of Education is not holding the state or districts accountable for AMAOs, and even under the old system in which districts had to submit improvement plans for meeting their AMAOs, districts did not receive additional funding to implement improvement plans when they missed those targets. Pelayo, 7-24-17-a.m. at 102:9-21; D-1093 at 28.

439. Defendants acknowledge that Native American ELL student have special linguistic needs.

440. Defendants acknowledge that ELL students need educational services for English language acquisition. Montano, 7/18/17 at 254:7-10.

441. Defendants acknowledge that quality ELL programs requires individualized instruction. Montano, 7/18/17 at 255:11-13.

442. Defendants acknowledge that most new teachers are not prepared to meet the educational needs of ELL students. Montano, 7/18/17 at 255:18-24.

443. Defendants acknowledge that a quality ELL program must provide intensive instruction from teachers who are properly trained in recognizing and dealing with student language deficiencies, and it must incorporate cultural aspects of a student's background. Montano, 7/18/17 at 256:9-16.

444. PED requires that, in order to receive hard-to-staff stipends, bilingual- and TESOL-endorsed teachers must teach in a content area. Montano, 7/18/17 at 257:1-16.

445. Defendants admit that schools that are routinely missing their growth rates for ELL students are not monitored by the State of New Mexico. Montano, 7/18/17 at 258:22-259:6.

446. Defendants acknowledge that it is imperative that educators ensure that all ELLs in the state have meaningful access to grade level content and academic English language instruction to engage them in the learning process, and it is the State's responsibility to hold districts accountable to that. Montano, 7/18/17 at 259:7-14.

447. Defendants acknowledge that the way in which teachers acquire an understanding of how to serve ELL students is through consistent, ongoing, high-quality professional development. Montano, 7/18/17 at 259:25-260:3.

448. Defendants acknowledge that if an ELL student is struggling academically, the school should provide the student with additional support, which may include tutoring. Montano, 7/18/17 at 261:12-19.

449. Defendants acknowledge that research shows that it takes ELL students about five to seven years to attain academic English. Montano, 7/18/17 at 264:19-21.

450. Defendants acknowledge that the academic success of English language learner students is gauged in two ways: English language proficiency and academic proficiency. Pelayo, 07/24/17-am at 42:8-16.

451. Plaintiffs proved that Defendants' analysis in Exhibit D-1097, showing the average rate for EL students to acquire EL proficiency and exit the EL program is 3.6 years, was not based on a reliable or credible methodology. Dr. Pelayo admitted that the proposed 3.6-year average EL-exit rate, which was based on the English language proficiency scores among ELs from years 2010-2016, did not account for EL students who had entered the EL program before 2010. 42:22-45:16, 48:5-17.

452. Dr. Pelayo admitted that she did not know whether the average exit rate included the number of EL students who dropped out of school before attaining English language proficiency. Pelayo, 07/24/17-am at 32:1-19.

453. Dr. Pelayo did not independently verify the results of the findings but instead relied on the word of another statistician. Pelayo, 07/24/17-am at 40:12-20.

454. Dr. Pelayo testified that she never assessed what percentage of Native American English language learners are failing to test proficient in the English language within five years or what percentage of Native American English language learners are failing to test proficient within seven years. Pelayo, 7/24/17-p.m. at 48:5-21.

455. Dr. Pelayo did not dispute the assessment by Dr. Blum-Martinez that programs in the districts with high numbers of Native American English learners that she examined--Bernalillo, Cuba, Gallup, Jemez, Grants, Cibola and Zuni--were remedial reading programs designed to help struggling readers, not ELL students. Pelayo, 7/24/17-p.m. at 53:2-54:13.

4. The Provisions of the Indian Education Act Are Not Being Met

456. New Mexico has by law already recognized the value of multicultural education. For example, the Indian Education Act (“IEA”) specifies offering “culturally relevant learning environments, educational opportunities and culturally relevant instructional materials for Native American students enrolled in public schools;” and “that tribes are notified of all curricula development for their approval and support.” NMSA 1978 § 22-23A-2 (A) and (I) (2004).

457. Another example of New Mexico’s recognition of the importance of multicultural education is found in sections of the Bilingual Multicultural Education Act (“BMEA”). NMSA 1978 § 22-23-1 (2004). While this Act focuses

largely on language education, it also supports “equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials for all students participating in the program.” Section 22-23-1.1 (K). The Act also encourages: (1) using the cultural and linguistic backgrounds of the students in a bilingual multicultural education program; (2) providing students with opportunities to expand their conceptual and linguistic abilities and potentials in a successful and positive manner; and (3) teaching students to appreciate the value and beauty of different languages and cultures.” Section 22-23-1.1 (L)

458. The IEA and BMEA recognition of the value of multicultural education is consistent with empirical research that finds that “rigorous and well-designed curriculum that is culturally relevant to students has a positive impact on them. P-2800, ¶ 37. If school factors, such as curriculum, “support and strengthen students’ cultural and ethnic identities, student achievement tends to benefit[, but] [c]onversely, to the extent that curriculum and other school factors undermine students’ cultural and ethnic identity, achievement may well be undermined as well.” P-2800, ¶ 60.

459. The IEA has requirements for what constitutes an adequate multicultural education:

“The assistant secretary for Indian Education shall, among other things: “provide assistance to school districts and New Mexico tribes in the planning, development, implementation and evaluation of curricula in native languages, culture and history designed for tribal and nontribal students as approved by New Mexico tribes, develop or select for implementation a challenging, sequential, culturally relevant curriculum . . . ; provide assistance to school districts, public post-secondary schools and New Mexico tribes to develop curricula and instructional materials in native languages, culture and history in conjunction and by contract with native language practitioners and tribal elders, unless the use of written language is expressly prohibited by the tribe; and conduct indigenous research and evaluation for effective curricula for tribal students. NMSA 1978 § 22-23A-5 (E) (2007).

460. One aspect of multicultural education is “culturally responsive pedagogy.” This involves both recognition of the different cultural skills, strengths, and capacities and close relationships between teachers and students. P-2800, ¶¶ 61 & 62.

461. To achieve the latter goal it is important that teacher recruitment efforts seek “teachers who are from students’ cultural communities, as well as teachers who demonstrate an ability to form relationships with students and learn from them and their communities.” P-2800, ¶ 89.

462. Schools must also engage in teacher development for culturally responsive pedagogy. P-2800, ¶ 97. Such professional development should be sustained and should involve workshops and classroom coaching. P-2800, ¶ 98. Further it is critical that such professional development is use of cultural insider knowledge. P-2800, ¶ 103.

463. Generally, our educational system is not meeting these standards. Textbooks, while showing some improvement over the last two decades, continue to marginalize Native Americans and Hispanics. P-2800 ¶ 104.a. Dr. Natalie Martinez's credible observations of State Social Studies text books, led her to find that the economic, political and historical contributions made by indigenous peoples to New Mexico history are absent or minimal, which, in her experience, results in students developing a limited perception about the role that Native Americans play in State and Federal government. While several textbooks, that are local-friendly to the histories of New Mexico's indigenous and Hispanic people, were available, Defendants have failed to adopt and approve them for public school distribution. N. Martinez, Depo Des. at 50:21-52:18, 53:16-55:17.

464. While there are a few projects that have integrated Native American knowledge into the curriculum, there is little evidence that this knowledge is being integrated into the curriculum generally. P-2800 ¶ 112.

465. Relevant documents that deal with multicultural education support the importance of culturally responsive pedagogy, including knowing the student and his/her culture, but give little guidance on how to develop culturally responsive practices or to integrate such knowledge into a program. P-2800, ¶¶ 137, 138, 162, & 166.

466. Most of New Mexico's students are not involved in BMEA programs. Between 16 percent - 18 percent of the total students in the state (20 percent - 25 percent of the Hispanic students, 24 percent - 32 percent of the Native American students, and 2 percent - 5 percent of others) participate in Bilingual Multicultural Education programming (calculations based on data in the annual reports); the rest of New Mexico's students do not. P-2800, ¶ 142.

467. Defendants have not provided a culturally relevant curriculum and pedagogy.

468. The State provides little guidance on how districts can incorporate multicultural education into the curriculum. For example, the State has no framework for implementing the multicultural portion of the Teacher Training Clause and Children of Spanish Descent Clause of the New Mexico Constitution, and PED reports on the Hispanic Education Act do not elaborate regarding what culturally responsive pedagogy means. Sleeter, 6/21/17 at 30:18-31:7; P-2800 ¶ 166.

469. Without guidance, districts generally do not implement effective multicultural education and teachers receive little professional development in culturally responsive pedagogy. P-2800 ¶ 255. Consequently, nearly half of teachers report that the training they do receive has little or no effect on their instruction. *Id.* ¶ 260.

470. Although culturally responsive pedagogy is arguably embedded within NMTeach, it is not prominent. P-2800 ¶¶ 230-231.

471. Dr. Sleeter's study found that although teachers are somewhat familiar with the concept of culturally responsive pedagogy, most are not sufficiently versed in working with culturally responsive pedagogy. P-2800 ¶¶ 236-38.

472. Dr. Sleeter's study found that little professional development in culturally responsive or multicultural pedagogy is offered through the school districts, and most of the professional development in culturally responsive pedagogy in New Mexico focuses on language issues and takes the form of one-time workshops with no follow-up. P-2800 ¶¶ 253-55.

473. Dr. Sleeter's study found that professional development for culturally responsive pedagogy in New Mexico is presented as a separate topic rather than integral to what teachers do. Although teachers are expected to teach a curriculum aligned with Common Core to culturally diverse students, data shows in very few cases does their professional development connect these areas. P-2800 ¶¶ 259-60.

474. New Mexico has not made a concerted effort to recruit and retain diverse teachers. Aside from two recent programs at Zuni Public Schools and Albuquerque Public Schools, Dr. Sleeter testified that her research found no efforts in New Mexico public school districts for increasing the number of Native American teachers. Her research found no efforts at all to increase the number of Hispanic teachers in New Mexico Public Schools. P-2800 ¶¶ 280-83.

475. Schools must provide Native American students, including Native American English learners, the same quality of education that is provided to non-Native American students by incorporating into the classroom a culturally relevant curriculum that contains the historical contributions made by indigenous people; opportunities for cross-cultural experiences, where Native American and non-Native American students can interact meaningfully; and opportunities for Native American parents to engage in their child's education. N. Martinez, Depo Des. at 37:22-38:19; 74:23-76:14; 96:9-25.

476. Defendants have not complied with the New Mexico Indian Education Act.

477. Dr. Joseph Suina, who is a former governor of Cochiti Pueblo and a professor emeritus in the College of Education at the University of New Mexico, gave credible and reliable testimony about Native American Education, Indian Education history and the current impact that federal assimilation policies have had on educational needs of Native Americans in New Mexico public schools.

478. Mr. Regis Pecos, a former governor of Cochiti Pueblo and former Chief of Staff to the New Mexico Speaker of the House, gave credible and reliable testimony about the intent of the New Mexico Indian Education Act, including the purpose of the Act as it pertains to educating Native American students in New Mexico public schools.

479. Superintendent of Zuni Public Schools (ZPS), Dr. Hayes Lewis, who is also a former governor of Zuni Pueblo, gave credible and reliable testimony about the unique cultural and linguistic needs of Native American students attending New Mexico public schools.

480. In New Mexico, there are twenty-two tribal sovereign nations: 19 Pueblos, the Navajo Nation, and the Jicarilla and Mescalero Apache Nations. Suina, 06/26/17-PM, at 42:5-18.

481. About 11 percent of all students, or approximately 34,000 students, in New Mexico public schools are Native American. P-2401 at 53.

482. In addition to Dine language spoken by the Navajo, and the two Apache languages spoken by the Mescalero and Jicarilla Apaches, five different tribal languages are spoken among New Mexico's nineteen Pueblo tribes, including Tewa, Tiwa, Towa, Keresan, and Zunian. Suina, 06/26/17-PM, at 42:19-43:1.

483. Language is the necessary means that provides for the full understanding of the indigenous customs and laws of the Pueblo people. The maintenance and

existence of traditional governance of the Pueblo people cannot continue without the use of traditional language. Pecos, 07/07/17, Tr. 9:18-10:6.

484. Certain tribal languages in New Mexico are related linguistically even though the tribal cultures may be vastly different. Suina 06/26/17-PM, 109:7-14.

485. Certain Pueblo languages, for example, such as Tewa and Tiwa, are related while others are isolates, such as Keres and Zuni, which means they are not related to any language spoken throughout the world. Suina, 06/26/17-PM, at 109:16-23.

486. Language is necessary for the continuation of the culture and traditions of indigenous tribes; there is no substitute. Suina, 06/26/17-PM, at 71:14-72:18.

487. Many of the Pueblo tribes, including Cochiti Pueblo, have maintained a traditional Kiva system, which respects a division of secular and non-secular government functions, and clan systems, which respects the division of labor among matrilineal and patrilineal lines. Suina, 06/26/17-PM, at 43:5-23.

488. Pueblo families are anchored into one of the two traditional Kiva and Clan systems, which, historically, have also incorporated traditional values of Catholicism. Suina, 06/26/17-PM, at 44:5-18.

489. In an oral society like Cochiti, it is important for children to be engaged at every step throughout the stages of life in the community. Certain rituals and meaningful participation in the community require higher levels of proficiency in the traditional language. Pecos, 07/07/17, at 10:7-22.

490. In the 1970s and 1980s, the Cochiti Education Task Force found that the fluency or daily use of the Keres language among adult members, aged 30-plus and younger, were no longer the primary language in the household and in other contextual settings in the community. Since then, Cochiti Pueblo has devoted many resources and made many efforts to revitalize the Keres language amongst its Pueblo family members. Pecos, 07/07/17, at 8:1-9:17.

491. One such initiative is the Keres Early Childhood Learning Center, which is a total language immersion Montessori program for children ages two and a half to about six years of age, and it also includes an Elementary school component to it. Suina, 06/26/17-PM, at 78:22-79:23.

492. The Pueblo's language revitalization programs are capable of being replicated in other parts of the State. Pecos, 07/07/17, at 9:18-20.

493. Language and cultural learning cannot be isolated from the regular school setting; they must be viewed as one of many elements in the larger context of an environment that is conducive to learning. Pecos, 07/07/17 at 18:10-19:11.

494. While some tribes may not desire to have certain aspects of their cultural beliefs taught in public schools, there is no wholesale objection by tribes that prevents schools from incorporating and sharing Indian culture in public schools, including certain tribal languages. Suina, 06/26/17-PM, at 96:12-97:5.

495. It is important to provide long-term investment and educational opportunities for Native American students, because they will be the future leaders of their tribal communities. Suina, 06/26/17-PM, at 80:9-17.3.

496. New Mexico's Native American students share a legacy of historical trauma and a set of well-recognized, but chronically unmet, educational needs. It is important to be knowledgeable of this legacy so as to appreciate the need to meet the requirements of the IEA.

497. Non-native systems of educating Native American children began with their forced removal from tribal lands and placement into federal schools where the destruction of their cultural and linguistic identities occurred in the classroom. Suina, 06/26/17-PM, at 49:6-17.

498. Beginning in the last quarter of the 1900s, Native Americans were subjected to an education system that intentionally denigrated their traditional culture and language, and sought to destroy and replace their way of life with Christianity and Catholicism. Suina, 06/26/17-PM,, at 47:17-49:5.

499. In 1879, the US government forcefully removed Native American children from their tribal communities and placed them in distant boarding schools, beginning with the Carlisle Indian School. 06/26/17-PM, at 49:6-17.

500. The boarding school experiment lasted for about 50 years before the public grew aware of the inhumane conditions that Native American children endured in

these schools, including disease, overcrowding, diet, child labor, and death. Hundreds of children died in the boarding schools. Suina, 06/26/17-PM, at 49:18-50:6.

501. A 1928 report, entitled the “Meriam Report,” identified the inhumanity of Native American students’ experiences in boarding schools, including disease and death; there they were forced to cut their hair and change their style of clothes and beliefs. Suina, 06/26/17-PM, at 50:7-51:23.

502. The Meriam Report documented the devastation caused by the federal assimilation policies imposed upon Indian children and tribal communities beginning in 1890, the intent of which was to destroy Native American religious and cultural identity, and to forcefully assimilate Native American people into mainstream society. Pecos, 07/07/17 at 14:6-16:13.

503. In 1934 the passage of both the Indian Reorganization Act and the Johnson O’Malley Act allowed the Federal Government to delegate the responsibility of educating Native Americans to state public schools through contractual agreements. Suina, 06/26/17-PM, at 51:24-52:19.

504. From the late 1940s into the 1960s, Federal Indian Policy took a new direction, known as the Termination Era, whereby the “coercive assimilation of the American Indian” would return yet again. The primary goals of federal Termination policies were to repeal tribes’ federal recognition status and eliminate

them and their communal rights to federal trust land. During this time, according to Dr. Suina, everything cultural, including language, was prohibited in the schools. Suina, 06/26/17-PM, at 53:8-55:21.

505. During the Termination Era, schools were used as the mechanism to destroy the culture and language of tribal communities, in the name of total assimilation. Suina, 06/26/17-PM, at 55:22-56:14.

506. The severe harm afflicting Native Americans during the Termination Era was covered in great detail by the Kennedy Report of 1968, which brought attention to the toll that decades of forced assimilation had had on Native Americans. Pecos, 07/07/17, at 16:14-21.

507. Forty years after the Meriam report of 1928, the findings identified in the Kennedy Report concluded that almost nothing had changed within the state of education for Native Americans. Pecos, 07/07/17, at 16:22-24.

508. The implementation of the United States termination efforts has had a long-term, ongoing effect on New Mexico's tribal communities, including a disconnect from and distrust of state institutions, such as public schools, where Native American values are not respected. Suina, 06/26/17-PM, at 57:14-58:14.

509. In addition to historical trauma, forced assimilation practices on tribal communities has caused a disconnect between tribal communities and federal and state public schools. Suina, 06/26/17-PM, at 57:14-58:9.

510. There has never been a melding of the school, on the one hand, and the tribe and family on the other. For Native Americans Tribal home experience is left at the doorstep of the school, and, currently, tribes are looking to find that connection. Suina, 06/26/17-PM, at 57:14-58:9.

511. The history of forced assimilation policies on tribal communities in New Mexico requires the system of education to meet the unique cultural and linguistic needs of indigenous students.

512. Dr. Suina opined that a sufficient education for Native American students in New Mexico is one that prepares them for both college and career opportunities and to serve within the various roles of their tribal communities and tribal governments. Suina 06/26/17-PM, at 80:18-22.

513. Dr. Suina presented criteria for an education system that sufficiently meets the educational needs of Native American students. While these criteria may not be exclusive, they do provide a framework by which to judge the adequacy of an educational program designed to meet the needs of Native American students. The program described by Dr. Suina must ensure that the following elements are provided in a sustainable manner:

- a. A culturally relevant education that blends both academic learning with traditional, cultural-based learning, Suina, 06/26/17-PM, at 44:19-45:4; 46:14-47:4; 67:9-16; 68:14-23;

- b. A traditional-based learning system that incorporates traditions, cultural norms, community relations, hands-on learning, language, civic duties, and community development, Suina, 06/26/17-PM, at 45:15-46:13; 67:9-16; 68:14-23;
- c. State and school district collaboration with Tribes to develop an educational plan, Suina, 06/26/17-PM, at 62:10-18; 67:9-16.
- d. Culturally relevant training for teachers who work in school districts that serve Native American students, Suina, 06/26/17-PM, at 62:19-63:5, 66:25-67:16;
- e. Teachers that understand the communities, language, culture of students, Suina, 06/26/17-PM, at 38:7-16, 66:25-67:16;
- f. Pedagogical methods that are relevant to Native American students, Suina, 06/26/17-PM, at 63:6-12, 66:25-67:16;
- g. A culturally relevant and responsive curriculum for Native American students, Suina, 06/26/17-PM, at 63:13-64:19, 66:25-67:16;
- h. A teacher pipeline that will increase the number of Native American teachers to enter the teaching profession in schools that serve Native American students. Suina, 06/26/17-PM, at 65:4-25, 66:25-67:16; and
- i. Family engagement. Suina, 06/26/17-PM, at 78:16-79:3.

514. The current impact of historical impositions on tribal communities requires education systems to provide Native American students an effective English-as-a-Second-Language program. Suina, 06/26/17-PM, at 110:23-111:5.

515. Further, based on Dr. Natalie Martinez's research, observation, and experience in education, there are several elements necessary for preparing Native American students to successfully transition from secondary education to a post-secondary institution and the workforce, which include: a fundamental ability to function as a member of a much larger, democratic society as well as their tribal communities; strong foundations in basic educational content, including reading, writing, speaking, mathematical computation, and critical thinking; the ability to engage with people who are Native American and non-Native American. N. Martinez, Depo Des. at 35:7-25; 36:12-37:21; 81:13-82:22.

516. Of the eighty-nine school districts in the state, the following twenty-three school districts serve a significant population of Native American students: Albuquerque Public Schools, Aztec Municipal Schools, Bernalillo Public Schools, Central Consolidated Schools, Cuba Independent Schools, Dulce Independent Schools, Española Public Schools, Farmington Municipal Schools, Gallup-McKinley County Schools, Grants-Cibola County Schools, Jemez Mountain Public Schools, Jemez Valley Public Schools, Los Lunas Public Schools, Magdalena Municipal Schools, Peñasco Independent Schools, Pojoaque Valley Public

Schools, Rio Rancho Public Schools, Ruidoso Municipal Schools, Santa Fe Public Schools, Taos Municipal Schools, Tularosa Municipal Schools, and Zuni Public Schools. EX. P-0630-PA (*see* glossary of terms).

517. In 2008, the Gallup McKinley County School district had the highest number of Native American students enrolled (10,011) and Zuni Public Schools the highest percentage of Native American students within their district (99.67 percent). Yazzie Plaintiff Stipulation No. 1131.

518. Dr. Hayes Lewis, superintendent of Zuni Public Schools, testified that Zuni Pueblo students, for example, must learn to be culturally competent, because most of them will choose to reside in the community. Lewis 06/30/17 at 149:16-150:4.

519. The cultural roles and responsibilities of Native American students and staff do not cease during school hours. Lewis 06/30/17 at 150:18-151:15.

520. Non-native educators are capable of providing Native American students a culturally relevant education, if provided the necessary training, curriculum, and resources. Lewis 06/30/17 at 160:4-161:2.

521. Based on the observations and experiences of Dr. Space, Superintendent of Grants-Cibola School District, with proper guidance and support, Native American students have the ability to prepare adequately for college and the workforce. Space 06/29/17 at 125:2-126:4.

522. According to the experience and observations made by several administrators in the twenty-three Indian Education districts, the following resources, programs and services are necessary to meet both the academic and unique cultural needs of Native Americans enrolled in New Mexico public schools:

- a. An early childhood learning program that focuses on their cultural roots, Lewis 06/30/17 at 140:22-24, 141:23-142:18; Space 06/29/17 at 156:11-157:4-7
- b. A culturally-relevant curriculum from Pre-K to grade 12, which requires a blend of contemporary standards within a curriculum that focuses on language, culture, cultural protocols, and orientation, Lewis 06/30/17 at 138:14-24, 139:2-17,149:16-150:4; Space 06/29/17 at 117:5-8,
- c. A strong cultural competency program, throughout the year, that allows for non-Native American teachers and administrators to have a sense of belonging in an indigenous community, Lewis 06/30/17 at 153:7-153:22, 154:13-155:17;
- d. Education staff that understand the needs of Native American students and are trained to deliver a culturally relevant curriculum, Lewis 06/30/17 at 139:18-24; Space 06/29/17 at 116:13-22, 117:5-8, 126:11-16.

- e. Instructional materials that are specific to meet the cultural needs of Native American students, Lewis 06/30/17 at 139:25-140:5; Space 06/29/17 at 12:13-23.
- f. A tribal language program, which is useful for both teaching students their tribal language and for incorporating the English language, Lewis 06/30/17 at 142:12-143:1;
- g. A positive relationship between the school district and the local surrounding tribes, Lewis 06/30/17 at 140:6-8, 163:22-164:2, 164:7-166:4. Space, 06/29/17 at 119:16-23, 123:22-124:20;
- h. State support, including funding and technical assistance and guidance, to support Native American student success and education. Lewis 06/30/17 at 140:9-12; Space 06/29/17 at 124:21-125:1.

523. New Mexico's system of education does not provide Native American students the necessary programs and services that meet their unique cultural and linguistic needs.

524. Dr. Suina credibly testified that the State of New Mexico and PED do not provide an education system that is sufficient for the education of Native American students. Suina 06/26/17-PM, at 69:5-8.

525. New Mexico does not provide any evaluation or oversight into the efforts made by PED to improve the academic performance of Native American children. Suina 06/26/17-PM, at 95:14-18.

526. New Mexico and PED do not account for the binary education system valued by the local tribes; the delivery of curriculum and pedagogy takes a one-sided approach. Suina 06/26/17-PM, at 47:5-16.

527. New Mexico and PED have failed to ensure that the following resources are sustainable and systemic: a pipeline program to increase the number of Native American teachers; teachers that have access to culturally-relevant training; and a curriculum and pedagogy that is culturally relevant and responsive to Native American student needs. Suina, 06/26/17-PM, at 65:18-66:24; 94:19-95:18.

528. A PED-funded initiative meant to build the capacity of Native American educators, according to Dr. Suina, which was functional from 2003-2006, has suffered from a pattern of repeat failures since its inception. Suina, 06/26/17-PM, at 38:19-40:2, 58:20-59:13; 65:18-66:12.

529. Defendants' lead expert on Indian Education admitted that the system of education as applied to Native Americans in New Mexico is broken and not sufficient. Moore, 08/02/17 at 52:14-53:10.

530. The passage of the New Mexico Indian Education Act (2003) was meant to mitigate the impact of historical trauma by ensuring that public schools in New

Mexico are meeting the unique cultural and linguistic needs of Native American students.

531. To address what the State identified at the time as Native American students' "special educational needs," New Mexico established the Indian Education Division ("IED") in 1975. Ex. P-1782-FV at 13.

532. In the mid-1980s, the Office of Indian Affairs recognized a need to develop a framework for an Indian Education policy in the State of New Mexico, in order to provide direction on education initiatives and to address priority concerns in Indian Education that were identified by the Commission on Indian Affairs. Pecos, 07/07/17, at 14:6-24.

533. The Commission on Indian Affairs at that time was concerned about the devastation caused by the assimilation policies identified in the Meriam Report of 1928. Pecos, 07/07/17, at 15:5-16:4.

534. Due to the inequities in resources and the glaring failures by the systems and institutions that serve Native Americans, as documented by the Kennedy and Meriam reports, the need to articulate an Indian Education policy became an urgent and major priority at the state level. Pecos, 07/07/17, at 16:25-17:7.

535. The resulting framework of the aforementioned Indian Education policy became the foundation of the New Mexico Indian Education Act. Pecos, 07/07/17, Tr., 17:8-14.

536. The New Mexico Indian Education Act of 2003 was intended to address the State's failure to sufficiently educate Native American students by addressing the cultural and linguistic needs of Native American students. Pecos, 07/07/17, at 18:1-9. *See also* Yazzie Stipulation No. 1134. *See* S.B. 115 Fiscal Impact Report (2003).

537. The New Mexico Indian Education Act is a key piece of legislation meant to redress the historical trauma and create a connection between the State public schools and the tribes. Suina 06/30/17-PM at 58:10-19.

538. The New Mexico Indian Education Act sets forth the legislative determination of what constitutes a constitutionally adequate education for Native American children. Failure to comply with it amounts to a violation of the State Constitution's adequacy clause.

539. Defendants do not dispute their duty to ensure that all provisions of the New Mexico Indian Education Act are fully implemented and carried out.

540. Defendants admit that the New Mexico Indian Education Act imposes duties on PED. Phillips 07/27/17, at 117:19-22; Aguilar 08/04/17, at 119:16-19; Skandera Dep. Des. at 27:1-20;

541. Defendants admit that PED and its secretary of education have a duty to implement the purposes and all of its provisions set forth in the New Mexico

Indian Education Act. Phillips 07/27/17, at 117:23-118:2; see also Yazzie Stipulation No. 1275.

542. Defendants admit that the implementation of the New Mexico Indian Education Act is intended to benefit the families of Native American students and to provide direct support for Native American student success. Phillips 07/27/17, at 118:3-6

543. Defendants admit that PED has a duty to hold districts and itself accountable for the implementation of the New Mexico Indian Education Act. Phillips 07/27/17, at 118:17-24.

544. Defendants admit that PED owes a duty to ensure that Native American students are educated in culturally relevant learning environments. Phillips 07/27/17, at 118:25-119:3.

545. Defendants admit that Native American students must receive equitable and culturally relevant educational opportunities. Phillips 07/27/17, at 122:20-24.

546. Defendants admit that PED's definition of "educational opportunities" means programs and services that are effective at helping students become successful in college and career. Phillips 07/27/17, at 122:25-123:8.

547. Defendants admit that PED has a duty to analyze the effectiveness of school programs for Native American students. Phillips 07/27/17, at 123:9-12.

548. Defendants admit that PED has a duty to ensure that Native American students are provided culturally relevant instructional materials, which includes classroom materials that reflect Native American culture. Phillips 07/27/17, at 126:20-127:3.

549. Defendants admit that PED has a duty to ensure the maintenance of Native American languages. Phillips 07/27/17, at 129:4-7.

550. Defendants admit that PED has a duty to provide for the study, development, and implementation of educational systems for Native American students, which also includes a duty to study educational systems outside of New Mexico. Phillips 07/27/17, at 131:23-132:18.

551. Defendants admit that PED has a duty to ensure that tribes are notified of all curricula development for approval and support, which includes notifying tribes about proposed modifications to bilingual multicultural education bureau regulations on bilingual programs available to students, including Native American students. Phillips 07/27/17, at 134:23-135:11.

552. Defendants admit that PED has a duty to be familiar with indigenous best practices in education. Phillips 07/27/17, at 135:24-136:3.

553. Defendants admit that, based on indigenous best practices in education, the Assistant Secretary of the Indian Education Division owes a duty to advise districts

on the allocation of resources in order to meet the needs of Native American students. Phillips 07/27/17, at 138:10-15.

554. Defendants admit that the Indian Education Division is divided into three regional offices and is intended to be staffed in order to carry out the provisions of the New Mexico Indian Education Act, including the monitoring of NMIEA funds allocated to the Districts. Phillips 07/27/17, at 142:18-143:6.

555. Defendants admit that PED has not fully complied with the New Mexico Indian Education Act.

556. Defendants admit that PED does not have a way to evaluate whether Native American students are actually being educated in culturally relevant learning environments. Phillips 07/27/17, at 122:13-19.

557. Defendants admit that the Culturally and Linguistically Responsive Instruction (CLRI) program, see EX D-3064 at 29, which was meant to help ensure that Native American students are educated in culturally relevant learning environments, no longer exists going into the 2017 school year. Phillips 07/27/17, at 151:22-152:24.

558. Defendants admit that PED has not gathered data on which instructional materials are being used by school districts to educate Native American students. Phillips 07/27/17, at 127:15-19.

559. Defendants admit that PED does not know what percentage of Native American students are provided culturally relevant materials as part of their education. Phillips 07/27/17, at 128:16-20.

560. Defendants admit that PED has not developed any educational systems that are specifically targeted at improving the success of Native American students. Phillips 07/27/17, at 134:4-22.

561. Defendants admit that the Indian Education Division is not fully staffed, which would be necessary for effectuating the purposes of the New Mexico Indian Education Act. Phillips 07/27/17, at 143:7-10.

562. The Defendants have failed to fully implement the New Mexico Indian Education Act and to comply with its provisions.

563. Mr. Francis Vigil gave credible testimony about the State Defendants' failure to comply with its undisputed duty to serve the purposes of the New Mexico Indian Education Act.

564. Mr. Vigil is an enrolled member, and former officer, of the Pueblo of Zia, *Id.*

565. Mr. Vigil is formerly the Director of the Indian and Bilingual/Multicultural Education Department at Espanola Public Schools, and he was the Curriculum Coordinator/Community Outreach Specialist at Walatowa High Charter School in Jemez Pueblo. EX P-1770-FV.

566. Since early 2017, Mr. Vigil has been employed by the Bureau of Indian Education (BIE) as an Education Specialist on Native American History, Culture, and Language. He is charged with working with 22 BIE-operated schools across the region to assist them in the implementation of cultural, historical, and linguistic pedagogy, which requires Mr. Vigil to visit the schools, work with language teams, curriculum teams, and the Tribes, collect data, and help develop programming. P-2881 at 4.

567. According to Mr. Vigil, although the NMIEA was enacted in 2003, the New Mexico Public Education Department (PED) has been aware of the unique educational needs of Native American students, including their need for culturally relevant curricula, since 1994 at the latest [November 28, 1994 PED Policy Statement on Indian Education, excerpted from 1999 Native American Student Success Report see EX P-1782-FV]. EX-P-2881 at 3.

568. By all measures, academic outcomes for New Mexico's Native American students are substantially and consistently worse than for any other ethnic group, and the IEA has not yet significantly altered this trend. EX-P-2881 at 3.

569. Defendants have not fulfilled their duty to implement Section A of the IEA, which requires that Native American students be provided with equitable and culturally relevant learning environments and educational opportunities. Ex P-2881 at 11.

570. Although the duty to provide these environments and opportunities is shared by PED, the school districts, and the schools themselves, PED has acknowledged that it is ultimately responsible for implementing the IEA. *Id.* at 11.

571. PED and the Indian Education Division are responsible for ensuring that the 23 Indian Education Districts are complying with the provisions of the NMIEA. Latifah Phillips, 7/27, 117:19-119:3.

572. Defendants have not fulfilled their duty to implement culturally relevant learning environments or educational opportunities for Native American students. Ex P-2881 at 12.

573. In addition to being culturally relevant, the IEA requires that Native American students be provided with “equitable” environments and opportunities. In order to be equitable, an educational approach must refrain from imposing implicit or explicit judgments against a student based on his or her ethnic, social, or economic positionality. *Id.*

574. The "culturally relevant learning environments and educational opportunities" mandated by the IEA require structured and sustainable learning environments and opportunities for students, a framework rather than just temporary experiences. Ex P-2881 at 12.

575. Mr. Vigil’s review of the many deposition transcripts in this case revealed a significant amount of “deficit-based” educational assistance, i.e., a program

designed to fix a real or perceived deficit, and limited out-of-classroom cultural experiences, but little evidence that equitable and culturally relevant learning environments and educational opportunities were being provided in the districts, or that educators in the districts are being systematically provided with culturally relevant professional development and training, as required by the IEA. *Id.* at 12.

576. The testimony of Sandra Rodriguez from the Santa Fe Public School District, for example, reveals the absence of culturally relevant learning environments and educational opportunities in the SFPS district. Ms. Rodriguez testified that out of the 400 Native American students in Santa Fe Public Schools, 325 of them are receiving "very little academic support" within the District. *Id.* at 12-13. Ms. Rodriguez provided a chart which suggests that "services" provided to the Native American students in her District between 2008 and 2014 are deficit-based, reactive, and administrative services. Ex P-2881 at 13.

577. The Superintendent of Pojoaque Valley School District, Sondra Adams, described deficit-based services. She described the District's Native American liaison's role as being reactive rather than proactive. Her testimony did not suggest that this person worked to implement culturally relevant pedagogy. *Id.* at 13.

578. Tony Archuleta, the Superintendent of Cuba Independent School District, testified that his District lacks sufficient bilingual and multicultural personnel to address student needs. *Id.* The Cuba district receives approximately \$25,000 in

state funding to ensure that it complies with the Indian Education Act. He used this funding to hire one student liaison for Cuba High School. *Id.* at 13.

579. With regard to professional development on the subject of cultural relevance, Assistant Secretary of the Indian Education Division, Latifah Phillips, testified that PED leaves this to the districts. EX-P-2881 at 14.

580. Defendants do not have a mechanism to assess whether equitable and culturally responsive learning environments and educational opportunities are being provided to Native American students. EX P-2881 at 14.

581. PED does not appear to have a functioning method of evaluating such programs and services. *Id.* at 14.

582. No such evaluations appear in the annual Tribal Education Statistical Reports (“TESRs”). *Id.* at 14.

583. In Ms. Phillips’ deposition, she could not describe any method for assessing whether the programs and services provided by the districts comply with the IEA. *Id.* at 14.

584. Defendants have not fulfilled their duty to implement culturally relevant instructional materials for Native American students as required by the IEA. EX P-2881 at 15.

585. Nearly fifteen years have passed since the enactment of the NMIEA in 2003, and PED has not developed or offered a Native American curriculum to the districts for use in their schools. *Id.* at 15.

586. A curriculum entitled the Hundred Years Curriculum was finalized in 2012 but has never been approved or implemented by the IED/PED. *Id.* at 15. While the adoption and implementation of an Indian curriculum does require approval by the Tribes, PED's failure to provide culturally relevant instructional materials, despite the passage of nearly fifteen years and PED's possession of two draft curricula is a failure to implement Section A of the IEA. *Id.* at 15-16. *See also* N. Martinez, Depo Des. at 19:12-21; 21:13-22; 55:21-12, 57:20-58:19; 21:5-12; 55:21-57:10.

587. Educators in the Indian Education Districts who aspire to cultivate cultural and linguistic learning are without an indigenous-based curriculum, and are limited to state-approved instructional and supplemental materials that largely dismiss the contributions made by Southwest Indians to U.S. history. Martza Depo. Desig. at 34:2-37:23; 41:9-25; Space, 06/29/17, at 119:3-6, 122:13-123:21; Lewis, 06/30/17 at 151:16-152:12, 161:21-162:12. *See, e.g.,* Ex. P-2800 at ¶¶ 112, 114, 119-124, 201(c), 206, 212(3), 215-16. *See also* Yazzie Stipulation No. 1315.

588. Defendants have not fulfilled their duty to provide a means for formal government-to-government relationship between the Tribes and the State.

589. Mr. Vigil, who has attended nearly all of the bi-annual government-to-government meetings convened under Section C of the IEA, since approximately 2007, testified that the IEA's requirement that the relationship between the Tribes and the State be "formal" is necessary to ensure that the Tribes are being recognized and respected as sovereign nations and collaborators on the subject of Indian Education. EX P-2881 at 16.

590. In recent years, neither the Governor nor the Secretary of Education has attended these meetings or, if they have attended, they have only done so briefly. Instead, the State has sent an Assistant Secretary of Education to these meetings. *Id.*

591. The failure of the Governor or the Secretary of Education to attend these government-to-government meetings has shown a lack of recognition of the need for these relationships and has created at least the appearance that the Tribes are subordinate to, rather than collaborative partners with, the State and PED on the subject of Indian Education. *Id.*

592. Defendants have not fulfilled their duty to provide substantive guidance regarding effective educational systems to the districts. EX P-2881 at 8.

593. Section C of the IEA requires PED "provide for the study, development, and implementation of educational systems that positively affect the educational outcomes of Native American students." This requirement applies specifically to

PED who, unlike the districts, is in a position to gather data, and conduct such studies and development. *Id.* Implementation of such educational systems in the districts would require, at a minimum, guidance from PED about which systems are effective. *Id.* at 8.

594. Defendants are not studying or developing effective educational systems for Native American students. EX P-2881 at 9.

595. In order to study effective educational systems for Native American students, PED would need to gather information on the types of programs and services that are being implemented, if any, and whether such programs and services are effective. The PED does not appear to be conducting such an evaluation. *Id.*

596. The State indicated that PED ensures compliance with the IEA through "collaboration and communication" with the districts, including through the "publication of the Division's Tribal Education Report." *Id.*

597. The annual TESRs provide data regarding the performance of Native American students in the public schools throughout the State and describe some of the services that were provided to Native American students in preceding school year. The TESRs do not contain substantive evaluations of any programs or services; they do not describe a system of tracking or measuring the results of any such programs, and they do not describe any efforts by PED to study or develop

educational systems for the improvement of educational outcomes for Native American students or to otherwise provide substantive guidance to districts for the implementation of effective educational systems. EX P-2881 at 9-10.

598. Defendants do not staff the IED in a way that would enable it to study, develop, and provide guidance on effective systems of education for Native American students. *Id.* at 10.

599. In approximately 2013, the IED was restructured to divide the Native districts into three regions and assign IED Education Administrators to each region. The purpose of this restructuring was to improve services to the districts. *Id.*

600. The role of the IED Regional Education Administrators was to act as a liaison between PED, the Tribes, the districts, and the Schools and to provide guidance on serving Native American students, including compliance with the IEA. *Id.* at 11.

601. The Regional Education Administrator positions for all three regions are vacant and have been vacant for some time. *Id.*; Chiapetti 06/28/17 at 100:7-101:10, Lewis 06/30/17 at 174:13-175:3.

602. In the absence of Regional Education Administrators, the IED simply does not have the capacity to study and develop effective education systems for Native

American students, and the IED cannot be responsive to the needs of the communities that IED is intended to serve. *Id.*

603. Defendants have not fulfilled their duty to ensure that tribes are notified of all curricula development for approval and support. § 22-23A-2(F) of the NMIEA.

604. Despite unanimous disapproval by the Tribes, PED recently proposed the elimination of two very prominent bilingual programs that are crucial for preserving heritage languages in public schools, and for fulfilling the purposes of the NMIEA. Pelayo, 07/24 (PM), Tr. 74:24-76:09, 79:15-80:7; Pecos, 07/07/17, Tr. 26:22-29:5.

605. Defendants have not fulfilled their duty to prioritize the New Mexico Indian Education Act.

606. PED lacks the necessary capacity that it requires to fully implement the NMIEA and respond meaningfully to the ongoing challenges of the predominantly twenty-three districts throughout the State. Pecos, 07/07/17, at 25:12-25.

607. The majority of Indian students in New Mexico's public schools will have gone through an entire educational experience not seeing a native teacher. There is no program to build the capacity for in-house training and expertise among teachers to respond to those needs of Indian children. Pecos, 07/07/17, at 25:25-26:21. The teachers in the Native districts do not have the expertise to respond to

the challenges of educating Native American students. Pecos, 07/07/17, at 35:10-36:8.

618. Defendants have not ensured that teacher preparation programs inform public school teachers about how to incorporate Native American culture into the learning process. The result is that generally, teachers in New Mexico have lowered expectations of Native American students. N. Martinez, Depo Des. at 63:18-65:18, 70:22-71:25.

619. The PED and IED are responsible for monitoring and enforcing, systematically, the NMIEA in each of the Indian Education districts, as well as the responsibility of monitoring and holding accountable all districts that receive Impact Aide Funds, as required by PL 561, and the Indian Policies and Procedures. Pecos, 07/07/17, at 36:19-37:16. The New Mexico Public Education Department and the IED lack sufficient staff to systematically monitor and enforce the NMIEA. Pecos, 07/07/17, at 37:17-38:5.

620. Defendants have not ensured that school districts are consulting with tribes in a meaningful manner, as required under the NMIEA. N. Martinez, Depo Des. at 60:13-62:6; 72:1-14.

621. There is a need for the Indian Education Division to have a greater presence in the public schools to ensure that Native American students are being served adequately. Dr. Martinez has observed that many administrators and educators in

the Indian Education districts are unaware of the Indian Education Division or the NMIEA. N. Martinez, Depo Des. at 78:18-80:10.

622. Defendants do not allocate sufficient funding to the twenty-three Indian Education districts for the purpose of implementing the New Mexico Indian Education Act.

623. In 2003, the State allocated \$2.0 million to the Indian Education Act fund, which was allocated to Districts serving high concentrations of Native American students for the purposes of achieving NMIEA compliance. P-1684-1685.

624. In 2009 and 2010, the New Mexico Indian Education Act Fund decreased from \$2.25 million to \$2 million and then \$1,824,600 respectively. P-2828, P-2829.

625. Since 2011, the New Mexico Indian Education Act Fund has remained relatively flat at \$1,824,600. P-2830-2836.

626. According to the Assistant Secretary of the Indian Education Division and to several witnesses, PED allocates \$25 thousand, based on grant approval, to each school district that serves a significant Native American student enrollment, for purposes of implementing the New Mexico Indian Education Act. Phillips 07/27/17, at 139:16-40:3. This is an insufficient amount for purposes of fully complying with the NMIEA. Space 06/29/17 at 128:6-14; Perry 06/29/17 at 16:2-16; 62:12-63:7; Garcia 06/12/17, at 110:10-20; Lewis 06/30/17 at 174:3-10.

627. Gallup Superintendent, Frank Chiapetti, testified that, due to insufficient state funds, GMCS uses federal funding to subsidize the cost of implementing certain provisions of the New Mexico Indian Education Act. Chiapetti 06/28/17 at 209:23-210:10.

628. PED does not provide districts with sufficient technical assistance, guidance or oversight on the implementation the New Mexico Indian Education Act.

629. Testimony from several witnesses from the Indian Education districts indicated that these districts wanted but never received technical assistance and support with regard to implementation of the NMIEA. Space 06/29/17 at 131:21-132:11, 132:12-24; Chiapetti 06/28/17 at 99:1-100:15; Lewis 06/30/17 at 175:6-11, 184:6-8; Perry 06/29/17 at 46:23-47:23.

630. Witnesses from districts located on or near tribal lands, where Native American students' culture and language is most prevalent, testified that an institutionalized, culturally-relevant program for Native American students, as required by the NM Indian Education Act ("NMIEA"), is nonexistent or piecemeal at best. Space, 6/29, Tr. 134:19-137:22; Lewis 06/30/17 at 147:17-148:4; Wilkinson-Davis, Dep. Des. at 152:21-153:3; Perry 06/29/17 at 26:14-29:12; Garcia, 6/12/17 at 109:14-112:15.

631. Carmen Lopez, Executive Director of College Horizons, a non-profit organization that works to expand college-readiness opportunities for Native

Americans across the Southwest States, including New Mexico, testified that Native American college-preparation opportunities for students attending many of the twenty-three Indian Education districts are woefully inaccessible. Lopez, Dep. Des. at 22:22-23:23, 31:15-22, 34:2-37:4, 47:2-49:19, 53:2-54:23, 55:23-57:15, 57:21-58:24; 60:4-25; 65:15-66:7, 72:10-24; 84:3-86:16.. As to GCCS's situation see Space 06/29/17 at 132:25-133:8, 149:23-151:10.

632. PED has not developed a culturally-relevant curriculum; instead, the contemporary instructional materials and curriculum that are currently in place fail to capture the life, history, and social-legal issues that indigenous people have experienced in New Mexico. Lewis 06/30/17 at 151:16-152:12, 161:3-162:15. Thus Native American students have not learned about their tribal histories in school. Lewis 06/30/17 at 162:16-24.

633. Districts that serve high concentrations of Native American students lack sufficient resources, including funding, to provide the programs and services necessary to meet the unique cultural and linguistic needs of their Native American students. Chavez 07/07/17 at 131:22-133:12, Space 06/29/17 at 168:13-25; Lewis 06/30/17 at 147:17-148:4; 168:8-19; Chiapetti 06/28/17 at 52:10-20.

634. Zuni Public School students are in need of native instructional and non-instructional staff, including teachers, administrators, superintendents, principals, and educational assistants. Lewis 06/30/17 at 152:13-153:3;

635. While GCCS receives Title VI federal funding to hire Native American educational assistants and liaisons; however, federal funds, too, are insufficient to meet the unique needs of GCCS' Native American population. Space, 06/29/17 at 129:18-130:10. GCCS does not offer PREK programs at Bluewater and Seboyeta schools, where a significant number of Navajo and Pueblo students are enrolled. Space, 06/29/17 at 155:3-156:1. Yazzie Stipulation No. 1292. Additionally, GCCS has not employed a culturally relevant curriculum or culturally relevant instructional materials in core-academic subjects to meet the needs of their Pueblo students. Space, 06/29/17 at 119:3-6. GCCS offers one Navajo language and culture course at Los Alamitos Middle School but cannot afford to offer one at the predominantly Navajo-enrolled elementary schools. Space, 06/29/17 at 134:19-135:7. Only 25 percent of all GCCS teachers are trained to deliver culturally relevant instruction. Space, 06/29/17 at 116:23-117:4. GCCS had to subsidize a Navajo language curriculum and a culture and language instructor with operational dollars, because PED funding was not provided. Space, 06/29/17 at 119:9-15. GCCS requires greater funding to provide the programs and services necessary for meeting the unique cultural and linguistic needs of Native American students, including:

- a. Professional Development for teachers of Pueblo students on how to effectively implement a culturally relevant curriculum. Space, 06/29/17 at 121:8-122:12;
- b. Training for teachers on how to instruct Navajo students in the math and science subject areas. Space, 06/29/17 at 118:18-119:2;
- c. A full K-12 Navajo language and culture program, because, the current program is available only for grades 7-12. Space, 06/29/17 at 135:3-23;
- d. Two certified Navajo language and culture instructors to work at Los Alamos Middle School and another at the two elementary schools. Space, 06/29/17 at 135:24-137:1;
- e. A Keres language program for, both, Acoma Pueblo and Laguna Pueblo students. Space, 06/29/17 at 137:2-22; and,
- f. Two full-time Keres language instructors so that the Keres language and culture program serves grades K-12. Space, 06/29/17 at 140:15-141:11.

636. Magdalena Public Schools need Native American teachers and culturally relevant materials to support the needs of its large Native American student population. Currently, Magdalena does not have any Native American teachers,

and it does not offer culturally relevant materials in the core classes like English, Math and Social Studies. Perry, 06/29/17 at 45:2-16; 46:1-22.

637. GMCS was unable to afford the most recent adoption cycle of instructional materials, due to insufficient funding. GMCS was provided \$28 per child for textbooks, which does not cover the cost of providing every student one text book or any additional culturally relevant materials. Chiapetti 06/28/17 at 87:1-11, 87:12-88:6

638. Santa Fe Public Schools (SFPS) admits that it cannot adequately support its Native American students academically. Rodriguez, Dep. Des. at 45:16-19. In SFPS, privately-funded Native American Enrichment program lasts only three weeks, and AVID, an 11-day college-readiness program, serves only 30-60 students. Garcia, 6/15/17 at 206:18-25; 207:20-208:20.

639. Bernalillo struggles to support its large Native American-student population. The District employs one Indian Education Liaison to serve its 1,355 Native American students and the 5-8 tribal governments represented. Tapia, Dep. Des. at 200:21-208:12.

640. Pojoaque Public Schools offers no Native American program other than some language instruction, via one dedicated “520-instructor,” who is not PED-certified to teach language for grades K-6. The District employs only one liaison to

serve 288 Native American students and the six Pueblo Nations they represent. Adams, Dep. Des. at 33:23-34:8.

5. College & Career Readiness

641. All students in New Mexico have a right to an education that makes them college and career ready. Ruszkowski, 7/17/17 at 61:8-11.

642. Education is critical for economic and social mobility in the United States, especially for groups that have limited generational mobility or limited resources. P-2794, ¶ 13.

643. Education is even more pressing for students from first-generation, low-income, English Learner status, and diverse backgrounds to have access to educational resources, in an effort to offset the generational poverty that persists among the working poor across the United States, and specifically within Hispanic and Native American communities. P-2794, ¶ 13.

644. The goal of the Public Education Department is to make students college and career ready. Aguilar, 8/4/17 at 21:5-15.

645. Students need to be able to leave their public school education ready for either post-secondary education or the training to pursue a career. Garcia, 6/12/17 at 59:14-60:4.

646. Students need to leave public schools college and career ready. Grossman, 6/14/17 at 8:4-9:8; Chiapetti, 6/28/17 at 52:10-15.

647. Public schools should give students an opportunity to obtain a solid core academic training program so that students have options and choices for their careers and futures. Sullivan, 7/12/17 at 172:9-21.

648. The purpose of K-12 public education is to produce high school graduates who have the necessary knowledge and skills to participate in a rapidly-changing, democratic society by successfully transitioning to a post-secondary institution (without needing remedial coursework) and/or entering the workforce and competing in the labor market. *See* Ex. P-2794, at ¶¶9, 24; Aguilar, 8/4/17 at 21:5-15; Ruszkowski, 7/17/17 at 61:8-11; Garcia, 6/12/17 at 59:14-60:4, 61:18-62:4; Suina, 6/26/17-p.m. at 80:9-22; Grossman, 6/14/17 at 8:4-9:8; Chiapetti, 6/28/17 at 52:10-15; Rounds, 7/12/17 at 59:23-60:8; Sullivan, 7/12/17 at 172:9-21, 280:7-19.

649. At the end of 12th grade, a student should be adequately prepared for college or career. Sullivan, 7/12/17 at 280:7-19.

650. Successful completion of primary and secondary education sets the trajectory for a child's economic success over the course of her life. Ruszkowski, 7/17/17 at 89:21-90:5.

651. The knowledge and skills that students need to enter college or the workforce are nearly identical (for example, the ability to read, do basic math, and utilize technology are the same for college and career, and the Common Core Standards recognize this). Contreras, 6/19/17-a.m. at 146:20-147:25; Rounds,

7/12/17 at 60:9-23; Garcia, 6/15/17 at 97:20-98:20, 101:21-103:2; Grossman, 6/14/17 at 9:9-10:9; Cleveland, 7/11/17 at 178:19-180:13; Sullivan, 7/12/17 at 172:9-14.

652. Proficiency in the core subject areas, as measured by the SBA and the PARCC, means that a student has mastered the academic content at grade-level. *See* NMAC 6.29.1.7.BU; Contreras, 6/19/17 at 40:19-41:17, 41:25-42:21; Ruszkowski, 7/17/17 at 72:21-73:1, 77:6-12. Students who demonstrate “proficiency” in the core academic subjects throughout their K-12 educational careers are generally prepared to transition to a four-year, post-secondary institution or enter the workforce. Contreras, 6/19/17 at 76:3-10; Lenti, 7/26/17 at 61:4-62:13; Ruszkowski, 7/17/17 at 72:21-73:1; Wallin, 6/20/17 at 35:24-36:13; Skandera, Depo. Desig. at 77:22-78:7, 118:10-14.

653. The overall pattern of STEM course-taking in New Mexico shows very limited access to rigorous math and science related curriculum—a curriculum that has been found to be an important predictor of college readiness, transition, persistence and college completion. P-2794 ¶ 60.

654. ELL students in New Mexico are not likely to take the SAT or ACT exam at all. For example, in both school year 2009-2010 and 2011-2012, most districts had less than 1 percent of ELL students enrolled in one of these college entrance exams. P-2794, ¶ 75.

655. The rate of enrollment for ELL students in SAT and ACT exams is worse in districts with large ELL populations. For example, in Gadsden Independent district, only 0.13 percent of ELL students enrolled in the SAT or ACT in 2009-2010 and 2011-2012. P-2794, ¶ 75.

656. The status of public education in New Mexico is among the lowest across fifty states, with the overall state of well-being for New Mexico's children ranked number 49 out of the 50 states on key indicators such as economic well-being, education, health, and family and community. P-2794, ¶ 14.

657. Less than one third of all adults in New Mexico (29 percent) have earned an associate degree or higher. P-2794, ¶ 14.

658. From 2000 to 2015, a fifteen-year time frame, New Mexico students consistently scored below the national average on the 4th grade NAEP Math exam. In 2013, results were found to be statistically significant, conveying a significant gap between the national 4th grade math scores and the scores among New Mexico's 4th graders on the NAEP exam. P-2794, ¶ 17.

659. A longitudinal trend of lower performance in math in New Mexico shows the need for intervention and a concerted effort to raise math achievement in the early grades. P-2794, ¶ 17.

660. Low performance in mathematics in the early grades is concerning because math concepts build upon a common skill set that is necessary as math subjects

become more complex in later grades. Without a solid foundation in math skills in early grades, students are not likely to have the appropriate preparation for a more rigorous math curriculum in the high school years, limiting access to learn and enroll in higher level math classes. P-2794, ¶ 17.

661. According to Complete College America, a national campaign to raise college transition and completion, 59.4 percent of Native American students and 68.4 percent of Hispanic students in New Mexico in 2012 that transitioned to a two-year college needed remediation, compared to 48.5 percent of White students. P-2794, ¶¶ 21, 90.

662. Hispanic students have the highest rates of remediation among students transitioning to a four-year institution. Over 16 percent of Hispanic students that enrolled in a four-year university in New Mexico in 2012 required remediation compared to 7.6 percent of White students. P-2794, ¶ 90.

663. The ACT exam is traditionally used (along with the SAT) as a requirement for admission to competitive four-year colleges throughout the nation. However, taking the exam alone does not signal college readiness or aptitude. P-2794, ¶ 22.

664. Despite constituting the largest proportion of ACT test takers from 2012-2016, Hispanic students, along with Native American students, lagged behind their White and Asian American peers in meeting three or more of the content benchmarks tested by the ACT exam as an indicator of college readiness. P-2794,

¶¶ 22-23.

665. In New Mexico, less than 2 percent of ELLs score at grade level for a given content area assessment on PARCC. P-2794, ¶ 32.

666. In five districts with large ELL student populations (Cuba, Grants-Cibola, Jemez Valley, Lake Arthur, and Magdalena), zero percent of students attain the “reaching” category in the ACCESS test, an English language proficiency assessment. P-2794, ¶¶ 32-33.

667. Furthermore, based on Dr. Natalie Martinez’s research and observations of standardized test scores, attendance rates, and parental engagement, Native American students enrolled in public schools are not receiving adequate academic engagement, rigor, and the preparation necessary for them to experience the same levels of success as non-Native American students; and the public school curriculum and staffing do not reflect Native American student culture and identity. As a result, Native American students who graduate from a public high school in New Mexico and enter a post-secondary institution are in great need of remediation courses and linguistic support; and, similarly, Native American students who enter the workforce often lack writing, public speaking and computation skills. N. Martinez, Depo Des. at 39:17-41:8, 42:22; 68:5-70:12, 72:15-73:2.

6. Quality of Teaching & Related Issues

668. Highly effective teachers are key to improving proficiency and these teachers need to be allocated to schools serving the most at-risk students.

669. As testified by Deputy Secretary Aguilar, highly effective teachers are key to improving proficiency and these teachers need to be allocated to schools serving the most at-risk students. See Aguilar, 8/4/17 at 63-64. Effective teachers are one of the most important components of a student's education and can have a positive effect on narrowing the achievement gap. Yturralde, 6/30/17 at 53.

670. The weight of the evidence leads to the conclusion that the quality of teaching for at-risk students is inadequate. In New Mexico high poverty schools have a disproportionately high number of low-paid, entry level teachers. Sallee, 7/21/17- a.m. at 37-38; Fuller, 7/13/17 at 55-59.

671. Inexperienced teachers are systematically less effective than experienced teachers. P-2799 at ¶ 15.a; Fuller, 7/13/17 at 43. As concluded by Dr. Rothstein, schools with high rates of student poverty or other education needs have persistent, serious difficulty recruiting and retaining qualified, skilled teachers. P-2799 at ¶ 12.a; Yazzie Stip. #1268

672. According to a presentation from the Legislative Education Study Committee on November 19, 2015, as one of the most culturally, linguistically and ethnically diverse states in the country, every New Mexico teacher requires an

understanding and ability to engage with students of many backgrounds to be effective. Martinez. Stip. #72.

673. All students deserve an equal educational opportunity that prepares them for a successful life. Access to excellent educators ensures all students have the chance to succeed. Martinez Stip. #68.

674. Teacher diversity is important for students from historically underrepresented backgrounds because they can serve as role models for students, often living in the same community and having a shared cultural experience. P-2794 ¶ 35.

675. Teachers from diverse backgrounds can also connect to parents of at-risk students due to their bicultural or bilingual backgrounds, especially in districts with large ELL student populations such as Albuquerque Public Schools, which has over 15,000 ELL students (17 percent of students in the district). P-2794 ¶ 35

676. PED has concluded that Native American and Hispanic ELL students are the lowest performing student demographics and, therefore, there is a need for more targeted recruitment and retention of teachers serving these students. Montano, 7-18-17 at Tr. 241:14-21.

677. The teacher and principal workforce in Albuquerque Public Schools have a much lower percentage of Hispanics than the percentage of Hispanic students. P-2794 ¶ 34.

678. School discipline rates serve as an indicator of a student's overall engagement with the school and are considered to be a signal for intervention. P-2794 ¶ 41.

679. Disproportionality in out-of-school suspension rates is well documented in the literature for minority males or underrepresented students in schools, where the majority of teachers and school staff are non-minorities. These schools are more likely to suspend students of color (and males in particular) at higher rates than their White or Asian American peers. P-2794 ¶ 41.

680. For the school districts in New Mexico that provided data of out-of-school suspensions to the U.S. Department of Education Office of Civil Rights, the percentage of Hispanic students with out-of-school suspensions exceeds the proportion of these students in the district. P-2794 ¶ 42.

681. Across New Mexico in 2015 only 75 percent of the teachers stayed at the same school for the next school year. Fuller, 7/13/17-a.m. at 41. Teacher turnover has a negative impact on student achievement. *Id.* at 42.

682. Dr. Jesse Rothstein provided credible expert opinion that New Mexico is failing to ensure that at-risk students in "high need" schools are exposed to highly effective teachers. Ex. P-2799 at ¶12(a)-(f), ¶¶32-66, Tbls. 5-10.

683. Policies that create rewards for teaching in high need schools can help address teacher quality problems in these schools and benefit students, in contrast

to punitive teacher evaluation policies that penalize teachers working in high needs schools and have negative consequences for students; Ex. P-2799 at ¶12(a)-(f), ¶¶32-66, Tbls. 5-10.

684. Dr. Ed Fuller provided credible expert testimony that there is a crisis level of teacher turnover in the state, and correspondingly lower student achievement. Fuller, 7/13/17 at 41:12-42:20, 49:13-53:14, 55:8-19, 57:9-60:13, 62:17-65:3, 116:23-119:17; Ex. P-2975-EF (Fuller Reb. Decl.), Figs. 4-5, 11, Tbls. 4, 9-11, 13.

685. According to Dr. Fuller's analysis of PED data from the 2012-13 school year, New Mexico had the second highest rate of teacher attrition nationally in 2013, a trend that has worsened every school year since then. Fuller, 7/13/17 at 116:23-119:17.

686. In Dr. Fuller's expert opinion, a statewide school-level teacher turnover rate of at least 25 percent is indicative of extremely poor retention of teachers by a state. Fuller, 7/13/17 at 116:23-119:17.

687. According to Dr. Fuller's analyses, the State of New Mexico has been experiencing a teacher turnover rate of approximately 25 percent since the 2014-15 school year. Fuller, 7/13/17 at 116:23-119:17.

688. According to Dr. Fuller's analyses, in the time period between the 2011-12 and 2014-15 school years, approximately 60 percent of New Mexico schools lost

approximately 20 percent of their teachers. Fuller, 7/13/17 at 49:13-50:17; Ex. P-2975-EF, Tbl 4.

689. In Dr. Fuller's expert opinion, if a school loses 20 percent of their teachers every school year, that school cannot be said to be a well-functioning organization. Fuller, 7/13/17 at 49:13-50:17; Ex. P-2975-EF, Tbl 4.

690. In Dr. Fuller's expert opinion PED's efforts to equalize teacher effectiveness across all New Mexico schools have been insufficient. Ex. P-2975-EF at ¶ 58.

691. Dr. Fuller testified that PED is not only aware of the magnitude of the current teacher turnover rate in the State of New Mexico but knows that such turnover leads to lower student achievement in the state. Fuller, 7/13/17 at 62:17-63:10; Ex. P-2975-EF, Tbl. 13.

692. In Dr. Fuller provided a credible refutation of Dr. Wolkoff's opinion about the widespread availability of high-quality teachers in New Mexico. Fuller, 7/13/17 at 40:24-41:10.

693. Dr. Wolkoff testified that his analyses of PED statewide data did not ascertain whether districts with specific student populations – like ELL or Native American students – were able to hire qualified teachers to meet the needs of those students. Wolkoff, 8/3/17-a.m. at 86:21-88:4.

694. PED does not have data that reflects which at-risk students have consistent exposure to effective or ineffective teachers over time. Montano, 7-18-17 at Tr. 143:24-144:6.

695. In New Mexico, schools with high populations of at-risk students tend to have higher rates of teacher turnover. Montano, 7-18-17 at Tr. 145:22-24.

696. At-risk students in New Mexico tend to have lower student achievement. Montano, 7-18-17 at Tr. 151:3-5.

697. School districts do not have the funds to pay for all the teachers they need.

698. Current and former district superintendents testified that funding for teacher compensation is inadequate in order for them to recruit and retain effective teachers in schools with high at-risk student populations in their respective districts. Chiapetti, 6/28/17 at 93:13-24, 96:14-97:10, 123:25-124:10; Garcia, 6/12/17 at 106:9-107:7; Garcia, 6/15/17 at 50:1-51:19; Martinez, 6/14/17 at 184:4-25; Rounds, 7/12/17 at 107:14-25, Sullivan, 7/12/17 at 200:15-201:2; Cleveland, 7/11/17 at 169:1-15.

699. Gadsden superintendent Efren Yturralde testified that his district has had to eliminate 53 teachers in recent years. Yturralde, 6/30/17 at 10:3-17.

700. Rio Rancho superintendent Sue Cleveland testified that her district has reduced 41 teaching positions in recent years, and during the 2016-17 school year,

her district had 28 classrooms without a teacher. Cleveland, 7/11/17 at 221:8-10, 228:1-7.

701. Senator Stewart testified that the State of New Mexico does not provide districts with sufficient funding in order to hire tutors for at-risk students. Stewart, 6/20/17 at 175:2-176:4.

702. Every year, CISD loses teachers. Some teachers leave during the middle of the school year. The District relies on long-term substitutes to fill the teacher vacancies. (Chavez, p. 109-110, lines 14-1) (p. 111-112, lines 21-9) (p. 126, lines 7-13). Yazzie Stip. #1307)

703. Many teachers new to the CISD community are unfamiliar with the Native American population. In addition, new teachers experience difficulty adapting to the isolated community and finding housing. (Chavez, p. 110-111, lines 4-9). Yazzie Stip. #1308)

704. In SY 2016, Laguna-Acoma Junior-Senior High School, a school typically faced with difficulties in teacher recruitment, started the school year with a shortage of one teacher in the math and science subject area. (Space, p. 32-33, lines 21-6). Yazzie Stip. #1287)

705. At the beginning of the 2016-17 school year, Magdalena Elementary School did not have a third grade teacher. (Vanetta Perry, pg. 23) Yazzie Stip. #1329)

706. Zuni teachers are paid a stipend to teach at, both, the elementary and middle school summer programs. The Zuni District must seek authorization from PED to use its Title I funds in order to provide teacher stipends. (P. 59, lines 6-22) (Yazzie Stip # 1318)

707. NM's high poverty schools have a disproportionately high number of lower quality teachers. The quality of teaching for at-risk students is inadequate. High-need schools have lower quality teachers, on average. P-2799 at ¶ 12.b. New Mexico schools with high percentages of at-risk students employ more ineffective and minimally effective teachers than they do highly effective and exemplary teachers. Fuller, 7/13/17 at 63:1-23; Ex. P-2975-EF at ¶¶ 71-73, Figs. 11-12 Tbl. 13. See also Montano, 7-18-17 at Tr. 145: 11-13.

708. New Mexico schools with high percentages of at-risk students, have a disproportionately high percentage of low-paid, entry-level teachers. Fuller, 7/13/17 at 58:15-60:3; Ex. P-2975-EF, Tbl. 10.

709. According to Dr. Fuller's analysis, the percentage of newly credentialed teachers from outside the State of New Mexico in 2014-14 was 43 percent. Ex. P-2975-EF, Tbl. 9. See also (Martinez Stip. #69) In Dr. Fuller's expert opinion, out-of-state teachers tend to be less effective than teachers who are prepared to become a teacher in the state in which they teach. Fuller, 7/13/17 at 57:9-19. In Dr. Fuller's expert opinion, a state that relies on a high percentage of out-of-state

applicants to fill teaching positions is indicative of there being an inadequate supply of teachers prepared to become a teacher in New Mexico to fill the job openings in the state. Fuller, 7/13/17 at 57:20-25.

710. Mr. Sallee testified that the State of New Mexico does not have an incentive structure to match its best teachers with the state's highest need students. Sallee, 7/21/17 at 45:5-16.

711. Mr. Sallee testified based on his experience that the impact of resources that may be provided to high-poverty schools tends to be negated because those schools tend to be staffed by ineffective teachers. Sallee, 7/21/17 at 38:8-23.

712. As defined in PED's Equity Plan which is designed to eliminate equity gaps, an equity gap occurs when one subgroup of students has less or more access to effective teachers. (Martinez Stip. #67)

713. New Mexico has an equity gap for ELL students, i.e., ELL students have a higher chance of having an ineffective teacher. Montano, 7-18-17 at Tr. 225:9-15.

714. Low teacher compensation is an impediment to recruiting and retaining teachers in schools with high at-risk student populations. Ex. P-2975-EF at ¶ 56.

715. According to the 2015 PED publication "New Mexico Educator Equity Plan", one of the root causes of the of the State of New Mexico's failure to effectively recruit teachers is low teacher compensation. Ex. P-1959-MM at 6.

716. The small stipends PED offers to districts to recruit effective teachers are insufficient. Fuller, 7/13/17 at 49:13-55:19, Figs. 3-5, Tbl. 4.

717. According to Dr. Fuller's analysis, New Mexico teachers earned the 4th lowest wages relative to comparable occupations in the country. Ex. P-2975-EF at ¶ 52. Teacher wages and benefits in New Mexico were only 66 percent of the wages and benefits in comparable occupations, which is 11 percent below the national average. Ex. P-2975-EF at ¶ 52.

718. Defendants' expert on teacher quality and compensation, Dr. Michael Wolkoff, testified that targeted compensation for teachers in high-poverty districts experiencing teacher shortages is a viable strategy for improving the effective recruitment and retention of teachers. Wolkoff, 8/3/17-a.m. at 60:4-60:11.

719. Mr. Abbey testified that the low level of teacher salaries in New Mexico relative to neighboring states threatens teacher recruitment and retention in New Mexico. Abbey, 7/25/17 at 61:8-12.

720. Paying educators a decent salary is critical to attracting and retaining high quality and well trained teachers. Yazzie Stip. #1031.

721. Santa Fe Superintendent Veronica Garcia testified that that in her experience the low salaries offered by the State make it difficult to recruit teachers in rural areas and for special education, STEM and bilingual education. Garcia, 6/12/17 at 95:14-96:12.

722. From school years 2004/2005 to 2010/2011, the U.S. Department of Education reported a shortage of New Mexico teachers in the fields of Bilingual/TESOL, Elementary, Mathematics, Science, and Special Education for certain grade levels. Yazzie Stip. #1269.

723. From school years 2011/2012 to 2014/2015, the US Department of Education reported a shortage of New Mexico teachers in math or science for certain grade levels. Yazzie Stip. #1270.

724. The Magdalena District has a significant number of students who come in with limited proficiency in both English and Navajo. The children do not have a grasp on any language, and the Superintendent believes that district needs to be able to offer more one-on-one and one-to-three ratios to help develop a strong grasp of the English language. Perry, 6/29/17, 154; Yazzie Stip. #1334.

725. In the 2015-16 school year, the Tuumcari District went the entire year without filling one of the math teacher positions at the middle school. The district had to send middle school students to the high school to receive math instruction. Aaron McKinney Depo. Des., pp. 79-80; Yazzie Stip. #1336. The Tuumcari District in the 2014-2015 school year had a hard time getting qualified teachers to teach ELL students. Aaron McKinney Depo. Des., p. 127; Yazzie Stip. #1337.

726. The Española district has insufficient funding to hire TESOL-endorsed teachers because neighboring districts offer higher stipends to prospective teacher applicants. Martinez, 6/14/17 at 204:8-12.

727. Senator Stewart testified that the State of New Mexico does not provide districts with sufficient funding to provide professional development for teachers to address the needs of special-ed students. Stewart, 6/20/17 at 204:11-24.

728. Senator Stewart testified that the State of New Mexico does not provide districts with sufficient funding to provide professional development to the state's teachers. Stewart, 6/20/17 at 147:1-148:3, 156:1-13.

729. PED has discontinued its program aimed specifically at instructing teachers how to teach culturally and linguistically necessary content to students. Montano, 7/19/17 at 21:12-15.

730. A central component of closing the achievement gap for at-risk students in New Mexico is effective professional development for ineffective teachers. Montano, 7-18-17 at 157:21-25.

731. PED does not evaluate the effectiveness of professional development offered by school districts statewide. Montano, 7-18-17 at 158:16-19.

732. There is insufficient funding to provide the state's teachers with adequate mentorship. Sallee, 7/21/17-p.m. at 12:19-17:10.

733. The PED was providing very little professional development for teachers in relation to “time on task”. Sallee, 7/21/17-p.m. at 33:10-21.

734. Proper training and professional development are important for retaining teachers. Martinez Stip. #73.

735. Not every New Mexico teacher has been trained or has access to training in cultural competency. Martinez Stip. #81.

736. High quality professional development is essential to helping teachers become more effective and improving student achievement, including training and development that occurs prior to teachers entering the classroom. Martinez Stip. #82.

737. There is a greater need for high-quality professional development in at-risk schools. Martinez Stip. #83.

738. The Magdalena District does not have enough in-service days for professional development in order to provide adequate training to its teachers. Currently, the district has four in-service days, and it needs at least eight days total. The District is unable to provide more in-service days for professional development because of lack of funding. Perry, 6/29/17 at 172; Yazzie Stip. #1332.

739. The Tucumcari District does not have enough in-service days to provide enough professional development. McKinney Depo. Des., p. 89; Yazzie Stip.

#1338. There are not enough professional development opportunities for the Tucumcari District teachers. McKinney Depo Des., p. 90; Yazzie Stip. #1339.

740. The State's funding formula's T&E (teacher training and experience) Index is deficient because it does not compensate for staff salary jumps associated with teachers' transitioning licensure levels. Abbey, 7/25/17 at 43:3-7.

741. Many schools regularly seek waivers of the maximum class size requirement from PED due to financial constraints. Sanders, 7/10/17 at 217-18; Cleveland, 7/11/17 at 159-60; Sullivan, 7/12/17 at 195-96, 271-72.

742. In 2009, Defendants enacted a temporary waiver to mandated individual class loads, teaching loads, length of school day requirements, staffing patterns, required subject areas, and purchase of instructional materials through SY 2011-2012. Yazzie Stip. #1030.

743. PED has neither promulgated any rules about how class size waivers are granted or denied, nor has PED adopted any policies governing how districts should be audited after being granted class size waivers. Aguilar, 8/4/17 at 200:9-201:17.

744. Teacher evaluations in New Mexico are conducted through a system known as NMTEACH, which was adopted by PED regulation after the legislature twice refused to enact it via statute. P-2799 at ¶ 26.

745. Under NMTEACH, evaluations are based on student achievement, classroom observations, and other measures including attendance and assessments of professionalism. P-2799 at ¶ 27. For teachers who have three years or more of student achievement data, student achievement accounted for 50 percent of the overall evaluation. P-2799 at ¶ 28.

746. Teacher evaluations in New Mexico may be contributing to the lower quality of teachers in high-need schools. Punitive teacher evaluation systems that are perceived to penalize teachers for working in high-need schools contribute to problems in this category of schools. P-2799 at ¶ 12.c. Value added methods, that place a 50 percent or higher weight on student achievement are seriously flawed. P-2799 at ¶ 12.d.

747. Value-added-models (VAM) are statistical models designed to extract estimates of teacher impact on achievement based on student test scores. P-2799 at ¶ 32. Until 2017 New Mexico uses a VAM for teacher evaluations that places a 50 percent or higher weight on student achievement. P-2799 at ¶¶ 26, 57.

748. However, student achievement is affected by many factors other than teacher performance, including innate ability, support from home, income, language use, class size, and other resources. VAMs attempt to control for observed differences among students, most notably prior-year test scores. P-2799 at ¶ 34. New Mexico does not control for race, gender, free lunch status, disability, or ELL status. P-

2799 at ¶¶ 35, 46. As of 2012 the U.S. Department of Education would not allow student demographics to be used in teacher evaluations.

749. New Mexico's VAM "almost certainly contributes to the teacher quality problems in [high-need] schools," if only because of the teachers' perception that it is unfair.

750. Based on the perception of bias, teachers perceive that teachers at high-needs schools are penalized by the VAM, which "creates an incentive for teachers at these schools to migrate to lower need schools where their evaluations will not be penalized in this way." P-2799 ¶ 66.

751. High poverty schools and high ELL schools have teachers with lower average evaluation scores, and fewer teachers are rated effective or better than there are in schools with low poverty rates and low ELL percentages. P-2799 at ¶ 22; P-2973-EF at ¶ 37.

752. [T]he [teacher evaluation] system 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, both of which are statutory requirements. Montano, 7/19/17 at 19, 21, 29.

753. In New Mexico high poverty schools have a disproportionately high number of low-paid, entry level teachers. Sallee, 7/21/17- a.m. at 37-38; Fuller, 7/13/17 at 55-59.

754. It is well-recognized that inexperienced teachers are systematically less effective than experienced teachers. P-2799 at ¶ 15.a; Fuller, 7/13/17 at 43. High-need schools have lower quality teachers, on average. P-2799 at ¶ 12.b. A teacher's total years of experience matter because academic research has shown that attaining three years of experience enhances a teacher's ability to deliver an educational curriculum. Tr. 21:14-25 (Wolkoff)(8/3/17).

755. Schools with high rates of student poverty or other education needs have persistent, serious difficulty recruiting and retaining qualified, skilled teachers. P-2799 at ¶

756. Indeed, despite the State's argument that Martinez Plaintiffs could not identify a causal connection between NM TEACH and the rate at which teachers leave high-needs schools, Plaintiffs elicited testimony from two school district officials who were of the opinion that NM TEACH made it difficult to recruit and retain teachers in high-needs schools and instead punished and drove effective teachers away. 6-15-17 Tr. 35:7-16 (Martinez); *id.* at 141:24-144:15 (Garcia).

757. There is nothing inherently unconstitutional about a system that holds schools or districts accountable. Many of the educators testified that such accountability was important. New Mexico uses an A-F grading system to evaluate their districts and schools. P-1330 at 1-3. The New Mexico school

accountability system uses status and growth measures to score school effectiveness. P-2973-EF at ¶ 13.

758. When measuring student status, New Mexico attempted to reduce the influence of student demographics in its calculations. It is questionable whether New Mexico's system achieved this goal. P-2973-EF at ¶ 52.

759. There is a lack of transparency in the school accountability system. There is no formal comprehensive report of the validity of the A-F grading system. 7-31-17 A.M. Tr. at 101:13-17. The A-F school grading system implemented by New Mexico is confusing to school districts and lacks transparency. 7-15-17 Tr. at p. 272:12-18. "One important component of any school accountability system is transparency." P-2973-EF ¶ 121.

760. One "major issue with the lack of transparency is the failure of the state to provide technical reports on the functioning of the accountability system. The state should be publishing the results of analyses such as those contained in this report that document the validity and reliability of the specific components used to calculate the overall accountability points and scores." P-2973-EF ¶ 123.

761. Without transparency and statistical reports on the accountability system, it is impossible to determine if the system is measuring school effectiveness or school-level characteristics. P-2973-EF, ¶ 77. Evidence suggests that the accountability system does not accurately measure school effectiveness. *Id.* Thus,

when a school is rated as ineffective, the system may be measuring the fact that it has a lower percentage of White or Asian students and a high percentage of Native Americans and students participating in the Free and Reduced Lunch Program. P-2973-EF, at ¶ 132. This is not a measurement of effectiveness; it is a measure of the characteristics of the school.

762. Because of the lack of transparency and lack of underlying data, it cannot be determined that the current New Mexico system identifies school effectiveness in an accurate manner.” P-2973-EF ¶ 35. The evidence shows that “the New Mexico school accountability system is certainly not a very precise measure of school effectiveness because the system is clearly capturing the effect of school-level student demographics in addition to any measure of school effectiveness.” P-2973-EF ¶ 37.

763. “[C]onstant changes – especially substantive changes – can alter the results of the system and lead to confusing signals being sent to educators. This is especially true when the impact of the changes on the overall letter grade and the various component measures are not made clear to educators or the public. New Mexico has made a number of changes in both the elementary school and the high school accountability systems. Specifically, there has been at least one change every year for the high school system and at least one change in every year except 2013 for the elementary school system.” P-2973-EF ¶¶ 87-88.

764. If a school accountability system is to drive changes in educational practices then there needs to be consistency in the signals sent to the school. “If a school embarks on a new strategy to improve student outcomes but the school’s grade increases one year and then decreases the next year, the educators in the school receive mixed signals with respect to their practices.” P-2973-EF ¶ 101.

765. “[N]early 75 percent of elementary schools and 81 percent of high schools experienced at least one increase in their school grade and at least one decrease in their school grade. Moreover, slightly more than 52 percent of elementary schools and almost 53 percent of high schools experienced: (1) at least two increases in grades and at least one decrease in a grade or (2) at least two decreases in grades and one increase in grades.” P-2973-EF ¶ 103.

766. “[T]he New Mexico school accountability system has difficulty in consistently identifying higher- and lower-performing schools across years.” P-2973-EF ¶ 134.

767. Recent reforms by the State of New Mexico, such as the Teachers Pursuing Excellence (TPE), the Principals Pursuing Excellence (PPE), and the Reads to Lead programs, are minor in impact and not uniformly provided to districts. D-5078; D-5077; 6-19-17 Tr. 19:3-15 (Perry); 6-22-17 Tr. 128:16-130:3 (Coleman); 7-25-17 Tr. 100:25-101:21 (Abbey); 6-20-17 Tr. 149:25-152:9 (Stewart).

768. Recent PARCC scores and graduation rates show that the State's reforms have failed to improve academic outcomes.

769. Since 2011, the year many of the State's reforms began, student performance has declined, including the performance of low-income students in reading and math. Hanushek, 8/3/17-p.m. at 56:7-11, 57:17-58:6; D-4726-037, P-3026 at 2; P-3027 at 2.

770. The State's reforms alone have not and will not improve student outcomes. Rounds, 7/12/17 at 98:11-101:18; Contreras, 6/19/17-a.m. at 150:16-152:12.

771. Secretary Christopher Ruszkowski testified that, despite these reforms, student achievement is currently insufficient and the State of New Mexico and PED have "a lot of work to do." 7-17-17 Tr. 64:16-66:13, 73:21-75:9.

772. The number of "F" schools in New Mexico has increased and 66 percent of schools saw no change or a decrease in their school grade. Lenti, 7/26/17 at 52:20-53:2; Ex. P-2988 at 81.

773. Only 16 of New Mexico's nearly 1,000 public schools have participated in the TPE program. D-5078.

774. The PPE program enrolls an average of only 39 schools statewide each year. [D-5077]

775. Approximately 19,000 students of the 338,000 students in New Mexico public schools attend schools whose principals have participated in PPE. 7-20-17 Tr. 224:12-15 (Montoya).

776. Eighty-four schools (84) in the state have participated in PPE since 2013. Montoya, 7/20/17 at 223:12-15.

777. In their joint *Targeted Public Education Programs Joint Accountability Report*, the LESC and LFC reported that although PED indicates that it considers the TPE program successful, it has not shared verifiable performance data with legislative staff. P-2533 at 5; P-2988 at 81.

778. The TPE program has only been implemented since school year 2015-2016. 7-20-17 Tr. 99:24-100:1 (Pahl); 7-20-17 Tr. 192:19-21 (Montoya).

779. One hundred seventy teachers out of about 25,000 teachers participated in the TPE program. Sallee, 7/21/17-a.m. at 98:14-21.

780. Not everyone who applies to the PPE program is accepted. For example, in school year 2015-2016, PED received 80 applications from principals, but it only accepted half of them. Montoya, 7-20-17 Tr. 220:11-20.

781. In school year 2016-2017, only 60 principals were accepted to participate in the PPE program. Montoya, 7-20-17 Tr. 227:3-6.

782. PPE and TPE cost money, and expanding these programs would require additional funding. Montoya, 7-20-17 Tr. 230:3-6, 233:6-21.

783. Only principals who show strong competency through a behavioral event interview are accepted in the PPE program. Montoya, 7-20-17 Tr. 221:3-222:8.
784. Only principals from schools with scores of C, D, or F may apply to the PPE program. Montoya, 7-20-17 Tr. 223:1-4.
785. In order to be eligible to participate in the TPE program, a school must have participated in the PPE program. Montoya, 7-20-17 Tr. 234:23-235-25.
786. Schools that received PPE or TPE experienced a decrease in their proficiency by 16.4 percent between 2015 and 2016. Sallee, 7/21/17-a.m. at 91:12-92:25; Ex. P-2533 at 3.
787. Schools that received PPE or TPE experienced an increase in truancy. Sallee, 7/21/17-a.m. at 91:12-92:25; Ex. P-2533 at 3.
788. Reads to Lead provided school districts funding only to hire reading coaches, not reading teachers. Abbey, 7-25-17 Tr. 100:25-101:2.
789. The Reads to Lead program has only been in effect since 2013. Abbey, 7-25-17 Tr. 101:3-5.
790. Districts have not received consistent Reads to Lead funding over the years. Perry, 6-19-17 Tr. 19:3-15; Stewart, 6-20-17 Tr. 149:25-152:9.
791. PED made drastic cuts in the Reads to Lead program's funding in the 2016-17 school year. Abbey, 7-25-17 Tr. 101:6-21; Stewart 6-20-17 Tr. 149:25-152:9; Coleman, 6-22-17 Tr. 129:16-19; P-2940.

792. Albuquerque Public Schools lost all Reads to Lead funding for the 2017-18 school year. Coleman, 6-22-17 at 129:24-130:1.

793. PED has a program called Truancy and Dropout Prevention Coaches that provides funds for truancy and dropout prevention coaches in schools that have high levels of truancy or high dropout rates. Pahl, 7/20/17 at 70:20-71:4.

794. PED presented data to the Legislature on the Truancy and Dropout Prevention program, but excluded one district to make the program look like it was performing. Sallee, 7/21/17-a.m. at 92:22-93:10; P-2533 at 3; D-0160 at 8.

795. Not all districts that apply for funding for truancy and dropout prevention receive it. Pahl, 7/20/17 at 71:11-16.

796. Whether the early warning system would have positive outcomes on the state's ability to graduate more students or prepare them to be college and career ready is speculation. Lenti, 7/26/17 at 59:8-18.

B. Educational Outputs - Student Achievement and Attainment - Are Dismal

797. Students who come from low-income families are 71.6 percent of the student population. P-2401 at 53. According to the Annie E. Casey Foundation Kids Count Data Center, in 2014, 30 percent of New Mexico's children lived at or below the federal poverty level, compared to 22 percent of children nationally. Yazzie Stip. #1346. The Annie E. Casey Foundation Kids Count Data Center, found New Mexico's 2014 child poverty rate of 30 percent is the highest rate in the

country. Yazzie Stip. #1347.

798. English Language Learners constitute 14.4 percent of all students statewide. P-2401 at 53.

799. New Mexico has a higher proportion of students who are English Language Learners than any state except California (15.8 vs. 22.8 percent). P-2803 at 18-20.

800. Approximately 11 percent (35,637) of all students attending New Mexico public schools in 2014-2015 were Native American/American Indian. Yazzie Stip. #1135; *cf.* P-2401 at 53.

801. 14.8 percent of the students in New Mexico have a disability. P-2401 at 53.

802. New Mexico children face higher hurdles to success and more serious challenges at much greater rates than many of their peers in other states. Wallin, 6/20/17 at 15:15-19; *see also* Ex. P-0127-O at 26.

803. One in four New Mexico children lives in high poverty areas. Wallin, 6/20/17 at 43:1-8, Ex. P-1667 at 1.

804. High poverty area means a census tract that has a greater than 30 percent poverty rate. Wallin, 6/20/17 at 43:19-25.

805. Children living in high-poverty area may live in high crime neighborhoods and they may be exposed to environmental risks in their home. Wallin, 6/20/17 at 43:1-8.

806. New Mexico children face higher rates of adverse childhood experiences,

particularly when it comes to violence or abuse, parental incarceration, and parental use of drugs and alcohol. Wallin, 6/20/17 at 52:10-14, 6-12; Ex. P-1669 at 13.

807. Of the students in New Mexico, 27.2 percent are food insecure, and many of these children receive the only meals they get at school. P- 1664 at 31

808. New Mexico ranks second worst on childhood food insecurity in the country. Wallin, 6/20/17 at 54:4-7.

809. Food security is a lack of reliable access to a sufficient amount of nutritious food. Wallin, 6/20/17 at 54:10-12.

810. There are students who leave school on Friday with no prospect of getting another meal until Monday at breakfast when school resumes. In Grants-Cibola, for example, but for private philanthropy which allows the schools to put food in these students' backpacks, these students would go hungry for the entire weekend. Space, 6/29/17 at 173-74; Wallin, 6/20/17 at 54.

811. Among the adverse consequences of such hunger are problems in school like low test scores and higher rates of discipline. P- 1664 at 31; Wallin 6/20/17 at 54.

812. New Mexico ranks 50 (only Mississippi ranks lower) in school-aged children living in poverty (28.5 percent) or qualifying for a free or reduced lunch (68.2 percent). P-2803 at 18-20.

813. A high percentage of New Mexico children live in low-income households, putting them at higher risk for academic difficulty. Approximately 30% of New Mexico students live with a family income at or below 100% of the federal poverty guidelines. Tr. 29:7-30:16 (Wallin)(6/20/17). Native Americans and Hispanics make up a disproportionate share of children under the age of 18 living in poverty. Yazzie Stip. #1271.

814. Native Americans and Hispanic students have a disproportionate share of students enrolled in schools where greater than 75 percent of the students are eligible for free and reduced lunch. Yazzie Stip. #1272

815. Although Native Americans constituted eleven percent of the overall student population, about 56 percent of Native American students attended a high poverty school. Yazzie Stip. #1273.

816. In 2008, the Gallup McKinley County School District has the highest number of Native American students enrolled (10,011) and Zuni Public Schools the highest percentage of Native American students within their district (99.67 percent). Yazzie Stip. #1131.

817. In 2014, the federal poverty level was \$23,850 a year for a family of four. Yazzie Stip. #1078.

818. In 2013 2014, and 2016, Quality Counts ranked New Mexico children 49th or 50th in the nation in the “Chance for Success” category and 47th, 48th, or 50th in “K-12 Achievement.” Yazzie Stip. ##1158, 1159, 1160.

819. In 2012 through 2016, the Kids Count Report ranked New Mexico 49th or 50th in overall child well-being, 48th , 49th, or 50th in education, 48th or 49th in economic well-being, 44th, 48th, or 49th in health, and 48th or 49th in family and community. Yazzie Stip. ##1161, 1162, 1164, 1164, 1165.

820. In 2014, 14 percent of children in New Mexico lived in extreme poverty, meaning they live in families with income at or below 50 percent below the federal poverty level. Yazzie Stip. #1146.

821. Out of all the states, only Mississippi has a higher rate of children living in extreme poverty (15 percent) than New Mexico. Yazzie Stip. #1147.

822. New Mexico’s 2014 rate of children living in extreme poverty (14 percent) is higher than the national average of 10 percent. Yazzie Stip. #1148.

823. In 2008-09, 2009-10, 2010-11, and 2011-12 New Mexico had the 3rd largest percentage of public school students participating in programs for English Language Learners in the nation, at 17, 15.5, 15.7, 16.1 percent, respectively. Yazzie Stip. ##1150, 1151, 1152, 1153. In 2012-13 New Mexico had the second largest percentage of public school students participating in programs for English Language Learners in the nation, at 15.8 percent. Yazzie Stip. #1154.

824. A high percentage of New Mexico children live in low-income households, putting them at higher risk for academic difficulty. Yazzie Stip. #1155.

825. Over 33 percent of New Mexico students are concentrated in high poverty schools. Yazzie Stip. #1156. The U.S. Department of Education National Center for Education Statistics defines schools of concentrated poverty, also known as "high poverty schools," as schools in which at least 75 percent of students are eligible for free or reduced lunch. Yazzie Stip. #1149.

826. The evidence of both student outputs and State inputs presented at trial proves that the vast majority of New Mexico's at-risk children finish each school year without the basic literacy and math skills needed to pursue post-secondary education or a career.

827. Outputs are test results, graduation rates, and frequency of need for remedial courses in college.

828. Overall, New Mexico children rank at the very bottom in the country for educational achievement. See Yazzie-Stips ## 1166-1223.

829. The results of the 2015 National Achievement Educational Performance test (the NAEP) ranked New Mexico as the lowest in the country for average 4th grade reading achievement scores. Yazzie Stip. #1166.

830. In 2016, New Mexico ranked 48th in the country in science on the NAEP. Yazzie Stip. #1167.

831. In The Education Week “Quality Counts New Mexico State Highlights 2014” ranked New Mexico 30th in achievement gains in the period of 2003-2013 for scale score changes on NAEP for 4th grade reading. In the same report, New Mexico’s state average for 4th grade reading proficiency on the 2013 NAEP was 21.5 percent, while the national average was 34 percent. New Mexico ranked 50 out of 50 states and the District of Columbia in 4th grade reading proficiency on the NAEP in 2013. Yazzie Stip. #1345.

832. Only 24 percent of New Mexico fourth, eighth, and twelfth graders who took the exam in 2015-16 were proficient in science. The national proficiency rate was 37 percent. (Yazzie Stip. #1168)

833. According to the 2015 NAEP results, 77 percent of New Mexico’s fourth graders who participated in the NAEP did not score “at or above proficient” in reading. (Yazzie Stip. #1169)

834. According to the 2015 NAEP results, 46 percent of New Mexico’s fourth graders who participated in the NAEP scored in the “below basic” category. (Yazzie Stip. #1170)

835. The “below basic” achievement level of the NAEP is the lowest achievement level of the NAEP. (Yazzie Stip. #1171)

836. According to the 2015 NAEP results, New Mexico had a higher portion of children who scored in the “below basic” reading achievement level than any other state in the country. (Yazzie Stip. #1172)

837. According to the 2015 NAEP results, 80 percent of New Mexico’s 8th graders who participated in the NAEP did not score “at or above proficient” in reading. (Yazzie Stip. #1173)

838. According to the 2015 NAEP results, 73 percent of New Mexico’s fourth graders who participated in the NAEP did not score “at or above proficient” in math. (Yazzie Stip. #1174)

839. According to the 2015 NAEP results, 27 percent of New Mexico’s 4th graders scored “below basic” in math achievement. (Yazzie Stip. #1175)

840. According to the 2015 NAEP results, New Mexico had the second highest percentage of 4th graders scoring in the “below basic” category in math of any state in the country. (Yazzie Stip. #1176)

841. According to the 2015 NAEP results, 79 percent of New Mexico’s eighth graders who participated in the NAEP did not score “at or above proficient” in math. (Yazzie Stip. #1177)

842. According to 2013 NAEP results, 79 percent of New Mexico's 4th graders who participated in the NAEP did not score “at or above proficient” in reading. (Yazzie Stip. #1178)

843. According to the 2013 NAEP results, 78 percent of New Mexico's 8th graders who participated in the NAEP did not score "at or above proficient" in reading. (Yazzie Stip. #1179)

844. According to the 2013 NAEP results, 48 percent of New Mexico's 4th graders tested scored in the "below basic" achievement level in reading. (Yazzie Stip. #1180)

845. According to the 2013 NAEP results, 69 percent of New Mexico's 4th graders who participated in the NAEP did not score "at or above proficient" in math. (Yazzie Stip. #1348)

846. According to the 2013 NAEP results, the percentage of New Mexico's fourth graders who scored "at or above proficient" in math was higher than only three states – Alabama, Louisiana, and Mississippi, and the District of Columbia. (Yazzie Stip. #1181)

847. According to the 2013 NAEP results, 77 percent of New Mexico's 8th graders who participated in the NAEP did not score "at or above proficient" in math. (Yazzie Stip. #1182)

848. According to the 2013 NAEP results, the percentage of New Mexico's eighth graders who scored "at or above proficient" in math was higher than only three states – Alabama, Louisiana, and Mississippi, and the District of Columbia. (Yazzie Stip. #1183)

849. According to the 2011 NAEP results, 70 percent of New Mexico's 4th graders who participated in the NAEP did not score "at or above proficient" in math.
(Yazzie Stip. #1184)

850. According to the 2011 NAEP results, 76 percent of New Mexico's 8th graders who participated in the NAEP did not score "at or above proficient" in math.
(Yazzie Stip. #1185)

851. According to the 2011 NAEP results, 79 percent of New Mexico's 4th graders who participated in the NAEP did not score "at or above proficient" in reading.
(Yazzie Stip. #1186)

852. According to the 2011 NAEP results, 78 percent of New Mexico's 8th graders who participated in the NAEP did not score "at or above proficient" in reading.
(Yazzie Stip. #1187)

853. According to the 2009 NAEP results, 74 percent of New Mexico's 4th graders who participated in the NAEP did not score "at or above proficient" in math.
(Yazzie Stip. #1188)

854. According to the 2009 NAEP results, 80 percent of New Mexico's 8th graders who participated in the NAEP did not score "at or above proficient" in math.
(Yazzie Stip. #1189)

855. According to the 2009 NAEP results, 80 percent of New Mexico’s 4th graders who participated in the NAEP did not score at or above proficient in reading. (Yazzie Stip. #1190)

856. According to the 2009 NAEP results, 78 percent of New Mexico’s 8th graders who participated in the NAEP did not score “at or above proficient” in reading. (Yazzie Stip. #1191)

857. The NAEP data shows a pervasive achievement gap between low income and non-low income students.

858. According to the 2015 NAEP results, 17 percent of New Mexico’s 4th grade students who took the NAEP and were eligible for free and reduced lunch scored “at or above proficient” in reading, while 40 percent of New Mexico’s 4th graders who took the NAEP and were not eligible for free and reduced lunch scored “at or above proficient” in reading. (Yazzie Stip. #1192)

859. According to the 2013 NAEP results, 15 percent of New Mexico’s 4th grade students who took the NAEP and were eligible for free and reduced lunch scored “at or above proficient” in reading, while 39 percent of New Mexico’s 4th graders who took the NAEP and were not eligible for free and reduced lunch scored “at or above proficient” in reading. (Yazzie Stip. #1193)

860. According to the 2011 NAEP results, 14 percent of New Mexico’s 4th grade students who took the NAEP and were eligible for free and reduced lunch scored

“at or above proficient” in reading, while 37 percent of New Mexico’s 4th graders who took the NAEP and were not eligible for free and reduced lunch scored “at or above proficient” in reading. (Yazzie Stip. #1194)

861. According to the 2009 NAEP results, 12 percent of New Mexico’s 4th grade students who took the NAEP and were eligible for free and reduced lunch scored “at or above proficient” in reading, while 36 percent of New Mexico’s 4th graders who took the NAEP and were not eligible for free and reduced lunch scored “at or above proficient” in reading. (Yazzie Stip. #1195)

862. According to the 2015 NAEP results, 14 percent of New Mexico 8th grade students who took the NAEP and were eligible for free and reduced lunch scored “at or above proficient” in reading, while 33 percent of New Mexico 8th graders who took the NAEP and were not eligible for free and reduced lunch scored “at or above proficient” in reading. (Yazzie Stip. #1196)

863. According to the 2013 NAEP results, 16 percent of New Mexico 8th grade students who took the NAEP and were eligible for free and reduced lunch scored “at or above proficient” in reading, while 37 percent of New Mexico 8th graders who took the NAEP and were not eligible for free and reduced lunch scored “at or above proficient” in reading. (Yazzie Stip. #1197)

864. According to the 2011 NAEP results, 15 percent of New Mexico 8th grade students who took the NAEP and were eligible for free and reduced lunch scored

“at or above proficient” in reading, while 34 percent of New Mexico 8th graders who took the NAEP and were not eligible for free and reduced lunch scored “at or above proficient” in reading. (Yazzie Stip. #1198)

865. According to the 2009 NAEP results, 14 percent of New Mexico 8th grade students who took the NAEP and were eligible for free and reduced lunch scored “at or above proficient” in reading, while 34 percent of New Mexico 8th graders who took the NAEP and were not eligible for free and reduced lunch scored “at or above proficient” in reading. (Yazzie Stip. #1199)

866. According to the 2015 NAEP results, 20 percent of New Mexico’s 4th grade students who took the test and were eligible for free and reduced lunch scored “at or above proficient” in math, while 46 percent of New Mexico’s 4th graders who took the NAEP and were not eligible for free and reduced lunch scored “at or above proficient” in math. (Yazzie Stip. #1200)

867. According to the 2013 NAEP results, 24 percent of New Mexico’s 4th grade students who took the test and were eligible for free and reduced lunch scored “at or above proficient” in math, while 51 percent of New Mexico’s 4th graders who took the NAEP and were not eligible for free and reduced lunch scored “at or above proficient” in math. (Yazzie Stip. #1201)

868. According to the 2011 NAEP results, 21 percent of New Mexico’s 4th grade students who took the test and were eligible for free and reduced lunch scored “at

or above proficient” in math, while 50 percent of New Mexico’s 4th graders who took the NAEP and were not eligible for free and reduced lunch scored “at or above proficient” in math. (Yazzie Stip. #1202)

869. According to the 2009 NAEP results, 17 percent of New Mexico’s 4th grade students who took the test and are eligible for free and reduced lunch scored “at or above proficient” in math, while 45 percent of New Mexico’s 4th graders who took the NAEP and are not eligible for free and reduced lunch scored “at or above proficient” in math. (Yazzie Stip. #1203)

870. According to the 2015 NAEP results, 14 percent of New Mexico’s 8th grade students who took the test and were eligible for free and reduced lunch scored “at or above proficient” in math, while 38 percent of New Mexico’s 8th graders who took the NAEP and are not eligible for free and reduced lunch scored “at or above proficient” in math. (Yazzie Stip. #1204)

871. According to the 2013 NAEP results, 16 percent of New Mexico’s 8th grade students who took the test and were eligible for free and reduced lunch scored “at or above proficient” in math, while 39 percent of New Mexico’s 8th graders who took the NAEP and were not eligible for free and reduced lunch scored “at or above proficient” in math. (Yazzie Stip. #1205)

872. According to the 2011 NAEP results, 15 percent of New Mexico’s 8th grade students who took the test and were eligible for free and reduced lunch scored “at

or above proficient” in math, while 39 percent of New Mexico’s 8th graders who took the NAEP and were not eligible for free and reduced lunch scored “at or above proficient” in math. (Yazzie Stip. #1206)

873. According to the 2009 NAEP results, 11 percent of New Mexico’s 8th grade students who took the test and were eligible for free and reduced lunch scored “at or above proficient” in math, while 34 percent of New Mexico’s 8th graders who took the NAEP and were not eligible for free and reduced lunch scored “at or above proficient” in math. (Yazzie Stip. #1207)

874. According to the 2015 NAEP results, 4 percent of New Mexico’s 4th grade ELL students who took the test scored “at or above proficient” in reading, while 27 percent of New Mexico’s 4th grade non-ELL students who took the NAEP scored “at or above proficient” in reading. (Yazzie Stip. #1208)

875. According to the 2013 NAEP results, 3 percent of New Mexico’s 4th grade ELL students who took the test scored “at or above proficient” in reading, while 25 percent of New Mexico’s 4th grade non-ELL students who took the NAEP scored “at or above proficient” in reading. (Yazzie Stip. #1209)

876. According to the 2011 NAEP results, 2 percent of New Mexico’s 4th grade ELL students who took the test scored “at or above proficient” in reading, while 24 percent of New Mexico’s 4th grade non-ELL students who took the NAEP scored “at or above proficient” in reading. (Yazzie Stip. #1210)

877. According to the 2009 NAEP results, 3 percent of New Mexico’s 4th grade ELL students who took the test scored “at or above proficient” in reading, while 22 percent of New Mexico’s 4th grade non-ELL students who took the NAEP scored “at or above proficient” in reading. (Yazzie Stip. #1211)

878. According to the 2015 NAEP results, 2 percent of New Mexico’s 8th grade ELL students who took the test scored “at or above proficient” in reading, while 23 percent of New Mexico’s 8th grade non-ELL students who took the NAEP scored “at or above proficient” in reading. (Yazzie Stip. #1212)

879. According to the 2013 NAEP results, 2 percent of New Mexico’s 8th grade ELL students who took the test scored “at or above proficient” in reading, while 25 percent of New Mexico’s 8th grade non-ELL students who took the NAEP scored “at or above proficient” in reading. (Yazzie Stip. #1213)

880. According to the 2011 NAEP results, 1 percent of New Mexico’s 8th grade ELL students who took the test scored “at or above proficient” in reading, while 25 percent of New Mexico’s 8th grade non-ELL students who took the NAEP scored “at or above proficient” in reading. (Yazzie Stip. #1214)

881. According to the 2009 NAEP results, 1 percent of New Mexico’s 8th grade ELL students who took the test scored “at or above proficient” in reading, while 24 percent of New Mexico’s 8th grade non-ELL students who took the NAEP scored “at or above proficient” in reading. (Yazzie Stip. #1215)

882. According to the 2015 NAEP results, 9 percent of New Mexico’s 4th grade ELL students who took the test scored “at or above proficient” in math, while 30 percent of New Mexico’s 4th grade non-ELL students who took the NAEP scored “at or above proficient” in math. (Yazzie Stip. #1216)

883. According to the 2013 NAEP results, 9 percent of New Mexico’s 4th grade ELL students who took the NAEP scored “at or above proficient” in math, while 35 percent of New Mexico’s 4th grade non-ELL students who took the NAEP scored “at or above proficient” in math. (Yazzie Stip. #1217)

884. According to the 2011 NAEP results, 5 percent of New Mexico’s 4th grade ELL students who took the test scored “at or above proficient” in math, while 34 percent of New Mexico’s 4th grade non-ELL students who took the NAEP scored “at or above proficient” in math. (Yazzie Stip. #1218)

885. According to the 2009 NAEP results, 5 percent of New Mexico’s 4th grade ELL students who took the test scored “at or above proficient” in math, while 30 percent of New Mexico’s 4th grade non-ELL students who took the NAEP scored “at or above proficient” in math. (Yazzie Stip. #1219)

886. According to the 2015 NAEP results, 2 percent of New Mexico’s 8th grade ELL students who took the test scored “at or above proficient” in math, while 23 percent of New Mexico’s 8th grade non-ELL students who took the NAEP scored “at or above proficient” in math. (Yazzie Stip. #1220)

887. According to the 2013 NAEP results, 3 percent of New Mexico’s 4th grade ELL students who took the NAEP scored “at or above proficient” in math, while 26 percent of New Mexico’s 4th grade non-ELL students who took the NAEP scored “at or above proficient” in math. (Yazzie Stip. #1221)

888. According to the 2011 NAEP results, 2 percent of New Mexico’s 8th grade ELL students who took the NAEP scored “at or above proficient” in math, while 27 percent of New Mexico’s 8th grade non-ELL students who took the NAEP scored “at or above proficient” in math. (Yazzie Stip. #1222)

889. According to the 2009 NAEP results, 3 percent of New Mexico’s 8th grade ELL students who took the NAEP scored “at or above proficient” in reading, while 22 percent of New Mexico’s 8th grade non-ELL students who took the NAEP scored “at or above proficient” in math. (Yazzie Stip. #1223)

890. The majority of New Mexican fourth, eighth, and eleventh graders are not proficient in math or reading. On average, they are three years behind grade level. Berliner, 6/12/17 at 247:25-248:7; *See* D-4570 at 5.

891. Less than one third of all adults in New Mexico (29 percent) has earned an associate degree or higher. [P-2794 ¶ 14]

892. From 2000 to 2015, a fifteen-year time frame, New Mexico students consistently scored below the national average on the 4th grade NAEP Math exam in the average scores. In 2013, results were found to be statistically significant,

conveying a significant gap between the national 4th grade math scores and the scores among New Mexico's 4th graders on the NAEP exam. P-2794 ¶ 17.

893. The fact that there is a longitudinal trend of lower performance in math in New Mexico conveys the need for intervention and a concerted effort to raise math achievement in the early grades. P-2794 ¶ 17.

894. The SBA was in place from 2006 to 2014, when the transition to PARCC began. The SBA was aligned to state standards in place at that time. (Martinez Stip. #123)

895. A student who scores proficient on the SBA is performing on grade level and meeting state standards. (Martinez Stip. #47)

896. In 2010, New Mexico adopted the Common Core Standards in English Language Arts and Math. Skandera, Depo. Desig. at 77:16-17; 118:6-7.

897. New Mexico adopted Common Core, transitioned to Common Core, and PARCC is now aligned to Common Core standards, (Martinez Stip. #124)

898. PARCC is a measure of the acquisition of the Common Core standards in mathematics and English. (Martinez Stip. #46)

899. A Spanish version of the PARCC assessment is currently under development. In response to a related question from a committee member, however, the assessment has not been translated into any Native American dialects." Yazzie Stip. #1277.

900. The State continues to measure performance in science with the SBA and uses an end-of-course exam for social studies. PED measures college and career readiness of students in New Mexico public schools by using proficiency scores on standardized tests, such as the New Mexico Standard Based Assessment (“NMSBA” or “SBA”) and the Partnership for Assessment of Readiness for College and Careers (“PARCC”). Martinez Stip. 5-10-17 Stip. ¶ 113

901. From 2006 to 2014, New Mexico implemented the SBA, which reported student achievement at four different levels: Beginning Step (level 1), Nearing Proficient (level 2), Proficient (level 3), and Advanced (level 4). Martinez Stip. 5-10-17 Stip. ¶ 123; P-2878 at 5, n.1

902. Under the SBA, students who score Proficient and Advanced are considered to have achieved proficiency. P-2878 at 5, n.1.

903. New Mexico adopted the PARCC as its new state assessment in 2015. P-2878 at 5, n.1

904. PARCC is aligned with the Common Core standards. 5-10-17 Stip. ¶ 124.

905. Proficiency under the PARCC is indicated by earning a score of “4” or higher. P-2878 at 5, n.1.

906. Scoring a 4 or higher on the PARCC reflects achievement. D-0138 at 4.

907. A student who has shown mastery of the Common Core Standards is college and career ready. Lenti, 116-117; Martinez Stip. #30, 32.

908. Students graduating before the class of 2020 only need a 3 on PARCC in math and reading in order to graduate. Ruszkowski, 7/17/17 at 91:20-24; Ex. P-1318 at 3.

909. Achievement in 8th grade has a greater impact on college and career readiness than performance in any other grade in high school. LFC Report, June 2015, pg. 5 (Yazzie Stip. #1266)

910. For low-income, Native American, and ELL students, proficiency levels in reading and math in the fourth, eighth, and eleventh grades are much worse, with only 4 to 15 percent of these students being proficient.

911. By the time minority students reach grade 12, if they do so at all, they are about four years behind other young people. Indeed, 17-year-old Hispanic students have skills in English, mathematics and science similar to those of 13-year-old white students. In New Mexico the situation is even worse for Native American students. Yazzie Stip. #1276.

912. New Mexico's SBA and PARCC results show that the majority of New Mexico's children cannot read or do math at grade level. Yazzie-Stips, ##1-6.

913. The majority of New Mexican fourth, eighth, and eleventh graders are not proficient in math or reading. On average, they are three years behind grade level. 6-12-17 Tr. 247:25-248:7 (Berliner);The fact that New Mexico's children cannot read or do math at grade level is exacerbated over time as children move through

the educational system; by the time they reach 11th grade, children who are not proficient have substantial learning deficits. Garcia, 6/12/17 at 91:18-93:14.

914. From 2007 through 2014, an average of only 50 percent of New Mexico students statewide were proficient in reading, and an average of only 40 percent of students were proficient in math. Ex. P-2878.

915. After PARCC was adopted in 2015, these statistics dropped even further: approximately 35 percent of students were proficient in reading, while less than 20 percent were proficient in math. P-2878 at ¶¶41, 46.

916. By 2016 less than 40 percent of students were proficient in reading, and only 20 percent of all students were proficient in math. P-2878 at ¶¶41, 46.

917. According to 2017 PARCC scores, only 28.6 percent of students statewide are proficient in reading, and only 19.7 percent are proficient in math. D-5045 at 2-3.

918. According to 2017 PARCC scores, only 43.3 percent of all eleventh graders are proficient in reading, a decline of 1.2 percent from 2015, while only 8.3 percent of eleventh graders are proficient in math, a decline of 1.3 percent from 2015. D-5045 at 4-5.

919. These standardized test scores support a conclusion that most students in New Mexico are not receiving an adequate education.

920. From 2007 through 2016, student achievement results have been worse for economically disadvantaged students, ELLs, students with disabilities, and Native American students, proving New Mexico’s public education system is not uniform. Yazzie-Stips Nos. 7-36; see also P-2878 ¶¶ 15, 18; 5-10-10 Stip. ¶¶ 43, 53, 93.

921. For economically disadvantaged, Native American, and ELL students in New Mexico public schools, proficiency levels in reading and math on both the SBA and the PARCC in the fourth, eighth, and eleventh grades are worse than proficiency levels of other student groups, with only 4 to 15 percent of these students being proficient over a seven-year period, from 2009-2016. Yazzie Stips. Nos. 1-994; see also P-2401 to P-2423 (focus district report cards 2014-16); see also P-2945 (Gadsden) at 8-9; P-2946 (Zuni) at 3-10; P-2960 (Cuba) at 3-10; P-2961 (Jemez) at 3-10; P-2962 (Bernalillo) at 3-9; D-5045 (2017 PARCC results) at 2-5.

922. From 2011 to 2014, the percentage of economically disadvantaged (“ED”) students statewide scoring proficient in reading on the SBA was around 40 percent, while approximately 50 percent of all students statewide achieved proficiency. P-2878, ¶ 41.

923. In 2015, after adoption of the PARCC, this achievement gap persisted: less than 30 percent of ED students scored proficient in reading, while the student average remained above 30 percent. P-2878 ¶ 41.

924. In 2016, only 30 percent of ED students achieved proficiency in reading, while 37 percent of all students achieved proficiency. P-2878 at ¶14, ¶82.

925. From 2012 to 2016, fewer than 20 percent of ELL students performed at a proficient level in reading, whereas approximately 45 percent of all students performed at a proficient level. P-2878 at ¶ 41.

926. From 2012 to 2016, fewer than 20 percent of all SWDs scored at a proficient level in reading, as compared to approximately 45 percent for the total student population. P-2878 at ¶ 41.

927. In 2014-15, with the adoption of PARCC, students fared even worse with over 66 percent of students not proficient, again with at-risk students performing worse with 73 to 98 percent not being proficient. Yazzie-Stips, at ##55-78.

928. The educational outcomes are even worse for Native American students in New Mexico. See id. at ##7- 12, 37-48, 61-66.

929. From 2014-2017 approximately 30 percent of Caucasian students and nearly 50 percent of Asian American students scored proficient in math in both years. P-2878 ¶ 46.

930. In contrast, over the last three years, the highest rate of proficiency in reading for low- income students was 21.5 percent; Native American students attained 17.6 percent proficiency; and ELL students attained 4.3 percent proficiency. Ex. D-5045 at 4; P-2878 ¶ 46.

931. Overall, the proficiency rates in math from 2014-2017 are worse, with low-income students only 14.5 percent proficient, Native students 10.4 percent proficient, and ELL students 6 percent proficient. Ex. D-5045 at 5.

932. PED is aware of research showing gaps in academic achievement between at-risk students and students who are not at risk. 5-10-17 Stip. ¶ 92.

933. Defendants do not dispute that proficiency breakdowns by grade support the conclusion that achievement results are worst for at-risk students, and that an achievement gap has persisted in New Mexico for nearly a decade. *See* 4-14-2017 Stip. ¶¶ 7-54, 61-78 (stipulating, among other things, that from 2007-2014, the percentage difference between all eleventh graders and ED eleventh graders scoring proficient in Math ranged from 9.6-12.2 percent)

934. Expert Cristobal Rodriguez testified that these achievement gaps show there are systemic deficiencies in New Mexico's public education system that disproportionately affect at-risk student groups and create a non-uniform system within the State. P-2878 ¶ 18.

935. Defendants' witness, Leighann Lenti, agreed that PED has an obligation under the New Mexico Constitution to provide a certain level of education to New Mexico students, and that New Mexico's education assessment system is related to that constitutional obligation because it measures college and career readiness and whether programs are meeting targeted goals. Lenti, 7-26-17 at. 65:3-21.

936. New Mexico Secretary of Education Christopher Ruszkowski conceded at trial that the current state of affairs in New Mexico public schools—with 72 percent of all students not proficient in reading and 80 percent not proficient in math—is not “sufficient.” (Ruszkowski 7-17-17 at 73:14-74:2).

937. While there was testimony that scores are lower whenever a different testing system is instituted, the 2017 PARCC scores did not demonstrate improvement or that even the majority of students were proficient in English and math. The 2017 PARCC scores show that only 28.6 percent of students statewide are proficient in English, and only 19.7 percent are proficient in math. See D-5045 at 2-3.

938. The 2017 scores show that only 43.3 percent of all eleventh graders are proficient in English, a decline of 1.2 percent from 2015, and only 8.3 percent of eleventh graders are proficient in Math, a decline of 1.3 percent from 2015. D-5045 at 4-5.

939. Secretary Ruszkowski testified that if the State does not improve proficiency for its students, the State will not be able to ensure that students are college, career and civics ready. 7/17/17 at 85:18-23.

940. The stipulated facts in this case - which describe statewide and focus district educational outcomes - prove students’ lack of proficiency on both the SBA and the PARCC over a seven-year period. Yazzie- Stips ## 1-994; see also P-2401 to P-2423 (focus district report cards 2014-16); see also P-2945 (Gadsden) at 8-9; P-

2946 (Zuni) at 3-10; P-2960 (Cuba) at 3-10; P- 2961 (Jemez) at 3-10; P-2962 (Bernalillo) at 3-9; D-5045 (2017 PARCC results) at 2-5.

The below findings of fact are taken from stipulations which are based on the following:

All ranges of non-proficiency are based on NMSBA non-proficiency rates reported by PED from 2007-2014.

All PARCC non-proficiency rates are from PED's reported PARCC score data from SY 2014-2016.

All achievement gap ranges are based on NMSBA proficiency rates reported by PED from 2007-2014.

1. All Students

941. Between 2007 and 2014, the percentage of 4th graders that did not score proficient or above in reading ranged from 47.7 percent to 56.2 percent. (Yazzie Stip. #1)

942. Between 2007 and 2014, the percentage of 8th graders that did not score proficient or above in reading ranged from 35.6 percent to 46.4 percent. (Yazzie Stip. #2)

943. Between 2007 and 2014, the percentage of 11th graders that did not score proficient or above in reading ranged from 44.1 percent to 53.3 percent. (Yazzie Stip. #3)

944. Between 2007 and 2014, the percentage of 4th graders that did not score proficient or above in math ranged from 54.4 percent to 60.5 percent. (Yazzie Stip. #4)

945. Between 2007 and 2014, the percentage of 8th graders that did not score proficient or above in math ranged from 56.9 percent to 62.6 percent. (Yazzie Stip. #5)

946. Between 2007 and 2014, the percentage of 11th graders that did not score proficient or above in math ranged from 57.2 percent to 64.3 percent. (Yazzie Stip. #6)

947. Between 2007 and 2014, the percentage of Native American 4th graders that did not score proficient or above in reading ranged from 62.4 percent to 71.1 percent. (Yazzie Stip. #7)

948. Between 2007 and 2014 the percentage of Native American 8th graders that did not score proficient or above in reading ranged from 45.5 percent to 57.9 percent. (Yazzie Stip. #8)

949. Between 2007 and 2014, the percentage of Native American 11th graders that did not score proficient or above in reading ranged from 51.7 percent to 69.4 percent. (Yazzie Stip. #9)

950. Between 2007 and 2014, the percentage of Native American 4th graders that did not score proficient or above in math ranged from 66.5 percent to 74.8 percent. (Yazzie Stip. #10)

951. Between 2007 and 2014, the percentage of Native American 8th graders that did not score proficient or above in math ranged from 70.9 percent to 75.9 percent. (Yazzie Stip. #11)

952. Between 2007 and 2014, the percentage of Native American 11th graders that did not score proficient or above in math ranged from 67 percent to 79.4 percent. (Yazzie Stip. #12)

2. Low-income

953. Between 2007 and 2014, the percentage of low-income 4th graders that did not score proficient or above in reading ranged from 55.3 percent to 64.2 percent. (Yazzie Stip. #13)

954. Between 2007 and 2014, the percentage of low-income 8th graders that did not score proficient or above in reading ranged from 43.4 percent to 54.9 percent. (Yazzie Stip. #14)

955. Between 2007 and 2014, the percentage of low-income 11th graders that did not score proficient or above in reading ranged from 53.3 percent to 64 percent. (Yazzie Stip. #15)

956. Between 2007 and 2014, the percentage of low-income 4th graders that did not score proficient or above in math ranged from 61.9 percent to 68.6 percent. (Yazzie Stip. #16)

957. Between 2007 and 2014, the percentage of low-income 8th graders that did not score proficient or above in math ranged from 65.2 percent to 72.4 percent. (Yazzie Stip. #17)

958. Between 2007 and 2014, the percentage of low-income 11th graders that did not score proficient or above in math ranged from 66.7 percent to 75.9 percent. (Yazzie Stip. #18)

(a) Compared to All Students

959. From 2007-2014, the percentage difference between all 4th graders and low-income 4th graders scoring proficient or above in reading ranged from 7 percent to 8.4 percent. (Yazzie Stip. #49)

960. From 2007-2014, the percentage difference between all 8th graders and low-income 8th graders scoring proficient or above in reading ranged from 7 percent to 9.7 percent. (Yazzie Stip. #50)

961. From 2007-2014, the percentage difference between all 11th graders and low-income 11th graders scoring proficient or above in reading ranged from 9.5 percent to 11.1 percent. (Yazzie Stip. #51)

962. From 2007-2014, the percentage difference between all 4th graders and low-income 4th graders scoring proficient or above in math ranged from 7.4 percent to 8.3 percent. (Yazzie Stip. #52)

963. From 2007-2014, the percentage difference between all 8th graders and low-income 8th graders scoring proficient or above in math ranged from 7.4 percent to 10.1 percent. (Yazzie Stip. #53)

964. From 2007-2014, the percentage difference between all 11th graders and low-income 11th graders scoring proficient or above in math ranged from 9.6 percent to 12.2 percent. (Yazzie Stip. #54)

3. ELL

965. Between 2007 and 2011, the percentage of all ELL 4th graders that did not score proficient or above in reading ranged from 65.4 percent to 74.1 percent. (Yazzie Stip. #19)

966. Between 2007 and 2011, the percentage of all ELL 8th graders that did not score proficient or above in reading ranged from 54.3 percent to 77.7 percent. (Yazzie Stip. #20)

967. Between 2007 and 2011, the percentage of all ELL 11th graders that did not score proficient or above in reading ranged from 71.9 percent to 84.1 percent. (Yazzie Stip. #21)

968. Between 2007 and 2011, the percentage of all ELL 4th graders that did not score proficient or above in math ranged from 71.5 percent to 73.8 percent.

(Yazzie Stip. #22)

969. Between 2007 and 2011, the percentage of all ELL 8th graders that did not score proficient or above in math ranged from 79.8 percent to 84.5 percent.

(Yazzie Stip. #23)

970. Between 2007 and 2011, the percentage of all ELL 11th graders that did not score proficient or above in math ranged from 85.1 percent to 86.6 percent.

(Yazzie Stip. #24)

971. Between 2011 and 2014, the percentage of all current ELL 4th graders that did not score proficient or above in reading ranged from 81 percent to 82.7 percent.

(Yazzie Stip. #25)

972. Between 2011 and 2014, the percentage of all current ELL 8th graders that did not score proficient or above in reading ranged from 76 percent to 80.9 percent.

(Yazzie Stip. #26)

973. Between 2011 and 2014, the percentage of all current ELL 11th graders that did not score proficient or above in reading ranged from 88.1 percent to 89.8

percent. (Yazzie Stip. #27)

974. Between 2011 and 2014, the percentage of all exited ELL 4th graders that did not score proficient or above in reading ranged from 42.6 percent to 51.8 percent.

(Yazzie Stip. #28)

975. Between 2011 and 2014, the percentage of all exited ELL 8th graders that did not score proficient and above in reading ranged from 33.3 percent to 43.6 percent.

(Yazzie Stip. #29)

976. Between 2011 and 2014, the percentage of all exited ELL 11th graders that did not score proficient or above in reading ranged from 50.2 percent to 60.8 percent. (Yazzie Stip. #30)

977. Between 2011 and 2014, the percentage of all current ELL 4th graders that did not score proficient or above in math ranged from 78.7 percent to 80.9 percent.

(Yazzie Stip. #31)

978. Between 2011 and 2014, the percentage of all current ELL 8th graders that did not score proficient or above in math ranged from 85.8 percent to 88.8 percent.

(Yazzie Stip. #32)

979. Between 2011 and 2014, the percentage of all current ELL 11th graders that did not score proficient or above in math ranged from 90.3 percent to 90.6 percent.

(Yazzie Stip. #33)

980. Between 2011 and 2014, the percentage of all exited ELL 4th graders that did not score proficient or above in math ranged from 48.4 percent to 50.3 percent. (Yazzie Stip. #34)

981. Between 2011 and 2014, the percentage of all exited ELL 8th graders that did not score proficient or above in math ranged from 54.2 percent to 57.7 percent. (Yazzie Stip. #35)

982. Between 2011 and 2014, the percentage of all exited ELL 11th graders that did not score proficient or above in math ranged from 61.1 percent to 65.3 percent. (Yazzie Stip. #36)

4. Native American

(a) Compared to All Students

983. From 2007-2014, the percentage difference between all 4th graders and Native American 4th graders scoring proficient or above in reading ranged from 14 percent to 16.9 percent. (Yazzie Stip. #37)

984. From 2007-2014, the percentage difference between all 8th graders and Native American 8th graders scoring proficient or above in reading ranged from 9.7 percent to 16.7 percent. (Yazzie Stip. #38)

985. From 2007-2014, the percentage difference between all 11th graders and Native American 11th graders scoring proficient or above in reading ranged from 7.8 percent to 18.4 percent. (Yazzie Stip. #39)

986. From 2007-2014, the percentage difference between all 4th graders and Native American 4th graders scoring proficient or above in math ranged from 12.1 percent to 16.1 percent. (Yazzie Stip. #40)

987. From 2007-2014, the percentage difference between all 8th graders and Native American 8th graders scoring proficient or above in math ranged from 12.5 percent to 14.2 percent. (Yazzie Stip. #41)

988. From 2007-2014, the percentage difference between all 11th graders and Native American 11th graders scoring proficient or above in math ranged from 9 percent to 16.2 percent. (Yazzie Stip. #42)

(b) Compared to Anglo Students

989. From 2007-2014, the percentage difference between all Caucasian 4th graders and Native American 4th graders scoring proficient or above in reading ranged from 29.7 percent to 33.7 percent. (Yazzie Stip. #43)

990. From 2007-2014, the percentage difference between all Caucasian 8th graders and Native American 8th graders scoring proficient or above in reading time ranged from 22.8 percent to 32 percent. (Yazzie Stip. #44)

991. From 2007-2014, the percentage difference between all Caucasian 11th graders and Native American 11th graders scoring proficient or above in reading ranged from 22.1 percent to 35.6 percent. (Yazzie Stip. #45)

992. From 2007-2014, the percentage difference between all Caucasian 4th graders and Native American 4th graders scoring proficient or above in math ranged from 28.5 percent to 32.4 percent. (Yazzie Stip. #46)

993. From 2007-2014, the percentage difference between all Caucasian 8th graders and Native American 8th graders scoring proficient or above in math ranged from 29.1 percent to 32.4 percent. (Yazzie Stip. #47)

994. From 2007-2014, the percentage difference between all Caucasian 11th graders and Native American 11th graders scoring proficient or above in math ranged from 26.3 percent to 34.6 percent. (Yazzie Stip. #48)

5. PARCC Scores 2014 – 2016

(a) All Students – Reading

995. In 2014-15, 76.2 percent of 4th graders did not score proficient or above in reading on the PARCC. (Yazzie Stip. #55)

996. In 2015-16, 75 percent of 4th graders did not score proficient or above in reading on the PARCC.

997. In 2014-15, 77.1 percent of 8th graders did not score proficient or above in reading on the PARCC. (Yazzie Stip. #56)

998. In 2015-16, 74.2 percent of 8th graders did not score proficient or above in reading on the PARCC.

999. In 2014-15, 55.6 percent of 11th graders did not score proficient or above in reading on the PARCC. (Yazzie Stip. #57)

1000. In 2015-16, 55.4 percent of 11th graders did not score proficient or above in reading on the PARCC.

(b) All Students - Math

1001. In 2014-15, 81.2 percent of 4th graders did not score proficient or above in math on the PARCC. (Yazzie Stip. #58)

1002. In 2015-16, 76.6 percent of 4th graders did not score proficient or above in math on the PARCC.

1003. In 2014-15, 82.8 percent of 8th graders did not score proficient or above in math on the PARCC. (Yazzie Stip. #59)

1004. In 2015-16, 80.5 percent of 8th graders did not score proficient or above in math on the PARCC.

1005. In 2014-15, 90.0 percent of 11th graders did not score proficient or above in math on the PARCC. (Yazzie Stip. #60)

1006. In 2015-16, 89.9 percent of 11th graders did not score proficient or above in math on the PARCC.

(c) Native American Students - Reading

1007. In 2014-15 86.5 percent of Native American 4th graders did not score proficient or above in reading on the PARCC. (Yazzie Stip. #61)

1008. In 2015-16, 85.9 percent of Native American 4th graders did not score proficient or above in reading on the PARCC.

1009. In 2014-15, 86.1 percent of Native American 8th graders did not score proficient or above in reading on the PARCC. (Yazzie Stip. #62)

1010. In 2015-16, 82.8 percent of Native American 8th graders did not score proficient or above in reading on the PARCC.

1011. In 2014-15, 73.3 percent of Native American 11th graders did not score proficient or above in reading on the PARCC. (Yazzie Stip. #63)

1012. In 2015-16, 70.5 percent of Native American 11th graders did not score proficient or above in reading on the PARCC.

(d) Native American Students - Math

1013. In 2014-15, 89.0 percent of Native American 4th graders did not score proficient or above in math on the PARCC. (Yazzie Stip. #64)

1014. In 2015-16, 87 percent of Native American 4th graders did not score proficient or above in math on the PARCC.

1015. In 2014-15, 90.2 percent of Native American 8th graders did not score proficient or above in math on the PARCC. (Yazzie Stip. #65)

1016. In 2015-16, 90.2 percent of Native American 8th graders did not score proficient or above in math on the PARCC.

1017. In 2014-15, 95.4 percent of Native American 11th graders did not score proficient or above in math on the PARCC. (Yazzie Stip. #66)

1018. In 2015-16, 95.1 percent of Native American 11th graders did not score proficient or above in math on the PARCC.

(e) Low-income Students - Reading

1019. In 2014-15, 82.5 percent of low-income 4th graders did not score proficient or above in reading on the PARCC. (Yazzie Stip. #67)

1020. In 2015-16, 81 percent of low-income 4th graders did not score proficient or above in reading on the PARCC.

1021. In 2014-15, 83.8 percent of low-income 8th graders did not score proficient or above in reading on the PARCC. (Yazzie Stip. #68)

1022. In 2015-16, 80.9 percent of low-income 8th graders did not score proficient or above in reading on the PARCC.

1023. In 2014-15, 65.4 percent of low-income 11th graders did not score proficient or above in reading on the PARCC. (Yazzie Stip. #69)

1024. In 2015-16, 64.6 percent of low-income 11th graders did not score proficient or above in reading on the PARCC.

(f) Low-income Students - Math

1025. In 2014-15, 86.4 percent of low-income 4th graders did not score proficient or above in math on the PARCC. (Yazzie Stip. #70)

1026. In 2015-16, 82.6 percent of low-income 4th graders did not score proficient or above in math on the PARCC.

1027. In 2014-15, 88.2 percent of low-income 8th graders did not score proficient or above in math on the PARCC. (Yazzie Stip. #71)

1028. In 2015-16, 86.1 percent of low-income 8th graders did not score proficient or above in math on the PARCC.

1029. In 2014-15, 94.1 percent of low-income 11th graders did not score proficient or above in math on the PARCC. (Yazzie Stip. #72)

1030. In 2015-16, 93.2 percent of low-income 11th graders did not score proficient or above in math on the PARCC.

(g) ELL Students - Reading

1031. In 2014-15, 92.9 percent of current ELL 4th graders did not score proficient or above in reading on the PARCC. (Yazzie Stip. #73)

1032. In 2015-16, 91.5 percent of current ELL 4th graders did not score proficient or above in reading on the PARCC.

1033. In 2014-15, 96.6 percent of current ELL 8th graders did not score proficient or above in reading on the PARCC. (Yazzie Stip. #74)

1034. In 2015-16, 94.8 percent of current ELL 8th graders did not score proficient or above in reading on the PARCC.

1035. In 2014-15, 93.6 percent of current ELL 11th graders did not score proficient or above in reading on the PARCC. (Yazzie Stip. #75)

1036. In 2015-16, 92.9 percent of current ELL 11th graders did not score proficient or above in reading on the PARCC.

(h) ELL Students - Math

1037. In 2014-15, 94.7 percent of current ELL 4th graders did not score proficient or above in math on the PARCC. (Yazzie Stip. #76)

1038. In 2015-16, 92.8 percent of current ELL 4th graders did not score proficient or above in math on the PARCC.

1039. In 2014-15, 97.5 percent of current ELL 8th graders did not score proficient or above in math on the PARCC. (Yazzie Stip. #77)

1040. In 2015-16, 97.1 percent of current ELL 8th graders did not score proficient or above in math on the PARCC.

1041. In 2014-15, 97.0 percent, of current ELL 11th graders did not score proficient or above in math on the PARCC. (Yazzie Stip. #78)

1042. In 2015-16, 95.8 percent, of current ELL 11th graders did not score proficient or above in math on the PARCC.

6. Focus Districts: Demographics NMSBA And PARCC Non-Proficiency Rates & Achievement Gaps.

The below findings of fact are taken from stipulations which are based on the following:

All ranges of non-proficiency are based on NMSBA non-proficiency rates reported by PED from 2007-2014.

All PARCC non-proficiency rates are from PED's reported PARCC score data from SY 2014-2016.

All achievement gap ranges are based on NMSBA proficiency rates reported by PED from 2007-2014.

Alamogordo

Non Proficiency Rates

All Students

1043. Between 2007 and 2014, the percentage of all 4th graders in Alamogordo that did not score proficient and above in reading ranged from 31.2 percent to 50.8 percent. (Yazzie Stip. #90)

1044. Between 2007 and 2014, the percentage of all 11th graders in Alamogordo that did not score proficient and above in reading ranged from 33.9 percent to 60.3 percent. (Yazzie Stip. #91)

Between 2007 and 2014, the percentage of all 4th graders in Alamogordo that did not score proficient and above in math ranged from 39.8 percent to 46.2 percent. (Yazzie Stip. #92)

1045. Between 2007 and 2014, the percentage of all 11th graders in Alamogordo that did not score proficient and above in math ranged from 51.7 percent to 62.5 percent. (Yazzie Stip. #93)

Low-income

1046. Between 2007 and 2014, the percentage of all low-income 4th graders in Alamogordo that did not score proficient and above in reading ranged from 37.9 percent to 59.6 percent. (Yazzie Stip. #94)

1047. Between 2007 and 2014, the percentage of all low-income 11th graders in Alamogordo that did not score proficient and above in reading ranged from 41.7 percent to 76.5 percent. (Yazzie Stip. #95)

1048. Between 2007 and 2014, the percentage of all low-income 4th graders in Alamogordo that did not score proficient and above in math from 46.7 percent to 56.8 percent. (Yazzie Stip. #96)

1049. Between 2007 and 2014, the percentage of all low-income 11th graders in Alamogordo that did not score proficient and above in math ranged from 59.6 percent to 78.4 percent. (Yazzie Stip. #97)

Achievement Gaps

Low-income & All

1050. From 2007-2014, the percentage difference between low-income 4th graders and all 4th graders in Alamogordo scoring proficient or above ranged from 5.7 percent to 8.8 percent. (Yazzie Stip. #98)

1051. From 2007-2014, the percentage difference between low-income 11th graders and all 11th graders in Alamogordo scoring proficient or above ranged from 4.9 percent to 17.4 percent. (Yazzie Stip. #99)

1052. From 2007-2014, the percentage difference between low-income 4th graders and all 4th graders in Alamogordo scoring proficient or above ranged from 6.2 percent to 11.1 percent. (Yazzie Stip. #100)

1053. From 2007-2014 the percentage difference between low-income 11th graders and all 11th graders in Alamogordo scoring proficient or above ranged from 6.9 percent to 17.8 percent. (Yazzie Stip. #101)

PARCC Scores 2014-16

All Students-Reading

1054. In 2014-15, 67.8 percent of 4th graders in Alamogordo did not score proficient or above in reading on the PARCC. (Yazzie Stip. #102)

1055. In 2015-16, 64.6 percent of 4th graders in Alamogordo did not score proficient or above in reading on the PARCC.

1056. In 2014-15, 51.9 percent of 11th graders in Alamogordo did not score proficient or above in reading on the PARCC. (Yazzie Stip. #103)

1057. In 2015-16, 50.5 percent of 11th graders in Alamogordo did not score proficient or above in reading on the PARCC.

All Students-Math

1058. In 2014-15, 74.5 percent of 4th graders in Alamogordo did not score proficient or above in math on the PARCC. (Yazzie Stip. #104)

1059. In 2015-16, 70 percent of 4th graders in Alamogordo did not score proficient or above in math on the PARCC.

1060. In 2014-15, 87.6 percent of 11th graders in Alamogordo did not score proficient or above in math on the PARCC. (Yazzie Stip. #105)

1061. In 2015-16, 75.3 percent of 11th graders in Alamogordo did not score proficient or above in math on the PARCC.

Native American Students

1062. In 2014-15, 77.8 percent of 4th grade Native American Alamogordo students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #106)

1063. In 2014-15, 66.7 percent of 11th grade Native American Alamogordo students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #107)

1064. In 2014-15, 88.9 percent of 4th grade Native American Alamogordo students did not score proficient or above in math on the PARCC. (Yazzie Stip. #108)

Low-income Students-Reading

1065. In 2014-15, 80.0 percent of 4th grade low-income Alamogordo students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #109)

1066. In 2015-16, 74.2 percent of 4th grade low-income Alamogordo students did not score proficient or above in reading on the PARCC.

1067. In 2014-15, 58.2 percent of 11th grade low-income Alamogordo students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #110)

1068. In 2015-16, 62.8 percent of 11th grade low-income Alamogordo students did not score proficient or above in reading on the PARCC.

Low-income Students-Math

1069. In 2014-15, 83.1 percent of 4th grade low-income Alamogordo students did not score proficient or above in math on the PARCC. (Yazzie Stip. #111)

1070. In 2015-16, 70 percent of 4th grade low-income Alamogordo students did not score proficient or above in math on the PARCC.

1071. In 2014-15, 91.1 percent of 11th grade low-income Alamogordo students did not score proficient or above in math on the PARCC. (Yazzie Stip. #112)

1072. In 2015-16, 84.7 percent of 11th grade low-income Alamogordo students did not score proficient or above in math on the PARCC.

Albuquerque

Non Proficiency Rates

All Students

1073. Between 2007 and 2014, the percentage of all 4th graders in Albuquerque that did not score proficient and above in reading ranged from 46 percent to 56 percent. (Yazzie Stip. #123)

1074. Between 2007 and 2014, the percentage of all 11th graders in Albuquerque that did not score proficient and above in reading ranged from 38.6 percent to 47.8 percent. (Yazzie Stip. #124)

1075. Between 2007 and 2014, the percentage of all 4th graders in Albuquerque that did not score proficient and above in math ranged from 52 percent to 60.5 percent. (Yazzie Stip. #125)

1076. Between 2007 and 2014, the percentage of all 11th graders in Albuquerque that did not score proficient and above in math ranged from 54.3 percent to 57.4 percent. (Yazzie Stip. #126)

Native American Students

1077. Between 2007 and 2014, the percentage of Native American 4th graders in Albuquerque that did not score proficient and above in reading ranged from 56.3 percent to 67.2 percent. (Yazzie Stip. #127)

1078. Between 2007 and 2014, the percentage of all 11th graders in Albuquerque that did not score proficient and above in reading ranged from 43.7 percent to 67.5 percent. (Yazzie Stip. #128)

1079. Between 2007 and 2014, the percentage of all 4th graders in Albuquerque that did not score proficient and above in math ranged from 62.3 percent to 72.1 percent. (Yazzie Stip. #129)

1080. Between 2007 and 2014, the percentage of all 11th graders in Albuquerque that did not score proficient and above in math ranged from 64.4 percent to 74.9 percent. (Yazzie Stip. #130)

Low-income

1081. Between 2007 and 2014, the percentage of low-income 4th graders in Albuquerque that did not score proficient and above in reading ranged from 57.3 percent to 66.4 percent. (Yazzie Stip. #131)

1082. Between 2007 and 2014, the percentage of low-income 11th graders in Albuquerque that did not score proficient and above in reading ranged from 53.7 percent to 62.4 percent. (Yazzie Stip. #132)

1083. Between 2007 and 2014, the percentage of low-income 4th graders in Albuquerque that did not score proficient and above in math ranged from 61.9 percent to 71.6 percent. (Yazzie Stip. #133)

1084. Between 2007 and 2014, the percentage of low-income 11th graders in Albuquerque that did not score proficient and above in math ranged from 68.8 percent to 75.7 percent. (Yazzie Stip. #134)

ELL

1085. Between 2007 and 2011, the percentage of ELL 4th graders in Albuquerque that did not score proficient or above in reading ranged from 67.7 percent to 76.4 percent. (Yazzie Stip. #135)

1086. Between 2007 and 2011, the percentage of ELL 11th graders in Albuquerque that did not score proficient or above in reading ranged from 72.3 percent to 83.7 percent. (Yazzie Stip. #136)

1087. Between 2007 and 2011, the percentage of ELL 4th graders in Albuquerque that did not score proficient or above in math ranged from 71.8 percent to 76.4 percent. (Yazzie Stip. #137)

1088. Between 2007 and 2011, the percentage of ELL 11th graders in Albuquerque that did not score proficient or above in math ranged from 83.7 percent to 87.6 percent. (Yazzie Stip. #138)

1089. Between 2011 and 2014, the percentage of current ELL 4th graders in Albuquerque that did not score proficient or above in reading ranged from 81.2 percent to 85.7 percent. (Yazzie Stip. #139)

1090. Between 2011 and 2014, the percentage of current ELL 11th graders in Albuquerque that did not score proficient or above in reading ranged from 88.4 percent to 90.5 percent. (Yazzie Stip. #140)

1091. Between 2011 and 2014, the percentage of current ELL 4th graders in Albuquerque that did not score proficient or above in math ranged from 82.7 percent to 83 percent. (Yazzie Stip. #141)

1092. Between 2011 and 2014, the percentage of current ELL 11th graders in Albuquerque that did not score proficient or above in math ranged from 89 percent to 91.9 percent. (Yazzie Stip. #142)

1093. Between 2011 and 2014, the percentage of exited ELL 4th graders in Albuquerque that did not score proficient or above in reading ranged from 32.2 percent to 47.6 percent. (Yazzie Stip. #143)

1094. Between 2011 and 2014 the percentage of exited ELL 11th graders in Albuquerque that did not score proficient or above in reading ranged from 50.1 percent to 63.4 percent. (Yazzie Stip. #144)

1095. Between 2011 and 2014, the percentage of exited ELL 4th graders in Albuquerque that did not score proficient or above in math ranged from 42.2 percent to 49.2 percent. (Yazzie Stip. #145)

1096. Between 2011 and 2014, the percentage of exited ELL 11th graders in Albuquerque that did not score proficient or above in math ranged from 63.8 percent to 74.8 percent. (Yazzie Stip. #146)

Achievement Gaps

Native American & Anglo

1097. From 2007-2014, the percentage difference in reading between all Caucasian 4th graders and Native American 4th graders in Albuquerque ranged from 27.6 percent to 37 percent. (Yazzie Stip. #147)

1098. From 2007-2014, the percentage difference in reading between all Caucasian 11th graders and Native American 11th graders in Albuquerque ranged from 20.2 percent to 38.1 percent. (Yazzie Stip. #148)

1099. From 2007-2014, the percentage difference in math between all Caucasian 4th graders and Native American 4th graders in Albuquerque ranged from 28.6 percent to 37.7 percent. (Yazzie Stip. #149)

1100. From 2007-2014, the percentage difference in math between all Caucasian 11th graders and Native American 11th graders in Albuquerque ranged from 30 percent to 42.2 percent. (Yazzie Stip. #150)

Low-income & All

1101. From 2007-2014, the percentage difference in reading between all 4th graders and low-income 4th graders in Albuquerque from 10.1 percent to 12.3 percent. (Yazzie Stip. #151)

1102. From 2007-2014, the percentage difference in reading between all 11th graders and low-income 11th graders in Albuquerque ranged from 13 percent to 18.8 percent. (Yazzie Stip. #152)

1103. From 2007-2014, the percentage difference in math between all 4th graders and low-income 4th graders in Albuquerque ranged from 10 percent to 11.3 percent. (Yazzie Stip. #153)

1104. From 2007-2014, the percentage difference in math between all 11th graders and low-income 11th graders in Albuquerque ranged from 13.5 percent to 22.4 percent. (Yazzie Stip. #154)

PARCC Scores 2014-16

All Students-Reading

1105. In 2014-15, 75 percent of 4th grade Albuquerque students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #155)

1106. In 2015-16, 74.8 percent of 4th grade Albuquerque students did not score proficient or above in reading on the PARCC.

1107. In 2014-15, 48.9 percent of 11th grade Albuquerque students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #156)

1108. In 2015-16, 49 percent of 11th grade Albuquerque students did not score proficient or above in reading on the PARCC.

All Students-Math

1109. In 2014-15, 81.7 percent of 4th grade Albuquerque students did not score proficient or above in math on the PARCC. (Yazzie Stip. #157)

1110. In 2015-16, 76.9 percent of 4th grade Albuquerque students did not score proficient or above in math on the PARCC.

1111. In 2014-15, 83.9 percent of 11th grade Albuquerque students did not score proficient or above in math on the PARCC. (Yazzie Stip. #158)

1112. In 2015-16, 85.2 percent of 11th grade Albuquerque students did not score proficient or above in math on the PARCC.

Native American Students-Reading

1113. In 2014-15, 86.5 percent of 4th grade Native American Albuquerque students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #159)

1114. In 2015-16, 86.5 percent of 4th grade Native American Albuquerque students did not score proficient or above in reading on the PARCC.

1115. In 2014-15 62.7 percent of 11th grade Native American Albuquerque students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #160)

1116. In 2015-16, 63.3 percent of 11th grade Native American Albuquerque students did not score proficient or above in reading on the PARCC.

Native American Students-Math

1117. In 2014-15, 92.3 percent of 4th grade Native American Albuquerque students did not score proficient or above in math on the PARCC. (Yazzie Stip. #161)

1118. In 2015-16, 88.7 percent of 4th grade Native American Albuquerque students did not score proficient or above in math on the PARCC.

1119. In 2014-15, 94.9 percent of 11th grade Native American Albuquerque students did not score proficient or above in math on the PARCC. (Yazzie Stip. #162)

1120. In 2015-16, 91.9 percent of 11th grade Native American Albuquerque students did not score proficient or above in math on the PARCC.

Low-Income Students-Reading

1121. In 2014-15, 83.2 percent of 4th grade low-income Albuquerque students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #163)

1122. In 2015-16, 83.8 percent of 4th grade low-income Albuquerque students did not score proficient or above in reading on the PARCC.

1123. In 2014-15, 61.3 percent of 11th grade low-income Albuquerque students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #164)

1124. In 2015-16, 60.1 percent of 11th grade low-income Albuquerque students did not score proficient or above in reading on the PARCC.

Low-income Students-Math

1125. In 2014-15, 88.5 percent of 4th grade low-income Albuquerque students did not score proficient or above in math on the PARCC. (Yazzie Stip. #165)

1126. In 2015-16, 85.7 percent of 4th grade low-income Albuquerque students did not score proficient or above in math on the PARCC.

1127. In 2014-15, 91.5 percent of 11th grade low-income Albuquerque students did not score proficient or above in math on the PARCC. (Yazzie Stip. #166)

1128. In 2015-16, 90.8 percent of 11th grade low-income Albuquerque students did not score proficient or above in math on the PARCC.

ELL Students-Reading

1129. In 2014-15, 94.6 percent of 4th grade ELL Albuquerque students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #167)

1130. In 2015-16, 95 percent of 4th grade ELL Albuquerque students did not score proficient or above in reading on the PARCC.

1131. In 2014-15, 91.6 percent of 11th grade ELL Albuquerque students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #168)

1132. In 2015-16, 91.4 percent of 11th grade ELL Albuquerque students did not score proficient or above in reading on the PARCC.

ELL Students-Math

1133. In 2014-15, 94.7 percent of 4th grade ELL Albuquerque students did not score proficient or above in math on the PARCC. (Yazzie Stip. #169)

1134. In 2015-16, 94.6 percent of 4th grade ELL Albuquerque students did not score proficient or above in math on the PARCC.

1135. In 2014-15, 94.5 percent of 11th grade ELL Albuquerque students did not score proficient or above in math on the PARCC. (Yazzie Stip. #170)

1136. In 2015-16, 93.3 percent of 11th grade ELL Albuquerque students did not score proficient or above in math on the PARCC.

Bernalillo

Non Proficiency Rates

All Students

1137. Between 2007 and 2014, the percentage of all 4th grade Bernalillo students that did not score proficient and above in reading ranged from 48.1 percent to 68.1 percent. (Yazzie Stip. #182)

1138. Between 2007 and 2014, the percentage of all 11th grade Bernalillo students that did not score proficient and above in reading ranged from 54.5 percent to 69.4 percent. (Yazzie Stip. #183)

1139. Between 2007 and 2014, the percentage of 4th grade Bernalillo students that did not score proficient and above in math 58.8 percent to 70.6 percent. (Yazzie Stip. #184)

1140. Between 2007 and 2014, the percentage of all 11th grade Bernalillo students that did not score proficient and above in math ranged from 75.6 percent to 85.7 percent. (Yazzie Stip. #185)

Native American

1141. Between 2007 and 2014, the percentage of all Native American 4th grade Bernalillo students that did not score proficient and above in reading ranged from 50.0 percent to 76.7 percent. (Yazzie Stip. #186)

1142. Between 2007 and 2014, the percentage of all Native American 11th grade Bernalillo students that did not score proficient and above in reading ranged from 57.1 percent to 74.4 percent. (Yazzie Stip. #187)

1143. Between 2007 and 2014, for the percentage of all Native American 4th grade Bernalillo students that did not score proficient and above in math ranged from 57.1 percent to 85.1 percent. (Yazzie Stip. #188)

1144. Between 2007 and 2014, the percentage of all Native American 11th grade Bernalillo students that did not score proficient and above in math ranged from 81.8 percent to 94.2 percent. (Yazzie Stip. #189)

Low-income

1145. Between 2007 and 2014, the percentage of all low-income 4th grade Bernalillo students that did not score proficient and above in reading ranged from 49.3 percent to 69.1 percent. (Yazzie Stip. #190)

1146. Between 2007 and 2014, the percentage of all low-income 11th grade Bernalillo students that did not score proficient and above in reading ranged from 54.7 percent to 69.4 percent. (Yazzie Stip. #191)

1147. Between 2007 and 2014, the percentage of all low-income 4th grade Bernalillo students that did not score proficient and above in math ranged from 62.3 percent to 72.3 percent. (Yazzie Stip. #192)

1148. Between 2007 and 2014, the percentage of all low-income 11th grade Bernalillo students that did not score proficient and above in math ranged from 75.6 percent to 85.6 percent. (Yazzie Stip. #193)

ELL

1149. Between 2007 and 2011, the percentage of all ELL 4th grade Bernalillo students that did not score proficient and above in reading ranged from 46.9 percent to 83.3 percent. (Yazzie Stip. #194)

1150. Between 2007 and 2011, the percentage of all ELL 11th grade Bernalillo students that did not score proficient and above in reading ranged from 69.2 percent to 89.7 percent. (Yazzie Stip. #195)

1151. Between 2007 and 2011, the percentage of all ELL 4th grade Bernalillo students that did not score proficient and above in math ranged from 59.1 percent to 73.9 percent. (Yazzie Stip. #196)

1152. Between 2007 and 2011, the percentage of all ELL 11th grade Bernalillo students that did not score proficient and above in math ranged from 84.3 percent to 94.9 percent. (Yazzie Stip. #197)

1153. Between 2011 and 2014, the percentage of all current ELL 4th grade Bernalillo students that did not score proficient and above in reading ranged from 66.1 percent to 81.5 percent. (Yazzie Stip. #198)

1154. Between 2011 and 2014, the percentage of all current ELL 11th grade Bernalillo students that did not score proficient and above in reading ranged from 88.3 percent to 91.7 percent. (Yazzie Stip. #199)

1155. Between 2011 and 2014, the percentage of all current ELL 4th grade Bernalillo students that did not score proficient and above in math ranged from 73.7 percent to 80.9 percent. (Yazzie Stip. #200)

1156. Between 2011 and 2014, the percentage of all current ELL 11th grade Bernalillo students that did not score proficient and above in math ranged from 89.8 percent to 100 percent. (Yazzie Stip. #201)

1157. Between 2011 and 2014, the percentage of all exited ELL 4th grade Bernalillo students that did not score proficient and above in reading ranged from 39.5 percent to 49.2 percent. (Yazzie Stip. #202)

1158. Between 2011 and 2014, the percentage of all exited ELL 11th grade Bernalillo that did not score proficient and above in reading ranged from 47 percent to 58.3 percent. (Yazzie Stip. #203)

1159. Between 2011 and 2014, the percentage of all exited ELL 4th grade Bernalillo students that did not score proficient and above in math ranged from 54.1 percent to 60 percent. (Yazzie Stip. #204)

1160. Between 2011 and 2014, the percentage of all exited ELL 11th grade Bernalillo students that did not score proficient and above in math ranged from 65 percent to 73.1 percent. (Yazzie Stip. #205)

Achievement Gaps

Native American/Anglo

1161. From 2007-2014, the percentage difference between Caucasian 4th graders and Native American 4th graders in Bernalillo scoring proficient or above in reading ranged from 18 percent to 54.2 percent. (Yazzie Stip. #206)

1162. From 2007-2014, the percentage difference between Caucasian 11th graders and Native American 11th graders in Bernalillo scoring proficient or above in reading ranged from 16.5 percent to 41.1 percent. (Yazzie Stip. #207)

1163. From 2007-2014, the percentage difference between Caucasian 4th graders and Native American 4th graders in Bernalillo scoring proficient or above in math ranged from 10.7 percent to 46.2 percent. (Yazzie Stip. #208)

1164. From 2007-2014, the percentage difference between Caucasian 11th graders and Native American 11th graders in Bernalillo scoring proficient or above in math ranged from 15.4 percent to 45.8 percent. (Yazzie Stip. #209)

PARCC Scores 2014-16

All Students-Reading

1165. In 2014-15, 82.6 percent of 4th grade Bernalillo students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #210)

1166. In 2015-16, 82.7 percent of 4th grade Bernalillo students did not score proficient or above in reading on the PARCC.

1167. In 2014-15, 61.7 percent of 11th grade Bernalillo students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #211)

1168. In 2015-16, 70.5 percent of 11th grade Bernalillo students did not score proficient or above in reading on the PARCC.

All Students-Math

1169. In 2014-15, 85.2 percent of 4th grade Bernalillo students did not score proficient or above in math on the PARCC. (Yazzie Stip. #212)

1170. In 2015-16, 83.9 percent of 4th grade Bernalillo students did not score proficient or above in math on the PARCC.

1171. In 2014-15 98.2 percent of 11th grade Bernalillo students did not score proficient or above in math on the PARCC. (Yazzie Stip. #213)

1172. In 2015-16, 98.5 percent of 11th grade Bernalillo students did not score proficient or above in math on the PARCC.

Native American Students-Reading

1173. In 2014-15, 86.6 percent of 4th grade Native American Bernalillo students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #214)

1174. In 2015-16, 86.4 percent of 4th grade Native American Bernalillo students did not score proficient or above in reading on the PARCC.

1175. In 2014-15, 78.0 percent of 11th grade Native American Bernalillo students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #215)

1176. In 2015-16, 77.2 percent of 11th grade Native American Bernalillo students did not score proficient or above in reading on the PARCC.

Native American Students-Math

1177. In 2014-15, 89.7 percent of 4th grade Native American Bernalillo students did not score proficient or above in math on the PARCC. (Yazzie Stip. #216)

1178. In 2015-16, 90.9 percent of 4th grade Native American Bernalillo students did not score proficient or above in math on the PARCC.

1179. In 2015-16, 98.1 percent of 11th grade Native American Bernalillo students did not score proficient or above in math on the PARCC.

Low-income Students-Reading

1180. In 2014-15, 83.2 percent of 4th grade low-income Bernalillo students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #217)

1181. In 2015-16, 82.7 percent of 4th grade low-income Bernalillo students did not score proficient or above in reading on the PARCC.

1182. In 2014-15, 61.3 percent of 11th grade low-income Bernalillo students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #218)

1183. In 2015-16, 70.5 percent of 11th grade low-income Bernalillo students did not score proficient or above in reading on the PARCC.

Low-income Students-Math

1184. In 2014-15, 88.5 percent of 4th grade low-income Bernalillo students did not score proficient or above in math on the PARCC. (Yazzie Stip. #219)

1185. In 2015-16, 83.9 percent of 4th grade low-income Bernalillo students did not score proficient or above in math on the PARCC.

1186. In 2014-15, 91.5 percent of 11th grade low-income Bernalillo students did not score proficient or above on the PARCC. (Yazzie Stip. #220)

1187. In 2015-16, 98.5 percent of 11th grade low-income Bernalillo students did not score proficient or above on the PARCC.

ELL

1188. In 2014-15, 94.6 percent of 4th grade current ELL Bernalillo students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #221)

1189. In 2015-16, 96.9 percent of 4th grade current ELL Bernalillo students did not score proficient or above in reading on the PARCC.

1190. In 2014-15, 91.6 percent of 11th grade current ELL Bernalillo students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #222)

1191. In 2015-16, 97.8 percent of 11th grade current ELL Bernalillo students did not score proficient or above in reading on the PARCC.

ELL Students-Math

1192. In 2014-15, 94.7 percent of 4th grade current ELL Bernalillo students did not score proficient or above in math on the PARCC. (Yazzie Stip. #223)

1193. In 2015-16, 95.9 percent of 4th grade current ELL Bernalillo students did not score proficient or above in math on the PARCC.

1194. In 2014-15, 94.5 percent of 11th grade current ELL Bernalillo students did not score proficient or above in math on the PARCC. (Yazzie Stip. #224)

1195. In 2015-16, 97.6 percent of 11th grade current ELL Bernalillo students did not score proficient or above in math on the PARCC.

Cuba

Non Proficiency Rates

All Students

1196. Between 2007 and 2014, the percentage of all 4th grade Cuba students that did not score proficient and above in reading ranged from 60.6 percent to 76.3 percent. (Yazzie Stip. #236)

1197. Between 2007 and 2014, the percentage of all 11th grade Cuba students that did not score proficient and above in reading ranged from 55.9 percent to 80 percent. (Yazzie Stip. #237)

1198. Between 2007 and 2014, the percentage of all 4th grade Cuba students that did not score proficient and above in math ranged from 44.8 percent to 82.8 percent. (Yazzie Stip. #238)

1199. Between 2007 and 2014, the percentage of all 11th grade Cuba students that did not score proficient and above in math ranged from 76.9 percent to 89.8 percent. (Yazzie Stip. #239)

Native American

1200. Between 2007 and 2014, the percentage of all Native American 4th grade Cuba students that did not score proficient and above in reading ranged from 66.7 percent to 100 percent. (Yazzie Stip. #240)

1201. Between 2007 and 2014, the percentage of all Native American 11th grade Cuba students that did not score proficient and above in reading time ranged from 61.7 percent to 90 percent. (Yazzie Stip. #241)

1202. Between 2007 and 2014, the percentage of all Native American 4th grade Cuba students that did not score proficient and above in math ranged from 57.1 percent to 100 percent. (Yazzie Stip. #242)

1203. Between 2007 and 2014, the percentage of all Native American 11th grade Cuba students that did not score proficient and above in math ranged from 78.9 percent to 95.3 percent. (Yazzie Stip. #243)

Low-income

1204. Between 2007 and 2014, the percentage of all low-income 4th grade Cuba students that did not score proficient and above in reading ranged from 56 percent to 85.7 percent. (Yazzie Stip. #244)

1205. Between 2007 and 2014, the percentage of all low-income 11th grade Cuba students that did not score proficient and above in reading ranged from 55.9 percent to 80 percent. (Yazzie Stip. #245)

1206. Between 2007 and 2014, the percentage of all low-income 4th grade Cuba students that did not score proficient and above in math ranged from 40 percent to 82.8 percent. (Yazzie Stip. #246)

1207. Between 2007 and 2014, the percentage of all low-income 11th grade Cuba students that did not score proficient and above in math ranged from 79.1 percent to 89.8 percent. (Yazzie Stip. #247)

ELL

1208. Between 2008 and 2011, the percentage of all ELL 4th grade Cuba students that did not score proficient and above in reading ranged from 60.7 percent to 85.7 percent. (Yazzie Stip. #248)

1209. Between 2008 and 2011, the percentage of all ELL 11th grade Cuba students that did not score proficient and above in reading ranged from 66.7 percent to 87 percent. (Yazzie Stip. #249)

1210. Between 2008 and 2011, the percentage of all ELL 4th grade Cuba students that did not score proficient and above in math ranged from 67.9 percent to 86.7 percent. (Yazzie Stip. #250)

1211. Between 2008 and 2011, the percentage of all ELL 11th grade Cuba students that did not score proficient and above in math ranged from 87.7 percent to 94.4 percent. (Yazzie Stip. #251)

1212. Between 2011 and 2014, the percentage of all current ELL 4th grade Cuba students that did not score proficient and above in reading ranged from 81.8 percent to 91.7 percent. (Yazzie Stip. #252)

1213. Between 2011 and 2014, the percentage of all current ELL 11th grade Cuba students that did not score proficient and above in reading ranged from 90.4 percent to 100 percent. (Yazzie Stip. #253)

1214. Between 2011 and 2014, the percentage of all current ELL 4th grade Cuba students that did not score proficient and above in math ranged from 50 percent to 90.9 percent. (Yazzie Stip. 254)

1215. Between 2011 and 2014, the percentage of all current ELL 11th grade Cuba students that did not score proficient and above in math ranged from 85 percent to 100 percent. (Yazzie Stip. #255)

1216. Between 2011 and 2014, the percentage of all exited ELL 4th grade Cuba students that did not score proficient and above in reading ranged from 27.3 percent to 46.2 percent. (Yazzie Stip. #256)

1217. Between 2011 and 2014, the percentage of all exited ELL 11th grade Cuba students that did not score proficient and above in reading ranged from 59.4 percent to 66.7 percent. (Yazzie Stip. #257)

1218. Between 2011 and 2014, the percentage of all exited ELL 4th grade Cuba students that did not score proficient and above in math ranged from 18.2 percent to 55.6 percent. (Yazzie Stip. 258)

1219. Between 2011 and 2014, the percentage of all exited ELL 11th grade Cuba students that did not score proficient and above in math ranged from 68.1 percent to 88.9 percent. (Yazzie Stip. #259)

PARCC Scores 2014-16

All Students-Reading

1220. In 2014-15, 91.2 percent of 4th grade Cuba students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #260)

1221. In 2015-16, 91.9 percent of 4th grade Cuba students did not score proficient or above in reading on the PARCC.

1222. In 2014-15, 91.2 percent of 11th grade Cuba students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #261)

1223. In 2015-16, 71.9 percent of 11th grade Cuba students did not score proficient or above in reading on the PARCC.

All Students-Math

1224. In 2014-15, 100 percent of 4th grade Cuba students did not score proficient or above in math on the PARCC. (Yazzie Stip. #262)

1225. In 2015-16, 94.6 percent of 4th grade Cuba students did not score proficient or above in math on the PARCC.

1226. In 2014-15, 100 percent of 11th grade Cuba students did not score proficient or above in math on the PARCC. (Yazzie Stip. #263)

1227. In 2015-16, 95.9 percent of 11th grade Cuba students did not score proficient or above in math on the PARCC.

Native American Students-Reading

1228. In 2014-15, 91.3 percent of 4th grade Native American Cuba students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #264)

1229. In 2015-16, 95.2 percent of 4th grade Native American Cuba students did not score proficient or above in reading on the PARCC.

1230. In 2014-15, 97.7 percent of 11th grade Native American Cuba students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #265)

1231. In 2015-16, 82.9 percent of 11th grade Native American Cuba students did not score proficient or above in reading on the PARCC.

Native American Students-Math

1232. In 2015-16, 95.2 percent of 4th grade Native American Cuba students did not score proficient or above in math on the PARCC.

1233. In 2015-16, 93.3 percent of 11th grade Native American Cuba students did not score proficient or above in math on the PARCC.

Low-income Students-Reading

1234. In 2014-15, 91.2 percent of 4th grade low-income Cuba students did not score proficient or above in reading. (Yazzie Stip. #266)

1235. In 2015-16, 91.9 percent of 4th grade low-income Cuba students did not score proficient or above in reading.

1236. In 2014-15, 91.1 percent of 11th grade low-income Cuba students did not score proficient or above in reading. (Yazzie Stip. #267)

1237. In 2015-16, 71.9 percent of 11th grade low-income Cuba students did not score proficient or above in reading.

Low-income Students-Math

1238. In 2015-16, 94.6 percent of 4th grade low-income Cuba students did not score proficient or above in math on the PARCC.

1239. In 2015-16, 95.9 percent of 11th grade low-income Cuba students did not score proficient or above in math.

ELL Students-Reading

1240. In 2014-15, 94.7 percent of 4th grade current ELL Cuba students did not score proficient or above in reading. (Yazzie Stip. #268)

1241. In 2015-16, 94.4 percent of 4th grade current ELL Cuba students did not score proficient or above in reading.

1242. In 2015-16, 82.6 percent of 11th grade current ELL Cuba students did not score proficient or above in reading.

ELL Students-Math

1243. In 2014-15, 93.8 percent of 4th grade current ELL Cuba students did not score proficient or above in math. (Yazzie Stip. #269)

1244. In 2015-16, 94.4 percent of 4th grade current ELL Cuba students did not score proficient or above in math.

1245. In 2015-16, 94.4 percent of 11th grade current ELL Cuba students did not score proficient or above in math.

Española

Non Proficiency Rates

All Students

1246. Between 2007 and 2014, percentage of all 4th grade Española students that did not score proficient and above in reading ranged from 55.1 percent to 62 percent. (Yazzie Stip. #281)

1247. Between 2007 and 2014, the percentage of all 11th grade Española students that did not score proficient and above in reading ranged from 53.8 percent to 66.7 percent. (Yazzie Stip. #282)

1248. Between 2007 and 2014, the percentage of all 4th grade Española students that did not score proficient and above in math ranged from 59.5 percent to 71.5 percent. (Yazzie Stip. #283)

1249. Between 2007 and 2014, the percentage of all 11th grade Española students that did not score proficient and above in math ranged from 77.6 percent to 87.3 percent. (Yazzie Stip. #284)

Native American

1250. Between 2007 and 2014, the percentage of all Native American 4th grade Española students that did not score proficient and above in reading ranged from 37 percent to 57.7 percent. (Yazzie Stip. #285)

1251. Between 2007 and 2014, the percentage of all Native American 11th grade Española students that did not score proficient and above in reading time ranged from 14.3 percent to 75 percent. (Yazzie Stip. #286)

1252. Between 2007 and 2014, the percentage of all Native American 4th grade Española students that did not score proficient and above in math ranged from 52 percent to 84 percent. (Yazzie Stip. #287)

1253. Between 2007 and 2014, the percentage of all Native American 11th grade Española students that did not score proficient and above in math ranged from 71.4 percent to 90.9 percent. (Yazzie Stip. #288)

Low-income

1254. Between 2007 and 2014, the percentage of all low-income 4th grade Española students that did not score proficient and above in reading ranged from 55.5 percent to 62.1 percent. (Yazzie Stip. #289)

1255. Between 2007 and 2014, the percentage of all low-income 11th grade Española students that did not score proficient and above in reading ranged from 53.5 percent to 69.3 percent. (Yazzie Stip. #290)

1256. Between 2007 and 2014, the percentage of all low-income 4th grade Española students that did not score proficient and above in math ranged from 59.8 percent to 71.2 percent. (Yazzie Stip. #291)

1257. Between 2007 and 2014, the percentage of all low-income 11th grade Española students that did not score proficient and above in math ranged from 78.2 percent to 87.8 percent. (Yazzie Stip. #292)

ELL

1258. Between 2008 and 2011, the percentage of all ELL 4th grade Española students that did not score proficient and above in reading ranged from 61.3 percent to 68.9 percent. (Yazzie Stip. 293)

1259. Between 2008 and 2011, the percentage of all ELL 11th grade Española students that did not score proficient and above in reading ranged from 70.6 percent to 74.5 percent. (Yazzie Stip. #294)

1260. Between 2008 and 2011, the percentage of all ELL 4th grade Española students that did not score proficient and above in math ranged from 72.2 percent to 77.2 percent. (Yazzie Stip. #295)

1261. Between 2008 and 2011, the percentage of all ELL 11th grade Española students that did not score proficient and above in math ranged from 91.3 percent to 97.1 percent. (Yazzie Stip. #296)

1262. Between 2011 and 2014, the percentage of all current ELL 4th grade Española students that did not score proficient and above ranged from 78.4 percent to 81.4 percent. (Yazzie Stip. #297)

1263. Between 2011 and 2014, the percentage of all current ELL 4th grade Española students that did not score proficient and above in math ranged from 76.7 percent to 85.1 percent. (Yazzie Stip. #298)

1264. Between 2011 and 2014, the percentage of all exited ELL 4th grade Española students that did not score proficient and above in reading ranged from 45.4 percent to 51.5 percent. (Yazzie Stip. #299)

1265. Between 2011 and 2014, the percentage of all exited ELL 11th grade Española students that did not score proficient and above in reading ranged from 45.6 percent to 57.2 percent. (Yazzie Stip. #300)

1266. Between 2011 and 2014, the percentage of all exited ELL 4th grade Española students that did not score proficient and above in math ranged from 44.6 percent to 50 percent. (Yazzie Stip. #301)

PARCC Scores 2014-15

All Students-Reading

1267. In 2014-15, 81.5 percent of 4th grade Española students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #302)

1268. In 2015-16, 85.8 percent of 4th grade Española students did not score proficient or above in reading on the PARCC.

1269. In 2014-15, 67 percent of 11th grade Española students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #303)

1270. In 2015-16, 76.5 percent of 11th grade Española students did not score proficient or above in reading on the PARCC.

All Students-Math

1271. In 2014-15, 81.5 percent of 4th grade Española students did not score proficient or above in math on the PARCC. (Yazzie Stip. #304)

1272. In 2015-16, 87.1 percent of 4th grade Española students did not score proficient or above in math on the PARCC.

1273. In 2014-15, 96.5 percent of 11th grade Española students did not score proficient or above in math on the PARCC. (Yazzie Stip. #305)

1274. In 2015-16, 98.9 percent of 11th grade Española students did not score proficient or above in math on the PARCC.

Native American Students

1275. In 2014-15, 50.0 percent of 4th grade Native American Española students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #306)

1276. In 2015-16, 88.5 percent of 4th grade Native American Española students did not score proficient or above in reading on the PARCC.

1277. In 2014-15, 73.3 percent of 11th grade Native American Española students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #307)

1278. In 2014-15, 92.9 percent of 4th grade Native American Española students did not score proficient or above in math on the PARCC. (Yazzie Stip. #308)

1279. In 2015-16, 92.3 percent of 4th grade Native American Española students did not score proficient or above in math on the PARCC.

Low-income Students-Reading

1280. In 2014-15, 81.8 percent of 4th grade low-income Española students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #309)

1281. In 2015-16, 85.7 percent of 4th grade low-income Española students did not score proficient or above in reading on the PARCC.

1282. In 2014-15, 71.1 percent of 11th grade low-income Española students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #310)

1283. In 2015-16, 80.1 percent of 11th grade low-income Española students did not score proficient or above in reading on the PARCC.

Low-income Students-Math

1284. In 2014-15, 92.5 percent of 4th grade low-income Española students did not score proficient or above in math on the PARCC. (Yazzie Stip. #311)

1285. In 2015-16, 87 percent of 4th grade low-income Española students did not score proficient or above in math on the PARCC.

1286. In 2014-15, 97.4 percent of 11th grade low-income Española students did not score proficient or above in math on the PARCC. (Yazzie Stip. #312)

1287. In 2015-16, 98.9 percent of 11th grade low-income Española students did not score proficient or above in math on the PARCC.

ELL Students-Reading

1288. In 2014-15, 87.1 percent of 4th grade current ELL Española students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #313)

1289. In 2015-16, 94.6 percent of 4th grade current ELL Española students did not score proficient or above in reading on the PARCC.

1290. In 2015-16, 93.9 percent of 11th grade current ELL Española students did not score proficient or above in reading on the PARCC.

ELL-Students-Math

1291. In 2014-15, 96.8 percent of 4th grade current ELL Española students did not score proficient or above in math on the PARCC. (Yazzie Stip. #314)

1292. In 2015-16, 89.5 percent of 4th grade current ELL Española students did not score proficient or above in math on the PARCC.

1293. In 2015-16, 97.3 percent of 11th grade current ELL Española students did not score proficient or above in math on the PARCC.

Gadsden

Non Proficiency Rates

All Students

1294. Between 2007 and 2014, the percentage of all 4th grade Gadsden students that did not score proficient and above in reading ranged from 52.4 percent to 61.9 percent. (Yazzie Stip. #325)

1295. Between 2007 and 2014, the percentage of all 11th grade Gadsden students that did not score proficient and above in reading ranged from 49 percent to 63 percent. (Yazzie Stip. #326)

1296. Between 2007 and 2014, the percentage of all 4th grade Gadsden students that did not score proficient and above in math ranged from 44.3 percent to 58.4 percent. (Yazzie Stip. #327)

1297. Between 2007 and 2014, the percentage of all 11th grade Gadsden students that did not score proficient and above in math ranged from 54.5 percent to 79 percent. (Yazzie Stip. #328)

Low-income

1298. Between 2007 and 2014, the percentage of all low-income 4th grade Gadsden students that did not score proficient and above in reading ranged from 52.6 percent to 61.9 percent. (Yazzie Stip. #329)

1299. Between 2007 and 2014, the percentage of all low-income 11th grade Gadsden students that did not score proficient and above in reading ranged from 49 percent to 63 percent. (Yazzie Stip. #330)

1300. Between 2007 and 2014, the percentage of all low-income 4th grade Gadsden students that did not score proficient and above in math ranged from 44.3 percent to 58.4 percent. (Yazzie Stip. #331)

1301. Between 2007 and 2014, the percentage of all low-income 11th grade Gadsden students that did not score proficient and above in math ranged from 54.5 percent to 78.9 percent. (Yazzie Stip. #332)

ELL

1302. Between 2008 and 2011, the percentage of all ELL 4th grade Gadsden students that did not score proficient and above in reading ranged from 60.2 percent to 72 percent. (Yazzie Stip. #333)

1303. Between 2008 and 2011, the percentage of all ELL 11th grade Gadsden students that did not score proficient and above in reading ranged from 73.3 percent to 81 percent. (Yazzie Stip. #334)

1304. Between 2008 and 2011, the percentage of all ELL 4th grade Gadsden students that did not score proficient and above in math ranged from 61.9 percent to 67.1 percent. (Yazzie Stip. #335)

1305. Between 2008 and 2011, the percentage of all ELL 11th grade Gadsden students that did not score proficient and above in math ranged from 80.5 percent to 84.5 percent. (Yazzie Stip. #336)

1306. Between 2011 and 2014, the percentage of all current ELL 4th grade Gadsden students that did not score proficient and above in reading ranged from 74.4 percent to 79.8 percent. (Yazzie Stip. #337)

1307. Between 2011 and 2014, the percentage of all current ELL 11th grade Gadsden students that did not score proficient and above in reading ranged from 86.6 percent to 93.5 percent. (Yazzie Stip. #338)

1308. Between 2011 and 2014, the percentage of all current ELL 4th grade Gadsden students that did not score proficient and above in math ranged from 59.3 percent to 72.5 percent. (Yazzie Stip. #339)

1309. Between 2011 and 2014, the percentage of all current ELL 11th grade Gadsden students that did not score proficient and above in math ranged from 86 percent to 91.3 percent. (Yazzie Stip. #340)

1310. Between 2011 and 2014, the percentage of all exited ELL 4th grade Gadsden students that did not score proficient and above in reading time ranged from 45.8 percent to 59.6 percent. (Yazzie Stip. #341)

1311. Between 2011 and 2014, the percentage of all exited ELL 11th grade Gadsden students that did not score proficient and above in reading ranged from 43.3 percent to 52.6 percent. (Yazzie Stip. #342)

1312. Between 2011 and 2014, the percentage of all exited ELL 4th grade Gadsden students that did not score proficient and above in math ranged from 36.3 percent to 46.1 percent. (Yazzie Stip. #343)

PARCC Scores 2014-16

All Students-Reading

1313. In 2014-15, 81.5 percent of 4th grade Gadsden students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #344)

1314. In 2015-16, 68.6 percent of 4th grade Gadsden students did not score proficient or above in reading on the PARCC.

1315. In 2014-15, 60.8 percent of 11th grade Gadsden students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #345)

1316. In 2015-16, 56.6 percent of 11th grade Gadsden students did not score proficient or above in reading on the PARCC.

All Students-Math

1317. In 2014-15, 78.5 percent of 4th grade Gadsden students did not score proficient or above in math on the PARCC. (Yazzie Stip. #346)

1318. In 2015-16, 71.7 percent of 4th grade Gadsden students did not score proficient or above in math on the PARCC.

1319. In 2014-15, 91.5 percent of 11th grade Gadsden students did not score proficient or above in math on the PARCC. (Yazzie Stip. #347)

1320. In 2015-16, 96.2 percent of 11th grade Gadsden students did not score proficient or above in math on the PARCC.

Low-income Students-Reading

1321. In 2014-15, 78.3 percent of 4th grade low-income Gadsden students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #348)

1322. In 2015-16, 68.6 percent of 4th grade low-income Gadsden students did not score proficient or above in reading on the PARCC.

1323. In 2014-15, 60.5 percent of 11th grade low-income Gadsden students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #349)

1324. In 2015-16, 56.6 percent of 11th grade low-income Gadsden students did not score proficient or above in reading on the PARCC.

Low-income Students-Math

1325. In 2014-15, 78.4 percent of 4th grade low-income Gadsden students did not score proficient or above in math on the PARCC. (Yazzie Stip. #350)

1326. In 2015-16, 71.7 percent of 4th grade low-income Gadsden students did not score proficient or above in math on the PARCC.

1327. In 2014-15, 96.9 percent of 11th grade low-income Gadsden students did not score proficient or above in math on the PARCC. (Yazzie Stip. #351)

1328. In 2015-16, 96.2 percent of 11th grade low-income Gadsden students did not score proficient or above in math on the PARCC.

ELL Students-Reading

1329. In 2014-15, 80.4 percent of 4th grade current ELL Gadsden students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #352)

1330. In 2015-16, 77.7 percent of 4th grade current ELL Gadsden students did not score proficient or above in reading on the PARCC.

1331. In 2014-15, 91.9 percent of 11th grade current ELL Gadsden students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #353)

1332. In 2015-16, 93.1 percent of 11th grade current ELL Gadsden students did not score proficient or above in reading on the PARCC.

ELL Students-Math

1333. In 2014-15, 91.5 percent of 4th grade current ELL Gadsden students did not score proficient or above in math on the PARCC. (Yazzie Stip. #354)

1334. In 2015-16, 85.6 percent of 4th grade current ELL Gadsden students did not score proficient or above in math on the PARCC.

1335. In 2014-15, 97.9 percent of 11th grade current ELL Gadsden students did not score proficient or above in math on the PARCC. (Yazzie Stip. #355)

1336. In 2015-16, 96.2 percent of 11th grade current ELL Gadsden students did not score proficient or above in math on the PARCC.

Gallup

Non-proficiency Rates

All Students

1337. Between 2007 and 2014, the percentage of all 4th grade Gallup students that did not score proficient and above in reading ranged from 62.6 percent to 76.1 percent. (Yazzie Stip. #367)

1338. Between 2007 and 2014, the percentage of all 11th grade Gallup students that did not score proficient and above in reading ranged from 44.9 percent to 68.8 percent. (Yazzie Stip. #368)

1339. Between 2007 and 2014, the percentage of all 4th grade Gallup students that did not score proficient and above in math ranged from 63.5 percent to 76 percent. (Yazzie Stip. #369)

1340. Between 2007 and 2014, the percentage of all 11th grade Gallup students that did not score proficient and above in math ranged from 63.5 percent to 83.7 percent. (Yazzie Stip. #370)

Native American

1341. Between 2007 and 2014, the percentage of all Native American 4th grade Gallup students that did not score proficient and above in reading ranged from 67.9 percent to 100 percent. (Yazzie Stip. #371)

1342. Between 2007 and 2014, the percentage of all Native American 11th grade Gallup students that did not score proficient and above in reading ranged from 46.8 percent to 71.8 percent. (Yazzie Stip. #372)

1343. Between 2007 and 2014, the percentage of all Native American 4th grade Gallup students that did not score proficient and above in math ranged from 69 percent to 81.2 percent. (Yazzie Stip. #373)

1344. Between 2007 and 2014, the percentage of all Native American 11th grade Gallup students that did not score proficient and above in math ranged from 60.7 percent to 86.5 percent. (Yazzie Stip. #374)

Low-income

1345. Between 2007 and 2014, the percentage of all low-income 4th grade Gallup students that did not score proficient and above in reading ranged from 65.6 percent to 78.3 percent. (Yazzie Stip. #375)

1346. Between 2007 and 2014, the percentage of all low-income 11th grade Gallup students that did not score proficient and above in reading time ranged from 48.4 percent to 73.6 percent. (Yazzie Stip. #376)

1347. Between 2007 and 2014, the percentage of all low-income 4th grade Gallup students that did not score proficient and above in math ranged from 65.8 percent to 79.1 percent. (Yazzie Stip. #377)

1348. Between 2007 and 2014, the percentage of all low-income 11th grade Gallup students that did not score proficient and above in math ranged from 61.1 percent to 86.4 percent. (Yazzie Stip. #378)

ELL

1349. Between 2008 and 2011, the percentage of all ELL 4th grade Gallup students that did not score proficient and above in reading ranged from 72.9 percent to 82.6 percent. (Yazzie Stip. #379)

1350. Between 2008 and 2011, the percentage of all ELL 11th grade Gallup students that did not score proficient and above in reading ranged from 67.1 percent to 87.4 percent. (Yazzie Stip. #380)

1351. Between 2008 and 2011, the percentage of all ELL 4th grade Gallup students that did not score proficient and above in math ranged from 73.4 percent to 79.7 percent. (Yazzie Stip. #381)

1352. Between 2008 and 2011, the percentage of all ELL 11th grade Gallup students that did not score proficient and above in math ranged from 86.1 percent to 92.8 percent. (Yazzie Stip. #382)

1353. Between 2011 and 2014, the percentage of all current ELL 4th grade Gallup students that did not score proficient and above in reading ranged from 87.5 percent to 91 percent. (Yazzie Stip. #383)

1354. Between 2011 and 2014, the percentage of all current ELL 11th grade Gallup students that did not score proficient and above in reading time ranged from 87.8 percent to 96.4 percent. (Yazzie Stip. #384)

1355. Between 2011 and 2014, the percentage of all current ELL 4th grade Gallup students that did not score proficient and above in math ranged from 76.8 percent to 86 percent. (Yazzie Stip. #385)

1356. Between 2011 and 2014, the percentage of all current ELL 11th grade Gallup students that did not score proficient and above in math ranged from 86.7 percent to 90.9 percent. (Yazzie Stip. #386)

1357. Between 2011 and 2014, the percentage of all exited ELL 4th grade Gallup students that did not score proficient and above in reading ranged from 49.7 percent to 64.6 percent. (Yazzie Stip. #387)

1358. Between 2011 and 2014, the percentage of all exited ELL 11th grade Gallup students that did not score proficient and above in reading ranged from 46.3 percent to 68.5 percent. (Yazzie Stip. #388)

1359. Between 2011 and 2014, the percentage of all exited ELL 4th grade Gallup students that did not score proficient and above in math ranged from 48.4 percent to 65.4 percent. (Yazzie Stip. #389)

1360. Between 2011 and 2014, the percentage of all exited ELL 11th grade Gallup students that did not score proficient and above in math ranged from 44.4 percent to 57.5 percent. (Yazzie Stip. #390)

Achievement Gaps

Native American & Anglo

1361. Between 2007-2014, the percentage difference in reading between Caucasian 4th graders and Native American 4th graders in Gallup scoring proficient or above ranged from 37.1 percent to 51.1 percent. (Yazzie Stip. #391)

1362. Between 2007-2014, the percentage difference in reading between Caucasian 11th graders and Native American 11th graders in Gallup scoring proficient or above ranged from 18.1 percent to 51.8 percent. (Yazzie Stip. #392)

1363. Between 2007-2014, the percentage difference in math between Caucasian 4th graders and Native American 4th graders in Gallup scoring proficient or above ranged from 33 percent to 45.9 percent. (Yazzie Stip. #393)

1364. Between 2007-2014, the percentage difference in math between Caucasian 11th graders and Native American 11th graders in Gallup scoring proficient or above ranged from 18.7 percent to 35.6 percent. (Yazzie Stip. #394)

Low-income & All

1365. Between 2007-2014, the percentage difference in reading between all 4th graders and low-income 4th graders in Gallup scoring proficient or above ranged from 2.2 percent to 4.9 percent. (Yazzie Stip. #395)

1366. Between 2007-2014, the percentage difference in reading between all 11th graders and low-income 11th graders in Gallup scoring proficient or above ranged from 4 percent to 5.9 percent. (Yazzie Stip. #396)

1367. Between 2007-2014, the percentage difference in math between all 4th graders and low-income 4th graders in Gallup scoring proficient or above ranged from 2.2 percent to 3.7 percent. (Yazzie Stip. #397)

1368. From 2007-2014, the percentage difference in math between all 11th graders and low-income 11th graders in Gallup scoring proficient or above ranged from 3 percent to 4.8 percent. (Yazzie Stip. #398)

PARCC Scores 2014-16

All Students-Reading

1369. In 2014-15, 89 percent of 4th grade Gallup students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #399)

1370. In 2015-16, 87.1 percent of 4th grade Gallup students did not score proficient or above in reading on the PARCC.

1371. In 2014-15, 69.2 percent of 11th grade Gallup students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #400)

1372. In 2015-16, 72.7 percent of 11th grade Gallup students did not score proficient or above in reading on the PARCC.

All Students-Math

1373. In 2014-15, 89.6 percent of 4th grade Gallup students did not score proficient or above in math on the PARCC. (Yazzie Stip. #401)

1374. In 2015-16, 82.6 percent of 4th grade Gallup students did not score proficient or above in math on the PARCC.

1375. In 2014-15, 90.7 percent of 11th grade Gallup students did not score proficient or above in math on the PARCC. (Yazzie Stip. #402)

1376. In 2015-16, 95.2 percent of 11th grade Gallup students did not score proficient or above in math on the PARCC.

Native American Students-Reading

1377. In 2014-15, 91.3 percent of 4th grade Native American Gallup students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #403)

1378. In 2015-16, 90.7 percent of 4th grade Native American Gallup students did not score proficient or above in reading on the PARCC.

1379. In 2014-15, 73.1 percent of 11th grade Native American Gallup students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #404)

1380. In 2015-16, 77 percent of 11th grade Native American Gallup students did not score proficient or above in reading on the PARCC.

Native American Students-Math

1381. In 2014-15, 90.8 percent of 4th grade Native American Gallup students did not score proficient or above in math on the PARCC. (Yazzie Stip. #405)

1382. In 2015-16, 86.6 percent of 4th grade Native American Gallup students did not score proficient or above in math on the PARCC.

1383. In 2014-15, 95.3 percent of 11th grade Native American Gallup students did not score proficient or above in math on the PARCC. (Yazzie Stip. #406)

1384. In 2015-16, 96.8 percent of 11th grade Native American Gallup students did not score proficient or above in math on the PARCC.

Low-income Students-Reading

1385. In 2014-15, 89.1 percent of 4th grade low-income Gallup students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #407)

1386. In 2015-16, 88.5 percent of 4th grade low-income Gallup students did not score proficient or above in reading on the PARCC.

1387. In 2014-15, 74.6 percent of 11th grade low-income Gallup students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #408)

1388. In 2015-16, 76.1 percent of 11th grade low-income Gallup students did not score proficient or above in reading on the PARCC.

Low-income Students-Math

1389. In 2014-15, 90.4 percent of 4th grade low-income Gallup students did not score proficient or above in math on the PARCC. (Yazzie Stip. #409)

1390. In 2015-16, 83.8 percent of 4th grade low-income Gallup students did not score proficient or above in math on the PARCC.

1391. In 2014-15, 94.7 percent of 11th grade low-income Gallup students did not score proficient or above in math on the PARCC. (Yazzie Stip. #410)

1392. In 2015-16, 96.6 percent of 11th grade low-income Gallup students did not score proficient or above in math on the PARCC.

ELL Students-Reading

1393. In 2014-15, 95.6 percent of 4th grade current ELL Gallup students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #411)

1394. In 2015-16, 94.4 percent of 4th grade current ELL Gallup students did not score proficient or above in reading on the PARCC.

1395. In 2014-15, 95.0 percent of 11th grade current ELL Gallup students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #412)

1396. In 2015-16, 93.3 percent of 11th grade current ELL Gallup students did not score proficient or above in reading on the PARCC.

ELL Students-Math

1397. In 2014-15, 96.3 percent of 4th grade current ELL Gallup students did not score proficient or above in math on the PARCC. (Yazzie Stip. #413)

1398. In 2015-16, 91.6 percent of 4th grade current ELL Gallup students did not score proficient or above in math on the PARCC.

1399. In 2014-15, 97.1 percent of 11th grade current ELL Gallup students did not score proficient or above in math on the PARCC. (Yazzie Stip. #414)

1400. In 2015-16, 98.3 percent of 11th grade current ELL Gallup students did not score proficient or above in math on the PARCC.

Grants-Cibola

Non Proficiency Rates

All Students

1401. Between 2007 and 2014, the percentage of all 4th grade Grants-Cibola students that did not score proficient and above in reading ranged from 47.4 percent to 62.5 percent. (Yazzie Stip. #426)

1402. Between 2007 and 2014, the percentage of all 11th grade Grants-Cibola students that did not score proficient and above in reading ranged from 47.4 percent to 59.3 percent. (Yazzie Stip. #427)

1403. Between 2007 and 2014, the percentage of 4th grade Grants-Cibola students that did not score proficient and above in math ranged from 49.6 percent to 69.6 percent. (Yazzie Stip. #428)

1404. Between 2007 and 2014, the percentage of all 11th grade Grants-Cibola students that did not score proficient and above in math ranged from 62 percent to 82.2 percent. (Yazzie Stip. #429)

Native American

1405. Between 2007 and 2014, the percentage of all Native American 4th grade Grants-Cibola students that did not score proficient and above in reading ranged from 48.1 percent to 74.2 percent. (Yazzie Stip. #430)

1406. Between 2007 and 2014, the percentage of all Native American 11th grade Grants-Cibola students that did not score proficient and above in reading ranged from 53 percent to 74 percent. (Yazzie Stip. #431)

1407. Between 2007 and 2014, the percentage of all Native American 4th grade Grants-Cibola that did not score proficient and above in math ranged from 48.1 percent to 80 percent. (Yazzie Stip. #432)

1408. Between 2007 and 2014, the percentage of all Native American 11th grade Grants-Cibola students that did not score proficient and above in math ranged from 62.5 percent to 85 percent. (Yazzie Stip. #433)

Low-income

1409. Between 2007 and 2014, the percentage of all low-income 4th grade Grants-Cibola students that did not score proficient and above in reading ranged from 52 percent to 68.8 percent. (Yazzie Stip. #434)

1410. Between 2007 and 2014, the percentage of all low-income 11th grade Grants-Cibola students that did not score proficient and above in reading ranged from 50 percent to 65.8 percent. (Yazzie Stip. #435)

1411. Between 2007 and 2014, the percentage of all low-income 4th grade Grants-Cibola students that did not score proficient and above in math ranged from 53.4 percent to 76.3 percent. (Yazzie Stip. #436)

1412. Between 2007 and 2014, the percentage of all low-income 11th grade Grants-Cibola students that did not score proficient and above in math ranged from 67.1 percent to 85.3 percent. (Yazzie Stip. #437)

ELL

1413. Between 2007 and 2011, the percentage of all ELL 4th grade Grants-Cibola students that did not score proficient and above in reading ranged from 55.4 percent to 79.6 percent. (Yazzie Stip. #438)

1414. Between 2007 and 2011, the percentage of all ELL 11th grade Grants-Cibola students that did not score proficient and above in reading ranged from 71.9 percent to 84 percent. (Yazzie Stip. #439)

1415. Between 2007 and 2011, the percentage of all ELL 4th grade Grants-Cibola students that did not score proficient and above in math ranged from 60.7 percent to 80 percent. (Yazzie Stip. #440)

1416. Between 2007 and 2011, the percentage of all ELL 11th grade Grants-Cibola students that did not score proficient and above in math ranged from 88 percent to 93.8 percent. (Yazzie Stip. #441)

1417. Between 2011 and 2014, the percentage of all current ELL 4th grade Grants-Cibola students that did not score proficient and above in reading ranged from 80.4 percent to 90.6 percent. (Yazzie Stip. #442)

1418. Between 2011 and 2014, the percentage of all current ELL 11th grade Grants-Cibola students that did not score proficient and above in reading ranged from 90.4 percent to 100 percent. (Yazzie Stip. #443)

1419. Between 2011 and 2014, the percentage of all current ELL 4th grade Grants-Cibola students that did not score proficient and above in math ranged from 75 percent to 90 percent. (Yazzie Stip. #444)

1420. Between 2011 and 2014, the percentage of all current ELL 11th grade Grants-Cibola students that did not score proficient and above in math ranged from 77.4 percent to 100 percent. (Yazzie Stip. #445)

1421. Between 2011 and 2014, the percentage of all exited ELL 4th grade Grants-Cibola students that did not score proficient and above in reading ranged from 31.3 percent to 50.0 percent. (Yazzie Stip. #446)

1422. Between 2011 and 2014, the percentage of all exited ELL 11th grade Grants-Cibola that did not score proficient and above in reading ranged from 38.3 percent to 65.8 percent. (Yazzie Stip. #447)

1423. Between 2011 and 2014, the percentage of all exited ELL 4th grade Grants-Cibola students that did not score proficient and above in math ranged from 25 percent to 52.7 percent. (Yazzie Stip. #448)

1424. Between 2011 and 2014, the percentage of all exited ELL 11th grade Grants-Cibola students that did not score proficient and above in math ranged from 55.3 percent to 69.2 percent. (Yazzie Stip. #449)

Achievement Gaps

Native American & Anglo

1425. Between 2007-2014, the percentage difference between Caucasian 4th graders and Native American 4th graders in Grants-Cibola scoring proficient or above in reading ranged from 5.2 percent to 31 percent. (Yazzie Stip. #450)

1426. Between 2007-2014, the percentage difference between Caucasian 11th graders and Native American 11th graders in Grants-Cibola scoring proficient or above in reading ranged from 15 percent to 40.7 percent. (Yazzie Stip. #451)

1427. Between 2007-2014, percentage difference between Caucasian 4th graders and Native American 4th graders in Grants-Cibola scoring proficient or above in math ranged from 0.5 percent to 35.4 percent. (Yazzie Stip. #452)

1428. From 2007-2014, the percentage difference between Caucasian 11th graders and Native American 11th graders in Grants-Cibola scoring proficient or above in math ranged from 2.5 percent to 20.1 percent. (Yazzie Stip. #453)

Low-income & All

1429. From 2007-2014, the percentage difference between all 4th graders and low-income 4th graders in Grants-Cibola scoring proficient or above in reading ranged from 2.3 percent to 6.3 percent. (Yazzie Stip. #454)

1430. From 2007-2014, the percentage difference between all 11th graders and low-income 11th graders in Grants-Cibola scoring proficient or above in reading ranged from 0.8 percent to 8.1 percent. (Yazzie Stip. #455)

1431. From 2007-2014, the percentage difference between all 4th graders and low-income 4th graders in Grants-Cibola scoring proficient or above in math ranged from 1.9 percent to 7.4 percent. (Yazzie Stip. #456)

1432. From 2007-2014, the percentage difference between all 11th graders and low-income 11th graders in Grants-Cibola scoring proficient or above in math ranged from 1.0 percent to 9.7 percent. (Yazzie Stip. #457)

PARCC Scores 2014-16

All Students-Reading

1433. In 2014-15, 79.4 percent of 4th grade Grants-Cibola students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #458)

1434. In 2015-16, 77.8 percent of 4th grade Grants-Cibola students did not score proficient or above in reading on the PARCC.

1435. In 2014-15 66.5 percent of 11th grade Grants-Cibola students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #459)

1436. In 2015-16, 60.5 percent of 11th grade Grants-Cibola students did not score proficient or above in reading on the PARCC.

All Students-Math

1437. In 2014-15, 82.3 percent of 4th grade Grants-Cibola students did not score proficient or above in math on the PARCC. (Yazzie Stip. #460)

1438. In 2015-16, 85.6 percent of 4th grade Grants-Cibola students did not score proficient or above in math on the PARCC.

1439. In 2014-15, 52 percent of 11th grade Grants-Cibola students did not score proficient or above in math on the PARCC. (Yazzie Stip. #461)

1440. In 2015-16, 86.2 percent of 11th grade Grants-Cibola students did not score proficient or above in math on the PARCC.

Native American Students-Reading

1441. In 2014-15, 90.3 percent of 4th grade Native American Grants-Cibola students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #462)

1442. In 2015-16, 89.7 percent of 4th grade Native American Grants-Cibola students did not score proficient or above in reading on the PARCC.

1443. In 2014-15, 75.3 percent of 11th grade Native American Grants-Cibola students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #463)

1444. In 2015-16, 72.7 percent of 11th grade Native American Grants-Cibola students did not score proficient or above in reading on the PARCC.

Native American Students-Math

1445. In 2014-15, 93.8 percent of 4th grade Native American Grants-Cibola students did not score proficient or above in math on the PARCC. (Yazzie Stip. #464)

1446. In 2015-16, 88.9 percent of 4th grade Native American Grants-Cibola students did not score proficient or above in math on the PARCC.

1447. In 2014-15, 94.2 percent of 11th grade Native American Grants-Cibola students did not score proficient or above in math on the PARCC. (Yazzie Stip. #465)

1448. In 2015-16, 91.3 percent of 11th grade Native American Grants-Cibola students did not score proficient or above in math on the PARCC.

Low-income Students-Reading

1449. In 2014-15 79.4 percent of 4th grade low-income Grants-Cibola students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #466)

1450. In 2015-16, 77.8 percent of 4th grade low-income Grants-Cibola students did not score proficient or above in reading on the PARCC.

1451. In 2014-15, 66.6 percent of 11th grade low-income Grants-Cibola students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #467)

1452. In 2015-16, 60.5 percent of 11th grade low-income Grants-Cibola students did not score proficient or above in reading on the PARCC.

Low-income Students-Math

1453. In 2014-15, 82.3 percent of 4th grade low-income Grants-Cibola students did not score proficient or above in math on the PARCC. (Yazzie Stip. #468)

1454. In 2015-16, 85.6 percent of 4th grade low-income Grants-Cibola students did not score proficient or above in math on the PARCC.

1455. In 2014-15, 89.8 percent of 11th grade low-income Grants-Cibola students did not score proficient or above in math on the PARCC. (Yazzie Stip. #469)

1456. In 2015-16, 86.2 percent of 11th grade low-income Grants-Cibola students did not score proficient or above in math on the PARCC.

Hatch

Non Proficiency Rates

All Students

1457. Between 2007 and 2014, the percentage of all 4th grade Hatch students that did not score proficient and above in reading ranged from 50.5 percent to 80.4 percent. (Yazzie Stip. #480)

1458. Between 2007 and 2014, the percentage of all 11th grade Hatch students that did not score proficient and above in reading ranged from 60.9 percent to 69.8 percent. (Yazzie Stip. #481)

1459. Between 2007 and 2014, the percentage of all 4th grade Hatch students that did not score proficient and above in math ranged from 66.4 percent to 73.8 percent. (Yazzie Stip. #482)

1460. Between 2007 and 2014, the percentage of all 11th grade Hatch students that did not score proficient and above in math ranged from 64.1 percent to 87.8 percent. (Yazzie Stip. #483)

Low-income

1461. Between 2007 and 2014, the percentage of all low-income 4th grade Hatch students that did not score proficient and above in reading ranged from 50.5 percent to 80.6 percent. (Yazzie Stip. #484)

1462. Between 2007 and 2014, the percentage of all low-income 11th grade Hatch students that did not score proficient and above in reading ranged from 60.9 percent to 69.8 percent. (Yazzie Stip. #485)

1463. Between 2007 and 2014, the percentage of all low-income 4th grade Hatch students that did not score proficient and above in math ranged from 66.1 percent to 73.8 percent. (Yazzie Stip. #486)

1464. Between 2007 and 2014, the percentage of all low-income 11th grade Hatch students that did not score proficient and above in math ranged from 64.1 percent to 82.1 percent. (Yazzie Stip. #487)

ELL

1465. Between 2007 and 2011, the percentage of all ELL 4th grade Hatch students that did not score proficient and above in reading ranged from 55.1 percent to 75 percent. (Yazzie Stip. #488)

1466. Between 2007 and 2011, the percentage of all ELL 11th grade Hatch students that did not score proficient and above in reading ranged from 69.1 percent to 76.6 percent. (Yazzie Stip. #489)

1467. Between 2007 and 2011, the percentage of all ELL 4th grade Hatch students that did not score proficient and above in math ranged from 72 percent to 80.6 percent. (Yazzie Stip. #490)

1468. Between 2007 and 2011, the percentage of all ELL 11th grade Hatch students that did not score proficient and above in math ranged from 78.1 percent to 92.8 percent. (Yazzie Stip. #491)

1469. Between 2011 and 2014, the percentage of all current ELL 4th grade Hatch students that did not score proficient and above in reading ranged from 67.5 percent to 86.1 percent. (Yazzie Stip. #492)

1470. Between 2011 and 2014, the percentage of all current ELL 11th grade Hatch students that did not score proficient and above in reading ranged from 72 percent to 100 percent. (Yazzie Stip. #493)

1471. Between 2011 and 2014, the percentage of all current ELL 4th grade Hatch students that did not score proficient and above in math ranged from 73.8 percent to 79.4 percent. (Yazzie Stip. #494)

1472. Between 2011 and 2014, the percentage of all current ELL 11th grade Hatch students that did not score proficient and above in math ranged from 76 percent to 100 percent. (Yazzie Stip. #495)

1473. Between 2011 and 2014, the percentage of all exited ELL 11th grade Hatch students that did not score proficient and above in reading ranged from 58.3 percent to 72.1 percent. (Yazzie Stip. #496)

1474. Between 2011 and 2014, the percentage of all exited ELL 11th grade Hatch students that did not score proficient and above in math ranged from 59.5 percent to 74.4 percent. (Yazzie Stip. #497)

PARCC Scores 2014-16

All Students-Reading

1475. In 2014-15, 81.9 percent of 4th grade Hatch students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #498)

1476. In 2015-16, 74.2 percent of 4th grade Hatch students did not score proficient or above in reading on the PARCC.

1477. In 2014-15, 69.9 percent of 11th grade Hatch students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #499)

1478. In 2015-16, 65.1 percent of 11th grade Hatch students did not score proficient or above in reading on the PARCC.

All Students-Math

1479. In 2014-15, 75.3 percent of 4th grade Hatch students did not score proficient or above in math on the PARCC. (Yazzie Stip. #500)

1480. In 2015-16, 87.1 percent of 4th grade Hatch students did not score proficient or above in math on the PARCC.

1481. In 2014-15, 91 percent of 11th grade Hatch students did not score proficient or above in math on the PARCC. (Yazzie Stip. #501)

1482. In 2015-16, 96.4 percent of 11th grade Hatch students did not score proficient or above in math on the PARCC.

Low-income Students-Reading

1483. In 2014-15, 80.9 percent of 4th grade low-income Hatch students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #502)

1484. In 2015-16, 73.9 percent of 4th grade low-income Hatch students did not score proficient or above in reading on the PARCC.

1485. In 2014-15, 70.8 percent of 11th grade low-income Hatch students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #503)

1486. In 2015-16, 65.1 percent of 11th grade low-income Hatch students did not score proficient or above in reading on the PARCC.

Low-income Students-Math

1487. In 2014-15, 82.3 percent of 4th grade low-income Hatch students did not score proficient or above in math on the PARCC. (Yazzie Stip. #504)

1488. In 2015-16, 87 percent of 4th grade low-income Hatch students did not score proficient or above in math on the PARCC.

1489. In 2014-15, 89.8 percent of 11th grade low-income Hatch students did not score proficient or above in math on the PARCC. (Yazzie Stip. #505)

1490. In 2015-16, 96.4 percent of 11th grade low-income Hatch students did not score proficient or above in math on the PARCC.

ELL Students-Reading

1491. In 2014-15, 86.7 percent of 4th grade current ELL Hatch students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #506)

1492. In 2015-16, 74.5 percent of 4th grade current ELL Hatch students did not score proficient or above in reading on the PARCC.

1493. In 2014-15, 94.4 percent of 11th grade current ELL Hatch students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #507)

ELL Students-Math

1494. In 2014-15, 86.7 percent of 4th grade current ELL Hatch students did not score proficient or above in math on the PARCC. (Yazzie Stip. #508)

1495. In 2015-16, 92.7 percent of 4th grade current ELL Hatch students did not score proficient or above in math on the PARCC.

1496. In 2014-15, 79.8 percent of 11th grade current ELL Hatch students did not score proficient or above in math on the PARCC. (Yazzie Stip. #509)

Jemez Valley

Non Proficiency Rates

All Students

1497. Between 2007 and 2014, the percentage of all 4th grade Jemez Valley students that did not score proficient and above in reading ranged from 44.0 percent to 78.3 percent. (Yazzie Stip. #520)

1498. Between 2007 and 2014, the percentage of all 11th grade Jemez Valley students that did not score proficient and above in reading ranged from 43.3 percent to 81.8 percent. (Yazzie Stip. #521)

1499. Between 2007 and 2014, the percentage of all 4th grade Jemez Valley students that did not score proficient and above in math ranged from 44.0 percent to 91.3 percent. (Yazzie Stip. #522)

1500. Between 2007 and 2014, the percentage of all 11th grade Jemez Valley students that did not score proficient and above in math ranged from 72.7 percent to 95.8 percent. (Yazzie Stip. #523)

Native American

1501. Between 2007 and 2014, the percentage of all Native American 4th grade Jemez Valley students that did not score proficient and above in reading ranged from 72.7 percent to 85 percent. (Yazzie Stip. #524)

1502. Between 2007 and 2014, the percentage of all Native American 11th grade Jemez Valley students that did not score proficient and above in reading ranged from 33.3 percent to 87.5 percent. (Yazzie Stip. #525)

1503. Between 2007 and 2014, the percentage of all Native American 4th grade Jemez Valley students that did not score proficient and above in math ranged from 63.6 percent to 95 percent. (Yazzie Stip. #526)

1504. Between 2007 and 2014, the percentage of all Native American 11th grade Jemez Valley students that did not score proficient and above in math ranged from 73.3 percent to 100 percent. (Yazzie Stip. #527)

Low-income

1505. Between 2007 and 2014, the percentage of all low-income 4th grade Jemez Valley students that did not score proficient and above in reading ranged from 47.4 percent to 82.8 percent. (Yazzie Stip. #528)

1506. Between 2007 and 2014, the percentage of all low-income 11th grade Jemez Valley students that did not score proficient and above in reading ranged from 45.0 percent to 82.1 percent. (Yazzie Stip. #529)

1507. Between 2007 and 2014, the percentage of all low-income 4th grade Jemez Valley students that did not score proficient and above in math ranged from 47.1 percent to 93.1 percent. (Yazzie Stip. #530)

1508. Between 2007 and 2014, the percentage of all low-income 11th grade Jemez Valley students that did not score proficient and above in math ranged from 78.3 percent to 100 percent. (Yazzie Stip. #531)

PARCC Scores 2014-16

All Students-Reading

1509. In 2014-15, 93.1 percent of 4th grade Jemez Valley students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #532)

1510. In 2015-16, 89.4 percent of 4th grade Jemez Valley students did not score proficient or above in reading on the PARCC.

1511. In 2014-15, 77.4 percent of 11th grade Jemez Valley students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #533)

1512. In 2015-16, 66.7 percent of 11th grade Jemez Valley students did not score proficient or above in reading on the PARCC.

All Students-Math

1513. In 2014-15, 100 percent of 4th grade Jemez Valley students did not score proficient or above in math on the PARCC. (Yazzie Stip. #534)

1514. In 2015-16, 97.9 percent of 4th grade Jemez Valley students did not score proficient or above in math on the PARCC.

1515. In 2014-15, 100 percent of 11th grade Jemez Valley students did not score proficient or above in math on the PARCC. (Yazzie Stip. #535)

1516. In 2015-16, 81.8 percent of 11th grade Jemez Valley students did not score proficient or above in math on the PARCC.

Low-income Students-Reading

1517. In 2014-15, 92.0 percent of all 4th grade low-income Jemez Valley students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #536)

1518. In 2015-16, 90.7 percent of all 4th grade low-income Jemez Valley students did not score proficient or above in reading on the PARCC.

1519. In 2014-15, 88.5 percent of all 11th grade low-income Jemez Valley students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #537)

1520. In 2015-16, 68.2 percent of all 11th grade low-income Jemez Valley students did not score proficient or above in reading on the PARCC.

Low-income Students-Math

1521. In 2015-16, 97.7 percent of all 4th grade low-income Jemez Valley students did not score proficient or above in math on the PARCC.

1522. In 2015-16, 85 percent of all 11th grade low-income Jemez Valley students did not score proficient or above in math on the PARCC.

Lake Arthur

Non Proficiency Rates

All Students

1523. Between 2007 and 2014, the percentage of all 4th grade Lake Arthur students that did not score proficient and above in reading ranged from 40 percent to 80 percent. (Yazzie Stip. #547)

1524. Between 2007 and 2014, the percentage of all 11th grade Lake Arthur students that did not score proficient and above in reading ranged from 30.8 percent to 75 percent. (Yazzie Stip. #548)

1525. Between 2007 and 2014, the percentage of all 4th grade Lake Arthur students that did not score proficient and above in math ranged from 40 percent to 90 percent. (Yazzie Stip. #549)

1526. Between 2007 and 2014, the percentage of all 11th grade Lake Arthur students that did not score proficient and above in math ranged from 41.7 percent to 88.9 percent. (Yazzie Stip. #550)

Low-income

1527. Between 2007 and 2014, the percentage of all low-income 4th grade Lake Arthur students that did not score proficient and above in reading ranged from 40 percent to 80 percent. (Yazzie Stip. #551)

1528. Between 2007 and 2014, the percentage of all low-income 11th grade Lake Arthur students that did not score proficient and above in reading ranged from 30.8 percent to 75 percent. (Yazzie Stip. #552)

1529. Between 2007 and 2014, the percentage of all low-income 4th grade Lake Arthur students that did not score proficient and above in math ranged from 40 percent to 90 percent. (Yazzie Stip. #553)

1530. Between 2007 and 2014, the percentage of all low-income 11th grade Lake Arthur students that did not score proficient and above in math ranged from 41.7 percent to 88.9 percent. (Yazzie Stip. #554)

PARCC Scores 2014-15

All Students

1531. In 2014-15, 80.0 percent of 4th grade Lake Arthur students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #555)

1532. In 2014-15, 71.4 percent of 8th grade Lake Arthur students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #556)

Low-Income

1533. In 2014-15, 80.0 percent of 4th grade low-income Lake Arthur students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #557)

1534. In 2014-15, 80.0 percent of 4th grade low-income Lake Arthur students did not score proficient or above in math on the PARCC. (Yazzie Stip. #558)

Las Cruces

Non Proficiency Rates

All Students

1535. Between 2007 and 2014, the percentage of all 4th grade Las Cruces students that did not score proficient and above in reading ranged from 43.7 percent to 55.8 percent. (Yazzie Stip. #570)

1536. Between 2007 and 2014, the percentage of all 11th grade Las Cruces students that did not score proficient and above in reading ranged from 37 percent to 53.3 percent. (Yazzie Stip. #571)

1537. Between 2007 and 2014, the percentage of all 4th grade Las Cruces students that did not score proficient and above in math ranged from 54 percent to 62.3 percent. (Yazzie Stip. #572)

1538. Between 2007 and 2014, the percentage of all 11th grade Las Cruces students that did not score proficient and above in math ranged from 49.3 percent to 63.8 percent. (Yazzie Stip. #573)

Native American

1539. Between 2007 and 2014, the percentage of all Native American 4th grade Las Cruces students that did not score proficient and above in reading ranged from 30 percent to 71.4 percent. (Yazzie Stip. #574)

1540. Between 2007 and 2014, the percentage of all Native American 11th grade Las Cruces students that did not score proficient and above in reading ranged from 40 percent to 66.7 percent. (Yazzie Stip. #575)

1541. Between 2007 and 2014, the percentage of all Native American 4th grade Las Cruces students that did not score proficient and above in math ranged from 31.2 percent to 61.1 percent. (Yazzie Stip. #576)

1542. Between 2007 and 2014, the percentage of all Native American 11th grade Las Cruces students that did not score proficient and above in math ranged from 36.4 percent to 90 percent. (Yazzie Stip. #577)

Low-income

1543. Between 2007 and 2014, the percentage of all low-income 4th grade Las Cruces students that did not score proficient and above in reading ranged from 49.7 percent to 63.4 percent. (Yazzie Stip. #578)

1544. Between 2007 and 2014, the percentage of all low-income 11th grade Las Cruces students that did not score proficient and above in reading ranged from 48.2 percent to 65.3 percent. (Yazzie Stip. #579)

1545. Between 2007 and 2014, the percentage of all low-income 4th grade Las Cruces students that did not score proficient and above in math ranged from 60 percent to 69.4 percent. (Yazzie Stip. #580)

1546. Between 2007 and 2014, the percentage of all low-income 11th grade Las Cruces students that did not score proficient and above in math ranged from 61.6 percent to 74 percent. (Yazzie Stip. #581)

ELL

1547. Between 2008 and 2011, the percentage of all ELL 4th grade Las Cruces students that did not score proficient and above in reading ranged from 57.7 percent to 72 percent. (Yazzie Stip. #582)

1548. Between 2008 and 2011, the percentage of all ELL 11th grade Las Cruces students that did not score proficient and above in reading ranged from 68.7 percent to 89.1 percent. (Yazzie Stip. #583)

1549. Between 2008 and 2011, the percentage of all ELL 4th grade Las Cruces students that did not score proficient and above in math ranged from 61.3 percent to 74 percent. (Yazzie Stip. #584)

1550. Between 2008 and 2011, the percentage of all ELL 11th grade Las Cruces students that did not score proficient and above in math ranged from 76.1 percent to 84.2 percent. (Yazzie Stip. #585)

1551. Between 2011 and 2014, the percentage of all current ELL 4th grade Las Cruces students that did not score proficient and above in reading ranged from 80.4 percent to 83.9 percent. (Yazzie Stip. #586)

1552. Between 2011 and 2014, the percentage of all current ELL 11th grade Las Cruces students that did not score proficient and above in reading ranged from 81.9 percent to 88.1 percent. (Yazzie Stip. #587)

1553. Between 2011 and 2014, the percentage of all current ELL 4th grade Las Cruces students that did not score proficient and above in math ranged from 82.7 percent to 86 percent. (Yazzie Stip. #588)

1554. Between 2011 and 2014, the percentage of all current ELL 11th grade Las Cruces students that did not score proficient and above in math ranged from 86.7 percent to 89.4 percent. (Yazzie Stip. #589)

1555. Between 2011 and 2014, the percentage of all exited ELL 4th grade Las Cruces students that did not score proficient and above in reading ranged from 43.7 percent to 56.7 percent. (Yazzie Stip. #590)

1556. Between 2011 and 2014, the percentage of all exited ELL 11th grade Las Cruces students that did not score proficient and above in reading ranged from 56.4 percent to 63.4 percent. (Yazzie Stip. #591)

1557. Between 2011 and 2014, the percentage of all exited ELL 4th grade Las Cruces students that did not score proficient and above in math ranged from 51.2 percent to 56 percent. (Yazzie Stip. #592)

1558. Between 2011 and 2014, the percentage of all exited ELL 11th grade Las Cruces students that did not score proficient and above in math ranged from 59.4 percent to 65.8 percent. (Yazzie Stip. #593)

Achievement Gaps

Low-income & All

1559. Between 2007-2014, the percentage difference between all 4th graders and low-income 4th graders in Las Cruces scoring proficient or above in reading ranged from 5.7 percent to 9 percent. (Yazzie Stip. #594)

1560. Between 2007-2014, the percentage difference between all 11th graders and low-income 11th graders in Las Cruces scoring proficient or above in reading ranged from 11.8 percent to 14.9 percent. (Yazzie Stip. #595)

1561. Between 2007-2014, the percentage difference between all 4th graders and low-income 4th graders in Las Cruces scoring proficient or above in math ranged from 4.3 percent to 9.6 percent. (Yazzie Stip. #596)

1562. From 2007-2014, the percentage difference between all 11th graders and low-income 11th graders in Las Cruces scoring proficient or above in math ranged from 9.6 percent to 15.4 percent. (Yazzie Stip. #597)

PARCC Scores 2014-16

All Students-Reading

1563. In 2014-15, 76.5 percent of 4th grade Las Cruces students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #598)

1564. In 2015-16, 74.5 percent of 4th grade Las Cruces students did not score proficient or above in reading on the PARCC.

1565. In 2014-15, 53.5 percent of 11th grade Las Cruces students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #599)

1566. In 2015-16, 61.7 percent of 11th grade Las Cruces students did not score proficient or above in reading on the PARCC.

All Students-Math

1567. In 2014-15, 81.2 percent of 4th grade Las Cruces students did not score proficient or above in math on the PARCC. (Yazzie Stip. #600)

1568. In 2015-16, 76.4 percent of 4th grade Las Cruces students did not score proficient or above in math on the PARCC.

1569. In 2014-15, 81.1 percent of 11th grade Las Cruces students did not score proficient or above in math on the PARCC. (Yazzie Stip. #601)

1570. In 2015-16, 91.2 percent of 11th grade Las Cruces students did not score proficient or above in math on the PARCC.

Low-income Students-Reading

1571. In 2015-16, 80.9 percent of 4th grade low-income Las Cruces students did not score proficient or above in reading on the PARCC.

1572. In 2015-16, 69.6 percent of 11th grade low-income Las Cruces students did not score proficient or above in reading on the PARCC.

Low-income Students-Math

1573. In 2015-16, 83.7 percent of 4th grade low-income Las Cruces students did not score proficient or above in math on the PARCC.

1574. In 2015-16, 91.2 percent of 11th grade low-income Las Cruces students did not score proficient or above in math on the PARCC.

ELL Students-Reading

1575. In 2015-16, 91.5 percent of 4th grade current ELL Las Cruces students did not score proficient or above in reading on the PARCC.

1576. In 2015-16, 92.5 percent of 11th grade current ELL Las Cruces students did not score proficient or above in reading on the PARCC.

ELL Students-Math

1577. In 2015-16, 94.9 percent of 4th grade current ELL Las Cruces students did not score proficient or above in math on the PARCC.

1578. In 2015-16, 80.6 percent of 11th grade current ELL Las Cruces students did not score proficient or above in math on the PARCC.

Los Lunas

Non Proficiency Rates

All Students

1579. Between 2007 and 2014, the percentage of all 4th grade Los Lunas students that did not score proficient and above in reading ranged from 42.1 percent to 49.9 percent. (Yazzie Stip. #613)

1580. Between 2007 and 2014, the percentage of all 11th grade Los Lunas students that did not score proficient and above in reading ranged from 46.4 percent to 62.2 percent. (Yazzie Stip. #614)

1581. Between 2007 and 2014, the percentage of all 4th grade Los Lunas students that did not score proficient and above in math ranged from 47 percent to 56.9 percent. (Yazzie Stip. #615)

1582. Between 2007 and 2014, the percentage of all 11th grade Los Lunas students that did not score proficient and above in math ranged from 68.8 percent to 76.6 percent. (Yazzie Stip. #616)

Native American

1583. Between 2007 and 2014, the percentage of all Native American 4th graders in Los that did not score proficient and above in reading ranged from 42.8 percent to 55.9 percent. (Yazzie Stip. #617)

1584. Between 2007 and 2014, the percentage of all Native American 11th graders in Los Lunas that did not score proficient and above in reading ranged from 47.8 percent to 71.8 percent. (Yazzie Stip. #618)

1585. Between 2007 and 2014, the percentage of all Native American 4th graders in Los Lunas that did not score proficient and above in math ranged from 30.4 percent to 59.5 percent. (Yazzie Stip. #619)

1586. Between 2007 and 2014, the percentage of all Native American 11th graders in Los Lunas that did not score proficient and above in math ranged from 69.6 percent to 84.6 percent. (Yazzie Stip. #620)

Low-income

1587. Between 2007 and 2014, the percentage of all low-income 4th graders in Los Lunas that did not score proficient and above in reading ranged from 46.9 percent to 57 percent. (Yazzie Stip. #621)

1588. Between 2007 and 2014, the percentage of all low-income 11th graders in Los Lunas that did not score proficient and above in reading ranged from 56.5 percent to 70.6 percent. (Yazzie Stip. #622)

1589. Between 2007 and 2014, the percentage of all low-income 4th graders in Los Lunas that did not score proficient and above in math ranged from 52.6 percent to 64 percent. (Yazzie Stip. #623)

1590. Between 2007 and 2014, the percentage of all low-income 11th graders in Los Lunas that did not score proficient and above in math ranged from 73 percent to 83.4 percent. (Yazzie Stip. #624)

ELL

1591. Between 2007 and 2011, the percentage of all ELL 4th graders in Los Lunas that did not score proficient and above in reading ranged from 49.6 percent to 67.1 percent. (Yazzie Stip. #625)

1592. Between 2007 and 2011, the percentage of all ELL 11th graders in Los Lunas that did not score proficient and above in reading ranged from 79.3 percent to 91.3 percent. (Yazzie Stip. #626)

1593. Between 2007 and 2011, the percentage of all ELL 4th graders in Los Lunas that did not score proficient and above in math ranged from 63.4 percent to 76.5 percent. (Yazzie Stip. #627)

1594. Between 2007 and 2011, the percentage of all ELL 11th graders in Los Lunas that did not score proficient and above in math ranged from 86.2 percent to 92.9 percent. (Yazzie Stip. #628)

1595. Between 2011 and 2014, the percentage of all current ELL 4th graders in Los Lunas that did not score proficient and above in reading ranged from 74.4 percent to 86.2 percent. (Yazzie Stip. #629)

1596. Between 2011 and 2014, the percentage of all current ELL 11th graders in Los Lunas that did not score proficient and above in reading ranged from 92.5 percent to 97.7 percent. (Yazzie Stip. #630)

1597. Between 2011 and 2014, the percentage of all current ELL 4th graders in Los Lunas that did not score proficient and above in math ranged from 71.7 percent to 81.6 percent. (Yazzie Stip. #631)

1598. Between 2011 and 2014, the percentage of all current ELL 11th graders in Los Lunas that did not score proficient and above in math ranged from 97.7 percent to 100 percent. (Yazzie Stip. #632)

1599. Between 2011 and 2014, the percentage of all exited ELL 4th graders in Los Lunas that did not score proficient and above in reading ranged from 33.9 percent to 39.1 percent. (Yazzie Stip. #633)

1600. Between 2011 and 2014, the percentage of all exited ELL 11th graders in Los Lunas that did not score proficient and above in reading ranged from 57.3 percent to 74.7 percent. (Yazzie Stip. #634)

1601. Between 2011 and 2014, the percentage of all exited ELL 4th graders in Los Lunas that did not score proficient and above in math ranged from 26.8 percent to 40.7 percent. (Yazzie Stip. #635)

1602. Between 2011 and 2014, the percentage of all exited ELL 11th graders in Los Lunas that did not score proficient and above in math ranged from 71.8 percent to 84.4 percent. (Yazzie Stip. #636)

Achievement Gaps

Native American & Anglo

1603. Between 2007-2014, the percentage difference between Native American 4th graders and Caucasian 4th graders in Los Lunas scoring proficient or above in reading ranged from 7.3 percent to 20.1 percent. (Yazzie Stip. #637)

1604. Between 2007-2014, the percentage difference between Native American 11th graders and Caucasian 11th graders in Los Lunas scoring proficient or above in reading ranged from 11.6 percent to 24.6 percent. (Yazzie Stip. #638)

1605. Between 2007-2014, the percentage difference between Native American 4th graders and Caucasian 4th graders in Los Lunas scoring proficient or above in math ranged from -1.1 percent to 14 percent. (Yazzie Stip. #639)

1606. Between 2007-2014, the percentage difference between Native American 11th graders and Caucasian 11th graders in Los Lunas scoring proficient or above in math ranged from 8.3 percent to 18.1 percent.

Low-income & All

1607. Between 2007-2014, the percentage difference between low-income 4th graders and all 4th graders in Los Lunas scoring proficient or above in reading ranged from 4.3 percent to 7.2 percent. (Yazzie Stip. #640)

1608. Between 2007-2014, the percentage difference between low-income 11th graders and all 11th graders in Los Lunas scoring proficient or above in reading ranged from 5.5 percent to 12.1 percent. (Yazzie Stip. #641)

1609. Between 2007-2014, the percentage difference between low-income 4th graders and all 4th graders in Los Lunas scoring proficient or above in math ranged from 5.2 percent to 7.3 percent. (Yazzie Stip. #642)

1610. Between 2007-2014, the percentage difference between low-income 11th graders and all 11th graders in Los Lunas scoring proficient or above in math ranged from 4.1 percent to 10.8 percent. (Yazzie Stip. #643)

PARCC Scores 2014-16

All Students-Reading

1611. In 2014-15, 75.8 percent of 4th grade Los Lunas students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #644)

1612. In 2015-16, 72.6 percent of 4th grade Los Lunas students did not score proficient or above in reading on the PARCC.

1613. In 2014-15, 60.1 percent of 11th grade Los Lunas students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #645)

1614. In 2015-16, 60.7 percent of 11th grade Los Lunas students did not score proficient or above in reading on the PARCC.

All Students-Math

1615. In 2014-15, 77.2 percent of 4th grade Los Lunas students did not score proficient or above in math on the PARCC. (Yazzie Stip. #646)

1616. In 2015-16, 70.1 percent of 4th grade Los Lunas students did not score proficient or above in math on the PARCC.

1617. In 2014-15, 92 percent of 11th grade Los Lunas students did not score proficient or above in math on the PARCC. (Yazzie Stip. #647)

1618. In 2015-16, 96.4 percent of 11th grade Los Lunas students did not score proficient or above in math on the PARCC.

Magdalena

Non Proficiency Rates

All Students

1619. Between 2007 and 2014, the percentage of all 4th grade Magdalena that did not score proficient and above in reading ranged from 55.9 percent to 92.8 percent.

(Yazzie Stip. #659)

1620. Between 2007 and 2014, the percentage of all 11th grade Magdalena students that did not score proficient and above in reading ranged from 37 percent to 80.7 percent. (Yazzie Stip. #660)

1621. Between 2007 and 2014, the percentage of all 4th grade Magdalena students that did not score proficient and above in math ranged from 55.2 percent to 81.4 percent. (Yazzie Stip. #661)

1622. Between 2007 and 2014, the percentage of all 11th grade Magdalena students that did not score proficient and above in math ranged from 44.4 percent to 80.5 percent. (Yazzie Stip. #662)

Native American

1623. Between 2007 and 2014 (data unavailable for 2012-13 school year), the percentage of Native American 4th grade Magdalena students that did not score proficient and above in reading ranged from 75.1 percent to 100 percent. (Yazzie Stip. #663)

1624. Between 2007 and 2014, the percentage of Native American 11th grade Magdalena students that did not score proficient and above in reading ranged from 84.2 percent to 94.4 percent. (Yazzie Stip. #664)

1625. Between 2007 and 2014 (data unavailable for 2012-13 school year), the percentage of Native American 4th grade Magdalena students that did not score proficient and above in math ranged from 81.8 percent to 100 percent. (Yazzie Stip. #665)

1626. The percentage of Native American 11th grade Magdalena students for the school years 2008-2009, 2010-2011, and 2012-2014 that did not score proficient and above in math ranged from 77.8 percent to 93.7 percent. (Yazzie Stip. #666)

Low-income

1627. Between 2007 and 2014, the percentage of all low-income 4th grade Magdalena students that did not score proficient and above in reading ranged from 55.9 percent to 92.8 percent. (Yazzie Stip. #667)

1628. Between 2007 and 2014, the percentage of all low-income 11th grade Magdalena students that did not score proficient and above in reading ranged from 37 percent to 80.7 percent. (Yazzie Stip. #668)

1629. Between 2007 and 2014, the percentage of all low-income 4th grade Magdalena students that did not score proficient and above in math ranged from 55.2 percent to 80.8 percent. (Yazzie Stip. #669)

1630. Between 2007 and 2014, the percentage of all low-income 11th grade Magdalena that did not score proficient and above in math ranged from 44.4 percent to 80.5 percent. (Yazzie Stip. #670)

PARCC Scores 2014-16

All Students-Reading

1631. In 2014-15, 84 percent of 4th grade Magdalena students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #671)

1632. In 2015-16, 92.9 percent of 4th grade Magdalena students did not score proficient or above in reading on the PARCC.

1633. In 2014-15, 51.9 percent of 11th grade Magdalena students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #672)

1634. In 2015-16, 83.3 percent of 11th grade Magdalena students did not score proficient or above in reading on the PARCC.

All Students-Math

1635. In 2014-15 88 percent of 4th grade Magdalena students did not score proficient or above in math on the PARCC. (Yazzie Stip. #673)

1636. In 2015-16, 92.9 percent of 4th grade Magdalena students did not score proficient or above in math on the PARCC.

1637. In 2014-15, 92 percent of 11th grade Magdalena students did not score proficient or above on the PARCC. (Yazzie Stip. #674)

1638. In 2015-16, 91.7 percent of 11th grade Magdalena students did not score proficient or above on the PARCC.

Moriarty

Non Proficiency Rates

All Students

1639. Between 2007 and 2014, the percentage of all 4th grade Moriarty students that did not score proficient and above in reading ranged from 40.4 percent to 59.2 percent. (Yazzie Stip. #685)

1640. Between 2007 and 2014, the percentage of all 11th grade Moriarty students that did not score proficient and above in reading ranged from 33.2 percent to 56.2 percent. (Yazzie Stip. #686)

1641. Between 2007 and 2014, the percentage of all 4th grade Moriarty students that did not score proficient and above in math ranged from 40.4 percent to 65.4 percent. (Yazzie Stip. #687)

1642. Between 2007 and 2014, the percentage of all 11th grade Moriarty students that did not score proficient and above in math ranged from 47.3 percent to 81.4 percent. (Yazzie Stip. #688)

Low-income

1643. Between 2007 and 2014, the percentage of all low-income 4th grade Moriarty students that did not score proficient and above in reading ranged from 47.4 percent to 67.3 percent. (Yazzie Stip. #689)

1644. Between 2007 and 2014, the percentage of all low-income 11th grade Moriarty students that did not score proficient and above in reading ranged from 47.4 percent to 64 percent. (Yazzie Stip. #690)

1645. Between 2007 and 2014, the percentage of all low-income 4th grade Moriarty students that did not score proficient and above in math ranged from 50.9 percent to 55.5 percent. (Yazzie Stip. #691)

1646. Between 2007 and 2014, the percentage of all low-income 11th grade Moriarty students that did not score proficient and above in math ranged from 57.5 percent to 80.6 percent. (Yazzie Stip. #692)

ELL

1647. Between 2007 and 2011, the percentage of all ELL 4th grade Moriarty students that did not score proficient and above in reading ranged from 63.6 percent to 90.9 percent. (Yazzie Stip. #693)

1648. Between 2011 and 2014, the percentage of all current ELL 4th grade Moriarty students that did not score proficient and above in reading ranged from 75 percent to 94.2 percent. (Yazzie Stip. #694)

1649. Between 2011 and 2014, the percentage of all current ELL 4th grade Moriarty students that did not score proficient and above in math ranged from 75 percent to 100 percent. (Yazzie Stip. #695)

1650. Between 2011 and 2014, the percentage of all exited ELL 4th grade Moriarty students that did not score proficient and above in reading ranged from 45.5 percent to 55.6 percent. (Yazzie Stip. #696)

1651. Between 2011 and 2014, the percentage of all exited ELL 11th grade Moriarty students that did not score proficient and above in reading ranged from 45.9 percent to 77.3 percent. (Yazzie Stip. #697)

1652. Between 2011 and 2014, the percentage of all exited ELL 4th grade Moriarty students that did not score proficient in math ranged from 50 percent to 59.1 percent. (Yazzie Stip. #698)

1653. Between 2011 and 2014, the percentage of all exited ELL 11th grade Moriarty students that did not score proficient and above in math ranged from 47.1 percent to 81.8 percent. (Yazzie Stip. #699)

Achievement Gaps

Low-income & All

1654. Between 2007-2014, the percentage difference between all 4th graders and low-income 4th graders in Moriarty scoring proficient or above in reading ranged from 4.7 percent to 13.7 percent. (Yazzie Stip. #700)

1655. Between 2007-2014, the percentage difference between all 11th graders and low-income 11th graders in Moriarty scoring proficient or above in reading ranged from 5.8 percent to 19.6 percent. (Yazzie Stip. #701)

1656. Between 2007-2014, the percentage difference between all 4th graders and low-income 4th graders in Moriarty scoring proficient or above in math ranged from 5.2 percent to 11.2 percent. (Yazzie Stip. #702)

1657. From 2007-2014, the percentage difference between all 11th graders and low-income 11th graders in Moriarty scoring proficient or above in math ranged from 2.4 percent to 19.9 percent. (Yazzie Stip. #703)

PARCC Scores 2014-16

All Students

1658. In 2014-15, 74 percent of 4th grade Moriarty students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #704)

1659. In 2015-16, 72.5 percent of 4th grade Moriarty students did not score proficient or above in reading on the PARCC.

1660. In 2014-15, 41.7 percent of 11th grade Moriarty students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #705)

1661. In 2015-16, 58.6 percent of 11th grade Moriarty students did not score proficient or above in reading on the PARCC.

All Students-Math

1662. In 2014-15, 72.5 percent of 4th grade Moriarty students did not score proficient or above in math on the PARCC. (Yazzie Stip. #706)

1663. In 2015-16, 78 percent of 4th grade Moriarty students did not score proficient or above in math on the PARCC.

1664. In 2014-15, 94.6 percent of 11th grade Moriarty students did not score proficient or above in math on the PARCC. (Yazzie Stip. #707)

1665. In 2015-16, 96.1 percent of 11th grade Moriarty students did not score proficient or above in math on the PARCC.

Peñasco

Non Proficiency Rates

All Students

1666. Between 2007 and 2014, the percentage of all 4th grade Peñasco students that did not score proficient and above in reading ranged from 38.7 percent to 60.5 percent. (Yazzie Stip. #718)

1667. Between 2007 and 2014, the percentage of all 11th grade Peñasco students that did not score proficient and above in reading ranged from 46 percent to 85 percent. (Yazzie Stip. #719)

1668. Between 2007 and 2014, the percentage of all 4th grade Peñasco students that did not score proficient and above in math ranged from 63.3 percent to 81.1 percent. (Yazzie Stip. #720)

1669. Between 2007 and 2014, the percentage of all 11th grade Peñasco students that did not score proficient and above in math ranged from 52.7 percent to 85 percent. (Yazzie Stip. #721)

Low-income

1670. Between 2007 and 2014, the percentage of all low-income 4th grade Peñasco students that did not score proficient and above in reading ranged from 38.5 percent to 60 percent. (Yazzie Stip. #722)

1671. Between 2007 and 2014, the percentage of all low-income 11th grade Peñasco students that did not score proficient and above in reading ranged from 48.9 percent to 90 percent. (Yazzie Stip. #723)

1672. Between 2007 and 2014, the percentage of all low-income 4th grade v Peñasco students that did not score proficient and above in math ranged from 65 percent to 82.6 percent. (Yazzie Stip. #724)

1673. Between 2007 and 2014, the percentage of all low-income 11th grade Peñasco students that did not score proficient and above in math ranged from 56 percent to 86.8 percent. (Yazzie Stip. #725)

PARCC Scores 2014-16

All Students

1674. In 2014-15, 81.8 percent of 4th grade Peñasco students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #726)

1675. In 2015-16, 83.3 percent of 4th grade Peñasco students did not score proficient or above in reading on the PARCC.

1676. In 2014-15, 69.3 percent of 11th grade Peñasco students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #727)

1677. In 2015-16, 58.3 percent of 11th grade Peñasco students did not score proficient or above in reading on the PARCC.

All Students-Math

1678. In 2014-15, 86.4 percent of 4th grade Peñasco students did not score proficient or above in math on the PARCC. (Yazzie Stip. #728)

1679. In 2015-16, 91.3 percent of 4th grade Peñasco students did not score proficient or above in math on the PARCC.

1680. In 2014-15, 89.5 percent of 11th grade Peñasco students did not score proficient or above in math on the PARCC. (Yazzie Stip. #729)

1681. In 2015-16, 95.5 percent of 11th grade Peñasco students did not score proficient or above in math on the PARCC.

Pojoaque

Non Proficiency Rates

All Students

1682. Between 2007 and 2014, the percentage of all 4th grade students in Pojoaque that did not score proficient and above in reading ranged from 42.1 percent to 65.2 percent. (Yazzie Stip. #741)

1683. Between 2007 and 2014, the percentage of all 11th grade students in Pojoaque that did not score proficient and above in reading ranged from 41.9 percent to 53.2 percent. (Yazzie Stip. #742)

1684. Between 2007 and 2014, the percentage of all 4th grade students in Pojoaque that did not score proficient and above in math ranged from 46.1 percent to 80.4 percent. (Yazzie Stip. #743)

1685. Between 2007 and 2014, the percentage of 11th grade students in Pojoaque that did not score proficient and above in math ranged from 63.2 percent to 80.4 percent. (Yazzie Stip. #744)

Native American

1686. Between 2007 and 2014, the percentage of all Native American 4th grade students in Pojoaque that did not score proficient and above in reading ranged from 33.3 percent to 77.3 percent. (Yazzie Stip. #745)

1687. Between 2007 and 2014, the percentage of all Native American 11th grade students in Pojoaque that did not score proficient and above in reading ranged from 45.5 percent to 64.5 percent. (Yazzie Stip. #746)

1688. Between 2007 and 2014, the percentage of all Native American 4th grade students in Pojoaque that did not score proficient and above in math ranged from 42.8 percent to 86.2 percent. (Yazzie Stip. #747)

1689. Between 2007 and 2014, the percentage of all Native American 11th grade students in Pojoaque that did not score proficient and above in math ranged from 60 percent to 93.1 percent. (Yazzie Stip. #748)

Low-income

1690. Between 2007 and 2014, the percentage of all low-income 4th grade students in Pojoaque that did not score proficient and above in reading ranged from 48.2 percent to 77.4 percent. (Yazzie Stip. #749)

1691. Between 2007 and 2014, the percentage of all low-income 11th grade students in Pojoaque that did not score proficient and above in reading ranged from 50.7 percent to 62.8 percent. (Yazzie Stip. #750)

1692. Between 2007 and 2014, the percentage of all low-income 4th grade students in Pojoaque that did not score proficient and above in math ranged from 54.1 percent to 83.8 percent. (Yazzie Stip. #751)

1693. Between 2007 and 2014, the percentage of all low-income 11th grade students in Pojoaque that did not score proficient and above in math ranged from 65.5 percent to 88.2 percent. (Yazzie Stip. #752)

ELL

1694. Between 2007 and 2011, the percentage of all ELL 4th grade students in Pojoaque that did not score proficient and above in reading ranged from 60.9 percent to 81.5 percent. (Yazzie Stip. #753)

1695. Between 2007 and 2011, the percentage of all ELL 11th grade students in Pojoaque that did not score proficient and above in reading ranged from 78.1 percent to 81.1 percent. (Yazzie Stip. #754)

1696. Between 2007 and 2011, the percentage of all ELL 4th grade students in Pojoaque that did not score proficient and above in math ranged from 74 percent to 86.2 percent. (Yazzie Stip. #755)

1697. Between 2007 and 2011, the percentage of all ELL 11th grade students in Pojoaque that did not score proficient and above in math ranged from 83.9 percent to 100 percent. (Yazzie Stip. #756)

1698. Between 2011 and 2014, the percentage of all current ELL 4th grade students in Pojoaque that did not score proficient and above in reading ranged from 64 percent to 91.7 percent. (Yazzie Stip. #757)

1699. Between 2011 and 2014, the percentage of all current ELL 11th grade students in Pojoaque that did not score proficient and above in reading ranged from 83.2 percent to 95 percent. (Yazzie Stip. #758)

1700. Between 2011 and 2014, the percentage of all current ELL 4th grade students in Pojoaque that did not score proficient and above in math ranged from 68 percent to 91.7 percent. (Yazzie Stip. #759)

1701. Between 2011 and 2014, the percentage of all current ELL 11th grade students in Pojoaque that did not score proficient and above in math ranged from 91.6 percent to 100 percent. (Yazzie Stip. #760)

1702. Between 2011 and 2014, the percentage of all exited ELL 4th grade students in Pojoaque that did not score proficient and above in reading ranged from 25.6 percent to 63 percent. (Yazzie Stip. #761)

1703. Between 2011 and 2014, the percentage of all exited ELL 11th grade students in Pojoaque that did not score proficient and above in reading ranged from 34.9 percent to 56.2 percent. (Yazzie Stip. #762)

1704. Between 2011 and 2014, the percentage of all exited ELL 4th grade students in Pojoaque that did not score proficient and above in math ranged from 36.4 percent to 64.8 percent. (Yazzie Stip. #763)

1705. Between 2011 and 2014, the percentage of all exited ELL 11th grade students in Pojoaque that did not score proficient and above ranged from 62.8 percent to 76.6 percent. (Yazzie Stip. #764)

Achievement Gaps

Low-income & All

1706. Between 2007-2014, the percentage difference between all 4th graders and low-income 4th graders in Pojoaque scoring proficient or above in reading ranged from -0.1 percent to 12.2 percent. (Yazzie Stip. #765)

1707. Between 2007-2014, the percentage difference between all 11th graders and low-income 11th graders in Pojoaque scoring proficient or above in reading ranged from 7.1 percent to 10.3 percent. (Yazzie Stip. #766)

1708. Between 2007-2014, the percentage difference between all 4th graders and low-income 4th graders in Pojoaque scoring proficient or above in math ranged from 1.7 percent to 11.1 percent. (Yazzie Stip. #767)

1709. From 2007-2014, the percentage difference between all 11th graders and low-income 11th graders in Pojoaque scoring proficient or above in math ranged from 0.1 percent to 13.6 percent. (Yazzie Stip. #768)

PARCC Scores 2014-16

All Students

1710. In 2014-15, 75.3 percent of 4th grade Pojoaque students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #769)

1711. In 2015-16, 79.9 percent of 4th grade Pojoaque students did not score proficient or above in reading on the PARCC.

1712. In 2014-15, 63.7 percent of 11th grade Pojoaque students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #770)

1713. In 2015-16, 64.2 percent of 11th grade Pojoaque students did not score proficient or above in reading on the PARCC.

All Students-Math

1714. In 2014-15, 81.4 percent of 4th grade Pojoaque students did not score proficient or above in math on the PARCC. (Yazzie Stip. #771)

1715. In 2015-16, 83.3 percent of 4th grade Pojoaque students did not score proficient or above in math on the PARCC.

1716. In 2014-15, 89.8 percent of 11th grade Pojoaque students did not score proficient or above in math on the PARCC. (Yazzie Stip. #772)

1717. In 2015-16, 99.1 percent of 11th grade Pojoaque students did not score proficient or above in math on the PARCC.

Rio Rancho

Non Proficiency Rates

All Students

1718. Between 2007 and 2014, the percentage of all 4th grade Rio Rancho students that did not score proficient and above in reading ranged from 32.3 percent to 39.6 percent. (Yazzie Stip. #784)

1719. Between 2007 and 2014, the percentage of all 11th grade Rio Rancho students that did not score proficient and above in reading ranged from 22 percent to 43.8 percent. (Yazzie Stip. #785)

1720. Between 2007 and 2014, the percentage of all 4th grade Rio Rancho students that did not score proficient and above in math ranged from 37.5 percent to 44.9 percent. (Yazzie Stip. #786)

1721. Between 2007 and 2014, the percentage of all 11th grade Rio Rancho students that did not score proficient and above in math ranged from 37.2 percent to 51.7 percent. (Yazzie Stip. #787)

Native American

1722. Between 2007 and 2014, the percentage of all Native American 4th grade Rio Rancho students that did not score proficient and above in reading ranged from 36.2 percent to 51.7 percent. (Yazzie Stip. #788)

1723. Between 2007 and 2014, the percentage of all Native American 11th grade Rio Rancho students that did not score proficient and above in reading ranged from 23.9 percent to 56.4 percent. (Yazzie Stip. #789)

1724. Between 2007 and 2014, the percentage of all Native American 4th grade Rio Rancho students that did not score proficient and above in math ranged from 41.7 percent to 64.1 percent. (Yazzie Stip. #790)

1725. Between 2007 and 2014, the percentage of all Native American 11th grade Rio Rancho students that did not score proficient and above in math ranged from 37 percent to 61.2 percent. (Yazzie Stip. #791)

Low-income

1726. Between 2007 and 2014, the percentage of all low-income 4th grade Rio Rancho students that did not score proficient and above in reading ranged from 40.4 percent to 49.7 percent. (Yazzie Stip. #792)

1727. Between 2007 and 2014, the percentage of all low-income 11th grade Rio Rancho students that did not score proficient and above in reading ranged from 30.4 percent to 55.6 percent. (Yazzie Stip. #793)

1728. Between 2007 and 2014, the percentage of all low-income 4th grade Rio Rancho students that did not score proficient and above in math ranged from 45.5 percent to 56.1 percent. (Yazzie Stip. #794)

1729. Between 2007 and 2014, the percentage of all low-income 11th grade Rio Rancho students that did not score proficient and above in math ranged from 47.6 percent to 64.7 percent. (Yazzie Stip. #795)

ELL

1730. Between 2008 and 2011, the percentage of all ELL 4th grade Rio Rancho students that did not score proficient and above in reading ranged from 52.6 percent to 56.8 percent. (Yazzie Stip. #796)

1731. Between 2007 and 2011, the percentage of all ELL 11th grade Rio Rancho students that did not score proficient and above in reading ranged from 64.5 percent to 84.8 percent. (Yazzie Stip. #797)

1732. Between 2007 and 2011, the percentage of all ELL 4th grade Rio Rancho students that did not score proficient and above in math ranged from 51.9 percent to 54.4 percent. (Yazzie Stip. #798)

1733. Between 2007 and 2011, the percentage of all ELL 11th grade Rio Rancho students that did not score proficient and above in math ranged from 82.1 percent to 91.3 percent. (Yazzie Stip. #799)

1734. Between 2011 and 2014, the percentage of all current ELL 4th grade Rio Rancho students that did not score proficient and above in reading ranged from 79.0 percent to 89.6 percent. (Yazzie Stip. #800)

1735. Between 2011 and 2014, the percentage of all current ELL 11th grade Rio Rancho students that did not score proficient and above in reading ranged from 78.9 percent to 83.9 percent. (Yazzie Stip. #801)

1736. Between 2011 and 2014, the percentage of all current ELL 4th grade Rio Rancho students that did not score proficient and above in math ranged from 77.8 percent to 83.3 percent. (Yazzie Stip. #802)

1737. Between 2011 and 2014, the percentage of all current ELL 11th grade Rio Rancho students that did not score proficient and above in math ranged from 70 percent to 87.5 percent. (Yazzie Stip. #803)

1738. Between 2011 and 2014, the percentage of all exited ELL 4th grade Rio Rancho students that did not score proficient and above in reading ranged from 41.5 percent to 45.3 percent. (Yazzie Stip. #804)

1739. Between 2011 and 2014, the percentage of all exited ELL 11th grade Rio Rancho students that did not score proficient and above in reading ranged from 25 percent to 42.4 percent. (Yazzie Stip. #805)

1740. Between 2011 and 2014, the percentage of all exited ELL 4th grade Rio Rancho students that did not score proficient and above in math ranged from 37.7 percent to 48.4 percent. (Yazzie Stip. #806)

1741. Between 2011 and 2014, the percentage of all exited ELL 11th grade Rio Rancho students that did not score proficient and above in math ranged from 38.4 percent to 56.2 percent. (Yazzie Stip. #807)

Achievement Gaps

Native American & Anglo

1742. Between 2007-2014, the percentage difference between Caucasian 4th graders and Native American 4th graders in Rio Rancho scoring proficient or above in reading ranged from 9.9 percent to 23.8 percent. (Yazzie Stip. #808)

1743. Between 2007-2014, the percentage difference between Caucasian 11th graders and Native American 11th graders in Rio Rancho scoring proficient or above in reading ranged from 5.9 percent to 25 percent. (Yazzie Stip. #809)

1744. From 2007-2014, the percentage difference between Caucasian 4th graders and Native American 4th graders in Rio Rancho scoring proficient or above in math ranged from 9.2 percent to 34.6 percent. (Yazzie Stip. #810)

1745. From 2007-2014, the percentage difference between Caucasian 11th graders and Native American 11th graders in Rio Rancho scoring proficient or above in math ranged from 6.8 percent to 20.1 percent. (Yazzie Stip. #811)

Low-income & All

1746. From 2007-2014, the percentage difference between all 4th graders and low-income 4th graders in Rio Rancho scoring proficient or above in reading ranged from 7 percent to 11.3 percent. (Yazzie Stip. #812)

1747. From 2007-2014, the percentage difference between all 11th graders and low-income 11th graders in Rio Rancho scoring proficient or above in reading ranged from 8 percent to 13.7 percent. (Yazzie Stip. #813)

1748. From 2007-2014, the percentage difference between all 4th graders and low-income 4th graders in Rio Rancho scoring proficient or above in math ranged from 8 percent to 12.6 percent. (Yazzie Stip. #814)

1749. From 2007-2014, the percentage difference between all 11th graders and low-income 11th graders in Rio Rancho scoring proficient or above in math ranged from 10.4 percent to 14.3 percent. (Yazzie Stip. #815)

PARCC Scores 2014-16

All Students-Reading

1750. In 2014-15, 55.9 percent of 4th grade Rio Rancho students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #816)

1751. In 2015-16, 67.2 percent of 4th grade Rio Rancho students did not score proficient or above in reading on the PARCC.

1752. In 2014-15, 32.6 percent of 11th grade Rio Rancho students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #817)

1753. In 2015-16, 35.3 percent of 11th grade Rio Rancho students did not score proficient or above in reading on the PARCC.

All Students-Math

1754. In 2014-15, 74.1 percent of 4th grade Rio Rancho students did not score proficient or above in math on the PARCC. (Yazzie Stip. #818)

1755. In 2015-16, 67.7 percent of 4th grade Rio Rancho students did not score proficient or above in math on the PARCC.

1756. In 2014-15, 73.6 percent of 11th grade Rio Rancho students did not score proficient or above in math on the PARCC. (Yazzie Stip. #819)

1757. In 2015-16, 88.8 percent of 11th grade Rio Rancho students did not score proficient or above in math on the PARCC.

Santa Fe

Non Proficiency Rates

All Students

1758. Between 2007 and 2014, the percentage of all 4th grade Santa Fe students that did not score proficient and above in reading ranged from 50 percent to 58.5 percent. (Yazzie Stip. #831)

1759. Between 2007 and 2014, the percentage of all 11th grade Santa Fe students that did not score proficient and above in reading ranged from 46.7 percent to 63.3 percent. (Yazzie Stip. #832)

1760. Between 2007 and 2014, the percentage of all 4th grade Santa Fe students that did not score proficient and above in math ranged from 57.1 percent to 66.1 percent. (Yazzie Stip. #833)

1761. Between 2007 and 2014, the percentage of all 11th grade Santa Fe students that did not score proficient and above in math ranged from 63.9 percent to 73.1 percent. (Yazzie Stip. #834)

Native American

1762. Between 2007 and 2014, the percentage of all Native American 4th grade Santa Fe students that did not score proficient and above in reading ranged from 40 percent to 71 percent. (Yazzie Stip. #835)

1763. Between 2007 and 2014 (not including school year 2009-2010), the percentage of all Native American 11th grade Santa Fe students that did not score proficient and above in reading ranged from 20 percent to 61.1 percent. (Yazzie Stip. #836)

1764. Between 2007 and 2014, the percentage of all Native American 4th grade Santa Fe students that did not score proficient and above in math ranged from 58.9 percent to 81.5 percent. (Yazzie Stip. #837)

1765. Between 2007 and 2014 (not including school year 2009-2010), the percentage of all Native American 11th grade Santa Fe students that did not score

proficient and above in math ranged from 60 percent to 94.4 percent. (Yazzie Stip. #838)

Low-income

1766. Between 2007 and 2014, the percentage of all low-income 4th grade Santa Fe students that did not score proficient and above in reading ranged from 62.8 percent to 71.4 percent. (Yazzie Stip. #839)

1767. Between 2007 and 2014, the percentage of all low-income 11th grade Santa Fe students that did not score proficient and above in reading ranged from 55.1 percent to 73.4 percent. (Yazzie Stip. #840)

1768. Between 2007 and 2014, the percentage of all low-income 4th grade Santa Fe students that did not score proficient and above in math ranged from 67.1 percent to 78.3 percent. (Yazzie Stip. #841)

1769. Between 2007 and 2014, the percentage of all low-income 11th grade Santa Fe students that did not score proficient and above in math ranged from 71.5 percent to 79.8 percent. (Yazzie Stip. #842)

ELL

1770. Between 2007 and 2011, the percentage of all ELL 4th grade Santa Fe students that did not score proficient and above in reading ranged from 60.7 percent to 82.7 percent. (Yazzie Stip. #843)

1771. Between 2007 and 2011, the percentage of all ELL 11th grade Santa Fe students that did not score proficient and above in reading ranged from 57.9 percent to 87.5 percent. (Yazzie Stip. #844)

1772. Between 2007 and 2011, the percentage of all ELL 4th grade Santa Fe students that did not score proficient and above in math ranged from 74.5 percent to 83.8 percent. (Yazzie Stip. #845)

1773. Between 2007 and 2011, the percentage of all ELL 11th grade Santa Fe that did not score proficient and above in math ranged from 72.7 percent to 89.6 percent. (Yazzie Stip. #846)

1774. Between 2011 and 2014, the percentage of all current ELL 4th grade Santa Fe students that did not score proficient and above in reading ranged from 75.6 percent to 85.1 percent. (Yazzie Stip. #847)

1775. Between 2011 and 2014, the percentage of all current ELL 11th grade Santa Fe students that did not score proficient and above in reading ranged from 86.2 percent to 89 percent. (Yazzie Stip. #848)

1776. Between 2011 and 2014, the percentage of all current ELL 4th grade Santa Fe students that did not score proficient and above in math ranged from 73.6 percent to 89.2 percent. (Yazzie Stip. #849)

1777. Between 2011 and 2014, the percentage of all current ELL 11th grade Santa Fe students that did not score proficient and above in math ranged from 91.9 percent to 92.5 percent. (Yazzie Stip. #850)

1778. Between 2011 and 2014, the percentage of all exited ELL 4th grade Santa Fe students that did not score proficient and above in reading ranged from 21.4 percent to 61.1 percent. (Yazzie Stip. #851)

1779. Between 2011 and 2014, the percentage of all exited ELL 11th grade Santa Fe students that did not score proficient and above in reading ranged from 66.6 percent to 75 percent. (Yazzie Stip. #852)

1780. Between 2011 and 2014, the percentage of all exited ELL 4th grade Santa Fe students that did not score proficient and above in math ranged from 21.4 percent to 63.9 percent. (Yazzie Stip. #853)

1781. Between 2011 and 2014, the percentage of all exited ELL 11th grade Santa Fe students that did not score proficient and above in math ranged from 75 percent to 83.3 percent. (Yazzie Stip. #854)

Achievement Gaps

Native American & Anglo

1782. Between 2007-2014, the percentage difference between all Caucasian 4th graders and Native American 4th graders in Santa Fe scoring proficient or above in reading ranged from 14.8 percent to 38.6 percent. (Yazzie Stip. #855)

1783. Between 2007-2014, the percentage difference between all Caucasian 11th graders and Native American 11th graders in Santa Fe scoring proficient or above in reading ranged from -15.5 percent to 26.1 percent. (Yazzie Stip. #856)

1784. Between 2007-2014, the percentage difference between all Caucasian 4th graders and Native American 4th graders in Santa Fe scoring proficient or above in math ranged from 22.5 percent to 53.4 percent. (Yazzie Stip. #857)

1785. Between 2007-2014, the percentage difference between all Caucasian 11th graders and Native American 11th graders in Santa Fe scoring proficient or above in math ranged from 9.8 percent to 48.2 percent. (Yazzie Stip. #858)

Low-income & All

1786. Between 2007-2014, the percentage difference between all 4th graders and low-income 4th graders in Santa Fe scoring proficient or above in reading ranged from 7.9 percent to 12.9 percent. (Yazzie Stip. #859)

1787. Between 2007-2014, the percentage difference between all 11th graders and low-income 11th graders in Santa Fe scoring proficient or above in reading ranged from 6 percent to 11.1 percent. (Yazzie Stip. #860)

1788. Between 2007-2014, the percentage difference between all 4th graders and low-income 4th graders in Santa Fe scoring proficient or above in math ranged from 10 percent to 12.9 percent. (Yazzie Stip. #861)

1789. Between 2007-2014, the percentage difference between all 11th graders and low-income 11th graders in Santa Fe scoring proficient or above in math ranged from 5.1 percent to 9.4 percent. (Yazzie Stip. #862)

PARCC Scores 2014-16

1790. In 2014-15, 74.4 percent of 4th grade Santa Fe students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #863)

1791. In 2015-16, 74.5 percent of 4th grade Santa Fe students did not score proficient or above in reading on the PARCC.

1792. In 2014-15, 55.7 percent of 11th grade Santa Fe students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #864)

1793. In 2015-16, 65.9 percent of 11th grade Santa Fe students did not score proficient or above in reading on the PARCC.

All Students-Math

1794. In 2014-15, 83.4 percent of 4th grade Santa Fe students did not score proficient or above in math on the PARCC. (Yazzie Stip. #865)

1795. In 2015-16, 78.8 percent of 4th grade Santa Fe students did not score proficient or above in math on the PARCC.

1796. In 2014-15, 84.9 percent of 11th grade Santa Fe students did not score proficient or above in math on the PARCC. (Yazzie Stip. #866)

1797. In 2015-16, 94.4 percent of 11th grade Santa Fe students did not score proficient or above in math on the PARCC.

Silver City

Non Proficiency Rates

All Students

1798. Between 2007 and 2014, the percentage of all 4th grade Silver City students that did not score proficient and above in reading ranged from 35.4 percent to 47.2 percent. (Yazzie Stip. #877)

1799. Between 2007 and 2014, the percentage of all 11th grade Silver City students that did not score proficient and above in reading ranged from 40.6 percent to 63 percent. (Yazzie Stip. #878)

1800. Between 2007 and 2014, the percentage of all 4th grade Silver City students that did not score proficient and above in math ranged from 39.8 percent to 48.6 percent. (Yazzie Stip. #879)

1801. Between 2007 and 2014, the percentage of all 11th grade Silver City students that did not score proficient and above in math ranged from 57.7 percent to 70.6 percent. (Yazzie Stip. #880)

Low-income

1802. Between 2007 and 2014, the percentage of all low-income 4th grade Silver City students that did not score proficient and above in reading ranged from 40.8 percent to 53.9 percent. (Yazzie Stip. #881)

1803. Between 2007 and 2014, the percentage of all low-income 11th grade Silver City students that did not score proficient and above in reading ranged from 50.6 percent to 76.7 percent. (Yazzie Stip. #882)

1804. Between 2007 and 2014, the percentage of all low-income 4th grade Silver City students that did not score proficient and above in math ranged from 46.6 percent to 57.5 percent. (Yazzie Stip. #883)

1805. Between 2007 and 2014, the percentage of low-income 11th grade Silver City students that did not score proficient and above in math ranged from 62.2 percent to 79 percent. (Yazzie Stip. #884)

Achievement Gaps

Low-income & All

1806. Between 2007-2014, the percentage difference between all 4th graders and low-income 4th graders in Silver City scoring proficient or above in reading ranged from 2.6 percent to 9.6 percent. (Yazzie Stip. #885)

1807. Between 2007-2014, the percentage difference between all 11th graders and low-income 11th graders in Silver City scoring proficient or above in reading ranged from 7.7 percent to 16.5 percent. (Yazzie Stip. #886)

1808. Between 2007-2014, the percentage difference between all 4th graders and low-income 4th graders in Silver City scoring proficient or above in math ranged from 5.5 percent to 9 percent. (Yazzie Stip. #887)

1809. Between 2007-2014, the percentage difference between all 11th graders and low-income 11th graders in Silver City scoring proficient or above in math ranged from 3.3 percent to 18.7 percent. (Yazzie Stip. #888)

PARCC Scores 2014-16

All Students-Reading

1810. In 2014-15, 8.5 percent of 4th grade Silver City students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #889)

1811. In 2015-16, 73.1 percent of 4th grade Silver City students did not score proficient or above in reading on the PARCC.

1812. In 2014-15, 62.0 percent of 11th grade Silver City students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #890)

1813. In 2015-16, 70.9 percent of 11th grade Silver City students did not score proficient or above in reading on the PARCC.

All Students-Math

1814. In 2014-15, 78.4 percent of 4th grade Silver City students did not score proficient or above in math on the PARCC. (Yazzie Stip. #891)

1815. In 2015-16, 68.3 percent of 4th grade Silver City students did not score proficient or above in math on the PARCC.

1816. In 2014-15, 89.1 percent of 11th grade Silver City students did not score proficient or above in math on the PARCC. (Yazzie Stip. #892)

Taos

Non Proficiency Rates

All Students

1817. Between 2007 and 2014 (not including school year 2011-2012), the percentage of all 4th grade Taos students that did not score proficient and above in reading ranged from 42 percent to 65.9 percent. (Yazzie Stip. #904)

1818. Between 2007 and 2014, the percentage of all 11th grade Taos that did not score proficient and above in reading ranged from 35.9 percent to 55.9 percent. (Yazzie Stip. #905)

1819. Between 2007 and 2014 (not including school year 2011-2012), the percentage of all 4th grade Taos students that did not score proficient and above in math ranged from 56.8 percent to 76.5 percent. (Yazzie Stip. #906)

1820. Between 2007 and 2014, the percentage of all 11th grade Taos students that did not score proficient and above in math ranged from 56.3 percent to 71.1 percent. (Yazzie Stip. #907)

Native American

1821. Between 2007 and 2014, the percentage of all Native American 4th grade Taos students that did not score proficient and above in reading ranged from 53.3 percent to 90 percent. (Yazzie Stip. #908)

1822. Between 2007 and 2014, the percentage of all Native American 11th grade Taos students that did not score proficient and above in reading ranged from 45.5 percent to 80 percent. (Yazzie Stip. #909)

1823. Between 2007 and 2014, the percentage of all Native American 4th grade Taos students that did not score proficient and above in math ranged from 50 percent to 90 percent. (Yazzie Stip. #910)

1824. Between 2007 and 2014, the percentage of all Native American 11th grade Taos students that did not score proficient and above in math ranged from 45.5 percent to 93.3 percent. (Yazzie Stip. #911)

Low-income

1825. Between 2007 and 2014, the percentage of for all low-income 4th grade Taos students that did not score proficient and above in reading ranged from 42 percent to 74 percent. (Yazzie Stip. #912)

1826. Between 2007 and 2014, the percentage of all low-income 11th grade Taos students that did not score proficient and above in reading ranged from 35.9 percent to 56.4 percent. (Yazzie Stip. #913)

1827. Between 2007 and 2014, the percentage of all low-income 4th grade Taos students that did not score proficient and above in math ranged from 62.6 percent to 77 percent. (Yazzie Stip. #914)

1828. Between 2007 and 2014, the percentage of all low-income 11th grade Taos students that did not score proficient and above in math ranged from 56.3 percent to 73.3 percent. (Yazzie Stip. #915)

ELL

1829. Between 2007 and 2011, the percentage of all ELL 4th grade Taos students that did not score proficient and above in reading ranged from 44.8 percent to 88 percent. (Yazzie Stip. #916)

1830. Between 2007 and 2011, the percentage of all ELL 4th grade Taos students that did not score proficient and above in math ranged from 76.6 percent to 96 percent. (Yazzie Stip. #917)

1831. Between 2011 and 2014, the percentage of all current ELL 4th grade Taos students that did not score proficient and above in reading ranged from 56.5 percent to 93.9 percent. (Yazzie Stip. #918)

1832. Between 2011 and 2014, the percentage of all current ELL 4th grade Taos students that did not score proficient and above in math ranged from 87 percent to 93.9 percent. (Yazzie Stip. #919)

1833. Between 2011 and 2014, the percentage of all exited ELL 4th grade Taos students that did not score proficient and above in reading ranged from 50 percent to 72.7 percent. (Yazzie Stip. #920)

1834. Between 2011 and 2014, the percentage of all exited ELL 4th grade Taos students that did not score proficient and above in math ranged from 33.3 percent to 83.4 percent. (Yazzie Stip. #921)

Achievement Gaps

Native American & Anglo

1835. Between 2007-2014, the percentage difference between Caucasian 4th graders and Native American 4th graders in scoring proficient and above in reading ranged from -7.7 percent to 55.4 percent. (Yazzie Stip. #922)

1836. Between 2007-2014, the percentage difference between Caucasian 11th graders and Native American 11th graders in Taos scoring proficient and above in reading ranged from 20.3 percent to 64 percent. (Yazzie Stip. #923)

1837. Between 2007-2014, the percentage difference between Caucasian 4th graders and Native American 4th graders in Taos scoring proficient and above in math ranged from -3.8 percent to 70.9 percent. (Yazzie Stip. #924)

1838. Between 2007-2014, the percentage difference between Caucasian 11th graders and Native American 11th graders in Taos scoring proficient and above in math ranged from 14.1 percent to 69.3 percent. (Yazzie Stip. #925)

Low-income & All

1839. Between 2007-2014, the percentage difference between all 4th graders and low-income 4th graders in Taos scoring proficient and above in reading ranged from 0 percent to 8.2 percent. (Yazzie Stip. #926)

1840. Between 2007-2014, the percentage difference between all 11th graders and low-income 11th graders in Taos scoring proficient and above in reading ranged from 0.2 percent to 9.1 percent. (Yazzie Stip. #927)

1841. Between 2007-2014, the percentage difference between all 4th graders and low-income 4th graders in Taos scoring proficient and above in math ranged from -0.2 percent to 8.2 percent. (Yazzie Stip. #928)

1842. Between 2007-2014, the percentage difference between all 11th graders and low-income 11th graders in Taos scoring proficient and above in math ranged from -0.2 percent to 10.1 percent. (Yazzie Stip. #929)

PARCC Scores 2014-16

All Students—Reading

1843. In 2014-15, 68.7 percent of 4th grade Taos students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #930)

1844. In 2015-16, 72.5 percent of 4th grade Taos students did not score proficient or above in reading on the PARCC.

1845. In 2014-15, 45.9 percent of 11th grade Taos students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #931)

1846. In 2015-16, 51.5 percent of 11th grade Taos students did not score proficient or above in reading on the PARCC.

All Students—Math

1847. In 2014-15, 86.4 percent of 4th grade Taos students did not score proficient or above in math on the PARCC. (Yazzie Stip. #932)

1848. In 2015-16, 83.7 percent of 4th grade Taos students did not score proficient or above in math on the PARCC.

1849. In 2014-15, 77.7 percent of 11th grade Taos students did not score proficient or above in math on the PARCC. (Yazzie Stip. #933)

1850. In 2015-16, 93.1 percent of 11th grade Taos students did not score proficient or above in math on the PARCC.

Tucumcari

Non Proficiency Rates

All Students

1851. Between 2007 and 2014, the percentage of all 4th grade Tucumcari students that did not score proficient and above in reading ranged from 44 percent to 65.9 percent. (Yazzie Stip. #944)

1852. Between 2007 and 2014, the percentage of all 11th grade Tucumcari students that did not score proficient and above in reading ranged from 30 percent to 63.6 percent. (Yazzie Stip. #945)

1853. Between 2007 and 2014, the percentage of all 4th grade Tucumcari students that did not score proficient and above in math ranged from 47.9 percent to 75 percent. (Yazzie Stip. #946)

1854. Between 2007 and 2014, the percentage of all 11th grade Tucumcari students that did not score proficient and above in math ranged from 31.1 percent to 83.6 percent. (Yazzie Stip. #947)

Low-income

1855. Between 2007 and 2014, the percentage of all low-income 4th grade Tucumcari students that did not score proficient and above in reading ranged from 44 percent to 65.9 percent. (Yazzie Stip. #948)

1856. Between 2007 and 2014, the percentage of all low-income 11th grade Tuumcari students that did not score proficient and above in reading ranged from 30 percent to 63.6 percent. (Yazzie Stip. #949)

1857. Between 2007 and 2014, the percentage of all low-income 4th grade Tuumcari students that did not score proficient and above in math ranged from 47.9 percent to 75 percent. (Yazzie Stip. #950)

1858. Between 2007 and 2014, the percentage of all low-income 11th grade Tuumcari that did not score proficient and above in math ranged from 31.1 percent to 83.6 percent. (Yazzie Stip. #951)

PARCC Scores 2014-16

All Students—Reading

1859. In 2014-15, 93.9 percent of 4th grade Tuumcari students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #952)

1860. In 2015-16, 78.5 percent of 4th grade Tuumcari students did not score proficient or above in reading on the PARCC.

1861. In 2014-15, 78.7 percent of 11th grade Tuumcari students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #953)

1862. In 2015-16, 76.3 percent of 11th grade Tuumcari students did not score proficient or above in reading on the PARCC.

All Students—Math

1863. In 2014-15, 90.9 percent of 4th grade Tucumcari students did not score proficient or above in math on the PARCC. (Yazzie Stip. #954)

1864. In 2015-16, 84.8 percent of 4th grade Tucumcari students did not score proficient or above in math on the PARCC.

1865. In 2014-15, 94.6 percent of 11th grade Tucumcari students did not score proficient or above in math on the PARCC. (Yazzie Stip. #955)

1866. In 2015-16, 82.7 percent of 11th grade Tucumcari students did not score proficient or above in math on the PARCC.

Zuni

Non Proficiency Rates

All Students

1867. Between 2007 and 2014, the percentage of all 4th grade Zuni students that did not score proficient and above in reading ranged from 47 percent to 68.5 percent. (Yazzie Stip. #967)

1868. Between 2007 and 2014, the percentage of all 11th grade Zuni students that did not score proficient and above in reading ranged from 50.4 percent to 78 percent. (Yazzie Stip. #968)

1869. Between 2007 and 2014, the percentage of all 4th grade Zuni students that did not score proficient and above in math ranged from 47.8 percent to 83.8 percent. (Yazzie Stip. #969)

1870. Between 2007 and 2014, the percentage of all 11th grade Zuni students that did not score proficient and above in math ranged from 76.1 percent to 86.8 percent. (Yazzie Stip. #970)

Native American

1871. Between 2007 and 2014, the percentage of all Native American 4th grade Zuni students that did not score proficient and above in reading ranged from 47 percent to 68.5 percent. (Yazzie Stip. #971)

1872. Between 2007 and 2014, the percentage of all Native American 11th grade Zuni students that did not score proficient and above in reading ranged from 50 percent to 80 percent. (Yazzie Stip. #972)

1873. Between 2007 and 2014, the percentage of all Native American 4th grade Zuni students that did not score proficient and above in math ranged from 47.8 percent to 84.6 percent. (Yazzie Stip. #973)

1874. Between 2007 and 2014, the percentage of all Native American 11th grade Zuni students that did not score proficient and above in math ranged from 75.9 percent to 88.8 percent. (Yazzie Stip. #974)

Low-income

1875. Between 2007 and 2014, the percentage of all low-income 4th grade Zuni that did not score proficient and above in reading ranged from 47 percent to 71.3 percent. (Yazzie Stip. #975)

1876. Between 2007 and 2014, the percentage of all low-income 11th grade Zuni students that did not score proficient and above in reading ranged from 50.4 percent to 83.3 percent. (Yazzie Stip. #976)

1877. Between 2007 and 2014, the percentage of all low-income 4th grade Zuni students that did not score proficient and above in math ranged from 47.8 percent to 86.4 percent. (Yazzie Stip. #977)

1878. Between 2007 and 2014, the percentage of all low-income 11th grade Zuni students that did not score proficient and above in math ranged from 76.1 percent to 85.7 percent. (Yazzie Stip. #978)

ELL

1879. Between 2007 and 2011, the percentage of all ELL 4th grade Zuni students that did not score proficient and above in reading ranged from 49.4 percent to 67.4 percent. (Yazzie Stip. #979)

1880. Between 2007 and 2011, the percentage of all ELL 11th grade Zuni students that did not score proficient and above in reading ranged from 49.1 percent to 74 percent. (Yazzie Stip. #980)

1881. Between 2007 and 2011, the percentage of all ELL 4th grade Zuni students that did not score proficient and above in math ranged from 52.1 percent to 65.2 percent. (Yazzie Stip. #981)

1882. Between 2007 and 2011, the percentage of all ELL 11th grade Zuni students that did not score proficient and above in math ranged from 75 percent to 86.2 percent. (Yazzie Stip. #982)

1883. Between 2011 and 2014, the percentage of all current ELL 4th grade Zuni students that did not score proficient and above in reading ranged from 85 percent to 87.7 percent. (Yazzie Stip. #983)

1884. Between 2011 and 2014, the percentage of all current ELL 11th grade Zuni students that did not score proficient and above in reading ranged from 84.2 percent to 100 percent. (Yazzie Stip. #984)

1885. Between 2011 and 2014, the percentage of all current ELL 4th grade Zuni students that did not score proficient and above in math ranged from 75 percent to 96.8 percent. (Yazzie Stip. #985)

1886. Between 2011 and 2014, the percentage of all current ELL 11th grade Zuni students that did not score proficient and above in math ranged from 100 percent to 100 percent. (Yazzie Stip. #986)

1887. Between 2011 and 2014, the percentage of all exited ELL 4th grade Zuni students that did not score proficient and above in reading 35.4 percent to 59.7 percent. (Yazzie Stip. #987)

1888. Between 2011 and 2014, the percentage of all exited ELL 11th grade Zuni students that did not score proficient and above in reading ranged from 60.8 percent to 100 percent. (Yazzie Stip. #988)

1889. Between 2011 and 2014, the percentage of all exited ELL 4th grade Zuni students that did not score proficient and above in math ranged from 68.8 percent to 76.1 percent. (Yazzie Stip. #989)

1890. Between 2011 and 2014, the percentage of all exited ELL 11th grade Zuni students that did not score proficient and above in math ranged from 69 percent to 100 percent. (Yazzie Stip. #990)

PARCC Scores 2014-16

All Students

1891. In 2014-15, 88.4 percent of 4th grade Zuni students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #991)

1892. In 2015-16, 88 percent of 4th grade Zuni students did not score proficient or above in reading on the PARCC

1893. In 2014-15, 78.1 percent of 11th grade Zuni students did not score proficient or above in reading on the PARCC. (Yazzie Stip. #992)

1894. In 2015-16, 70.7 percent of 11th grade Zuni students did not score proficient or above in reading on the PARCC.

1895. In 2014-15, 94.6 percent of 4th grade Zuni students did not score proficient or above in math on the PARCC. (Yazzie Stip. #993)

1896. In 2015-16, 92 percent of 4th grade Zuni students did not score proficient or above in math on the PARCC.

1897. In 2014-15, 100 percent of 11th grade Zuni students did not score proficient or above in math on the PARCC. (Yazzie Stip. #994)

1898. In 2015-16, 96.2 percent of 11th grade Zuni students did not score proficient or above in math on the PARCC.

1899. Based on outputs, including proficiency levels and graduation rates, New Mexico students are not finishing their public educations with the skills necessary to prepare them for college or career. Garcia, 6/12/17, 62:15-63:17.

1900. Based on the very low proficiency levels and graduation rates in New Mexico, even students who are graduating are not necessarily college or career ready. Rodriguez, 6/21/17 at 134:10-135:7.

1901. Based on Los Lunas' low levels of proficiency, its students are not going to be prepared for college or career. Sanders, 7/10/17 at 187:20-189:18.

1902. Of the 11th grade test performance scores across all districts examined, less than 50 percent of Hispanics are meeting proficiency standards in Reading, Math,

and Science, which has significant implications for college preparation and readiness, particularly given that the majority of K-12 students in New Mexico are Hispanic. P-2794 at ¶ 73.

1903. The adoption of the PARCC has not translated to improving academic outcomes for underserved students. Ex. P. 2878 at ¶ 34.

1904. The PARCC has not aided in closing the achievement gap, and, in fact, gaps between white students and other subgroups have increased in some assessment areas. Ex. P. 2878 at ¶ 34.

1905. These outcomes suggest that there are inequities in the system and not sufficient resources allocated to underserved student subgroups to be able to achieve higher proficiency rates. Ex. P. 2878 at ¶ 34.

1906. NAEP 4th grade math scores are an important early indicator of whether students are college and career ready. Contreras, 6/19/17-a.m. at 13:14-25.

1907. By 8th grade, proficiency scores matter in terms of understanding whether a student will be college ready at the end of their high school trajectory. Contreras, 6/19/17-a.m. at 22:4-25.

1908. Eighth grade proficiency scores help predict whether a student will be ready for rigorous curriculum in high school, which then would lead to college readiness and avoid remediation. Contreras, 6/19/17-a.m. at 23:24:10.

1909. Eighth grade students who are proficient in math are more likely to graduate from high school, graduate from college, and more likely to have higher earning potential as adults. Wallin, 6/20/17 at 35:24-36:13.

1910. While there was testimony that scores are lower whenever a different testing system is instituted, the 2017 PARCC scores did not demonstrate improvement or that the majority of students were proficient in English and math. D-5045; D-5045A.

1911. Hipolito Aguilar, Deputy Secretary of Finance and Operations at PED, testified that New Mexico has not yet overcome the low proficiency scores. Aguilar, 8/4/17 at 62.

1912. The State is not happy with the student proficiency growth rate. Aguilar, 8/4/17 at 63:14-16.

1913. PED Acting Secretary Ruszkowski testified that the levels of non-proficiency—72 percent of students not proficient in reading on PARCC—is not sufficient. 7/17/17 at 73:22-74:2.

7. Graduation Rates

1914. New Mexico continues to have one of the lowest high school graduation rates in the country.

1915. According to the United States Department of Education, in 2010-2011 New Mexico had a public high school graduation rate of 63 percent, the second lowest

rate of all reported states in the country. See Yazzie Stip. No. 1243. The graduation rate for students in New Mexico with limited English proficiency in SY 2010-2011 was 56 percent. See Yazzie Stip. No. 1079.

1916. According to the United States Department of Education, in 2011-2012 New Mexico had a public high school graduation rate of 70 percent, tying New Mexico for the third lowest graduation rate of all reported states in the nation. See Yazzie Stip. No. 1244.

1917. According to the United States Department of Education, in 2012-2013 New Mexico had a public high school graduation rate of 70.3 percent, the second lowest state graduation rate of all reported states in the nation. See Yazzie Stip. No. 1245

1918. According to the United States Department of Education, in 2013-2014 New Mexico had a public high school graduation rate of 68.5 percent, the lowest in the nation. See Yazzie-Stips, #1246.

1919. In 2015, New Mexico's public high school graduation rate was 68.6 percent. Ex. P-3001.

1920. In 2016, New Mexico's public high school graduation rate was 71 percent. Ex. P-3001.

1921. In 2017, New Mexico's public high school graduation rate was 71.1 percent. Ex. P-3001.

1922. New Mexico has consistently had low graduation rates, ranging from 54 to 70 percent. Yazzie-Stips, ##995-1001; see also P-0152-G.

1923. New Mexico's improvement in graduation rates is laudatory, but it is still insufficient as even at its highest rate only 71 percent of the students graduate, a rate that places New Mexico near the bottom. *See* D-5008 at 14.

1924. Native American students graduate at much lower rates, ranging from 45 to 65 percent between 2008 and 2014. Yazzie-Stips, ##1002-1008.

1925. Native American students have a substantially higher risk of dropping out of both high school and college compared to other groups. Yazzie Stip. No. 1274.

1926. In 2008, New Mexico's public high school graduation rate for Native Americans was 45 percent. (Yazzie Stip. #1002)

1927. In 2009, New Mexico's public high school graduation rate for Native Americans was 58 percent. (Yazzie Stip. #1003)

1928. In 2010, New Mexico's public high school graduation rate for Native Americans was 61 percent. (Yazzie Stip. #1004)

1929. In 2011, New Mexico's public high school graduation rate for Native Americans was 56 percent. (Yazzie Stip. #1005)

1930. In 2012, New Mexico's public high school graduation rate for Native Americans was 65 percent. (Yazzie Stip. #1006)

1931. In 2013, New Mexico's public high school graduation rate for Native Americans was 64 percent. (Yazzie Stip. #1007)

1932. In 2014, New Mexico's public high school graduation rate for Native Americans was 62 percent. (Yazzie Stip. #1008)

1933. In 2015, New Mexico's public high school graduation rate for Native Americans was 62.9 percent. Ex. P-3001.

1934. In 2016, New Mexico's public high school graduation rate for Native Americans was 63 percent. Ex. P-3001.

1935. In 2017, New Mexico's public high school graduation rate for Native Americans was 61 percent. Ex. P-3001.

1936. Between 2008 and 2014, Economically Disadvantaged students' graduation rates ranged from 56.4 to 64.8 percent; SWD from 46.8 to 66.0 percent, and ELL from 55.6 to 65.8 percent. P-0152-G.

1937. In 2008, New Mexico's public high school graduation rate for Caucasians was 64 percent. Yazzie Stip. #1009.

1938. In 2009, New Mexico's public high school graduation rate for Caucasians was 75 percent. (Yazzie Stip. #1010)

1939. In 2010, New Mexico's public high school graduation rate for Caucasians was 76 percent. (Yazzie Stip. #1011)

1940. In 2011, New Mexico's public high school graduation rate for Caucasians was 73 percent. (Yazzie Stip. #1012)

1941. In 2012, New Mexico's public high school graduation rate for Caucasians was 78 percent. (Yazzie Stip. #1013)

1942. In 2013, New Mexico's public high school graduation rate for Caucasians was 77 percent. (Yazzie Stip. #1014)

1943. In 2014, New Mexico's public high school graduation rate for Caucasians was 76 percent. (Yazzie Stip. #1015)

1944. In 2015, New Mexico's public high school graduation rate for Caucasians was 73.6 percent. Ex. P-3001.

1945. In 2016, New Mexico's public high school graduation rate for Caucasians was 76 percent. Ex. P-3001.

1946. In 2017, New Mexico's public high school graduation rate for Caucasians was 76.4 percent. Ex. P-3001.

1947. In 2013-14 the Native American graduation rate in Alamogordo was 60.7 percent. (Yazzie Stip. #86)

1948. In 2014-15 the ELL graduation rate in Alamogordo was 80.3 percent. (Yazzie Stip. #87)

1949. In 2014-15 the ED (economically disadvantaged) graduation rate in Alamogordo was 55.4 percent. (Yazzie Stip. #88)

1950. In 2014-15 the ELL graduation rate in Albuquerque was 53 percent. (Yazzie Stip. #120)

1951. In 2014-15 the ED graduation rate in Albuquerque was 54.8 percent. (Yazzie Stip. #121)

1952. In 2014-15 the Native American graduation rate in Bernalillo was 58.7 percent. (Yazzie Stip. #178)

1953. In 2014-15 the ELL graduation rate in Bernalillo was 69.2 percent. (Yazzie Stip. #179)

1954. In 2014-15 the ED graduation rate in Bernalillo was 69 percent. (Yazzie Stip. #180)

1955. In 2014-15 the Native American graduation rate in Cuba was 49.2 percent. (Yazzie Stip. #232)

1956. In 2014-15 the ELL graduation rate in Cuba was 54.4 percent. Yazzie Stip. #233)

1957. In 2014-15 the ED graduation rate in Cuba was 60.6 percent. (Yazzie Stip. #234)

1958. In 2014-15 the Native American graduation rate in Española was 57.1 percent. Yazzie Stip. #277)

1959. In 2014-15 the ELL graduation rate in Española was 65.7 percent. (Yazzie Stip. #278)

1960. In 2014-15 the ED graduation rate in Española was 56.6 percent. (Yazzie Stip. #279)

1961. In 2014-15 the ELL graduation rate in Gadsden was 80.6 percent. (Yazzie Stip. #322)

1962. In 2014-15 the ED graduation rate in Gadsden was 81.1 percent. (Yazzie Stip. #323)

1963. In 2014-15 the Native American graduation rate in Gallup was 64.9 percent. Yazzie Stip. #363)

1964. In 2014-15 the ELL graduation rate in Gallup was 65.2 percent. Yazzie Stip. #364)

1965. In 2014-15 the ED graduation rate in Gallup was 65.1 percent. (Yazzie Stip. #365)

1966. In 2014-15 the Native American graduation rate in Grants was 64.4 percent. Yazzie Stip. #422)

1967. In 2014-15 the ELL graduation rate in Grants was 53.5 percent. (Yazzie Stip. #423)

1968. In 2014-15 the ED graduation rate in Grants was 70.6 percent. (Yazzie Stip. #424)

1969. In 2014-15 the ELL graduation rate in Hatch was 69.7 percent. (2015, 4 year cohort) (Yazzie Stip. #477)

1970. In 2014-15 the ED graduation rate in Hatch was 68.5 percent. (2015 , 4 year cohort) (Yazzie Stip. #478)

1971. In 2014-15 the Native American graduation rate in Jemez Valley was 90.4 percent. (2015, 4 year cohort) (Yazzie Stip. #517)

1972. In 2014-15 the ED graduation rate in Jemez Valley was 97 percent. (2015, 4 year cohort) (Yazzie Stip. #518)

1973. In 2014-15 the ED graduation rate in Lake Arthur was 67.3 percent. (2015, 4 year cohort) (Yazzie Stip. #545)

1974. In 2014-15 the Native American graduation rate in Las Cruces was 50.9 percent. ([2015](#), 4 year cohort) (Yazzie Stip. #566)

1975. In 2014-15 the ELL graduation rate in Las Cruces was 69.2 percent. ([2015](#), 4 year cohort) (Yazzie Stip. #567)

1976. In 2014-15 the ED graduation rate in Las Cruces was 64 percent. ([2015](#), 4 year cohort) (Yazzie Stip. #568)

1977. In 2014-15 the Native American graduation rate in Los Lunas was 70.6 percent. (2015, 4 year cohort) (Yazzie Stip. #609)

1978. In 2014-15 the ELL graduation rate in Los Lunas was 79 percent. (2015, 4 year cohort) (Yazzie Stip. #610)

1979. In 2014-15 the ED graduation rate in Los Lunas was 70 percent. (2015, 4 year cohort) (Yazzie Stip. #611)

1980. In 2014-15 the Native American graduation rate in Magdalena was 84.8 percent. (2015 , 4 year cohort) (Yazzie Stip. #656)

1981. In 2014-15 the ED graduation rate in Magdalena was 83.7 percent. (2015 , 4 year cohort) (Yazzie Stip. #657)

1982. In 2014-15 the ELL graduation rate in Moriarty was 61.7 percent. (2015 , 4 year cohort) (Yazzie Stip. #682)

1983. In 2014-15 the ED graduation rate in Moriarty was 53.2 percent. (2015, 4 year cohort) (Yazzie Stip. #683)

1984. In 2014-15 the ELL graduation rate in Peñasco was 92.1 percent. 2015, 4 year cohort) (Yazzie Stip. #715)

1985. In 2014-15 the ED graduation rate in Peñasco was 83.1 percent. 2015, 4 year cohort) (Yazzie Stip. #716)

1986. In 2014-15 the Native American graduation rate in Pojoaque was 85.3 percent. (2015, 4 year cohort) (Yazzie Stip. #737)

1987. In 2014-15 the ELL graduation rate in Pojoaque was 72.9 percent. (2015, 4 year cohort) (Yazzie Stip. #738)

1988. In 2014-15 the ED graduation rate in Pojoaque was 71.4 percent. (2015, 4 year cohort) (Yazzie Stip. #739)

1989. In 2014-15 the Native American graduation rate in Rio Rancho was 78.8 percent. (2015, 4 year cohort) (Yazzie Stip. #780)

1990. In 2014-15 the ELL graduation rate in Rio Rancho was 72.1 percent. (2015, 4 year cohort) (Yazzie Stip. #781)

1991. In 2014-15 the ED graduation rate in Rio Rancho was 69.7 percent. (2015, 4 year cohort) (Yazzie Stip. #782)

1992. In 2014-15 the Native American graduation rate in Santa Fe was 61.2 percent. (2015, 4 year cohort) (Yazzie Stip. #827)

1993. In 2014-15 the ELL graduation rate in Santa Fe was 56.1 percent. (2015, 4 year cohort) (Yazzie Stip. #828)

1994. In 2014-15 the ED graduation rate in Santa Fe was 66.3 percent. (2015, 4 year cohort) (Yazzie Stip. #829)

1995. In 2014-15 the ELL graduation rate in Silver City was 84.4 percent. (2015, 4 year cohort) (Yazzie Stip. #874)

1996. In 2014-15 the ED graduation rate in Silver City was 82.5 percent. (2015, 4 year cohort) (Yazzie Stip. #875)

1997. In 2014-15 the Native American graduation rate in Taos was 57.7 percent. (2015, 4 year cohort) (Yazzie Stip. #900)

1998. In 2014-15 the ELL graduation rate in Taos was 41.4 percent. (2015, 4 year cohort) (Yazzie Stip. #901)

1999. In 2014-15 the ED graduation rate in Taos was 56.2 percent. (2015, 4 year cohort) (Yazzie Stip. #902)

2000. In 2014-15 the ELL graduation rate in Tucumcari was 57.5 percent. (2015, 4 year cohort) (Yazzie Stip. #941)

2001. In 2014-15 the ED graduation rate in Tucumcari was 61.3 percent. (2015, 4 year cohort) (Yazzie Stip. #942)

2002. In 2014-15 the Native American graduation rate in Zuni was 64.3 percent. (2015, 4 year cohort) (Yazzie Stip. #963)

2003. In 2014-15 the ELL graduation rate in Zuni was 64.7 percent. (2015, 4 year cohort) (Yazzie Stip. #964)

2004. In 2014-15 the ED graduation rate in Zuni was 66.9 percent. (2015, 4 year cohort) (Yazzie Stip. #965)

2005. In 2015 in New Mexico, one-third of Hispanic students did not graduate in four years. (Pahl 07/20/17, at 129:17-18). (Martinez Stip. #54)

2006. In 2015, nearly 40 percent of Native American students did not graduate in four years. (Pahl 07/20/17, at 129:18-20). (Martinez Stip. #55)

2007. According to a presentation from the Legislative Education Study Committee on November 19, 2015, New Mexico ranked 46 out of 50 states in six-year graduation for Hispanic Students at the time of the presentation. (Pahl, 07/20/17, at 130:10-12). (Martinez Stip. #57)

2008. According to a presentation from the Legislative Education Study Committee on November 19, 2015, New Mexico ranked 45th out of 50 states in

six-year college graduation for Native American Students at the time of the presentation. (Pahl, 07/20/17, at 130:13-15). (Martinez Stip. #58)

2009. According to a presentation from the Legislative Education Study Committee on November 19, 2015, New Mexico ranked 41st out of 50 states in the number of adults with at least an associate's degree at the time of the presentation. (Pahl, 07/20/17, at 130:16-18). (Martinez Stip. #59)

2010. Graduation and dropout rates are calculated using different reporting systems in New Mexico. (Gregory, 07/19/17, at 119). (Martinez Stip. #60)

2011. The cohort graduation rates and federal dropout rates are reported by the districts to STARS, and then PED pulls out the cohort information to perform the cohort calculation. (Gregory, 07/19/17, at 119:10-120:8). (Martinez Stip. #61)

2012. New Mexico implemented the first four-year cohort graduation rate in 2009. (Gregory, 07/19/17, at 125:6-15). (Martinez Stip. #62)

2013. Pre-2009 graduation rates are not necessarily comparable to post-2009 graduation rates. (Gregory, 07/19/17, at 125:6-15). (Martinez Stip. #63)

2014. New Mexico graduation rates are comparable from 2009 forward. (Gregory, 07/19/17, at 125:6-15). (Martinez Stip. #64)

2015. In 2007-08, New Mexico's public school dropout rate was 3.60 percent. (Yazzie Stip. #1016)

2016. In 2008-09, New Mexico's public school dropout rate was 3.80 percent.

(Yazzie Stip. #1017)

2017. In 2009-2010, New Mexico's public school dropout rate was 5.04 percent.

(Yazzie Stip. #1018)

2018. In 2010-2011, New Mexico's public school dropout rate was 4.90 percent.

(Yazzie Stip. #1019)

2019. In 2011-2012, New Mexico's public school dropout rate was 4.60 percent.

(Yazzie Stip. #1020)

2020. In 2012-2013, New Mexico's public school dropout rate was 4.70 percent.

(Yazzie Stip. #1021)

2021. In 2013-2014, New Mexico's public school dropout rate was 4.70 percent.

(Yazzie Stip. #1022)

2022. In 2014-2015, New Mexico's public school dropout rate was 4.40 percent.

(Yazzie Stip. #1023)

2023. Between school years 2007-08 to 2014-15, Alamogordo's average dropout rate was 3.45 percent. Dropout rates during that time ranged from .30 percent to 5.20 percent. (Yazzie Stip. #89)

2024. Between school years 2007-08 to 2014-15, Albuquerque's average dropout rate was 5.56 percent. Dropout rates during that time ranged from 2.40 percent to 7.20 percent. (Yazzie Stip. #122)

2025. Between school years 2007-08 to 2014-15, Bernalillo's average dropout rate was 5.90 percent. Dropout rates during that time ranged from 4.60 percent to 8.40 percent. (Yazzie Stip. #181)

2026. Between school years 2007-08 to 2014-15, Cuba's average dropout rate was 4.84 percent. Dropout rates during that time ranged from 3.0 percent to 8.70 percent. (Yazzie Stip. #235)

2027. Between school years 2007-08 to 2014-15, Española's average dropout rate was 7.31 percent. Dropout rates during that time ranged from 6.30 percent to 9.10 percent. (Yazzie Stip. #280)

2028. Between school years 2007-08 to 2014-15, Gadsden's average dropout rate was 2.15 percent. Dropout rates during that time ranged from 1.30 percent to 3.70 percent. (Yazzie Stip. #324)

2029. Between school years 2007-08 to 2014-15, Gallup's average dropout rate was 6.92 percent. Dropout rates during that time ranged from 5.40 percent to 9 percent. (Yazzie Stip. #366)

2030. Between school years 2007-08 to 2014-15, Grants-Cibola's average dropout rate was 4.27 percent. Dropout rates during that time ranged from 3 percent to 4.90 percent. (Yazzie Stip. #425)

2031. Between school years 2007-08 to 2014-15, Hatch's average dropout rate was 4.09 percent. Dropout rates during that time ranged from 1.1 percent to 10.40 percent. (Yazzie Stip. #479)

2032. Between school years 2007-08 to 2014-15, Jemez Valley's average dropout rate was .82 percent. Dropout rates during that time ranged from 0 percent to 1.50 percent. (Yazzie Stip. #519)

2033. Between school years 2007-08 to 2014-15, Lake Arthur's average dropout rate was 3.90 percent. Dropout rates during that time ranged from 0 percent to 5.80 percent. (Yazzie Stip. #546)

2034. Between school years 2007-08 to 2014-15, Las Cruces' average dropout rate was 3.54 percent. Dropout rates during that time ranged from 2.40 percent to 5.32 percent. (Yazzie Stip. #569)

2035. Between school years 2007-08 to 2014-15, Los Lunas' average dropout rate was 3.20 percent. Dropout rates during that time ranged from 2.20 percent to 4.90 percent. (Yazzie Stip. #612)

2036. Between school years 2007-08 to 2014-15, Magdalena's average dropout rate was 2.99 percent. Dropout rates during that time ranged from .30 percent to 5.20 percent. (Yazzie Stip. #658)

2037. Between school years 2007-08 to 2014-15, Moriarty's average dropout rate was 3.75 percent. Dropout rates during that time ranged from 1.50 percent to 5.30 percent. (Yazzie Stip. #684)

2038. Between school years 2007-08 to 2014-15, Peñasco's average dropout rate was 2.41 percent. Dropout rates during that time ranged from .70 percent to 3.70 percent. (Yazzie Stip. #717)

2039. Between school years 2007-08 to 2014-15, Pojoaque's average dropout rate was 3.01 percent. Dropout rates during that time ranged from 1.80 percent to 4.20 percent. (Yazzie Stip. #740)

2040. Between school years 2007-08 to 2014-15, Rio Rancho's average dropout rate was 2.49 percent. Dropout rates during that time ranged from 1.00 percent to 4.21 percent. (Yazzie Stip. #783)

2041. Between school years 2007-08 to 2014-15, Santa Fe's average dropout rate was 5.20 percent. Dropout rates during that time ranged from 3 percent to 7.30 percent. (Yazzie Stip. #830)

2042. Between school years 2007-08 to 2014-15, Silver City's average dropout rate was 2.31 percent. Dropout rates during that time ranged from 1.30 percent to 3.50 percent. ([2015](#), 4 year cohort) (Yazzie Stip. #876)

2043. Between school years 2007-08 to 2014-15, Taos' average dropout rate was 4.28 percent. Dropout rates during that time ranged from 2.40 percent to 6.24 percent. (Yazzie Stip. #903)

2044. Between school years 2007-08 to 2014-15, Tucumcari's average dropout rate was 3.39 percent. Dropout rates during that time ranged from 1.30 percent to 6.40 percent. (Yazzie Stip. #943)

2045. Between school years 2007-08 to 2014-15, Zuni's average dropout rate was 4.09 percent. Dropout rates during that time ranged from 2 percent to 6.50 percent. (Yazzie Stip. #966)

2046. The Annie E. Casey Foundation reported that in 2014, New Mexico had the highest rate of school age children (16-19 year olds) not in school – 7 percent – of any state in the country. (Yazzie Stip. #1247)

2047. The Annie E. Casey Foundation reported that in 2011, New Mexico had the highest rate of school age children (16-19 year olds) not in school -9 percent- of any state in the country. (Yazzie Stip. #1248)

2048. The Annie E. Casey Foundation reported that in 2010, New Mexico had the highest rate of school age children (16-19 year olds) not in school -10 percent- of any state in the country. (Yazzie Stip. #1249)

2049. The Annie E. Casey Foundation reported that from 2012-2014, the national average for school age children not in school was 4 percent. (Yazzie Stip. #1250)

2050. The Annie E. Casey Foundation reported that in 2011, the national average for school age children not in school was 5 percent. (Yazzie Stip. #1251)

2051. The Annie E. Casey Foundation reported that in 2010, the national average for school age children not in school was 6 percent. Yazzie Stip. #1252.

8. College Readiness

2052. Proficiency is the standard one should be concerned with when determining college and career readiness. Contreras, 6/19/17-a.m. at 76:7-10.

2053. Comparing graduation statistics statewide and across Focus Districts with low proficiency scores, particularly in 2015 and 2016 on the PARCC exam, which is based on college readiness standards, further reveals that, for the students who do manage to graduate from high school, the State of New Mexico is failing to successfully graduate students who are college and career ready. P-2878 at ¶ 17.

2054. The rates of graduation include students who have not attained proficiency in the various subjects, as measured by tests, but who have been allowed to graduate by Alternative Demonstration of Competency (—ADC^{II}), under which students need to show competency, not proficiency, through a combination of course work, course exams, acceptance to any college, works of art, job performance, and other factors. See, e.g., P-1318; P-3002 (NMAC 6.19.7.10). See also White, Depo. Desig. at 73:13-25; Yazzie Stip. #1298; White, Depo. Desig. at 74:1-75:2; Yazzie Stip. #1299.

2055. Students must demonstrate proficiency in English and math on the PARCC to graduate. Ex. P-1318 at 3-4.

2056. Students must demonstrate proficiency in science on the SBA to graduate. Ex. P-1318 at 4.

2057. Students must demonstrate proficiency in social studies on the state's end-of-course exam to graduate. Ex. P-1318 at 4.

2058. If a student does not demonstrate proficiency in English, math, science and social studies after multiple attempts, a student may graduate by an ADC. See Ex. P-1318.

2059. ADC includes results from post-secondary nationally-normed assessments; results from workforce readiness assessments; results from end-of-course examinations; school-based projects such as extended papers, themes, theses or research projects; performances or works of art; or community-based projects such as internships, service learning, pre- apprenticeship, or afterschool job performance. Ex. P-1318 at 20.

2060. In Gallup-McKinley, since many students cannot pass the PARCC exam, students are getting their high school diplomas through a waiver. Because of this, Pauletta White does not believe that these students are college or career ready. White, Depo.Desig. at 72:21-73:12.

2061. In Española, many students graduate based on an ADC because not all

students can demonstrate proficiency on PARCC. Martinez, 6/14/17 at 253:24-254:3.

2062. The Superintendent of Magdalena testified that over 10 percent of its students graduated through an ADC in 2015-16. Perry, 6/29/17 at 41:22-42:3.

2063. Leighann Lenti testified that if a student is truly college and career ready, they do not have to take remedial coursework when they get to college. Lenti, 7/26/17 at 62:3-6.

2064. Taking even one remedial course makes it more likely that students have an increased likelihood of actually graduating from college. Lenti, 7/26/17 at 62:7-11.

2065. Secretary Skandera testified that if someone is taking remedial courses at a two- or four-year university, they are not college and career ready. Skandera, Depo. Des. at 51:4-7.

2066. A sizeable proportion of the high school graduate population is not college-ready and must take remedial education courses prior to earning any college credits. This remediation is equivalent to repeating high school, and is often associated with additional fees for the student. Ex. P-2793 at ¶ 27; Belfield, 6/13/17-a.m. at 22:18-19.

2067. Many students can graduate from high school, but they do not have the skills needed to progress through college. Belfield, 6/13/17-a.m. at 22:14-16.

2068. When students have to take remedial courses in college, they often have to pay for them because they cannot get a student loan for them. Belfield, 6/13/17-a.m. at 30:19-23.

2069. Myra Martinez , associate superintendent for curriculum and instruction of Espanola Public Schools, testified that a large percent of students that go to the local college, Northern New Mexico, have to take remedial courses. . Martinez, 6/14/17 at 156:14-16; 225:5-11.

2070. Superintendent Garcia testified that the majority of students who graduate in Santa Fe need remedial courses. Garcia, 6/15/17 at 115:8-11.

2071. About half of the students who attend NMSU after high school require college remediation courses, Space, 06/29/17, 151:14-152:11.

2072. To increase college and career readiness for Native American students in the Grants-Cibola district, Dr. Space testified that he would hire college readiness counselors, however, he does not have the money to do so. Space, 6/29/17 at 152:21-154:19.

2073. GCCS is in need of a college counselor(s) to inform students in all grade levels, especially incoming freshmen, about college opportunities, college-preparation, and ensuring that first generation college-goers are on track for college. Space, 06/29/17 at 152:21-153:14.

2074. In 2015, GCCS applied for but was denied below-the-line funding for a college counselor program; the following year, without communication from PED, the programmatic funding was discontinued statewide. Space, 06/29/17 at 153:15-155:1.

2075. The Superintendent of Hatch testified that the district does not have college and career readiness counselors at the high school level that help students plan their futures because the district does not have the funding for college and career readiness counselors. Hale, Depo. Desig. at 157:13-18.

2076. The remediation rates for New Mexico's students are high. Contreras, 6/19/17-a.m. at 44:22-45:8.

2077. Many high school graduates are underprepared for college, as only half of New Mexico's high school graduates who attend college complete a four-year degree within six years. Ex. P-2793 ¶ 13.

2078. About half of the students who graduate from high school and go to college need remedial courses. Yazzie-Stips, ## 1024-1028; see also Ex. P-2794 at ¶ 62.

2079. In New Mexico in 2013, 64.2 percent of students entering a two-year college required remediation and 46 percent of those entering a non-flagship 4-year university required remediation. Ex. P-2794 at ¶ 62

2080. In fiscal year 2012, New Mexico's college remediation rates was 59 percent for Native American students; 68 percent for Hispanic students; and 79 percent for

low-income students, compared to 51 percent of students overall. (Yazzie Stip. #1136 at 11)

2081. In 2010, the percentage of first time freshmen enrolled in remedial courses in New Mexico public postsecondary institutions from New Mexico public high schools was 48 percent. (Yazzie Stip. #1024)

2082. In 2011, the percentage of first time freshmen enrolled in remedial courses in New Mexico public postsecondary institutions from New Mexico public high schools was 49 percent. (Yazzie Stip. #1025)

2083. In 2012, the percentage of first time freshmen enrolled in remedial courses in New Mexico public postsecondary institutions from New Mexico public high schools was 50 percent. (Yazzie Stip. #1026)

2084. In 2013, the percentage of first time freshmen enrolled in remedial courses in New Mexico public postsecondary institutions from New Mexico public high schools was 48 percent. (Yazzie Stip. #1027)

2085. In 2014, the percentage of first time freshmen enrolled in remedial courses in New Mexico public postsecondary institutions from New Mexico public high schools was 52 percent. (Yazzie Stip. #1028)

2086. The college remedial rate was 68 percent for Hispanic students and 79 percent for low-income students. Yazzie-Stips, #1256; see also Ex. P-0183 at 6.

2087. Fifty-nine percent of Native American students need college remediation courses. Ex. P-0183 at 6.

2088. Further, college students who require remedial courses are less likely to complete a degree or certification program. Yazzie-Stips, #1029, 1258.

2089. Approximately 78 percent of the students enrolling in remedial college classes in New Mexico are recent graduates of New Mexico public high schools. (Yazzie Stip. #1254)

2090. In fiscal year 2012, the overall college remedial rate for recent New Mexico high school graduates was 51 percent. (Yazzie Stip. #1255)

2091. In fiscal year 2012, New Mexico's college remedial rate was 59 percent for Native American students; 68 percent for Hispanic students; and 79 percent for low-income students. (Yazzie Stip. #1256)

2092. Of the students whose highest high school math class was Algebra II, 77 percent were required to take a developmental math course as a freshman in 2013. (Yazzie Stip. #1257 at 8)

2093. In 2009, New Mexico's six-year bachelor's degree attainment rate was 77 percent; for students taking one remedial course it was 17 percent; for students taking two remedial courses it was 5 percent; for students taking three remedial courses it was 1 percent; and for students taking 4 or more remedial courses it was 0 percent. (Yazzie Stip. #1258 at 6, 19).

2094. In 2013, New Mexico and Arizona both reported a labor force participation rate of 59.3 percent, the second lowest rate of workers participating in the labor force among the six southwestern states and lower than the national average. Yazzie Stip. #1342 at 17.

2095. According to an evaluation prepared in 2014 by the Legislative Finance Committee, titled *Cost-Effective Options for Increasing High School Graduation and Improving Adult Education*, graduating 2,600 more students annually would produce about \$700 million in net benefits to New Mexico over the lifetimes of these students. Martinez Stip. #34.

2096. It has been projected that in ten years 60 percent of all new jobs will likely require a college education. Martinez Stip. #35.

2097. Only 29 percent of New Mexico's 25- to 35-year old population at that time had higher education credentials. Martinez Stip. #38; Yazzie Stip. #1259.

2098. A 2011 U.S. Department of Education Report states that the median income of persons age 18 through 67 in the United States who had not completed high school was roughly \$25,000 a year in 2009, while the median income of persons age 18 through 67 who completed their education with at least a high school credential, including a General Educational Development (GED) certificate, was \$43,000. Yazzie Stip. #1260.

2099. A 2011 U.S. Department of Education Report states that over a person's working life, this difference in income translates to a loss of approximately \$630,000 in income for a person who did not complete high school compared to a person with a high school credential. Yazzie Stip. #1261.

2100. A 2011 U.S. Department of Education Report states that people that fail to graduate from high school are less likely to be employed, are in worse health than adults who are not dropouts, regardless of income, and are more likely to be incarcerated. Yazzie Stip. #1262.

2101. According to the New Mexico 2016 State of the Workforce Report, 29 percent of New Mexico workers participating in the labor force had a bachelor's degree or higher, the second lowest rate among the six southwestern states (except Oklahoma) and lower than the national average. Yazzie Stip. #1263.

2102. Reaching the goal of 60 percent of New Mexicans having postsecondary credentials by 2025, an increase of 20 percent within 11 years, is not feasible if programs are not aimed at the young Hispanic populations and all adults without postsecondary credentials or degrees. Yazzie Stip. #1265.

2103. In 2013, Native Americans had the highest unemployment rate of all racial and ethnic groups in New Mexico, at approximately 18 percent. Yazzie Stip. #1132.

2104. Defendants argue that proficiency on test scores and even differences between at-risk student scores and other student score are not what matter. Rather Defendants urge the Court to find that the educational outputs are sufficient because there has been growth or improvement in at-risk student scores. Even Defendants recognize that despite growth, New Mexico has not yet overcome the low proficiency scores. Aguilar, 8/4/17 at 62.

2105. Further, New Mexico is not happy with the students' growth rate. Thus, the Defendants' argument that growth is what matters is insufficient to carry the day. Aguilar, 8/4/17 at 63.

2106. The majority of children are not demonstrating proficiency based on these test scores. Adoption of the PARCC tests has not improved academic outcomes for at-risk students nor has it appreciably closed the achievement gap between at-risk students and other students. P-2878 ¶ 34.

9. PED's Programs Are Insufficient to Correct the Problems.

2107. The Court is not persuaded by Defendants' argument that no new funding is needed because its programs are working as shown by the fact that at-risk student performances are improving. The at-risk students are still not attaining proficiency at the rate of non-at-risk students, and the programs being lauded by PED are not changing this picture. *See, e.g.,* Sallee, 7/21/17-am at p. 92; P-2533 at 2 (proficiency is down in schools getting grant funding like PPE, and

truancy is increasing); P- 2988 at 81; Lenti, 7/26/17 at 52-53 (number of "F" schools have increased; 66 percent of schools saw no change or a decrease in their grade). Further, participation in the programs lauded by PED is limited. Pahl, 7/20/17 at 96-97 (starting in 2017-18 school year only one district will be allowed to participate in UVA); Montoya, 7/20/17 at 223-24.

2108. Frequently, the LFC and LEFC found that PED had failed to provide verifiable evidence that its programs were working. See P-2533.

2109. Many of the programs cited to by the State, such as Teachers Pursuing Excellence and Principals Pursuing Excellence, have only minimal participation by the schools in the state. See D-5078; D-5077.

2110. 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. Abbey, 7/25/17 at 100-01; Stewart, 6/20/17 at 149-52; Coleman, 6/22/17 at 128-30.

2111. 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 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. As recognized by the legislature in Section 22-1-1.2, every child can learn and succeed. This

conclusion is supported by the evidence. See also Garcia, 6/15/17 at 137-38; Yturralde, 6/29/17 at 113, 253-54; Perry, 6/29/17 at 42-43; Ruszkowski, 7/17/17 at 61-62, 195; Armor, 7/31/17 at 83; Aguilar, 8/4/17 at 59-60.

2112. 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. See generally Rothstein, 8/1/17 at 123-27.

2113. The Court rejects Defendants' expert conclusions that additional resources cannot improve achievement. The experts' conclusions were based on incomplete analysis. See P-2963, ¶¶ 12, 14, 15, 25-28; Rothstein, 7/10/17 at 105-108.

2114. Further, these conclusions are belied by the empirical evidence of improved performance and reduction in the education gap for children who participate in quality programs. See discussion of various programs, *supra* at Findings 6-212.

2115. That New Mexico fails to provide sufficient opportunities for its students to succeed in college and career is further demonstrated by the high proportion of New Mexico's high school graduates who require remedial education when they reach college. Between 2010 and 2014, the percentage of New Mexico's high school graduates enrolled in remedial courses during their freshman year in college was between 48 percent and 52 percent. [*See* 4-14-17 Stip. ¶¶ 1024-28.] This means that, of the low percentage of New Mexico students who both graduate *and*

enroll in college, about half of those students are unprepared for higher education. Because students who receive remedial education are less likely to complete a degree or certification program, [*see id.* ¶ 1029], New Mexico's education system harms even those who enter college.

C. Overall Education Funding in the State is Insufficient.

2116. New Mexico has made education its highest priority, even in lean budget years. Tr. 28:20-29:17 (Sallee)(7/24/17(AM)); Tr. 133:19-25, 142:12-144:6 (Abbey)(7/25/17); Tr. 137:20-139:24 (Smith)(7/26/17); P-2807 at 20.

2117. In FY 2016, funding to public education represented 44% of all general fund appropriations.

2118. Nevertheless, Defendants have failed to fund adequately programs necessary to provide an opportunity for all at-risk students to have an adequate education.

2119. Dr. Stephen M. Barro, an expert in education finance, Ex. P-2803 at ¶¶ 1-2.

2120. Dr. Barro's analyses of 2014-17 PED statistics on public school student expenditures under the SEG, when adjusted for inflation, shows that the annual expenditure for education was approximately 6.5 percent less in 2016-17 than it was during 2008-09. Ex. P-2803 at ¶¶ 44-50, Tbls. 4a, 4b, 5.

2121. David Abbey testified that inflation during the period of 2007-2015 was in the range of one to two percent, which had the effect of nullifying the increase SEG unit value during that same period. Abbey, 7/25/17 at 64:16-66:5.

2122. The SEG’s unit value has remained essential the same from 2007 to 2015 when adjusted for inflation. Abbey, 7/25/17 at 64:16-66:5.

2123. In 2008, public schools received 43.8 percent of the state’s budget. (Yazzie Stip. #1139)

2124. In SY 2008-2009, the basic unit value of funding for each student distributed through the SEG was \$3871.79 and the total amount of money that New Mexico appropriated to the public schools through the SEG was approximately \$2.35 billion. (Yazzie Stip. #1141)

2125. In 2013, the unit value was \$3,817.55. (Yazzie Stip. #1142)

2126. According to the June 2015 “Public Education Finances” published by the U.S. Census Bureau, in 2013 New Mexico spent an average of \$9,012 per student on education. According to the 2016 version of this publication in 2014 this amount had increased to \$9,734. (Yazzie Stip. #1344)

2127. LFC Post Session Review - State Allocations to Public Education Yazzie Stip. #1343

LFC 2006 Post Session Review	FY 2007	\$2,292,501,100
LFC 2007 Post Session Review	FY 2008	\$2,491,261,600
LFC 2008 Post Session Review	FY 2009	\$2,605,854,900

Review		
LFC 2009 Post Session Review	FY 2010	\$2,373,827,600
LFC 2010 Post Session Review	FY 2011	\$2,431,226,900
LFC 2011 Post Session Review	FY 2012	\$2,393,379,600
LFC 2012 Post Session Review	FY 2013	\$2,455,341,400
LFC 2013 Post Session Review	FY 2014	\$2,567,475,900
LFC 2014 Post Session Review	FY 2015	\$2,715,287,600
LFC 2015 Post Session Review	FY 2016	\$2,752,113,100
LFC 2016 Post Session Review	FY 2017	\$2,759,000,000

2128. Current and former New Mexico superintendents testified that their individual school districts do not have the funding necessary to maintain sufficient

programming, staffing and services for at-risk students, because nearly all of their appropriation goes to pay for fixed costs. Garcia, 6/12/17 at 70:9-24, 87:15-88:7; Garcia, 6/15/17 at 75:21-76:07, 176:6-17; Grossman, 6/14/17 at 54:13-18; Rounds, 7/12/17 at 79:21-80:15, 135:7-14; Sullivan, 7/12/17 at 278:14-280:3; Cleveland, 7/11/17 at 293:3-295:5.

2129. The instructional materials stipend is insufficient and many districts have had to supplement PED funds with their own district's operational funds. Garcia, 6/12/17 at 70-72; 6/15/17 at 86. *See also* Perry, 6/29/17 at 33.

2130. There are specific deficiencies in funding in the Rio Rancho school districts for tutoring, transportation and instructional materials. Cleveland, 7/11/17 at 191:18-192:1, 199:17-22, 208:8-213:17, 215:14-22.

2131. In Rio Rancho for the school year 2017-18 the amount of money per child that was allocated by the State for instructional materials was \$28.29 when the average cost of a textbook is anywhere between \$115 to \$125. Cleveland, 7/11/17 at 210:2-15. The cost of a textbook is between \$115 and \$125, and that the district makes up funding shortfalls during textbook adoption from other funding sources. Cleveland, 7/11/17 at 210. For example Rio Rancho has taken the money out of cash reserves or by taken it out of SEG money that should be going to the classrooms and to salaries and benefits. Cleveland, 7/11/17 at 199.

2132. In Rio Rancho the funding that the district has received for instructional materials from 2013-2017 has been insufficient to meet the district's instructional materials needs. Cleveland, 7/11/17 at 208. The funding that Rio Rancho receives through the instructional materials appropriation does not allow the school district to purchase a textbook for each child, which allows the child to take the textbook home. Cleveland, 7/11/17 at 208-09. The district does not have sufficient funding to deliver electronic media as a component of instructional materials. [Cleveland, 7/11/17 at 213-15.]

2133. There are specific deficiencies in funding in the Gallup-McKinley school district for instructional materials, transportation and tutoring. Chiapetti, 6/28/17 at 46, 49:14-23, 79:4-18, 156. Gallup McKinley County School District used district money to supplement state funding for instructional materials. Chiapetti, 6/28/17 at 156. He testified that he did not know whether the district would be able to afford adoption of culturally-relevant instructional material. Chiapetti, 6/28/17 at 156; *see also* Lewis, 6/30/17 at 139-40.

2134. There are specific deficiencies in funding in the Moriarty-Edgewood school district for transportation and instructional materials. Sullivan, 7/12/17 at 201:24-203:7, 205:6-23. Moriarty-Edgewood School District cannot follow the textbook adoption cycle because of insufficient funds. Sullivan, 7/12/17 at 192. Moriarty-Edgewood School District cannot provide a textbook for every student to take

home and that the district high school can only provide a classroom set of textbooks and one additional set for checkout through the library. Sullivan, 7/12/17 at 192.

2135. There are specific deficiencies in funding in the Cuba Independent School District (CISD) for transportation and instructional materials. Chavez, 7/7/17 at 77:10-16, 80:11-81:16, 84:7-22. CISD could not afford the most recent adoption cycle of instructional materials during the 2017-18 SY; it had to subsidize the remaining cost with operational funds. Chavez, 7/7/17 at 84:7-15. CISD has had to save instructional material funds from one year to the next in order to afford the more expensive adoption cycles. For example, in the 16-17 SY, CISD had carried over funds from the previous year, and even used additional operational funds, to afford the cost of the language arts adoption, which is much more expensive than other adoption cycles. Chavez, 7/7/17 at 84:16-25.

2136. There are specific deficiencies in funding in the Grants-Cibola school district for transportation and instructional materials. Space, 6/29/17 at 148:8-149:14, 159.

2137. GCCS does not receive sufficient state funding for instructional materials. Space, 06/29/17 at 159:2-7. The State's allocation of instructional materials funding allowed GCCS to spend \$28 per student, whereas the cost of purchasing materials is about \$50-100 per student. Space, 06/26/17 at 159:8-12. GCCS's

funding shortfall for instructional materials has forced GCCS to subsidize the cost of instructional materials with operational dollars, Space, 06/29/17 at 159:13-16.

2138. GMCS was unable to afford the most recent adoption cycle of instructional materials, due to insufficient funding. GMCS was provided \$28 per child for textbooks, including culturally relevant materials, which does not cover the cost of providing every student one text book or any additional culturally relevant materials. Chiapetti, 6/28/17 at 87:1-11. The minimum cost of providing a text book for each student is between \$85-150, depending on the subject. Chiapetti, 6/28/17 at 87:12-88:6.

2139. There are specific deficiencies in funding in the Zuni school district for instructional materials. Lewis, 6/30/17 at 139:25-140:5.

2140. There are specific deficiencies in funding in the Santa Fe school district for instructional materials. Garcia, 6/15/17 at 85:11-86:2. Funds for instructional materials are inadequate to meet textbook adoption cycles and the district has to supplement instructional materials funding from other sources. Garcia, 6/15/17 at 85-86.

2141. There are specific deficiencies in funding in the Las Cruces school district for transportation and instructional materials. Valdez, 7/6/17 at 17:25-18:13, 26:6-17, 84:4-23. Las Cruces Public Schools had to return approximately \$193,000 in instructional materials funds to the State in 2017, pursuant to a legislated funding

cut. Valdez, 7/6/17 at 25-26. The district had to pay for instructional materials out of the district's operational account because of the cut to funding. Valdez, 7/6/17 at 84.

2142. Espanola School District has insufficient funding for instructional materials and was forced to make copies of textbooks and workbooks. Martinez, 6/14/17 at 179:22-180:10.

2143. In Tucumcari, there are not enough textbooks for each child to bring home. The schools generally have sets of books for the classrooms which are used by the students. (McKinney, Dep. Des. 241-242. (Yazzie Stip. #1341).

2144. Instructional material funds received by the Magdalena Municipal School District do not always cover the costs of textbook adoption. The district uses operational funds or Indian education funds to cover funding shortfalls. Perry, 6/29/17 at 33.

2145. There are specific deficiencies in funding in the State of New Mexico for: 1) instructional materials; 2) below-the-line funding; and 3) pay for teachers to move between tiers per the SEG's T&E index. Rounds, 7/12/17 at 71:14-73:3, 81:11-83:2, 111:2-6. Stanley Rounds, Executive Director of the New Mexico Coalition of Education Leaders and the New Mexico School Superintendents Association, also testified that the State does not supply sufficient instructional material funds across the state so that school districts can supply all the instructional materials

students need. Rounds, 7/12/17 at 71, 111. He testified that, over the last ten years, the State supplied significantly less money than necessary for textbook adoption, and, as a result, districts used funds generated through the State Equalization Guarantee, also known as operational funds, to purchase instructional materials. Rounds, 7/12/17 at 71-72. Rounds testified that the use of operational funds to purchase instructional materials detracted from the basic mission of school districts to provide basic services that are assumed under the State Equalization Guarantee. Rounds, 7/12/17 at 71-72.

2146. Some teachers and administrators purchase instructional materials with their personal funds. For example, Assistant Superintendent Myra Martinez testified that she, like other Española teachers, purchases school supplies for students from her own pocket. *See* Martinez 6/14/17 at 179:20-180:17.

2147. Oftentimes, even these combined funds are not enough, as indicated by the *Martinez* Plaintiff parent testimony that their children at APS and the Zuni Public School District do not have textbooks to bring home. Louise Martinez Dep. Desig. at 28:13-29:16; 10-26-17 Edaakie Dep. Desig. at 12:1-19.

2148. In 2014 the LFC published the report *Public Education Department Oversight and Spending of Instructional Materials in Public Schools*. In the report, the LFC found: 1) the system for funding instructional materials does not meet current needs resulting in reports of inadequate resources while allocated

money goes unspent; 2) a disconnect between what school districts are expected to purchase and annual appropriations to the instructional materials fund exists; and 3) financial data published in PED's stat books suggest districts tend to use other revenue sources, most commonly general operating funds and federal Title funds, to purchase instructional materials. Ex. P-0328 at 22, 24.

2149. In its 2014 report *Public Education Department Oversight and Spending of Instructional Materials in Public Schools*, the LFC recommends the legislature should modify statute mandating that adequate instructional materials be available to all students at school and at home from the current statute of one textbook being available to each student to take home. Ex. P-0328 at 28.

2150. In its 2014 report *Public Education Department Oversight and Spending of Instructional Materials in Public Schools*, the LFC recommends PED should: 1) require instructional materials fund recipients to submit annual budget reports electronically, aggregate report data, and report this information to the legislature annually; 2) require that public instructional material fund recipients demonstrate sufficient instructional materials are available to students as part of the annual instructional materials report; 3) track and audit annual instructional material allocations and carry-over funds and 4) provide updated and accurate guidance about the expenditure of instructional material funds. Ex. P-0328 at 28.

1. Deficiencies in funding for transportation

2151. There are specific deficiencies in funding in the Rio Rancho school districts for transportation and other items. Cleveland, 7/11/17 at 191:18-192:1, 199:17-22, 208:8-213:17, 215:14-22. Rio Rancho has run a deficit in transportation since 2008. Cleveland, 7/11/17 at 211. Rio Rancho has had a deficit in transportation funding of about \$850,000. Cleveland, 7/11/17 at 210-11. To pay for the deficit in transportation funding, Rio Rancho has to take the money out of the SEG funding it receives, which is money that should be going into the classroom. Cleveland, 7/11/17 at 212. When the district has to take money out of the SEG to pay for transportation, it impacts class sizes, the programs the district is able to offer its children, and it impact staff compensation. Cleveland, 7/11/17 at 212.

2152. There are specific deficiencies in funding in the Gallup-McKinley school district for transportation and other items. Chiapetti, 6/28/17 at 46, 49:14-23, 79:4-18, 156. GMCS schools located in rural areas, where the roads often are unpaved, are presented with certain challenges, including the high expense of delivering certain goods and services, delivering instructional materials and food, and transporting both ancillary staff and students to and from schools. Chiapetti, 6/28/17 at 46:19-47:4. GMCS has attempted to overcome these challenges in a variety of ways, including; contracting private bus systems to transport certain student populations, Chiapetti, 6/28/17 at 47:19-25; paying for storage barns in

Gallup, Tohatchi, Navajo, Thoreau, Crownpoint, and Tse' Yi' Gai, which allows GMCS to house, fuel, and maintain their buses, 48:1-24; and transporting 100-gallon gasoline tanks to certain rural areas in the District. Chiapetti, 6/28/17 at 48:25-49:8. Because funding from the State Defendants is insufficient, however, GMCS must subsidize these transportation costs with operational funds and Title VIII (Impact Aide) dollars. Chiapetti, 6/28/17 at 49:14-23. Due to insufficient transportation funds, GMCS is unable to provide transportation to students who seek extended learning opportunities, such as K3 Plus, tutoring, and summer and after school programs. Chiapetti, 6/28/17 at 78:14-79:23.

2153. There are specific deficiencies in funding in the Moriarty-Edgewood school district for transportation and other items. Sullivan, 7/12/17 at 201:24-203:7, 205:6-23. In Moriarty-Edgewood, the district has to take money out of the operational fund (SEG) to subsidize its transportation appropriation from the state because it does not cover the costs of transporting children to school. Sullivan, 7/12/17 at 202.

2154. There are specific deficiencies in funding in the Cuba Independent School District (CISD) for transportation and other items. Chavez, 7/7/17 at 77:10-16, 80:11-81:16, 84:7-22. The geographic isolation of CSID affects transportation services for students located in the Eastern Navajo Nation and surrounding areas, where unpaved roads are often deplorable and muddy during inclement weather

conditions. The students residing in these areas have to be up as early as 4:30 AM to catch the bus by 8 AM. (Archuleta, Dep. Des. at 13:20-14:6; 15:2-3) (Yazzie Stip. #1309). During the months of January to February, buses cannot travel certain roads to pick up students, which directly impacts student attendance in the Cuba school district. (Archuleta, Dep. Des. at 15:4-9) (Yazzie Stip. #1310) CISD is located approximately 30-35 miles from the four Chapter Houses of the Eastern Navajo Nation. The roads between each of the chapter houses are deplorable. (Archuleta, Dep. Des. at 20:20-23:6) (Yazzie Stip. #1311) CISD, which owns its own buses, is expected to replace buses every 12 years; however, CISD buses often require replacement or incur expensive maintenance costs every 8-10 years due to the geographical conditions. Chavez, 7/7/17 at 81:2-24. The costs of providing transportation in CISD include salaries and benefits, diesel fuel, and maintenance and repairs, Chavez, 7/7/17 at 84:1-6. The State, however, does not provide any additional funding, other than the initial transportation fund allocation, to help CISD cover maintenance and repair costs to its buses. Chavez, 7/7/17 at 81:25-82:5; 83:3-6. When CISD cannot afford to fix its buses, it resorts to combining bus routes, which causes time-delays in student schedules, or borrowing buses from other districts at CISD's expense. Chavez, 7/7/17 at 82:6-83:2. Often CISD is forced to subsidize transportation costs with operational dollars, ranging between

\$50K and \$83K, which is particularly harmful when the District experiences mid-year funding cuts. Chavez, 7/7/17 at 83:7-25.

2155. There are specific deficiencies in funding in the Grants-Cibola school district for transportation and other items. Space, 6/29/17 at 148:8-149:14, 159. GCCS does not receive sufficient funding to meet the transportation needs of the students in the district. Given its rural location and surrounding Indian reservation lands, GCCS must subsidize the costs of transportation with operational dollars, Space, 06/29/17 at 148:8-149:2. GCCS students attending Laguna-Acoma schools are deprived of access to certain educational and extracurricular programs because they lack adequate transportation, Space, 06/29/17 at 149:3-14; 158:14-159:1.

2156. There are specific deficiencies in funding in the Las Cruces school district for transportation and other items. Valdez, 7/6/17 at 17:25-18:13, 26:6-17, 84:4-23.

2157. The funding insufficiency for transportation requires districts to divert money that could be spent on classroom programs. It also means that some children have difficulty getting to school, particularly when the roads are bad. In addition, the lack of funds means that at-risk students cannot participate in the kind of program that would enhance their educational achievement because there is no transportation available for off-hour programs.

2. Deficiencies in funding for technology

2158. Cuba Independent School District policy requires library instruction for all students. The District, however, is in need of library resources, updated technology, laptops, and computer software. Archuleta, Dep. Des. at 105:12-106:7; Yazzie Stip. #1306

2159. In the Zuni school district, lack of access to technology has compromised students' ability to take online tests, such as PARCC, or online courses, and it hinders students' ability to become educated in technology. Yazzie Stipulations ## 1325, 1326. Last school year (2015-2016), the Zuni District struggled to make sure its computers worked. (Lewis, 06/30/17 at 114:15-115:3; Yazzie Stip. # 1325) Zuni Middle School's new computer lab and computers did not become operational last year. Therefore, the amount of time it took for the middle school students to take the PARCC testing stretched from the fall semester till the last week of school. (Lewis, 06/30/17 at 115:15-18; 12:3-16; Yazzie Stip. #1326)

2160. Not every classroom in Grants-Cibola County Schools has a SMART board. (Space, 06/29/17 at 67:10-68:11) (Yazzie Stip. #1283)

2161. Being proficient in technology is an essential skill for students; however, a lot of children in New Mexico are still struggling to have adequate access and reliable access to technology. Cleveland, 7/11/17 at 215. Those children who do not have access to technology are handicapped. Cleveland, 7/11/17 at 214.

2162. The State of New Mexico required all districts to implement the online PARCC exam. Space, 06/29/17 at 218:25-219:6. GCCS paid \$1 million dollars to upgrade its broadband capability in order to meet the State mandate. The State contributed \$38,000, while GCCS endured the remainder of the cost, while also having to forego providing students other educational opportunities. Space, 06/29/17 at 219:7-19; 220:8-15. The Information Technology (IT) team at GCCS does not have adequate resources to meet the technology needs of the District. Space, 06/29/17 at 220:16-221:12.

3. Programmatic and staff-related deficiencies

2163. There are specific deficiencies in funding in the State of New Mexico for: 1) professional development for teachers; 2) class size reductions; 3) transportation; 4) extended learning opportunities; 5) ancillary personnel; 6) special education and 7) tutoring. Stewart (a New Mexico state senator with a master's degree in special education and extensive expertise in literacy instruction) 6/20/17 at 142:25-143:18, 147:1-148:3, 157:6-14, 164:22-24, 173:2-7, 195:5-13, 206:11-17, 207:21-24.

2164. There are specific deficiencies in funding in the State of New Mexico for: 1) instructional materials; 2) below-the-line funding; and 3) pay for teachers to move between tiers per the SEG's T&E index. Rounds (former analyst for the LESC, former school finance chief for the State of New Mexico, the former superintendent of the Des Moines, Alamogordo, and Las Cruces school districts,

former Director of the New Mexico Coalition of Education Leaders and current executive director of the New Mexico School Superintendents Association) 7/12/17 at 54:7-55:4, 7/12/17 at 71:14-73:3, 81:11-83:2, 111:2-6.

2165. CISD received \$60,000 in federal funds for two truancy officers, in order to operate a truancy program. However, the District had to use operational dollars to pay the cost of those officers' employee benefits. Yazzie Stip. #1312.

11. Districts Must Maintain Cash Balances In Order to Supplant Funding Shortfalls

2166. Individual school districts must maintain cash reserves of at least 5 percent of their annual operating budget in order to maintain cash flow for emergencies, unpredictable State payments, as well as to maintain favorable bond ratings and corresponding low interest rates. Garcia, 6/12/17 at 80:15-81:25, 82:8-83:21; Garcia, 6/15/17 at 92:23-93:10, 94:11-95:4; Grossman, 6/14/17 at 36:12-37:2, 64:2-8, 81:23-83-6; Cleveland, 7/11/17 at 199:23-200:1, 210:16-20, 217:3-218:4; Sullivan, 7/12/17 at 209:11-211:1.

2167. Hipolito Jose Aguilar has been since 2011 PED's Deputy Secretary of Finance and Operations. In his current position, Mr. Aguilar provides fiscal and policy oversight of PED, including oversight of administrative services (audit, fiscal flow-through, budget and procurement), human resources, school budget and finance, information technology, general counsel, student transportation, capital outlay, Indian education and federal programs. Mr. Aguilar also provides fiscal and

policy oversight for school districts and charter schools statewide, including budgeting, budget management, audit oversight and the distribution of funding for education in the state. D-5061 at 2:2-4, 3:7- 10, 3:19-21.

2168. Mr. Aguilar testified that the annual timetable for the allocation of federal Title I funds to districts is variable and inconsistent, thereby necessitating that school districts maintain cash reserves to fund programming while awaiting those funds. Aguilar, 8/4/17 at 188:20-190:16.

2169. Mr. Aguilar testified that all of the Plaintiff school districts and most of the focus districts had cash balance reserves close to the recommended target of 5 percent of their annual operating budget. Aguilar, 8/4/17 at 145:6-165:20.

2170. PED maintains unspent carryover balances for certain programs because it does not distribute money on time to districts for those targeted programs, thereby forcing districts to reserve ample funds to cover the costs of below the line programs while they await reimbursement from PED. Sallee, 7/21/17-a.m. at 102:12-103:20.

4. The State Equalization Guarantee Formula Fails to Provide Adequate Funding.

a) Funding Formula Structure

2171. Since the 1970s New Mexico for the most part has centrally funded public education. In 1974 New Mexico enacted the Public School Finance Act, NMSA 1978, §§ 22-8-1 through -48, which has been widely acclaimed as “one of the most innovative of the school finance plans currently being used across the country.” D-

5007 at 44-45 (Burrell); Tr. 146:11-15 (Barro)(7/6/17). This innovation was related to the decision to largely do away with reliance on local property taxes and to switch instead to centralized funding, which innovation forecloses a common type of equal protection argument because the Act's major purposes was to provide each student equal access to programs and services appropriate to his or her educational needs regardless of geographic location or local economic conditions. D-5007 at 44-45 (Burrell).

2172. The main vehicle for funding school operations is the State Equalization Guarantee funding formula (SEG). The SEG is the formula that state uses to calculate how much state money each school district will get every year for operational funds. Ex. P-2803 at ¶ 10.

2173. The state appropriation under the SEG accounts for approximately 87.8 percent of school district revenue from state and local sources and 73.2 percent of school district revenue when federal funds are included. Ex. P-2803 at ¶¶ 10, 52.

2174. The SEG distributes money based on numbers of students, called units, with different factors for different grade levels. Additional units are awarded for special education students depending on the level of special need. Other factors in the formula include a fine arts program unit, teacher training and experience, school size, and physical education. P-2803 at ¶ 10.

2175. The primary factors that the SEG fund allocation takes into account in determining each district's allocation are: 1) number of students enrolled (membership) in different grade spans; 2) number of students enrolled in specified programs and activities; 3) number of students who fall into three "at-risk" categories; 4) several size factors that generate extra funds for small districts and districts with small schools; and 5) a teacher training and experience (T&E) index that links allocations to district's percentage of long-serving teachers and teachers with advanced degrees. Ex. P-2803 at ¶52; Ex. P-71.

2176. Most of the SEG's adjustment factors enter into the formula in the same way: the number of students in each category is multiplied by a specified weight (e.g., a grade 7-12 student receives a weight of 1.25, a Category C special education student receives an add-on weight of 1.0, and an at-risk student in 2014 received an extra weight of .0915). Ex. P-2803 at ¶53

2177. The resulting weighted enrollment numbers, added together, produce a count of allocation "units" under the SEG formula. Ex. P-2803 at ¶53.

2178. The size factors are treated differently under the SEG formula than other factors, in that the number of size units depends on the amount by which a district's or a school's enrollment falls short of specific size thresholds. Ex. P-2803 at ¶53.

2179. The formula provides additional money through a weighting equation - to districts and state charter schools that face additional costs due to their size,

geographic location, and the makeup of their student population. Yazzie Stip. # 1140.

2180. The T&E index enters the SEG formula as a multiplier of a subtotal of the enrollment-based units for each school district. Ex. P-2803 at ¶53.

2181. Each district's SEG allocation equals its total unit count multiplied by a fixed unit value—a value determined annually through the state legislature's budget-setting process. Ex. P-2803 at ¶53.

2182. Outside of the SEG, New Mexico school districts receive funding from several other sources, known as “middle of the line” funding sources. These sources include funding for transportation, instructional materials, standards-based test scores, supplemental and emergency expenditures and the Indian Education Fund. Ex. D-5061 at 47:18-20.

2183. A factor for at-risk students is allotted. P-2803 at ¶ 84.

2184. The at-risk factor is calculated by adding up the fractions of the students who are poor, English Language Learners, or mobile. Thus, the at-risk factor considers students who qualify under Title 1 (children from families living at or below 100 percent of the federal poverty level), children who are English Language Learners, and children who are mobile as shown by a failure to remain in school for an entire year or consecutive years. This rate is multiplied by the statutorily assigned weight to produce a district's at-risk index. This number is

multiplied by the district's student membership which gives the number of at-risk units the district receives. *Id.* at ¶ 84. Units generated by the at-risk index are then added to all the other SEG allocation units that a school district receives based on the size and makeup of its student body. *Ex. P-2803* at ¶88.

2185. The weight in 2013-14 was .0915 and in 2014-15 it was .106. *P-2803* at ¶ 88.

2186. The LFC and LESC found that the at-risk formula did not correctly steer resources needed to educate English Language Learners and those children living in poverty. The same report found that some other states use a higher factor and a more simplified method of channeling resources to these students. *EX P-0087* at 3.

2187. These findings were consistent with the expert testimony of Stephen Barro who found that the at-risk formula made only a small incremental difference in money received by a district. *P-2803* at ¶ 11.

2188. In addition, Barro criticized the at-risk factor for using only those students whose families lived at or below 100 percent of the federal poverty guideline rather than the number of students who were entitled to free or reduced lunch whose families earn at or below 180 percent of the federal poverty guideline. (For illustration purposes, the Court notes that in 2018 a family of four living at or below 100 percent of poverty earned \$25,100 or less per year and a family of four living at 180 percent of poverty earned at or below \$45,180 per year. Federal

Poverty Guidelines, published in Federal registry of January 18, 2018, volume 83, number 12, at pp. 2642-44.)

2189. Another criticism related to the comparison of the size of the at-risk factor in New Mexico to that used by some other states. Some other states assign a factor of 25 percent to at-risk students, while New Mexico assigns only a 10.6 percent factor. P-2803 at ¶¶ 11. 19, 69. This factor is nominal because according to the Barro testimony when the non-at-risk factors are considered, —the true funding increment per at-risk student is only 5.0 percent. P-2803 at ¶ 11.d.

2190. As the LFC/LESC study pointed out the rates used for at-risk calculations in other states range for five percent to 50 percent of students qualifying for the free or reduced lunch program. P-0087 at 13. *See also* Burrell, 7/18/17 at 25-8.

2191. The poverty component of the SEG's at-risk rate is based on the district-by-district poverty counts that the U.S. Census Bureau produces each year, pursuant to federal law, for use in allocating federal Title I funds among states and school districts. The count for each district is an estimate of the number of children ages 5-17 who live in a family with income below the federal poverty line. P-2803 at ¶91.

2192. The poverty rate used for the 2014-15 SEG calculations is the average of rates for the 2011-12, 2012-13, and 2013-14 school years. P-2803 at ¶91.

2193. The English Language Learner (ELL) component of the SEG's at-risk rate is based on an assessment of individual students' English language proficiency, conducted by each district according to PED guidelines. The ELL figures reflected in the at-risk index are those that districts submit at the 40-day reporting point in each school year, and 40-day membership is used as the denominator in calculating the ELL rate. P-2803 at ¶91.

2194. The ELL rates used for the 2014-15 SEG calculations are averages of rates for school years 2011-12, 2012-13, and 2013-14. P-2803 at ¶91.

2195. The mobility rate is based on end-of-year data that districts submit to PED through STARS. These data pertain to the enrollment status of each individual student — for instance, whether a student was enrolled in the same school for the whole school year; whether the student transferred from another district or from a private school, and whether the student withdrew for any one of a number of listed reasons. EX P-2803 at ¶91.

2196. New Mexico does not base its at-risk funding on the number of students eligible for free and reduced priced meals under the National School Lunch Act. Yazzie Stip. # 1144

2197. New Mexico's at-risk index is calculated by using a three-year average of three different school district characteristics: the percentage of membership used to determine its Title I allocation, the percentage of ELL students, and the percentage

of student mobility in the district. *See* NMSA 22-8-23.3 (2016); Yazzie Stip. #1145

2198. According to Dr. Barro's analyses of 2014-15 PED statistics, SEG allocations to New Mexico school districts are only weakly related to district percentages of poor students, meaning that the highest poverty districts receive only 2 percent - 3 percent more funding per student than the average district. Ex. P-2803 at ¶¶ 61-65, Charts 2-3.

2199. According to Dr. Barro's analyses of 2014-15 PED statistics on public school student expenditures under the SEG, there is no positive association between district percentages of English-language-learning students (ELLs) and SEG funding per student. Ex. P-2803 at ¶¶ 66-67, Chart 4

2200. According to Dr. Barro's analyses of 2014-15 PED statistics on public school student expenditures under the SEG, there is only a slight positive correlation between districts' at-risk rates and SEG funding per pupil. Ex. P-2803 at ¶¶ 100-101, Tables 3-4

2201. According to Dr. Barro's analyses of 2014-15 PED statistics on public school student expenditures under the SEG, the relationship between the at-risk rate and SEG funding per pupil is weak because of the low weight assigned to the at-risk factor. Ex. P-2803 at ¶¶ 102-106, Table 5.

2202. The Court finds Dr. Barro's analyses cited above to be credible.

2203. Stephen Burrell was from 2001 to 2013 the director of PED's School Budget and Financial Analysis Unit, where he was responsible for undertaking financial analysis of the SEG and ascertaining the effects of legislation on the formula's computations. Burrell, 7/8/17 at 8:6-9:22.

2204. Mr. Burrell testified that the SEG contains no mechanism for inflation. Burrell, 7/8/17 at 15:13-17.

2205. Mr. Burrell testified that because the SEG current-year appropriation, by design, is derived from the prior year's appropriation it has the potential to be unresponsive to single-year influxes in in students, which can result in annual appropriations to districts that are not tailored to the educational needs of their students. Burrell, 7/8/17 at 20:25-21:14.

2206. Mr. Burrell testified that PED had neither evaluated whether the at-risk index should be increased based upon the cost of actually educating at-risk students, nor what its duties to New Mexico students entail under the constitutional mandate. Burrell, 7/8/17 at 23:25-24:12, 33:22-35:5.

2207. Mr. Burrell testified that: 1) some of the SEG's components "do not effectively recognize the cost difference or fairly allocate funding for serving at-risk students;" 2) "the at-risk index is a broken funding mechanism that is too complex and misallocates funds even when calculated accurately;" and 3) "most

other states allocate funds to at-risk students with more simple calculations that use federal data.” 7/18/17 at 26:14-28:8; P-87 at 11-13.

2208. Defendants New Mexico Secretary of Education Hanna Skandera and New Mexico Public Education Department do not have a working definition of the state constitutional provision which requires “a uniform system of free public school sufficient for the education of all school aged children.” Response No. 1 of Defendants Second Amended Response to Yazzie Plaintiffs’ First Request for Admissions; Yazzie Stip. #1137.

2209. Defendants New Mexico Secretary of Education Hanna Skandera and New Mexico Public Education Department do not have a working definition of the terms “sufficient” and “uniform” as used in Article XII, Section 1 of the New Mexico Constitution. Response No. 2 of Defendants Second Amended Response to Yazzie Plaintiffs’ First Request for Admissions; Yazzie Stip. #1138

2210. Charles Sallee testified, in line with several LFC reports, and criticized the SEG’s small school factor which allows charter schools to take advantage of the factor’s weighted funding and has the effect of diverting funds away from the needs of other school districts’ at-risk students. Sallee, 7/21/17-a.m. at 75:11-76:14; Ex. P-87 at 5. The Court agrees with Mr. Sallee’s testimony.

2211. In 2011, the Legislative Finance Committee (LFC) and Legislative Education Study Committee (LESC) published the joint study *Evaluation of the*

Public School Funding Formula, in which the committee documented its critique of New Mexico's school funding formula, the SEG in the areas of: 1) the relationship of formula components to educational policy; 2) the inter-relationship and dual powers of PED and school districts under existing New Mexico statute and 3) the relationship between PED's accountability function under the formula and the distribution of school resources to students. Ex. P-87 at 2.

2212. On the subject of the SEG's at-risk index, the 2011 LSC/LESC joint study found, "the at-risk index is a broken funding mechanism that is too complex and misallocates funds even when calculated accurately." Ex. P-87 at 13.

2213. On the subject of PED's calculation of the SEG's unit value, the 2011 LSC/LESC joint study found that PED should "develop a written methodology to determine the initial unit value." Ex. P-87 at 6

b) At-risk funding is inadequate

2214. Dr. Barro presented expert testimony on funding for at-risk students. The Court finds this testimony to be persuasive and the following findings are adopted based on such testimony.

2215. It would be reasonable to increase the SEG's at-risk factor to somewhere between .25 and .50 and expanding student membership eligible for weighted funding from those families meeting federal Census poverty income limits to those

students eligible for free or reduced priced lunch (FRPL). Ex. P-2803 at ¶¶ 27-36, 113-120, Exs. C, G, Table 7.

2216. According to analyses of 2014-15 PED statistics on public school student expenditures under the SEG, New Mexico's relative per-student spending figures, which already fall well-below the national average, fall precipitously further down the national rankings if FRPL and ELL students are only assigned additional weights without corresponding increases in total funding. Ex. P-2803 at ¶¶ 35-38, Tbls. 3a, 3b.

2217. According to analyses of 2014-15 PED statistics on public school student expenditures under the SEG, the at-risk rate controls such a small portion of SEG funds that it provides very little increased funding to districts with high concentrations of at-risk students. Ex. P-2803 at ¶¶ 99.

2218. According to analyses of 2014-15 PED statistics on public school student expenditures under the SEG, the SEG's current at-risk rate only controls approximately 3.4 percent of SEG funds. Ex. P-2803 at ¶103.

2219. According to analyses of 2014-15 PED statistics on public school student expenditures under the SEG, assuming a fixed total of SEG funding, the whole effect of the at-risk factor was to redistribute only a minuscule portion of SEG funds —\$7.25 million in 2014 — from one set of districts to the districts that need the funds. Ex. P-2803 at ¶¶ 110-112, Table 6.

2220. According to analyses of 2014-15 PED statistics on public school student expenditures under the SEG, for the 2014-15 school years the actual at-risk factor was only 5 - 6 percent, not the statutory 9 - 10 percent, because other formula factors generate an average of about 1.819 allocation units per student. Ex. P-2803 at ¶¶ 103-106, Table 5.

2221. Senator Stewart testified that the State of New Mexico does not provide sufficient funding to school districts in order to meet the needs of at-risk students. Stewart, 6/20/17 at 165:23-166:16, 208:12-16.

2222. The former director of PED's School Budget and Financial Analysis Unit, Mr. Burrell, testified, consistent with the 2011 LFC/LESC joint study (Ex. P-87 at 4-5), the at-risk index should be increased to .15 from the current .106 and expanded to students eligible for free or reduced-price lunch ("FRPL") from the U.S. Census-based threshold for poverty. Burrell, 7/18/17 at 25:13-26:2; P-87 at 6.

2223. Mr. Burrell testified that the SEG's adjustment-weighted allocation scheme would better serve districts' needs if both the at-risk index and the total appropriation for education were increased. Burrell, 7/8/17 at 36:13-37-7.

c) Many schools have had to seek waivers of the maximum class size requirement.

2224. Current New Mexico superintendents testified that in their individual school districts, many schools regularly seek waivers of the maximum class size

requirement from PED due to financial constraints. Sanders, 7/10/17 at 217-18; Cleveland, 7/11/17 at 159-60; Sullivan, 7/12/17 at 195-96, 271-72.

2225. Mr. Aguilar testified that PED has neither promulgated any rules about how class size waivers are granted or denied nor adopted any policies governing how districts should be audited after being granted class size waivers. Aguilar, 8/4/17 at 200:9-201:17.

5. Below the Line Funding is Inadequate.

2226. “Below-the-line” (BTL) funding for education in New Mexico is money appropriated for categorical educational programming by the New Mexico Legislature that falls outside the appropriation derived by SEG formulaic calculations. Sallee, 7/21/17 at 106:21-107:20. New Mexico allocates approximately \$100 million in “below-the-line” funding annually for educational programs targeted toward at-risk students. Tr. 138:7-139:24 (Smith)(7/26/17).

2227. BTL funding for programs is distributed by grants, for which school districts must apply, and districts must use the funding for specific programming. Grossman, 6/14/17 at 44:7-45:3.

2228. BTL grant funding may vary annually according to the fiscal year legislative appropriation, may be terminated for a fiscal year, and is generally not available to all school districts. Garcia, 6/12/17 at 73:11-74:9. The uncertainty surrounding this funding makes it difficult to use it for programs that should be sustained year-

after-year. Garcia, 6/12/17 at 73; 6/15/17 at 79-80; Martinez, 6/14/17 at 168-170; Stewart, 6/20/17 at 148-150.

2229. Programs in the State of New Mexico for: 1) early childhood education; 2) extended learning through the K3 Plus program; 3) literacy coaching and support through the Reads to Lead program are all funded below the line. Stewart, 6/20/17 at 156:14-157:5.

2230. The SEG has been criticized in a legislative report as being too complex. P-0087 at 2. In addition, the formula has been criticized for not being in compliance with statute as it relates to charter schools and the teacher and experience factor. *Id.* at 3-4; Rounds, 7/12/17 at 82.

2231. The small school factor has also been criticized and has allowed some districts and charter schools to take advantage of the factor when its application is questionable, at best. For criticisms of the formula, see Sallee, 7/21/17-a.m. at 66-68, 75-77, 80-81, 84-85; Abbey, 7/25/17 at 37-40, 42-44, 55-57, 58; Ex. P-2806 (2008 LFC Rpt.); Ex. P-401 (2014 LFC Performance Guidelines) at 6; Ex. P-402 (2016 LFC Performance Guidelines) at 5; Ex. P-403 (2017 LFC Performance Guidelines) at 5; Ex. P-324 (2011 LFC Rpt.) at 6, 8; Ex. P-326 (2014 LFC Rpt.) at 11; Ex. D-3994 (2014 LFC Rpt.) at 9.

2232. Leighann Lenti, the State's witness who oversaw PED's Pre-K program, admitted that she knew of no specific timeline or goal set forth with regard to the provision of Pre-K to all at-risk students. (Lenti, 07/26/17 at 37:20-24)

2233. The State did not attempt to direct Reads-to-Lead funding toward low income students until FY17, and even then, the State decreased funding for that program. [Abby, 07/26/17 at 53:12-14, 101:6-18]

2234. The BTL programs touted by the State also do not provide the support and programming necessary for ED students to succeed on par with their non-ED peers. [See Martinez Plaintiffs BIC 19-20, 22, 26.]

2235. Senator Stewart stated that the funding levels and inconsistency limit the effectiveness of the funded program because of the relatively small number of students it reaches. *Id.* at 149-151.

2236. The defense witnesses admitted that funding for education was important and some went so far as to say that funding should not be cut. Amor, 7/31/17-pm at 64-65; Hanushek, 8/3/17-pm at 40-42, 69.

2237. Defendants' witnesses recognized that increased funding spent on the right programs or awarded to well-run schools could make a difference to student outcomes. Armor, 7/31/17-p.m. at 93; Hanushek, 8/3/17- p.m. at 38-39; Lenti, 7/26/17 at 65.

2238. In fact, Dr. Hanushek agreed that "[t]here's no doubt that money can make a difference to school outcomes, and there's no doubt that . . . there are times when [money] does matter." He suggested "focus[ing] on how the money is spent as opposed to how much is spent." 8/3/17-p.m. at 9-10.

2239. Witnesses for both sides agreed on the need to spend money on programs that have been shown to meet the needs of economically disadvantaged students. Berliner, 6/12/17 at 238; Sallee, 7/12/17-am at 26-27; Abbey, 7/25/17 at 90-91, 101-103.

2240. The Defendants also take the position that no more funding is needed because the districts are not spending the money that they are allocated now. Numerous witnesses testified that a cash balance of approximately 5 percent was necessary for cash flow purposes and to maintain bond ratings. Aguilar, 8/4/17 at 145-165; Rounds, 7/12/17 at 132; Garcia, 6/12/17 at 80-83; Garcia, 6/15/17 at 92-95; Grossman, 6/14/17 at 36-37, 64, 81-83; Cleveland, 7/11/17 at 199-200, 210, 217-218; Sullivan, 7/12/17 at 209-211.

2241. Often Districts must reserve money to be able to cover costs while waiting for reimbursement from PED. Sallee, 7/21/17-a.m. at 102-103. This is the case for Title I funds for which allocations to the districts are variable, which requires the Districts to maintain a cash fund balance. Aguilar 8/4/17 at 188-90.

2242. The Court agrees with those witnesses who testified that there is insufficient funding to maintain necessary programs for at-risk students. A legislator and many superintendents so testified. Stewart, 6/20/17 at 165-166, 208; Rounds, 7/12/17 at 71, 84; Grossman, 6/14/17 at 76.

2243. There are two different problems contributing to the failure of the State to provide an adequate education to at-risk children. First the overall appropriation is insufficient to fund the programs necessary to provide an opportunity for all at-risk students to have an adequate education. Second there may be ways for the districts to more effectively and efficiently spend their funds, but PED fails to exercise its authority over the districts to require that the money that is allocated is used for programs known to advance the educational opportunities for at-risk students. 7/20/18 Decision and Order at 53-54.

2244. The evidence presented shows that it would not be enough to simply redistribute the current appropriations more efficiently. The Court is persuaded by this testimony. Even the schools that do comparatively well, like the Gadsden Independent School District, still need more funding to improve the programs they can offer at-risk children. The former superintendent in Gadsden testified to many programs he had to eliminate when funding was cut. *See, e.g.*, Yturralde, 6/30/17 at 7, 10, 47, 58-59, 70-71, 101, 111.

2245. PED or the legislature may find ways to have the funding already allocated spent more efficiently, but the weight of the evidence present in the trial suggests that more money will have to be allocated to education. *See, e.g.*, Rounds, 7/12/17 at 84.

2246. The budgeting process is not based on the cost of what is needed to adequately educate each student, but rather the budgeting process begins with the prior year's appropriation. Burrell, 7/18/17 at 23-24, 33-35; Rounds, 7/12/17 at 74; cf. Levin, 7/11/17 at 50-51. As LFC Director David Abbey testified, annual budgets are determined by budget constraints. Abbey, 7/25/17 at 7.

2247. Below-the-line funding tends to disqualize school funding, divert resources away from core educational needs and dilute funding that could be channeled through the SEG. Abbey, 7/25/17 at 52:2-19; Ex. P-2824 at 383.

2248. Rachel Gudgel has been since November 2015 the Director of the New Mexico Legislative Education Study Committee. Before become director of the LESC, Ms. Gudgel worked as an analyst for the LFC. In her position as Director of the LESC, she has overseen the committee's role in its evaluation the state's system of education and how it is funded in the state. Gudgel, 10/27/16 Depo. Des. at 13:11-14, 16:2-5, 16:23-17:10.

2249. Ms. Gudgel testified that during her tenure as an analyst with the LFC, she drafted a document in 2014 which represented the committee's ongoing findings

that several of the below-the-line programs offered in the state were not evidence-based, and that the capacity of some programs to achieve results for students was “unknown.” Gudgel, 10/27/16 Depo. Des. 34:17-35:3, 56:10-57:4; P-1545.

6. Funding for Education Improves Student Outcomes.

2250. Dr. Jesse Rothstein, Ph.D. in Economics, provided expert opinion that the prevailing scholarship on the effect of school resources on student outcomes generally points to positive effects of resources on student outcomes, particularly for disadvantaged students. P-2963 at ¶¶ 17, 18, 20-24. The Court found Dr. Rothstein to be credible and bases the following findings on his testimony with which the Court agrees.

2251. In Dr. Rothstein’s expert opinion, the methodologies used by Defendants’ principal education finance experts, Erik Hanushek and David Armor, to support their expert opinions that additional spending for education in New Mexico will not improve outcomes are flawed, incomplete and don’t conform to modern econometric approaches to analyzing the relationship between school resources and student outcomes. P-2963 at ¶¶ 7-12, 14-16, 25-28.

2252. The purported lack of a positive causal relationship between increased spending for education and improved student outcomes at the heart of Defendants’ experts’ opinions cannot be inferred from the many correlations between the

outcomes of various New Mexico student groups and state educational spending. P-2963 at ¶¶ 7-12, 14-16, 25-28.

2253. Dr. Clive R. Belfield is an education economist with an emphasis on cost-benefit analysis of educational expenditures and interventions. P-2793 at ¶¶ 1-4.

2254. In Dr. Belfield's expert opinion, the following interventions pass a "benefits-cost" test in terms of their cost to the State of New Mexico versus the financial benefits derived from them to students and the State of New Mexico at large: 1) increased teacher pay; 2) reduced class size; 3) expanded preschool participation; and 4) counseling and monitoring services. Belfield, 6/13/17-a.m. at 46:7-47:18; P-2793 at ¶¶ 17-18, 110-127, Tbls. 11-12. The Court credits this testimony.

2255. Defendants' principal education finance experts Dr. Erik Hanushek and Dr. David Armor both testified that increased spending on specific programs can improve the outcomes of the students who receive that programming. Armor, 7/31/17-p.m. at 93:13-21; Hanushek, 8/3/17-p.m. at 38:6-39:17.

2256. Defendants' principal education finance experts Dr. Erik Hanushek and Dr. David Armor both testified that the State of New Mexico should not cut funding for education, including for programs such as PreK. Armor, 7/31/17-p.m. at 64:13-65:4; Hanushek, 8/3/17-p.m. at 40:25-41:8, 42:11-22, 69:7-14, 100:11-18.

2257. Leighann Lenti was from 2013 to 2016 PED's Deputy Secretary for Policy and Programs. In her position as Deputy Secretary, Ms. Lenti oversaw PED's

policies and programs with respect to student standards and assessments, school and district accountability, school turnaround, educator quality, college and career readiness, math and science, early childhood education, and early literacy. D-5040 at 4:16-23; D-0119 at 1.

2258. Ms. Lenti testified that there exists a positive causal relationship between money spent on specific educational programs and staffing preferences and the students who are the recipients of those interventions. Lenti, 7/26/18 at 65:15-22.

7. The State Has Failed to Raise Sufficient Revenue to Fund Education.

2259. Mr. Abbey testified that since 2003 the New Mexico Legislature has made certain changes to the tax laws, which according to budgetary scoring by the Legislative Finance Committee, reduced revenue in the state by hundreds of millions of dollars a year. Abbey, 7/25/17 at 82:5-85:16.

2260. There are a number of sources of possible revenue, a portion of which represent reversal or deferral of reductions to the revenue stream enacted relatively recently, and others which represent possible new sources of revenue (listed in no particular order):

- a. access the general fund, land grant permanent fund and severance tax permanent fund;
- b. increase or restructure gross receipts taxes;
- c. increase progressiveness of income tax structure;

- d. reinstate the health care industry tax;
- e. pass a tax on all internet sales;
- f. increase consumption taxes on gasoline, alcohol and cigarettes;
- g. increase excise taxes on motor vehicles;
- h. slow down or reverse the corporate income tax reductions;
- i. repeal the capital gains tax deduction;
- j. allow more local option taxes; and
- k. consider gross receipts tax equivalent for extractive industries.

Rounds, 7/12/17 at 84-90; Stewart, 6/20/17 at 265-267, 280-282; Abbey, 7/25/17 at 82-88; Smith, 7/26/17 at 168-172.

2259. While the Court has determined that insufficient funds have been allocated, the Court has not determined what amount would be sufficient. The Court believes that such a determination is better left to the legislature, at least in the first instance. The only dollar specific evidence presented about necessary funding was the evidence about the AIR study. P-1816-JL. The Court rejects that argument that this study provides an amount that is constitutionally adequate. The evidence demonstrated that there were ample reasons for the legislature to have rejected the AIR study, Among them are criticisms of the methodology which may incorporate the bias of the participants. D-5038 at 7, 10. In addition, the revisions to the

original recommendations seem to have been politically motivated, not scientifically based. D-5038 at 25-32.

8. Defendants Fail To Monitor Funding In A Way That Ensures That It Reaches Programs That Advance The Education Of At-Risk Students.

2260. Deputy Secretary of Finance and Operations Paul Aguilar testified that PED has a number of tools at its disposal to ensure districts are meeting their obligations to students and can monitor funding of school districts in a number of ways to ensure money reaches programs that advance the education of at-risk students, including: through its budget approval function, its corrective plan function, its ability to step in if districts are rated D or F for two years in a row, its ability to intervene when student subgroups do not perform compared to their peers, its legislative authority to take over the control and management of a school district, and its legislative authority to suspend a local school board if PED believes there is mismanagement or improper recording or reporting of funds. Aguilar 08/04/17 at 78-79, 102-04, 111-12.

2261. However, PED fails to exercise its power to monitor or audit school districts' use of SEG and federal funds to ensure districts use these funds as required for at-risk students. Burrell 07/18/17 at 32-33; P-0087 at 35-49

2262. The LFC and LESC have reported that PED has failed to monitor or audit the districts' spending of their annual funding. P-0087 at 32-37.

2263. When a school district receives funding through the at-risk calculation, PED does not do anything to ensure districts use at least a portion of those funds that are generated under the at-risk calculation on at-risk kids. Montano 07/18/17 at 251:18-25. The dollars generated by the At-Risk Index are not always used to educate at-risk students. Many districts across the state do not use the funding generated by the At-Risk on at-risk students. D-5061 at 45-46 (Aguilar).

a) Budget Approval Process

2264. PED monitors funding of school districts by evaluating and approving their budget. Aguilar 08/04/17 at 80.

2265. Prior to April 15 of each year, each district is required to prepare and submit to PED a proposed budget for the upcoming year. D-5061 at 50:4-5; Aguilar 08/04/17 at 80.

2266. PED then provides guidance and feedback to districts and makes suggestions to districts on more efficient and effective ways of doing business. Aguilar 08/04/17 at 80; D-5061 at 52:8-53:10.

2267. The budget approval process is mandatory. Aguilar 08/04/17 at 86.

2268. When reviewing a district's budget, PED evaluates and considers whether a district is not using its money effectively. Aguilar 08/04/17 at 86.

2269. In analyzing districts' proposed budgets, PED considers the percentage of funding going to salaries and benefits. D-5061 at 55.

2270. PED Deputy Secretary of Finance and Operations Paul Aguilar testified that PED is ultimately responsible for approving the budget, and once the budget is approved, it may not be changed or adjusted without the approval of the Secretary of Education. Aguilar 08/04/17 at 82:19-83:21; D-5061 at 57:18-19 (Aguilar).

2271. According to PED Deputy Secretary of Finance and Operations Paul Aguilar, the budget approval process is designed to ensure that the districts will execute the budget as intended and precludes off-the-cuff and after-the-fact changes intended to circumvent the budget. Aguilar 08/04/17 at 83-84.

b) Auditing Function

2272. PED also conducts compliance audits of districts through its Audit and Accounting Bureau, which was created in 2013. Aguilar 08/04/17 at 87:13-20; D-5061 at 62:3-9 (Aguilar).

2273. Through its compliance audits, PED verifies the accuracy of components of the funding formula for school districts and ensures districts comply with the Public School Finance Act, the Procurement Code, and federal program guidelines. Aguilar 08/04/17 at 87:21-88:2; D-5061 at 62:11-15 (Aguilar).

2274. With regard to audits conducted by PED related to the funding formula, PED's goal is to audit about 30 percent of school districts annually [Aguilar 08/04/17 at 89:17-20]. However, as of the time PED Deputy Secretary of Finance

and Operations Paul Aguilar testified at trial, PED had only conducted audits of approximately 10-12 percent school districts. [Id. at 89:17-22].

2275. PED also reviews an annual audit conducted by an independent auditing firm. Id. at 90:8-25.

2276. Through that annual process of reviewing a district's audit, PED looks for any weaknesses material to the financial operations of school districts. Id. at 89:3-6, 90:8-25.

2277. Annual financial audits of school districts are required by statute. NMSA 1978 13.1

2278. If in the process of its annual audit PED finds a district is not complying with a statute or rule, PED asks the district to put together a corrective action plan. [Id. at 89:23-90:3, 91:20-23].

2279. PED also requests a corrective action plan when there are indicators of fraud, waste and abuse, or significant inability for the district to operate its finances. [Id. at 92:14-19].

2280. The PED Deputy Secretary of Finance and Operations decides whether or not a corrective action plan is necessary based on staff recommendations. [Id. at 92:11-13].

2281. PED Deputy Secretary of Finance and Operations Paul Aguilar testified that during his entire tenure as Deputy Secretary, he received approximately 5 or 6

recommendations for a corrective action plan [Id. at 92:20-23] and that he believed that such a low number suggested that school districts are doing a good job at managing their funding. [Id. at 94:10-23].

2282. PED Deputy Secretary of Finance and Operations Paul Aguilar testified that NMSA 1978 Section 22-8-18 is a tool PED has in terms of ensuring districts are serving the needs of its students and ensures that school districts are not given completely free rein to make decisions that ultimately prove to be deleterious to student achievement [Id. at 96:13-97:7].

2283. The Audit and Accounting Bureau of the Public Education Department has not implemented a process to track a district's progress in following its corrective action plan for financial audits. [5-10-17 Stipulations ¶ 20]

2284. The Audit and Accounting Bureau of the Public Education Department does not audit or track school district funds that revert back to the State. [5-10-17 Stipulations ¶ 21]

2285. The Audit and Accounting Bureau of the Public Education Department does not audit the instructional material fund for districts. [5-10-17 Stipulations ¶ 2]

2286. The strength of PED's audit process ebbs and flows depending on staff levels and budget for the department [5-10-17 Stipulations ¶ 121]

c) Take-over function

2287. PED Deputy Secretary of Finance and Operations Paul Aguilar agreed PED has legislative authority to take over the control and management of a public school or school district that has failed to meet requirements of law or department rules or standards or is unable to operate. Aguilar, 08/04/17 at 104:15-107:17; *see also* Burrell 7-18-17 at 28:10-15.

2288. However, PED does not have any policies on the taking over the control and management of a school district [Aguilar, 08/04/17 at 109:17-25] and there is no particular bureau or department at PED assignment to bring the need for a takeover of a district. *Id.* at 110:6-10.

2289. PED has exercised its authority to take over control of a school district's finances on only three occasions since 2000 – Cuba, Vaughn and West Las Vegas. [5-10-17 Stipulations]

2290. Another oversight function of PED is to identify student subgroup that does not perform compared to its peers, whether through a school-by-school comparison or district-by-district comparison of proficiency rates, for example. [Aguilar 08/04/17 at 99:2-16]. Once PED identifies those students, PED, through its Priority Schools Bureau, needs to contact those schools and find out why those students are not performing as expected and work with the district to identify and reallocate and reprioritize resources. [*Id.* at 99:2-16].

2291. Deputy Director Charles Sallee testified that PED has budgetary authority under the SEG to withhold approval of a district's SEG allocation if PED determined that the district was not spending its money in accordance with the State Constitution. [Sallee 7-21-17 at 115-16, 121-122]

2292. PED Deputy Secretary of Finance and Operations Paul Aguilar agreed that PED is the ultimate supervisory responsibilities in public education rest with PED. [Aguilar 08/04/17 at 113:16-20].

2293. PED Deputy Secretary of Finance and Operations Paul Aguilar agreed that if a constitutional violation is occurring and is found to be occurring, it is the duty of PED to intervene. [Aguilar 08/04/17 at 114:1-4]

2294. PED Deputy Secretary of Finance and Operations Paul Aguilar agreed PED has a duty to ensure that all New Mexico students are provided a sufficient and uniform education. [Aguilar 08/04/17 at 114:20-115:3]

2295. According to the 2011 LSC/LESC joint study, PED: 1) fails to distribute sufficient funds to school districts to provide the programs and services needed by the state's at-risk children; 2) fails to monitor and hold districts accountable for how they spend their annual appropriation; 3) fails to employ sufficient audits of the SEG adjustment factors and the teacher and experience (T&E) index; and 4) fails to carry out its duties with the transparency, data sharing, technical assistance

and guidance that necessary for a successful relationship with the New Mexico Legislature and districts. Ex. P-87 at 4-6, 12-13, 26, 32, 36-39.

2296. BMEP funding is not categorical as part of the SEG. It becomes operational funding to the district. Therefore, PED does not have oversight authority over bilingual funding. [Montano 7-18-17 at 250:20-251:17]

2297. On the subject of PED accountability under the SEG, the 2011 LSC/LESC joint study found, “the accountability function of PED is insufficient, resulting in unfair, inaccurate and inequitable distribution of public resources.” Ex. P-87 at 5.

2298. On the lack of PED auditing to effectively administer the SEG, the 2011 LSC/LESC joint study found, that PED should “develop a new audit unit that is of sufficient size and skill to meet current administrative requirements for responsibility administering the funding formula.” Ex. P-87 at 6, 36, 38.

2299. On the subject of PED oversight over the alignment of district spending with student need, the 2011 LSC/LESC joint study found, “the implementation of performance-based budgeting for public schools starting in FY14 would be of great benefit.” Ex. P-87 at 38.

2300. Mr. Sallee testified that PED is already vested with sufficient budgetary authority to withhold approval of a school district’s SEG allocation if PED determined that the district was not spending its money in accordance with the

educational mandate of the New Mexico constitution. Sallee, 7/21/17-a.m. at 115:21-116:25, 121:11-122:8.

II. EQUAL PROTECTION

A. ELL Students

1. ELL Students Have Historically Been Deprived of an Adequate Education.

2301. Since New Mexico existed as a territory of the United States, it has a history of providing unequal education for non-English speaking students. P-2882 ¶¶ 12-272. Details of this history may be found in Dr. Gonzales testimony (*see* P-2882), but detailed findings of fact on this issue are unnecessary to the decision. Some of the major events will be discussed to provide an historical context for the equal protection claim.

2302. At the time when New Mexico sought statehood, Congress was reluctant to grant statehood to a population that was “largely illiterate and unable to speak English” and that used Spanish in courts and schools. P-2882 ¶¶ 26-27.

2303. Despite a high rate of illiteracy and inability to speak English among New Mexicans, bilingual measures were not adopted before New Mexico became a state. P-2882 ¶ 28.

2304. At the time the New Mexico Constitution was ratified, it exhibited a special sensitivity to the special language needs of Spanish-speaking students.³ These provisions, however, were qualified by the stipulation that the public schools “shall always be conducted in English[,]” which was established as the dominant language. This was a condition for granting statehood. P-2882 ¶ 40.

2305. In the first decade after statehood, there were various proposals that teachers use a platform of Spanish in order to teach English, called the “bilingual method.” These efforts were blocked by the State Board of Education which enforced the English immersion protocol. P-2882 ¶ 109-110.

2306. Various attempts were made to equalize education for Spanish-speaking children, but none were made into law. P-2882, ¶¶ 54-57.

2307. In the 1940s, the general pattern of educational resource disparity for the general Hispanic population continued even though New Mexico led all other states in the percentage of its income devoted to the support of elementary and secondary education (until it fell in 1948). P-2882 ¶ 80.

³Section 8 of Article XII requires the legislature to provide for the training of teachers “so that they may become proficient in both the English and Spanish languages, to qualify them to teach Spanish-speaking pupils and students in the public schools and educational institutions of the state . . .” Section 10 of Article XII states that students of Spanish descent shall “enjoy perfect equality with other children in all public schools and educational institutions of the state[.]”

2308. Through the 1960s, New Mexico failed to authorize the development of needed bilingual programs to enable non-English speaking students to learn adequate English. P-2882 ¶ 270.

2309. In the first five decades after statehood, bilingual education programs for Native American students were practically unheard of. As a result, a high percentage of adults from Pueblos are able to use English. P-2882 ¶ 225.

2310. In 1960, the U.S. Commission on Civil Rights found 36 percent of New Mexico's Hispanic first grade pupils not speaking English “as well as the average Anglo first grade pupil.” The largest minority group, the Spanish-speaking, had “educational problems to a great extent nurtured by a language communications conflict which an educational system must learn to understand and rectify.” P-2882 ¶ 114.

2311. In the 1970s, realization of the need for bilingual education in New Mexico emerged strongly, yet both the funding and the structure of bilingual education used in the state proved inadequate to provide effective programs in this area. P-2882 ¶ 271.

2. The State Treats ELL Students and Non-ELL Students Dissimilarly.

a) Educational inputs and outputs

2312. All findings of fact concerning ELL students are incorporated herein.

b) Funding issues

2313. All findings of fact concerning ELL students are incorporated herein.

2314. Deputy Secretary Aguilar admitted that there “always could be something irrational” with the funding formula and its low at-risk index. 8-4-17 Tr. 211:21-212:17 (Aguilar).

2315. Outside of the general at-risk index, the SEG does not have a component for ELL students. 8-4-17 Tr. 42:12-25 (Aguilar). The State has failed to examine whether such a component is necessary in order to provide ELL students with a sufficient education. [*Id.*]

B. Economically Disadvantaged Students

1. ED Students Have Historically Been Deprived of an Adequate Education.

2316. The State historically has denied equal funding to students from poorer areas of the state, and students from low income households have been stigmatized in schools.⁴ P-2882 ¶¶ 83-97.

2. The State Treats ED Students and Non-ED Students Dissimilarly.

a) Educational inputs and outputs

2317. All findings of fact concerning ED students are incorporated herein.

b) Funding issues

⁴ It should also be noted that historically there was an overlap between the largely Hispanic/Spanish-speaking people and those who were economically disadvantaged. In the early 1900s, Nuevomexicanos constituted a poor socioeconomic class that lived in what was commonly understood as the “northern rural” counties of the state. The rural northern districts were politically weak. P-2882 ¶ 48.

2318. All findings of fact concerning ED students are incorporated herein.

2319. The SEG's use of the Title I allocation for the number of economically disadvantaged students for calculating the at-risk units only accounts for students recognized by the United States Census as being at or below 100 percent of the federal measure of poverty, excluding many ED students whose households earn up to 185 percent of the federal poverty measure and are therefore eligible for FRL. P-2803 ¶ 115.

2320. States more commonly use the FRL measure to provide additional funding to ED students, and a number of those states assign extra weights of 25 percent or more to each student qualifying for FRL. P-2803 ¶ 26. New Mexico defines ED students as those who qualify for FRL for accountability purposes to the federal government, yet does not use this measure when identifying "at[-]risk" students. P-191.

III. DUE PROCESS

A. Students with Disabilities

1. The State Fails to Provide an Adequate Education to Students with Disabilities.

2321. The Individuals with Disabilities Education Improvement Act (IDEIA), part B and the Elementary and Secondary Education Act (Every Child Succeeds Act) (ESEA) apply to school age children with disabilities. Under IDEIA each child

with a disability is entitled to a free and appropriate public education. P- 2798 at ¶ 15-16.

2322. Under ESEA the same academic and achievements standards apply to all students, except those with the most significant cognitive disabilities. Students with significant cognitive disabilities may be held to Alternative Achievement Standards but not more than one percent of the total student population may be held to these standards. P- 2798 at ¶ 19.

2323. As defined in the IDEIA, a student with a disability is entitled to special education that is individually designed and addresses those areas of a student's disability that are adversely impacting learning. P- 2798 at ¶ 21.

2324. Funding for special education in New Mexico is based on a report from a 1973 Advisory Committee on School Finance and enacted by the NM Legislature in 1974. P- 2798 at ¶ 26.

2325. There is no separate state appropriation for special education in New Mexico and decisions about how much of a district's allocation goes toward providing special education is locally determined. P- 2798 at ¶ 27.

2326. A New Mexico Legislative Education Study Commission reported in 2011 that \$17.8 million dollars in additional claims for funding were cited in 34 districts, almost all of which was attributed to special education. P- 2798 at ¶ 28.

2327. Dr. Margaret McLaughlin, a leading expert in special education policy (P-2798 at ¶ 1), testified that the special education funding system in New Mexico is overly complex and lacks the flexibility and predictability that allows districts to implement new programs or adjust individual IEPs as student needs change.

2328. In a 2012 email from D. Koscielniak to the United States Department of Education, the former state director of special education acknowledged that the state funding of special education is unpredictable. P- 2798 at ¶ 32.

2329. One IDEIA regulation addressing initial evaluations in all situations emphasizes that “either a parent or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability” (see IDEA 2004, 34 C.F.R. § 300.301(b)). Dr. McLaughlin testified that there is evidence that some districts in New Mexico are failing to address the requirements to identify children suspected of having a disability. P- 2798 at ¶ 36.

2330. Dr. McLaughlin testified that there is evidence suggesting many districts in New Mexico lack a sufficient number of well-trained individuals who are able to diagnos[e] an autism spectrum disorder (ASD). P- 2798 at ¶ 42.

2331. Dr. McLaughlin testified that PED certification standards for educational diagnosticians are not particularly specific concerning required skills or the types of assessment tools these individuals must be qualified to use. P- 2798 at ¶ 43.

2332. Dr. McLaughlin testified that her interviews and record reviews indicate chronic shortages of bilingual psychologists, educational diagnosticians, and special education teachers in New Mexico, which can lead to both under-identification and/or misidentification of English Language Learners. P- 2798 at ¶ 43.

2333. Dr. McLaughlin found that New Mexico educates fewer of its students with IEPs in general education classrooms and is substantially above the national average in placing students outside of general education anywhere from 20-60 percent of the school day. P- 2798 at ¶ 55.

2334. The Court finds Dr. McLaughlin’s testimony to be uncontradicted and to be persuasive. This testimony is therefore credited by the Court.

2335. According to New Mexico’s performance report, the state failed to meet 15 of its own Part B SPP/APR targets for the FFY 2011 through FFY 2014. In 2016, the Office of Special Education Programs notified New Mexico that for two or more consecutive years it had determined the state “Needs Assistance” in implementing the requirements of Part B of the IDEIA. According to the 2016 Part B Result-Driven Accountability Matrix, New Mexico continues to “Need Assistance.” P- 2798 at ¶ 81.

2336. A Special Audit in New Mexico found that the potential cumulative shortfall in special education funding from Fiscal Years 2010 through Fiscal Year 2012,

based on the Public Education Department's calculations, is \$110,872,925. P-309 at 2.

2337. A Special Audit found that from 2005 to 2010, the State of New Mexico certified that it complied with federal maintenance of effort (MOE) requirements by checking the appropriate box on federal forms, without having performed any specific calculations to confirm that fact. P-309 at 2.

2338. A Special Audit in 2015 concluded that New Mexico continues to struggle to demonstrate that it is in compliance with MOE requirements without accurate and comprehensive documentation from stand-alone New Mexico schools, other state agencies and local education agencies, which is not currently available on a consistent basis statewide. P-309 at 2.

2339. There is inadequate supervision and oversight of how special education funds are being used in New Mexico. McLaughlin, 6/22/17 at 24:19-21.

2340. Senator Stewart, who has many years of experience in teaching special education, testified about many of the problems caused by inadequate funding. The following findings are based on her testimony which is credited by the Court.

2341. 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. Stewart, 6/20/17 at 192:11-25.

2342. 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. Stewart, 6/20/17 at 193:9-14; 195:5-13.

2343. Special education classrooms in New Mexico receive very little supply money and receive no curriculum money. Stewart, 6/20/17 at 198:18-19.

2344. Smaller class sizes have a beneficial effect on students. Stewart, 6/20/17 at 201:18-20.

2345. 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, 6/20/17 at 203:1-5.

2346. There is not sufficient funding in New Mexico allocated for professional development opportunities necessary to have special education students join more in the general education setting. Stewart, 6/20/17 at 204:14-18.

2347. An extended school day would benefit special education children, and there is not sufficient funding in New Mexico to allow all special education students who need extended learning opportunities to access those opportunities. Stewart, 6/20/17 at 205:1-15.

2348. Having tutoring opportunities is important for special education students but there is no funding in Mexico to provide tutoring to special education students. Stewart, 6/20/17 at 205:17-206:17.

2349. Special education funding in New Mexico is not sufficient to meet the needs of special education students. Stewart, 6/20/17 at 207:21-24.

2350. IDEA requirements are the same for all states and are not dependent on the performance of neighboring states. Reschly, 8/2/17 at 135:23-136:2.

2351. The state has a role in providing the personnel resources and other resources that are needed for districts to establish and deliver programs. Reschly, 8/2/17 at 146:25-147:1-3.

2352. It takes resources to recruit and train skilled special education teachers, psychologist, speech and language pathologists, physical therapists, and social workers. Reschly, 8/2/17 at 152:13-153:3

2353. The performance of students with disabilities depends in part on the general education program. Reschly, 8/2/17 at 191:1-5.

2354. Most professional development for special education in New Mexico is done electronically. Koscielniak, 7/19/17 at 240:17-20.

2. Educational Outputs

2355. For the 2015-2016 school year in New Mexico, 93 percent of students with disabilities were not proficient in reading, 93 percent of students with disabilities

were not proficient in math, and 84 percent of students with disabilities were not proficient in science. Koscielniak, 7/19/17 at 235:1-10; ex. P-2521 at 4.

2356. New Mexico ranked consistently low, in the bottom 10-15 percent among states and jurisdictions for the percentage of students with disabilities in grades 3 through 8 who received a valid and proficient score in regular reading and math assessments. P-2798 at ¶ 68.

2357. Overall in the state of New Mexico, for the 2013-2014 year, over half of all students with disabilities scored at the Beginning Step in reading compared to about 16 percent of the non-special education students, representing a 36 percent gap. Only 11 percent of students with disabilities scored at Proficient. The gaps within the 7 districts (Albuquerque, Espanola, Gadsden, Las Cruces, Magdalena, Santa Fe, and Zuni, at which Dr. McLaughlin looked specifically) are all with the 30+ 12 percentage points. P- 2798 at ¶ 69.

2358. For 2015 in New Mexico, 85 percent of the state's 4th graders and 79 percent of 8th graders identified as having a disability scored Below Basic in reading. In math, 60 percent of the 4th graders identified as having a disability scored Below Basic and 80 percent of 8th graders scored at that lowest level in math. P- 2798 at ¶ 71.

2359. Dr. McLaughlin testified that a review of other academic indicators in New Mexico, including Advanced Placement (AP) enrollment rates, AP Exam

completion rates, and dual credit enrollment rates, indicate small percentages of students with disabilities enrolled or participating. Fewer than 2 percent of all students who completed one or more AP exams in the 2015-2016 year were students with disabilities. P- 2798 at ¶ 76, 77.

2360. In 2015-2016, no students with disabilities completed AP exams in four school districts in New Mexico: Espanola, Las Cruces, Magdalena, and Zuni. P- 2798 at ¶ 77.

IV. MARTINEZ PLAINTIFFS HAVE STANDING TO ASSERT THEIR CLAIMS

2361. At least one of the *Martinez* Plaintiffs was enrolled in New Mexico public schools when this case was filed. P-11 at 11-19; P-56.

2362. At least one of the *Martinez* Plaintiffs attends a public school in each of the following school districts: Albuquerque Public Schools, Gadsden Independent School District, Las Cruces Public Schools, Magdalena Municipal School District, Santa Fe Independent School District, Zuni Public Schools, and Española School District. P-11 at 11-19.

2363. At least one of the *Martinez* Plaintiffs is one of the following types of students in New Mexico public schools: an economically disadvantaged student who qualifies for free and reduced lunch, a student with a disability, a Native American student, a Hispanic or Latina student, a bilingual student, and an ELL student. P-11 at 22-34.

R. Sanchez, R. Sanchez Jr., C. Sanchez, and A. Sanchez

2364. Plaintiff R. Sanchez is the father of Plaintiffs R. Sanchez Jr., C. Sanchez and A. Sanchez. Sanchez, 6/13/17 at 33:4-6.

2365. Plaintiff R. Sanchez is a Spanish speaker and speaks primarily in Spanish to his children at home. Sanchez, 6/13/17 at 32:18-19.

2366. Plaintiffs R. Sanchez Jr., C. Sanchez, and A. Sanchez are bilingual students who attended bilingual programs in New Mexico public schools. Sanchez, 6/13/17 at 51:8-14, 52:6-19, P-1, P-2, P-3; P-11 at 30-31.

2367. Plaintiffs R. Sanchez Jr., C. Sanchez, and A. Sanchez are economically disadvantaged students who qualify for free and reduced lunch. Sanchez, 6/13/17 at 35:20-24; P-11 at 30-31.

2368. Plaintiffs R. Sanchez Jr., C. Sanchez, and A. Sanchez attended public schools in the Santa Fe Independent School District in the 2017-2018 school year and in previous school years. Sanchez, 6/13/17 at 34:16-18; P-11 at 17-18.

2369. Plaintiff A. Sanchez was a seventh-grade student at Ortiz Middle School during the 2017-2018 school year. Sanchez, 6/13/17 at 33:7-13, 34:19-20. He attended Kearny Elementary and Sweeney Elementary in previous school years. Sanchez, 6/13/17 at 35:9-11.

2370. Plaintiff C. Sanchez was an eleventh-grade student at Capital High School during the 2017-2018 school year. Sanchez, 6/13/17 at 33:14-18, 34:6-8, 34:21-23.

He attended Ortiz Middle School and Kearny Elementary in previous school years. *Id.* 35:6-8, 35:17-19.

2371. Plaintiff R. Sanchez Jr. was a twelfth-grade student at Capital High School during the 2017-2018 school year. Sanchez, 6/13/17 at 34:9-15, 34:24-25. He attended Ortiz Middle School and Kearny Elementary in previous school years. *Id.* 35:4-5, 35:14-16.

2372. Plaintiff A. Sanchez exited the bilingual program when he was in the fifth grade. Sanchez, 6/13/17 at 54:4-9.

2373. Plaintiff R. Sanchez testified that Plaintiff A. Sanchez was nervous to exit the program because he did not believe he was adequately trained or ready to be in English-only classes. Sanchez, 6/13/17 at 54:4-9.

2374. In school year 2016-2017, Plaintiff A. Sanchez performed poorly in his classes and required tutoring. Sanchez, 6/19/17 at 12:23-13:3.

2375. Plaintiff C. Sanchez did not perform well academically and needed tutoring when he was a student at Ortiz Middle School; however, he was waitlisted from the tutoring program. Sanchez, 6/13/17 at 56:15-21. He continues to need tutoring. Sanchez, 6/19/17 at 9:16-20.

2376. Plaintiff R. Sanchez Jr. was not proficient in math or science when he was in third grade. P-3 at 23; Sanchez, 6/13/17 at 40:12-41:16. However, he did not receive any tutoring or summer school. Sanchez, 6/13/17 at 41:17-22.

2377. Plaintiff R. Sanchez Jr. continued to perform poorly in his subjects, particularly in math, through the fifth grade. Sanchez, 6/13/17 at 50:16-23. However, he again did not receive any tutoring. *Id.* 51:3-4.

2378. Plaintiff R. Sanchez Jr. continued to struggle with math through the ninth grade. P-3 at 2. However, he did not receive any tutoring in the ninth grade either. Sanchez, 6/13/17 at 42:14-19.

2379. Plaintiff R. Sanchez testified that his son's schools did not have the capacity to accept all students who need tutoring into tutoring. Sanchez, 6/19/17 at 15:3-16.

2380. Plaintiff R. Sanchez testified that no one at Capital High School explained to Plaintiff R. Sanchez Jr. how to apply for college or for college scholarships, and that there were only approximately four counselors for 1400 students enrolled at his school. Sanchez, 6/19/17 at 7:22-25, 8:8-10, 9:8-10.

2381. Plaintiff R. Sanchez testified that his sons' classes have a lot of students. Sanchez, 6/13/17 at 57:7-12, 58:12-15.

R. Burciaga and A. Valenzuela

2382. Plaintiff R. Burciaga is the mother of Plaintiff A. Valenzuela. Burciaga, 6/15/17 at 233:17-19.

2383. Plaintiff A. Valenzuela was an eleventh-grade student at Capital High School in the Santa Fe Independent School District during the 2017-2018 school year. Burciaga, 6/15/17 at 233:24-234:6.

2384. Plaintiff A. Valenzuela attended Nava Elementary and Ortiz Middle School, both public schools in Santa Fe Independent School District, in previous school years. Burciaga, 6/15/17 at 235:5-14; P-11 at 18; P-56.

2385. Plaintiff A. Valenzuela is an economically disadvantaged student who qualifies for free and reduced lunch. P-11 at 31; Burciaga, 6/15/17 at 234:7-11.

2386. Plaintiff A. Valenzuela was in the bilingual program at Nava Elementary from first to fifth grade. Burciaga, 6/15/17 at 238:11-19; P-56 at 3.

2387. Plaintiff A. Valenzuela was not proficient in reading, math, or science when she was in third grade at Nava Elementary. P-56 at 3; Burciaga, 6/15/17 at 240:9-21.

2388. Plaintiff A. Valenzuela continues to struggle with several of her subjects at Capital High School. Burciaga, 6/15/17 at 246:2-6.

2389. Plaintiff A. Valenzuela did not receive tutoring and was placed on the waiting list for summer school at Capital High School. Burciaga, 6/15/17 at 246:3-15.

2390. Plaintiff R. Burciaga cannot afford to pay a private tutor for Plaintiff A. Valenzuela. Burciaga, 6/15/17 at 246:16-19.

2391. Plaintiff R. Burciaga did not receive information from anyone in the district regarding what steps Plaintiff A. Valenzuela needs to take to apply to or enroll in college. Burciaga, 6/15/17 at 247:1-14.

2392. Plaintiff A. Valenzuela does not receive assistance to complete her school work at home. Burciaga, 6/15/17 at 247:22-24.

2393. Plaintiff R. Burciaga testified that Plaintiff A. Valenzuela's classrooms in Ortiz Middle School were too crowded. Burciaga, 6/15/17 at 243:13-19.

2394. Plaintiff R. Burciaga is a Spanish speaker. Burciaga, 6/15/17 at 233:4-5.

2395. Plaintiff R. Burciaga could not communicate with some of Plaintiff A. Valenzuela's teachers at Ortiz Middle School because they did not speak Spanish. Burciaga, 6/15/17 at 239:4-20. Therefore, Plaintiff R. Burciaga sometimes had to speak to Plaintiff A. Valenzuela's teachers through Plaintiff Valenzuela. Burciaga, 6/15/17 at 239:21-240:8.

2396. Plaintiff R. Burciaga is unfamiliar with programs such as dual credit or GEAR UP, and she does not feel comfortable approaching school officials at Capital High School to ask about these programs because when she has sought help at her daughter's school, teachers and staff regularly speak only in English. Burciaga, 6/15/17 at 265:13-23.

J. Edaakie, A. Cachini, and T. Cachini

2397. Plaintiff J. Edaakie is the parent of Plaintiffs A. Cachini and T. Cachini. J. Edaakie Depo. Des. 7:14-23 (Zuni).

2398. As of the time of Plaintiff J. Edaakie's deposition on September 15, 2015, Plaintiffs A. Cachini and T. Cachini attended public schools in Zuni Public Schools. J. Edaakie Depo. Des. 26:19-21, 47:5-25 (Zuni); P-1; P-2; P-11 at 18.

2399. Plaintiffs A. Cachini and T. Cachini are economically disadvantaged students who qualify for free and reduced lunch. J. Edaakie Depo. Des. 30:5-6 (Zuni); P-11 at 31-32.

2400. Plaintiffs A. Cachini and T. Cachini are Native American students. P-11 at 31-32.

2401. Plaintiff J. Edaakie testified that she observed a lot of substitute teachers at her children's schools throughout the years her children have attended New Mexico public schools. J. Edaakie Depo. Des. 47:21-48:10 (Zuni).

2402. Plaintiff J. Edaakie testified that Plaintiff A. Cachini had a substitute teacher in his science class and Plaintiff J. Edaakie did not know for how long her son would go without a science teacher. J. Edaakie Depo. Des. 40:7-16, 47:24-48:3 (Zuni).

2403. Plaintiff J. Edaakie testified that there were not enough textbooks at Plaintiff A. Cachini's school, and Plaintiff A. Cachini had to share math and science textbooks with another student. J. Edaakie Depo. Des. 12:1-19 (Zuni).

C. Aispuro, D. Aispuro, and J. Aispuro

2404. Plaintiff C. Aispuro is the mother of Plaintiffs D. Aispuro and J. Aispuro. C. Aispuro Depo. Des. 6:6-7 (Las Cruces).

2405. As of the day of Plaintiff C. Aispuro's deposition on October 15, 2015, Plaintiff J. Aispuro was a student in second grade at Sonoma Elementary in Las Cruces Public Schools. C. Aispuro Depo. Des. 6:12-16 (Las Cruces); P-11 at 15. Plaintiff J. Aispuro also attended public schools in Las Cruces Public Schools in previous years. P-19.

2406. As of the day of Plaintiff C. Aispuro's deposition on October 15, 2015, Plaintiff D. Aispuro was a student in fourth grade at Sonoma Elementary in Las Cruces Public Schools. C. Aispuro Depo. Des. 6:8-13 (Las Cruces). However, he performed at second-grade reading level. *Id.* at 26:24-27:16.

2407. Plaintiff C. Aispuro testified that Plaintiffs J. and D. Aispuro struggled with reading. C. Aispuro Depo. Des. 26:16-27:19, 37:15-38:7, 65:9-15, 71:8-10 (Las Cruces). However, there were no reading programs at Sonoma Elementary School. *Id.* at 31:10-15.

2408. Plaintiffs D. and Julian A. enrolled in bilingual programs at their school. C. Aispuro Depo. Des. 25:2-11, 46:17-21 (Las Cruces); P-11 at 26-27; P-19 at 9.

2409. Plaintiff C. Aispuro testified she was unsatisfied with the resources available in the dual-language program at Sonoma Elementary because Plaintiffs D. and J.

Aispuro were not progressing academically. C. Aispuro Depo. Des. 25:3-11, 30:2-31:9 (Las Cruces).

2410. Plaintiff C. Aispuro testified that Plaintiffs D. and J. Aispuro's school, Sonoma Elementary, lacked bilingual assessors, counselors, teachers, summer school, and after-school programs, and the bilingual language students lacked these resources while the non-dual-language students did not. C. Aispuro Depo. Des. 44:12-19, 44:23-46:10 (Las Cruces).

2411. Plaintiff C. Aispuro testified that Sonoma Elementary did not give Plaintiffs D. and J. Aispuro the skills they need to succeed in college or to get a good job after graduation. C. Aispuro Depo. Des. 66:6-14 (Las Cruces).

2412. Plaintiff C. Aispuro testified that during the 2014-2015 school year, her Plaintiff D. Aispuro had an unlicensed, college student as a teacher in one of his classes. C. Aispuro Depo. Des. 68:16-69:1 (Las Cruces).

M. Castillo, J. Arras, and C. Arras

2413. Plaintiff M. Castillo is the mother of Plaintiffs J. Arras and C. Arras. M. Castillo Depo. Des. 6:21-7:16 (Española).

2414. Plaintiffs J. Arras and C. Arras are economically disadvantaged students who qualify for free and reduced lunch. M. Castillo Depo. Des. 8:9-10 (Española); P-11 at 32-33.

2415. Plaintiffs J. Arras and C. Arras attended public schools in Española Public School District. P-11 at 19; M. Castillo Depo. Des. 6:21-7:7 (Española).

2416. As of the time of Plaintiff M. Castillo's deposition on November 17, 2015, Plaintiffs C. and J. Arras were in the tenth grade at Española Valley High School. M. Castillo Depo. Des. 6:21-7:7 (Española).

2417. Plaintiff C. Arras was retained in the second grade because he was not performing at grade level. M. Castillo Depo. Des. 21:23-22:10 (Española).

2418. Plaintiff M. Castillo testified that when Plaintiff C. Arras attended Carlos Vigil Middle School, he did not perform well academically and failed the state standardized tests. M. Castillo Depo. Des. 25:12-26:2 (Española).

2419. Plaintiff M. Castillo testified that she observed some districts such as Los Alamos, where her nieces attended school, had more resources (for example, teachers) than Española Public School District, where her children attended. M. Castillo Depo. Des. 13:25-14:19 (Española).

L. Martinez, Ar. Martinez, and Ad. Martinez

2420. Plaintiff L. Martinez is the mother of Plaintiffs Ar. Martinez and Ad. Martinez. L. Martinez Depo. Des. 9:21-10:13 (APS).

2421. As of the time of Plaintiff L. Martinez's deposition on November 17, 2015, Plaintiffs Ar. Martinez and Ad. Martinez attended public schools in Albuquerque

Public Schools. L. Martinez Depo. Des. 12:14-17, 36:14-19, 32:17-33:4, 52:2-6 (APS); P-11 at 11-12, P-34, P-35, P-37.

2422. As of the time of Plaintiff L. Martinez's deposition on November 17, 2015, Plaintiff Ad. Martinez was in sixth grade at a special education program at George I. Sanchez Middle School. L. Martinez Depo. Des. 32:17-33:4 (APS).

2423. As of the time of Plaintiff L. Martinez's deposition on November 17, 2015, Plaintiff Ar. Martinez was a tenth-grade student at Atrisco Academy High School. L. Martinez Depo. Des. 51:1-6, 54:17-21 (APS).

2424. Plaintiffs Ar. Martinez and Ad. Martinez are economically disadvantaged students who qualify for free and reduced lunch. L. Martinez Depo. Des. 30:15-19 (APS).

2425. As of the time of Plaintiff L. Martinez's deposition on November 17, 2015, Plaintiff Ad. Martinez had failed two of his classes but the school had not contacted Plaintiff L. Martinez about it. L. Martinez Depo. Des. 49:1-5 (APS).

2426. Plaintiff L. Martinez testified that Plaintiff Ar. Martinez is not prepared for college, her school does not have enough teachers, and her school did not enroll her in college-credit courses even though Plaintiff L. Martinez requested it. L. Martinez Depo. Des. 14:10-16:12 (APS).

2427. Plaintiff L. Martinez testified that the schools Plaintiffs Ar. and Ad. Martinez attended in Albuquerque Public Schools did not have enough teachers

and educational materials, such as textbooks. L. Martinez Depo. Des. 28:13-23, 38:10-11 (APS).

2428. Plaintiff L. Martinez testified that the schools Plaintiffs Ar. and Ad. Martinez attended in Albuquerque Public Schools had too many students, in particular Ar. Martinez's classes when she was in middle school, which affected Ar. Martinez's ability to get one-on-one time with her teachers. L. Martinez Depo. Des. 43:20-44:9, 44:16-23 (APS).

2429. Plaintiff L. Martinez testified that Plaintiff Ad. Martinez's school did not have enough special education teachers. L. Martinez Depo. Des. 47:20-22 (APS). Therefore, Plaintiff Ad. Martinez was sometimes without a teacher or a teacher assistant. *Id.* at 48:18-21. One time, Plaintiff Ad. Martinez was choked and pushed by one of his fellow students in the special education program, but neither a teacher nor a teaching assistant was present. *Id.* at 48:10-17.

2430. Plaintiff L. Martinez requested tutoring for Ad. Martinez but the school did not provide it because it did not have teachers available for tutoring. L. Martinez Depo. Des. 50:1-6 (APS).

L. Garcia and A. Ruiz Jr.

2431. Plaintiff L. Garcia is the mother of Plaintiff A. Ruiz Jr. L. Garcia Depo. Des. 6:12-14 (Las Cruces).

2432. As of the day of Plaintiff L. Garcia's deposition on April 20, 2016, Plaintiff A. Ruiz Jr. attended Sonoma Ranch Elementary in Las Cruces Public Schools. L. Garcia Depo. Des. 6:15-18, 48:21-25 (Las Cruces); P-11 at 17.

2433. Plaintiff A. Ruiz Jr. is a student with a learning disability. L. Garcia Depo. Des. 28:15-18 (Las Cruces); P-11 at 29.

2434. Plaintiff A. Ruiz Jr. is an economically disadvantaged student who qualifies for free and reduced lunch. L. Garcia Depo. Des. 12:8-10 (Las Cruces); P-11 at 29.

2435. Plaintiff A. Ruiz Jr. is an ELL student. P-263; P-264; P-11 at 29.

2436. Plaintiff L. Garcia testified that Plaintiff Alonso Ruiz Jr. needed tutoring when he attended Sonoma Ranch Elementary but the school did not have any tutoring available. L. Garcia Depo. Des. 28:23-25 (Las Cruces).

2437. Plaintiff L. Garcia testified that Plaintiff A. Ruiz Jr.'s school did not have enough special education teachers. L. Garcia Depo. Des. 29:21-23 (Las Cruces).

2438. Plaintiff L. Garcia testified that Las Cruces School District was unable to retain special education teachers, so Plaintiff A. Ruiz Jr. had a new special education teacher every year for at least two years in a row. L. Garcia Depo. Des. 43:19-44:12 (Las Cruces).

2439. Plaintiff L. Garcia testified that Plaintiff A. Ruiz Jr. did not receive individualized instruction by one of his special education teachers, so he could not concentrate in school. L. Garcia Depo. Des. 43:9-18 (Las Cruces).

2440. 81. Plaintiff A. Ruiz Jr. had to be retained in the first grade because he was not performing well academically. L. Garcia Depo. Des. 33:21-24:6 (Las Cruces); P-262.

I. Ramirez, J. Ramirez, and R. Ramirez

2441. Plaintiff I. Ramirez is the father of Plaintiffs J. Ramirez and R. Ramirez. I. Ramirez Depo. Des. 5:19-16 (GISD).

2442. Plaintiffs J. Ramirez and R. Ramirez are economically disadvantaged students who qualify for free and reduced lunch. I. Ramirez Depo. Des. 30:15-17 (GISD).

2443. As of the day of Plaintiff I. Ramirez's deposition on October 16, 2015, Plaintiffs J. Ramirez and R. Ramirez attended public schools in Gadsden Independent School District. I. Ramirez Depo. Des. 6:2-4 (GISD); P-11 at 14. Specifically, Plaintiff J. Ramirez attended Chaparral Middle School and Plaintiff R. Ramirez attended Chaparral High School. *Id.*

2444. Plaintiff I. Ramirez testified that Plaintiff J. Ramirez suffers from dyslexia and enrolled in the special education program at his school. I. Ramirez Depo. Des. 10:7-10 (GISD).

2445. Plaintiff I. Ramirez testified that Plaintiff J. Ramirez did not receive special education services in a timely fashion, which caused him to suffer from depression.

I. Ramirez Depo. Des. 10:14-19, 43:25-44:13 (GISD).

2446. Plaintiff I. Ramirez testified that Plaintiff J. Ramirez's school lacks certified teachers to teach students with disabilities, and Plaintiff J. Ramirez was often taught by either substitute teachers who were not trained to deal with Plaintiff J. Ramirez's special needs and would place him in detention or by teachers who told Plaintiff J. Ramirez that he was "dumb." I. Ramirez Depo. Des. 13:4-10, 15:8-12, 22:25-24:24, 43:25-44:13 (GISD).

2447. Plaintiff I. Ramirez testified that Chaparral Middle School lacks resources for students such as computers, summer school programs, and certified teachers. I. Ramirez Depo. Des. 7:4-8:16, 17:18:22 (GISD).

2448. Plaintiff R. Ramirez received a grade of D in math and English when she was a tenth grader in Chaparral High School. P-24 at 8.

2449. Plaintiff I. Ramirez testified that Plaintiff R. Ramirez's school lacked experienced teachers. I. Ramirez Depo. Des. 28:20-29:9 (GISD).

Juan C. and I. Campos

2450. Plaintiff J. Campos is the father of Plaintiff I. Campos. J. Campos Depo. Des. 5:19-20, 6:4-5 (Española).

2451. Plaintiff I. Campos is an economically disadvantaged student who qualifies for free and reduced lunch. J. Campos Depo. Des. 10:6-8 (Española); P-11 at 33-34.

2452. As of the day of Plaintiff J. Campos's deposition on October 11, 2016, Plaintiff I. Campos attended James Rodriguez Elementary, a public school in the Española Public School District. P-11 at 20; J. Campos Depo. Des. 10:23-11:20 (Española).

2453. Plaintiff I. Campos participated in the ELL program at James Rodriguez Elementary. P-1516 at 2.

2454. Plaintiff I. Campos received a grade of D in math in the fourth grade but did not receive any tutoring or additional academic support. J. Campos Depo. Tr. 55:3-20.

2455. Plaintiff J. Campos testified that Plaintiff I. Campos did not participate in an academic improvement plan at James Rodriguez Elementary, and Plaintiff J. Campos and his wife were only called by the school about Plaintiff I. Campos's performance once or twice a year. J. Campos Depo. Des. 36:20-37:2 (Española).

I. Martinez, S. Martinez, E. Martinez, D. Martinez, and A. Martinez

2456. Plaintiff I. Martinez is the father of Plaintiffs S. Martinez, E. Martinez, D. Martinez, and A. Martinez. I. Martinez Depo. Des. 5:18-7:20 (Las Cruces); P-11 at 15-16.

2457. As of the time of Plaintiff I. Martinez's deposition on October 16, 2015, Plaintiffs S. Martinez, E. Martinez, D. Martinez, and A. Martinez attended public schools in Las Cruces Public Schools. I. Martinez Depo. Des. 5:18-7:20 (Las Cruces); P-11 at 15-16.

2458. Plaintiffs S. Martinez, E. Martinez, D. Martinez, and A. Martinez are bilingual students who participated in bilingual programs at their schools in Las Cruces Public Schools. I. Martinez Depo. Des. 29:11-15, 31:9-11, 49:32-50:4 (Las Cruces); P-11 at 28-29, P-26 at 2, P-27 at 70.

2459. Plaintiff I. Martinez testified that Plaintiffs D. Martinez and S. Martinez struggled with their classes and required tutoring. I. Martinez Depo. Des. 12:20-14:7, 16:5-14 (Las Cruces).

2460. When Plaintiff D. Martinez was in the fifth grade at Sonoma Elementary in Las Cruces Public Schools, she was not proficient in reading, math, science, and writing according to the New Mexico Standards Based Assessment. P-27 at 36-42.

2461. When Plaintiff D. Martinez was in the seventh grade at Camino Real Middle School in Las Cruces Public Schools, she was still not proficient in reading, math, and science according to the New Mexico Standards Based Assessment. P-27 at 13-16.

2462. Plaintiff I. Martinez testified that Sonoma Elementary in Las Cruces Public Schools did not have any tutors available and had one summer program, which was

offered only to English-only students, so his children could not take advantage of that program. I. Martinez Depo. Des. 33:9-23, 83:22-24 (Las Cruces).

2463. Plaintiff I. Martinez testified that Plaintiff S. Martinez's classes had an approximate student-teacher ratio of 20:1 to 23:1. I. Martinez Depo. Des. 18:13-14 (Las Cruces).

2464. Plaintiff I. Martinez testified that Plaintiff E. Martinez attended PreK at Discovery School in Las Cruces, but the program was not bilingual so Plaintiff E. Martinez struggled and was overwhelmed. I. Martinez Depo. Des. 35:2-24 (Las Cruces); P-11 at 28.

2465. Plaintiff I. Martinez testified that the K-3 Plus Program in Las Cruces was only available for students who were not in the bilingual program. I. Martinez Depo. Des. 84:2-20 (Las Cruces).

2466. Plaintiff I. Martinez testified that Plaintiff E. Martinez could not read at grade level. I. Martinez Depo. Des. 40-1-13 (Las Cruces).

2467. Plaintiff I. Martinez testified that Plaintiff E. Martinez always received bad test scores and his school did not have resources such as tutoring and summer school to help him improve his grades. I. Martinez Depo. Des. 32:13-25 (Las Cruces).

L. Apachito, J. Apachito, and Ln. Apachito

2468. Plaintiff L. Apachito is the mother of Plaintiffs J. Apachito and Ln. Apachito. L. Apachito Depo. Des. 8:20-9:17 (MMSD).

2469. As of the day of her deposition on October 27, 2016, Plaintiff L. Apachito was an educational assistant and home school liaison for Magdalena Municipal School District. L. Apachito Depo. Des. 7:18-19 (MMSD).

2470. Plaintiffs J. Apachito and Ln. Apachito attended public schools in Magdalena Municipal School District. L. Apachito Depo. Des. 8:6-15 (MMSD).

2471. Plaintiffs J. Apachito and Ln. Apachito attended bilingual programs at their school in Magdalena Municipal School District. L. Apachito Depo. Des. 48:19-49:3 (MMSD).

2472. As of the time of Plaintiff L. Apachito's deposition on October 27, 2016, Plaintiff J. Apachito was in the fifth grade in the Magdalena Municipal School District. L. Apachito Depo. Des. 8:12-17 (MMSD).

2473. Plaintiffs J. Apachito and Ln. Apachito are economically disadvantaged students who qualified for free and reduced lunch when they attended schools in Magdalena Municipal District. L. Apachito Depo. Des. 9:24-10:8 (MMSD).

2474. Plaintiff L. Apachito testified that approximately half of the student population in Magdalena Municipal School District is comprised of Native American students, and the district lacked transportation to drive these students

back to and from their reservation if they joined extracurricular activities after regular school hours. L. Apachito Depo. Des. 53:2-14, 58:18-25 (MMSD).

2475. Plaintiff L. Apachito testified that her family lives approximately 36 miles from the Magdalena Municipal School District. L. Apachito Depo. Des. 53:15-17 (MMSD).

2476. Plaintiff L. Apachito testified that her family does not own any computers, and Plaintiff J. Apachito's school did not have laptops for him to use after school hours to complete his homework. L. Apachito Depo. Des. 77:4-78:13 (MMSD).

E. Briones, D. Briones, and L. Briones

2477. Plaintiff E. Briones is the mother of Plaintiffs D. Briones and L. Briones. E. Briones Depo. Des. 5:11-14 (GISD).

2478. As of the day of Plaintiff E. Briones's deposition in 2015, Plaintiffs D. Briones and L. Briones attended Sunrise Elementary in Gadsden Independent School District. E. Briones Depo. Des. 9:10-17, 24:12-13 (GISD); P-11 at 13.

2479. Plaintiffs D. Briones and L. Briones are economically disadvantaged students who qualify for free and reduced lunch. E. Briones Depo. Des. 9:8-9 (GISD); P-11 at 24-25.

2480. Plaintiff L. Briones is an ELL student. P-0015.

2481. As of the day of Plaintiff E. Briones's deposition in 2015, Plaintiffs D. Briones and L. Briones attended the special education program at Sunrise Elementary. E. Briones Depo. Des. 24:17-20, 31:20-21, 51:12 (GISD).

2482. Plaintiff E. Briones testified that Sunrise Elementary lacked non-instructional staff such as psychologists, police officers, nurses, and social workers. E. Briones Depo. Des. 27:5-28:1, 36:7-9, 36:19-21, 37:12-14, 41:14-23 (GISD).

2483. Plaintiff E. Briones testified that Sunrise Elementary did not have any summer school or after school programs. E. Briones Depo. Des. 45:10-24 (GISD).

G. Alderete, R. Alderete, and L. Alderete

2484. As of 2015, Plaintiffs R. Alderete and L. Alderete attended public schools in Las Cruces Public Schools. P-11 at 15-16.

2485. Plaintiffs R. Alderete and L. Alderete are ELL and economically disadvantaged students who qualify for free and reduced lunch. P-11 at 29-30.

V. YAZZIE PLAINTIFFS HAVE STANDING TO ASSERT THEIR CLAIMS

2486. All five *Yazzie* Family Plaintiffs have legal standing in this case.

2487. Wilhelmina Yazzie is an individual, parent and guardian of a minor plaintiff child, who attends school in the Gallup McKinley County School District, and pays taxes in New Mexico.

2488. James Martinez is an individual, parent and guardian of minor plaintiff child, who attends school in the Albuquerque Public Schools, and pays taxes in New Mexico.

2489. Marsha Leno is an individual, parent and guardian of minor plaintiff children who attend school in the Grants-Cibola County Schools, and pays taxes in New Mexico.

2490. Gloria Sanabria is an individual, parent and guardian of minor children all of whom attend school in the Gadsden Independent School District. Ms. Sanabria pays taxes in New Mexico.

2491. Elizabeth and Andrew Dominguez are individuals, parents and guardians of their minor children, all of whom attend school in the Peñasco Independent School District. The Dominguez's pay taxes in New Mexico.

2492. The above plaintiffs are the family plaintiffs. All of the plaintiff children are low income; some are English language learners, or former English language learners. All are Native American, African American, or Hispanic. Each individual plaintiff child has been harmed by the denial of a sufficient and uniform education in New Mexico.

2493. Plaintiff Parent James Martinez and Plaintiff Child M.M. have suffered harm due to a lack of sufficient educational programs, services, and resources in the school district where MM attends school.

2494. Plaintiff James Martinez (James) and wife Tia Martinez (Tia), both Hispanic, are life-time residents of Albuquerque, New Mexico, and live together with their three children, MM, age 8, AM, age 3, and SM, age 2. Martinez Depo. Des. at 5:22-6:14; 6:21-25; 7:23-8:1; 51:5-11.

2495. James is employed at Sysco NM as a merchandiser, and is currently working towards obtaining his Master's Degree in Business Administration at the University of Phoenix. Martinez Depo. Des. at 7:13-20.

2496. Tia is a full-time homemaker for the two youngest children. Martinez Depo. Des. at 7:21-22.

2497. The annual household income for the Martinez family is approximately \$60,000, which qualifies MM for the Free and Reduced Lunch Program. Martinez Depo. Des. at 8:7-21; 50:12-18.

2498. James has observed the relationship between inadequate funding and a poor quality education for his child MM, including low teacher pay, a lack of resources to low-poverty areas of Albuquerque, and low-quality facility structures. Martinez Depo. Des. at 9:17-10:3; 12:9-13:4, 79:14-19.

2499. James and Tia are very involved in MM's educational learning experience at Atrisco Elementary, which includes some of the following efforts: monitoring MM's academic progress on ParentVUE, attending parent-teacher conferences

three times a year, and expressing his concerns to MM's school teachers regarding his learning experience. Martinez Depo. Des. at 54:23-55:21; 59:3-19; 59:24-60:2.

2500. James, who is not in any position to transfer MM to a different school, observed that, based on school grading report cards, some K-12 schools located in certain residential districts within APS, such as Eldorado and Cibola High Schools, provide a better education to their students when compared to the K-12 schools in MM's residential district, such as Rio Grande High School, which is largely due to a greater allocation of resources for the better-performing schools. Martinez Depo. Des. at 67:15-68:25; 69:3-11; 70:3-21.

2501. Atrisco Elementary School received a D grade on a New Mexico Public Education Department's School Report Card, at the time of James' deposition. Martinez Depo. Des. at 69:1-2.

2502. James observed that schools within the Albuquerque Public School (APS) district fall behind in comparison to other big city school districts, as measured by school report card grading, school funding, student performance on standardized tests, and graduation rates. Martinez Depo. Des. at 77:17-78:24.

2503. James observed that school teachers are better positioned to help students and parents learn about any educational learning opportunity available to them outside of their respective school location, that which most parents are not normally aware of. Martinez Depo. Des. at 64:25-65:15.

2504. Atrisco Elementary, which is a school located in the APS district and currently attended by MM, is a small school attended by a predominantly low-income student population. Martinez Depo. Des. at 7:3-10; 14:14-20.

2505. James and Tia, who spent much time preparing MM for kindergarten by teaching him his colors, shapes, alphabetical letters, and even taught him to read a couple of sentences by the end of kindergarten year. Martinez Depo. Des. at 17:14-19:3.

2506. MM, who was raised in Albuquerque, is in the third grade at Atrisco Elementary, the same school attended by James during his K-5 schooling years. Martinez Depo. Des. at 6:3-6; 6:21-25; 7:8-10.

2507. During his second grade year, MM failed to grasp certain academic subject areas, which James attributes to ineffective teaching; James often had to intervene and ensure that MM learned the subject matter completely. Martinez Depo. Des. at 23:22-24:11; 25: 21-26:24.

2508. MM's teacher, Ms. Noble, provides students access to student-learning applications that they can use at home on their electronic devices; however, the school does not provide students electronic devices. Martinez Depo. Des. at 53: 9-21.

2509. MM has a need for advanced mathematic materials and advanced literacy materials, which his current school does not provide him. Martinez Depo. Des. at 40:23-8; 41:24-42:9; 43:6-24.

2510. Atrisco Elementary, which serves a large population of Spanish speakers, does not provide bilingual education program to MM or his classmates. Martinez Depo. Des. at 80:24-81:8.

2511. In MM's kindergarten class, there were a lot of English language learner students, which impacted the learning environment because the teacher, a bilingual certified instructor, was responsible for instructing both groups of students simultaneously. Martinez Depo. Des. at 81:13-82:5.

2512. In MM's first grade and second grade classes, James observed a lot of ELL students who needed special instructional time throughout the day; however, the teacher was neither bilingual certified nor did she have an EA to help her. Martinez Depo. Des. at 82:6-22.

2513. In MM's third grade class, there is a fair mixture of ELL and non-ELL students, which has impacted MM's educational experience in a manner similar to his K-2 years. Martinez Depo. Des. at 82:23-25.

2514. Unlike James during his K-5 years at Atrisco Elementary, MM has not been provided the opportunity to learn the Spanish language at school. Martinez Depo. Des. at 83:1-8.

2515. James observed a high teacher turnover rate at Atrisco Elementary that exists among many of the well-experienced teachers, and many have left for better teaching opportunities and resources elsewhere in the APS district. Martinez Depo. Des. at 87:22-88:19; 91:23-92:15.

2516. Plaintiff Parents Elizabeth Dominguez and Andrew Dominguez and Plaintiff Children AG, JG, AD, and ABD have suffered harm due to the lack of sufficient educational programs, services, and resources in the school district where they attend school.

2517. Plaintiff Parents Elizabeth Dominguez (Elizabeth) and her husband Andrew Dominguez, along with Plaintiff children, A.G., age 16, J.G., age 14, A.D., age 11, and ABD, age 9, are a low-income, Hispanic family who reside in Albuquerque, New Mexico. Dominguez Depo. Des. at 8:8-14; 13:21-14:22.

2518. At the time of Elizabeth's deposition, the Plaintiff children attended schools at Eldorado High School, Hoover Middle School, and John Baker Elementary School in the Albuquerque Public School district. Dominguez Depo. Des. at 14:7-15:1.

2519. The Dominguez Plaintiffs, who recently moved back to Albuquerque, lived in Chamisal, New Mexico where they spent four years attending schools in Peñasco Independent School District. Dominguez Depo. Des. at 8:15-9:13.

2520. Elizabeth is currently a full-time respiratory therapy student at Pima Medical Institute and has worked in several clinics over several years, prior to becoming a full time student. Dominguez Depo. Des. at 9:22-11:6.

2521. The Dominguez Plaintiffs live mostly off of TANF cash assistance, food stamps of about \$400 and Mr. Dominguez's social security income of \$2,000 a month. Dominguez Depo. Des. at 12:6-23; 13:6-17.

2522. All four Plaintiff children qualify for the Free and Reduced Lunch program. Dominguez Depo. Des. at 13:18-20.

2523. AG and JG, who are currently enrolled in Special Education programs, have an Individual Education Plan (IEP). Dominguez Depo. Des. at 16:15-17:15.

2524. AG and JG started attending school at Chaparral Elementary School in Albuquerque, New Mexico for approximately three years. Dominguez Depo. Des. at 31:17-32:9.

2525. Due to their father being ill, AG and JG transferred to several schools in Albuquerque before eventually returning to Chaparral Elementary School; soon thereafter, they transferred to Peñasco Independent School District where they stayed for three years. Dominguez Depo. Des. at 32:13-34:15.

2526. The New Mexico public schools attended by AG and JG failed to timely diagnose them as needing Special Education services and failed to timely provide information to the IEP team regarding the need for Special Education services,

citing time-consuming paperwork as the reason for the delays. Dominguez Depo. Des. at 18:7-19:13.

2527. As a result of his learning disability, AG missed many school days – at both APS and Peñasco schools – because he felt he was being treated badly by teachers, often hiding out in the nurse’s office where he was consoled by, both, the nurse and school counselor. Dominguez Depo. Des. at 38:8-20.

2528. AG often expressed to his mother, Elizabeth, his frustrations with the learning materials and being bullied and made fun of by other students because he could not read aloud in the classroom, because he was not a fluent reader. Dominguez Depo. Des. at 38:21-39:1.

2529. When Elizabeth mentioned to AG’s teacher that he had learning issues both in school and at home, the teacher insisted that AG was just lazy and was exercising minimal effort. Dominguez Depo. Des. at 25:4-26:8.

2530. In SY 2016, AG underwent additional psychological screening and was found to have emotional and behavioral challenges, which resulted in a diagnosis of being moderately to severely disabled, which affects his comprehension skills, behavior and attitude, student performance, and ultimately his ability to graduate from high school. Dominguez Depo. Des. at 89:9-91:23.

2531. Elizabeth has had to seek outside-counseling services to go to AG's school to provide him services for his emotional and behavioral needs. Dominguez Depo. Des. at 97:2-98:1.

2532. Elizabeth brought JG's learning issues to the attention of his first or second grade elementary teacher during the parent/teacher meetings, requesting that he be evaluated for a learning disability; but her request was denied. Dominguez Depo. Des. at 26:19-27:8.

2533. Elizabeth was told that JG's teachers do not have the time or the resources to work with JG in helping him overcome his learning issues. Dominguez Depo. Des. at 43:4-7.

2534. AD, whose performance is average by academic measures, is faced with the same challenges of attending schools that fail to provide him with a sufficient education. Dominguez Depo. Des. at 69:8-22.

2535. ABD struggles in reading and lacks sufficient literacy resources, including reading instruction and smaller classes, to help him achieve proficiency in reading. Dominguez Depo. Des. at 20:15-21:8.

2536. ABD, who has struggled in Reading and Language Arts – e.g. phonics and word recognition – however, does not receive adequate instructional support which he needs to bring his academic performance up to grade level. Dominguez Depo. Des. at 20:15-21:8.

2537. During in-class reading activities, ABD has expressed the same frustrations and personal insecurities as older brother AG because he cannot read at grade level. Dominguez Depo. Des. at 39:12-20.

2538. A recent report from ABD's teacher indicates that ABD has a need for small group/one-on-one interactions; however, given the size of the classroom, ABD does not receive adequate instructional time that he needs. Dominguez Depo. Des. at 92:18-93:7.

2539. ABD, who has struggled academically in a manner similar to his older brothers, AG and JG, needed to be screened for a learning disability but a diagnostician was not made available. Dominguez Depo. Des. at 28:17-29:25.

2540. ABD's teacher, Ms. Walker, told Elizabeth that ABD did not have access to a diagnostician to assess his needs because the school's Student Assistance Team (SAT) did not have sufficient time to do so. Dominguez Depo. Des. at 29:12-30:14.

2541. Plaintiff Children are unable to attend after-school programs because of the expense. Dominguez Depo. Desig., at Tr. 87:10-88:14.

2542. Plaintiff children are not provided much-needed summer school programs. Dominguez Depo. Des. at 88:16-89:15.

2543. Plaintiff children do not have inadequate classroom supplies. Dominguez Depo. Des. at 80:23-81:6.

2544. Elizabeth observed that textbooks at Peñasco schools are outdated in all content areas. Dominguez Depo. Des. at 77:10-17.

2545. The Peñasco schools where the Plaintiff children have attended suffer from high teacher and administrator turnover rates. Dominguez Depo. Des. at 79:6-10.

2546. Plaintiff Parent Gloria Sanabria and Plaintiff Children JD, DD, and VD have suffered harm due to the lack of sufficient educational programs, services, and resources in the school district where they attend school.

2547. Plaintiff Parent Gloria Sanabria (Gloria) and Plaintiff children J.D., age 11, D.D., age 10, and V.D., age 8, reside in New Mexico, where, at the time of the deposition, all three children attended Berino Elementary School in the Gadsden Independent School District. Sanabria Depo. Des. at 5:6-6:7; 10:6-7.

2548. Gloria, who has been unemployed since February 2016, was a caregiver at “V & B Caring Hands,” a home care service for disabled individuals, located in Anthony, New Mexico. Sanabria Depo. Des. at 7:21-8:13.

2549. Gloria’s husband, Julio, is a rancher and caretaker of horses. Sanabria Depo. Des. at 9:3-8.

2550. At home, the Sanabria Plaintiff family communicate in both Spanish and English. Sanabria Depo. Des. at 9:18-22

2551. JD and DD are both designated as English language learners and require ELL programs and services. Sanabria Depo. Des. at 55:25-56:2; 56:5-7.

2552. The Sanabria Plaintiff family earns an annual income of \$11,000 to \$13,000, which entitles them to receive food stamps, and all children qualify for the Free and Reduced Lunch Program. Sanabria Depo. Des. at 9:23-10:9; 12:1-2.

2553. Gloria decided to join the Yazzie lawsuit as a Plaintiff because of problems that she has observed with her children's educational and learning experiences, which are result of inadequate school resources. Sanabria Depo. Des. at 12:13-13:17.

2554. The following inadequate school resources negatively affect the Plaintiff Children's educational experiences: inadequate after-school opportunities and a lack of tutoring. Sanabria Depo. Des. at 13:22-14:17.

2555. At both Vado Elementary and Cesar Chavez Elementary schools, K-3 Plus was not available to DD nor JD. Sanabria Depo. Des. at 28:1-16.

2556. Gloria has communicated with the principal at JD's school to ask about counseling for his ADHD condition, which he does not receive. Sanabria Depo. Des. at 44:14-45:6.

2557. JD needs in-school counseling and is not receiving it. Sanabria Depo. Desig. 45:5-47:24.

2558. In August of 2015, a private neurologist determined that VD had a learning disability, which necessitated special education services. Sanabria Depo. Des. at 23:11-24:13.

2559. Prior to the school's determination that VD needed special education services, VD's then-school teacher, Ms. Minjarez, did not seek Special Ed services on behalf of VD, even after Gloria had asked her to do so. Sanabria Depo. Des. at 18:18-24; 21:18-23.

2560. VD was not timely provided Special Ed services at her school even after Gloria requested it many times. Sanabria Depo. Des. at 50:18-51:17.

2561. DD was placed in a special education program in kindergarten but not in first grade when he attended Las Cruces public schools. Sanabria Depo. Des. at 38:10-19.

2562. All three Plaintiff children need after-school activities and tutoring, which they do not have access to. Sanabria Depo. Des. at 49:5-50:17. -50; 57:22-58:2.

2563. JD and DD both need tutoring in math and reading that is conducive to their EL needs. Sanabria Depo. Des. at 56:22-57:7.

2564. JD and DD do not have access to academic summer programs. Sanabria Depo. Des. at 57:8-21.

2565. Plaintiff Parent Wilhelmina Yazzie and Plaintiff Child XN have suffered harm due to a lack of sufficient educational programs, services, and resources in the school district where XN attends school.

2566. Plaintiff parent Wilhelmina Yazzie and child plaintiff XN, age 13, are a Navajo family who reside in Gallup, New Mexico. Yazzie Depo. Des. at 4:6-10, 12:7-8.

2567. The annual yearly income for Wilhelmina is approximately \$45,000. Yazzie Depo. Des. at 12:19-25.

2568. At the time of Wilhelmina's deposition, XN was in 7th grade at John F. Kennedy Middle School (JFK MS), which is located in the Gallup McKinley County School district (GMCS). Yazzie Depo. Des. at 13:9-15.

2569. The majority of children in XN's classes are Native American, which includes both Navajo and Pueblo students. Yazzie Depo. Des. at 39:6-19.

2570. XN, who is practicing to learn both English and Navajo at home, does not have access to bilingual language classes, including Navajo. Yazzie Depo. Desig., 25:25-26:13.

2571. XN does receive adequate school support, or access to advanced courses, that would adequately prepare him to be ready for college. Yazzie Depo. Des. at 15:9-16:2; 20:18-21-19; 21:24-22:10; 26:23-27:12.

2572. XN needs but does not receive college prep classes. Yazzie Depo. Desig., 25:23-25.

2573. Wilhelmina, who met with a school counselor at JFK MS in an effort to enroll XN in Advanced courses in math and reading, was not given a reasonable

response as to why XN could not enroll in the advanced courses. Yazzie Depo. Des. at 16:19-18:12.

2574. XN does not have access to an after school programs at JFK Middle School. Yazzie Depo. Des. at 34:20-24.

2575. XN's scores on the Student Based Assessment are lower than his grades, which is concerning to Wilhelmina because it indicates that XN was not prepared adequately for the test. Yazzie Depo. Des. at 31:20-33:12.

2576. Several of XN's teachers over the years were inexperienced and did not show an interest in XN's learning progress. Yazzie Depo. Des. at 36:13-37:6.

2577. For grades 3-5, there were no teacher aides in XN's classes. Yazzie Depo. Des. at 38:2-9.

2578. XN does not have access to adequate materials, including books and papers. Wilhelmina has helped purchase materials for the school, including sanitizer, Kleenex, erasable markers, pens, and socks to wipe down the chalkboards. Yazzie Depo. Des. at 44:15-45:5.

2579. XN was not allowed to take home a textbook at JFK MS. Wilhelmina was told at a parent-teacher conference that the school does not have enough books for students to take home. Yazzie Depo. Des. at 45:7-17.

2580. In XN's Navajo History class, students are required to share Xerox copies of textbook chapters. Yazzie Depo. Des. at 45:18-23.

2581. The lack of access to instructional materials, both, at home and in school has negatively affected XN's educational experience. Yazzie Depo. Des. at 45:23-46:10.

2582. At Jefferson Elementary, XN had access to half-day PREK. Wilhelmina, who had to pick XN up at 10:30 AM, testified that the program was primarily short. Yazzie Depo. Des. at 48:9-19.

2583. The PREK program at Jefferson Elementary is not always available to students, including the Plaintiff Children. Yazzie Depo. Des. at 48:21-24.

2584. XN did not have access to computers at Jefferson Elementary School. Yazzie Depo. Des. at 51:4-13.

2585. XN is taking a keyboarding class at JFK MS. However, there are not enough computers for students. Yazzie Depo. Des. at 51:14-52:5.

2586. Plaintiff Parent Marsha Leno and Plaintiff Children AL, BG, AZG, and AWG have suffered harm due to a lack of sufficient educational programs, services, and resources in the school district where they attend school.

2587. Plaintiff Parent Marsha Leslie Leno ("Marsha") and husband Ryan Leno reside in Laguna Pueblo along with their oldest son, Marcus, age 22, and Plaintiff children A.L. age 13, and Plaintiff children B.G., age 12, A.Z.G., age 9, and A.W.G., age 6. Leno Depo. Des. at 3:6-8; 8:6-9:22.

2588. Marsha and Ryan Leno have permanent guardianship status over the three Gachupin plaintiff children, who are the children of Marsha's recently deceased sister. Leno Depo. Des. at 14:21-24.

2589. Keresan and English are the two primary languages spoken regularly among the Leno family. Leno Depo. Des. at 20:8-21:1.

2590. All plaintiff children are eligible for the Free and Reduced Lunch Program. Leno Depo. Des. at 19:14-16.

2591. Marsha and Ryan Leno stay involved in the education and learning of plaintiff children through a variety of ways, including but not limited to: helping them with their homework and attending parent-teacher conferences Leno Depo. Des. at 42:20-23; 43:19-44:13.

2592. There are a lack Native American teachers at Los Alamitos Middle School, as well as non-Native American teachers who are culturally sensitive. Leno Depo. Des. at 47:3-16.

2593. Marsha testified that Cubero Elementary is a good school because it is newly constructed and fully staffed; but it is overcrowded with students. Leno Depo. Des. at 46:13-20.

2594. Marsha joined the Yazzie lawsuit as a plaintiff because her children do not receive a sufficient education, which she attributes to insufficient resources, and insufficient access to necessary educational programs and services such as English

language learner and transportation services. Leno Depo. Des. at 21:11-21; 24:5-16.

2595. Marsha testified that insufficient resources have affected her children's education and school learning environments in the following ways:

2596. A lack of access to textbooks, which has affected their ability to complete homework assignments, Leno Depo. Des. at 24:17-21; 26:25-28:1;

2597. Schools failing to provide culturally relevant curriculums and programs, Leno Depo. Des. at 25:9-10;

2598. A lack of access to adequate instructional time in English Language learner programs, Leno Depo. Des. at 25:9-11; 30:15-31:13;

2599. A lack of interface time between teachers and students due to over-populated classrooms for all four plaintiff children, Leno Depo. Des. at 25:12-13; 31:7-13; 31:16-32:7; 33:12-24;

2600. A lack of Native American teachers in Plaintiff Children's classrooms, Leno Depo. Des. at 25:13-15; 33:25-34:17;

2601. A lack of college and career readiness programs, Leno Depo. Des. at 25:15-20; 37:4-39:12;

2602. Inadequate transportation services, Leno Depo. Des. at 25:20-25.

2603. AL attended Cubero Elementary School for grades K-6 and currently attends Los Alamitos Middle School for grades 7-8, both public schools are located in the Grants-Cibola County District. Leno Depo. Des. at 16:16-17:5.

2604. In addition to the aforementioned educational opportunities, AL is not provided the following programs and services that are necessary for AL's education: Native American culture programs; tutoring in math, science and literacy to help exit the EL status; college and career readiness programs; art programs; and counseling services; and bilingual programs. Leno Depo. Des. at 72:19-73:10; 73:16-74:1; 74:10-19; 76:2-11; 76, 17-21; 77:1-14.

2605. AL has complained to Marsha about not having a Keres language program at Los Alamitos Middle School. Leno Depo. Des. at 36:23-37:3.

2606. Plaintiff children AL, AZG, and AWG do not bring home textbooks because there aren't enough to share among classmates; instead, Plaintiff children are often provided worksheets that do not fully contain the information needed to complete their homework assignments. Leno Depo. Des. at 26:10-28:1.

2607. Los Alamitos Middle and Cubero Elementary schools do not provide Plaintiff children, who are enrolled Pueblo members, a culturally relevant curriculum that supports their culturally-related academic needs as Native American students. Leno Depo. Des. at 28:2-21.

2608. Both of the schools where Plaintiff children attend lack Native American teachers; additionally, they lack teachers that are sensitive to their culture, traditions, and tribal affiliation; and teachers who have an ability to make learning relevant to their experiences as Native Americans. Leno Depo. Des. at 36:3-22.

2609. Marsha observed that, while Plaintiff children's teachers are generally good, they fail to understand Plaintiff children's unique cultural and linguistic needs. Leno Depo. Des. at 44:14-45:15.

2610. Each Plaintiff child has been identified by their schools as needing English language learner programs and services. Leno Depo. Des. at 30:1-6.

2611. A SAT suggested to Marsha a few at-home strategies to help AZG improve her English development, but also told Marsha that the school lacked the resources to fully support AZG's English language development needs. Leno Depo. Des. at 68:1-16.

2612. During the winter season, the school buses, which are old, are often overcrowded and delayed due to mechanical failures, requiring Marsha to find her own transportation for Plaintiff children. Leno Depo. Des. at 39:21-40:9.

2613. Plaintiff children do not have access to certain educational programs and services, such as tutoring, outside of school hours, including before and after-school tutoring, because transportation services are not regularly made available for that purpose. Leno Depo. Des. at 41:12-42:16.

2614. Marsha has communicated with the principals at both Los Alamitos and Cubero about Plaintiff children not being provided adequate educational programs and services. Leno Depo. Des. at 82:7-83:5.

2615. In her capacity as a member of the Indian Education Parent Advisory Committee for GCCS, she has communicated with the GCCS superintendent and the Assistant Secretary of Indian Education, Latifah Phillips, about the lack educational opportunities for her children and Native American students generally; however, the GCCS superintendent relayed to Marsha that GCCS lacks adequate funding to fully address those issues. Leno Depo. Des. at 79:19-81:19; 85:9-19.

2616. As for AZG, GCCS classrooms are more populated than her former classroom at BIE, the teacher-to-student ratio is worse at GCCS, and she does not experience the same level of cultural sensitivity at GCCS – the sum of which affected her school grades. Leno Depo. Des. at 66:1-21.

2617. As for AWG, the GCCS classrooms are more populated than his former classroom at BIE, the teacher-to-student ratio is worse at GCCS, his English language development needs are not adequately tailored to, and he does not experience the same level of cultural sensitivity at GCCS. Leno Depo. Des. at 69:11-70:10.

2618. The School Boards of the six Plaintiff Districts voted to have their District join the case and approved funding for the costs associated with litigation in *Yazzie v. State of New Mexico*.

2619. Plaintiff Santa Fe Public School Board of Education (SFPS Board) is a local public body, duly elected to oversee the educational programming and interests of the students residing within its geographic boundaries or who are otherwise enrolled in its schools.

2620. The SFPS Board is further authorized by statute to engage in legal action to vindicate the interests of the District and its students.

2621. The SFPS Board's ability to meet the educational needs of its students is substantially impaired by the Defendants in the form of funding insufficiency, below the line funding controls that create inequality of resources between students, and a funding formula that fails to sufficiently account for the costs of educating at-risk and ELL students.

2622. Plaintiff Moriarty-Edgewood School District Board of Education is a local public body, duly elected to oversee the educational programming and interests of the students residing within its geographic boundaries or who are otherwise enrolled in its schools.

2623. The Moriarty-Edgewood School District serves students from the counties of Torrance and Santa Fe, including the towns of Moriarty and Edgewood.

2624. The Moriarty-Edgewood School District Board of Education is authorized by statute to engage in legal action to vindicate the interests of the District and its students.

2625. The Board's ability to meet the educational needs of its students is substantially impaired by the Defendants in the form of funding insufficiency, below the line funding controls that create inequality of resources between students, and a funding formula that fails to sufficiently account for the costs of educating at-risk and ELL students.

2626. Plaintiff Rio Rancho Public School District Board of Education is a local public body, duly elected to oversee the educational programming and interests of the students residing within its geographic boundaries or who are otherwise enrolled in its schools.

2627. The Rio Rancho School District serves students from Sandoval County and Bernalillo County, including students from the Bernalillo Public School District, Jemez Valley Public School District and the Albuquerque Public School District.

2628. The Rio Rancho School District Board of Education is authorized by statute to engage in legal action to vindicate the interests of the District and its students.

2629. The Board's ability to meet the educational needs of its students is substantially impaired by the Defendants in the form of funding insufficiency, below the line funding controls that create inequality of resources between

students, and a funding formula that fails to sufficiently account for the costs of educating at-risk and ELL students.

2630. Plaintiff Lake Arthur Municipal Schools Board of Education is a local public body, duly elected to oversee the educational programming and interests of the students residing within its geographic boundaries or who are otherwise enrolled in its schools.

2631. The Lake Arthur Municipal School District serves students from Chaves and Eddy Counties.

2632. The Lake Arthur Municipal Schools Board of Education is authorized by statute to engage in legal action to vindicate the interests of the District and its students.

2633. The Board's ability to meet the educational needs of its students is substantially impaired by the Defendants in the form of funding insufficiency, below the line funding controls that create inequality of resources between students, and a funding formula that fails to sufficiently account for the costs of educating at-risk, low-income and ELL students.

2634. Plaintiff Cuba Independent Schools Board of Education is a local public body, duly elected to oversee the educational programming and interests of the students residing within its geographic boundaries or who are otherwise enrolled in its schools.

2635. The Cuba Independent School District serves students from Rio Arriba, San Juan and McKinley Counties.

2636. The Cuba Independent Schools Board of Education is authorized by statute to engage in legal action to vindicate the interests of the District and its students.

2637. The Board's ability to meet the educational needs of its students is substantially impaired by the Defendants in the form of funding insufficiency, below the line funding controls that create inequality of resources between students, and a funding formula that fails to sufficiently account for the costs of educating at-risk, low-income and ELL students.

2638. Plaintiff Gallup-McKinley County Schools Board of Education is a local public body, duly elected to oversee the educational programming and interests of the students residing within its geographic boundaries or who are otherwise enrolled in its schools.

2639. The Gallup-McKinley County Schools Board elected to have its public school district, Gallup-McKinley County Schools, which serves students located within McKinley County, New Mexico, join the Yazzie Lawsuit against the State Defendants (named below).

2640. The Gallup-McKinley County Schools Board of Education is authorized by statute to engage in legal action to vindicate the interests of the District and its students. The Board's ability to meet the educational needs of its students is

substantially impaired by the Defendants in the form of funding insufficiency, below the line funding controls that create inequality of resources between students, and a funding formula that fails to sufficiently account for the costs of educating at-risk, low-income and ELL students.

2641. Gallup-McKinley Schools Board of Education chose to list its name in this case as the “District,” while all the other districts chose to list their names as the “Boards.”

2642. All six *Yazzie* Plaintiff Districts and five *Yazzie* Family Plaintiffs have suffered harm, caused by the named Defendants in this case.

2643. The *Yazzie* Plaintiffs sued Defendant, the State of New Mexico, which includes the legislative body responsible for appropriating money and enacting laws that together form the New Mexico public school budget and public school system.

2644. The *Yazzie* Plaintiffs sued Defendant, New Mexico Public Education Department, which is an executive department of Defendant State of New Mexico established by New Mexico law with its principal place of business in the Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501.

2645. Under Article XII, Section 6 of the New Mexico Constitution and legislation enacted thereunder, PED supervises schools and school officials and "determine[s] policy for the operation of all public schools."

2646. Defendant Public Education Department is the entity to be sued regarding the constitutionality of the public school system under the Declaratory Judgment Act and is a person for purposes of the Declaratory Judgment Act, NMSA 1978, § 44-6-13.

2647. PED and the Legislature, who have the duty to provide all districts, including Plaintiff Districts, sufficient funds for them to provide sufficient educational opportunities to the students who they serve, have control over total funding, funding formula composition and administration, and below-the-line programs, all of which are the primary drivers of constitutional injury. Burrell, 7/18/17, Tr. 13:10-15:12; EX. P-71.

2648. LFC Deputy Director Sallee testified and the Court finds that PED is already vested with sufficient budgetary authority to withhold approval of a district's SEG allocation if PED determined that the district was not spending its money in accordance with the Constitution. 7/21/17 (AM), Tr. 115:21-116:25, 121:11-122:8.

2649. PED is responsible for approving every district budget and is duty-bound to ensure districts get enough funding and spend their appropriation effectively. Aguilar, 8/4/17, Tr. 85:16-87:12.

2650. PED is also required to monitor or audit the use of these SEG and federal funds, something that it does not do sufficiently and which inures to the detriment of at-risk students. Burrell, 7/18/17, Tr. 23:25-24:12; Ex. P-87 at 35-49.

2651. The Yazzie Plaintiffs sued Hannah Skandera, the Secretary of Education in her official capacity.

2652. Under Article XII, Section 6 of the New Mexico Constitution, Defendant Secretary has "administrative and regulatory duties, including all functions relating to the distribution of school funds and financial accounting related to the public schools to be performed as required by law." Defendant Secretary is the New Mexico state official broadly charged with administering the public school system and the public school budget in New Mexico and is therefore the official to be sued in this matter under the Declaratory Judgment Act, NMSA 1978, § 44-6-13.

2653. In 2017, Defendant Hanna Skandera vacated her position as the Secretary-designee of the New Mexico Public Education Department. Governor Susana Martinez designated Christopher Ruszkowski as the new Secretary of Education for the New Mexico Public Education Department. Defendant Ruszkowski, as the Secretary Designate of the Public Education Department, is the New Mexico state official broadly charged with administering the public school system and the public school budget in New Mexico and is therefore the official to be sued in this matter under the Declaratory Judgment Act, NMSA 1978, § 44-6-13.

2654. The specific harms suffered by the Plaintiff Districts in this case are found throughout the Findings of Fact provided within the entirety of this document.

VI. ADDITIONAL FINDINGS REGARDING FOCUS DISTRICTS

Alamogordo.

2655. In 2015-16 Alamogordo School District had 5,816 students enrolled. (Yazzie Stip. #79)

2656. The Geographic size of Alamogordo School District is 3,772 square miles. (Yazzie Stip. #80)

2657. The District grade for 2013-14 was a B. (Yazzie Stip. #81)

2658. The District grade for 2014-15 was a C. (Yazzie Stip. #82)

2659. The Free and Reduced Lunch (FRL) rates went from 52.8 percent in 2007-08 to 81 percent in 2014-15. (Yazzie Stip. #83)

2660. The English Language Learners (ELL) rates went from 2.3 percent in 2007-08 to 2 percent in 2014-15. (Yazzie Stip. #84)

2661. The Native American student population went from 1.9 percent in 2007-08 to 2 percent in 2014-15. (Yazzie Stip. #85)

2662. In 2014, Alamogordo had one school with a “D” grade and no schools with an “F” grade. (EX P-2408)

2663. In 2015, Alamogordo had one school with a “D” grade and one school with an “F” grade. (EX P-2408)

2664. In 2016, Alamogordo had two schools with a “D” grade and no schools with an “F” grad. EX P-2408

Albuquerque

2665. In 2015-16 Albuquerque Public Schools had 90,566 students enrolled.
(Yazzie Stip. #113)

2666. The Geographic size of Albuquerque School District is 1,178 square miles.
(Yazzie Stip. #114)

2667. The District grade for 2013-14 was a C. (Yazzie Stip. #115)

2668. The District grade for 2014-15 was a D. (Yazzie Stip. #116)

2669. The Free and Reduced Lunch (FRL) rates went from 55.2 percent in 2007-08 to 69 percent in 2014-15. (Yazzie Stip. #117)

2670. The English Language Learners (ELL) rates went from 17.4 percent in 2007-08 to 17 percent in 2014-15. (Yazzie Stip. #118)

2671. The Native American student population was five percent in 2007-08 and remained at five percent in 2014-15. (Yazzie Stip. #119)

2672. In 2014, Albuquerque had 51 schools with a “D” grade and 14 schools with an “F” grade. (Ex. P-2401 at 2-3)

2673. In 2015, Albuquerque had 26 schools with a “D” grade and 15 schools with an “F” grade. (Ex. P-2401 at 34-35)

2674. In 2016, Albuquerque had 27 schools with a “D” grade and 24 schools with an “F” grade. (Ex. P-2401 at 54-55)

Bernalillo

2675. The District grade for 2013-14 was a C. (Yazzie Stip. #171)

2676. The District grade for 2014-15 was a D. (Yazzie Stip. #174)

2677. The Free and Reduced Lunch (FRL) rates went from 96.2 percent in 2007-08 to 100 percent in 2014-15. (Yazzie Stip. #175)

2678. The English Language Learners (ELL) rates went from 42.1 percent in 2007-08 to 34 percent in 2014-15. (Yazzie Stip. #176)

2679. The Native American student population went from 42 percent in 2007-08 to 43 percent in 2014-15. (Yazzie Stip. #177)

2680. In 2014, Bernalillo had four schools with a “D” grade and no schools with an “F” grade. P-2411

2681. In 2015, Bernalillo had three schools with a “D” grade and two schools with an “F” grade. P-2411

2682. In 2016, Bernalillo had five schools with a “D” grade and one school with an “F” grade. P-2411

Cuba

2683. In 2015-16 Cuba School District had 555 students enrolled. (Yazzie Stip. #225)

2684. The Geographic size of Cuba School District is 1,764 square miles. (Yazzie Stip. #226)

2685. The District grade for 2013-14 was a C. (Yazzie Stip. #227)

2686. The District grade for 2014-15 was a D. (Yazzie Stip. #228)

2687. The Free and Reduced Lunch (FRL) rates went from 97.8 percent in 2007-08 to 98 percent in 2014-15. (Yazzie Stip. #229)
2688. The English Language Learners (ELL) rates went from 55.1 percent in 2007-08 to 37 percent in 2014-15. (Yazzie Stip. #230)
2689. The Native American student population went from 66.3 percent in 2007-08 to 62 percent in 2014-15. (Yazzie Stip. #231)
2690. In 2014, Cuba had three schools with a “D” grade and no schools with an “F” grade. EX P-2412
2691. In 2015, Cuba had no schools with a “D” grade and no schools with an “F” grade. EX P-2412
2692. In 2016, Cuba had no schools with a “D” grade and no schools with an “F” grade. EX P-2412
2693. In 2014-2015, CISD served a student population of approximately 540 students. (Yazzie Stip. #1301)
2694. The Navajo community in CISD is impacted by high rates of poverty, which may increase their dropout rates and may decrease their educational attainment levels. (Yazzie Stip. #1302)
2695. Various health issues affect the communities surrounding CISD, such as substance abuse, especially so for the isolated communities. (Yazzie Stip. #1303)

2696. CISD employs a school-wide Title 1 program, which affords all students a Free and/or Reduced Lunch. About 90 percent of all students are eligible for Free and Reduced Lunch. (Yazzie Stip. #1304)

2697. CISD serves approximately 10-15 students whose families migrate to Colorado in September to pursue agricultural employment and, eventually, return to CISD in October. CISD is responsible for meeting the educational needs of these students. (Yazzie Stip. #1313)

2698. Many Bureau of Indian Education (BIE) schools provide only grades K-8 education, causing many BIE students to have to transition to CISD for some grades. The transition, however, is difficult for those students because they must adapt to new curriculum and academic standards. (Archuleta, p. 16-17, lines 18-24). (Yazzie Stip. #1314)

Espanola

2699. In 2015-16 Española School District had 3,885 students enrolled. (Yazzie Stip. #270)

2700. The Geographic size of Española School District is 712 square miles. (Yazzie Stip. #271)

2701. The District grade for 2013-14 was a C. (Yazzie Stip. #272)

2702. The District grade for 2014-15 was a D. (Yazzie Stip. #273)

2703. The Free and Reduced Lunch (FRL) rates went from 100 percent in 2007-08 to 92 percent in 2014-15. (Yazzie Stip. #274)

2704. The English Language Learners (ELL) rates went from 27 percent in 2007-08 to 19 percent in 2014-15. (Yazzie Stip. #275)

2705. The Native American student population went from 5.9 percent in 2007-08 to 6 percent in 2014-15. (Yazzie Stip. #276)

2706. In 2014, Española had five schools with a “D” grade and one school with an “F” grade. EX P-2410

2707. In 2015, Española had three schools with a “D” grade and five schools with an “F” grade. EX P-2410

2708. In 2016, Española had three schools with a “D” grade and four schools with an “F” grade. EX P-2410

Gadsden

2709. In 2015-16 Gadsden School District had 13,550 students enrolled. (Yazzie Stip. #315)

2710. The Geographic size of Gadsden School District is 1, 226 square miles. (Yazzie Stip. #316)

2711. The District grade for 2013-14 was a B. (Yazzie Stip. #317)

2712. The District grade for 2014-15 was a D. (Yazzie Stip. #318)

2713. The Free and Reduced Lunch (FRL) rate was 100 percent in 2007-08 and was 100 percent in 2014-15. (Yazzie Stip. #319)

2714. The English Language Learners (ELL) rates went from 50.6 percent in 2007-08 to 36 percent in 2014-15. (Yazzie Stip. #320)

2715. The Native American student population went from .1 percent in 2007-08 to 0 percent in 2014-15. (Yazzie Stip. #321)

2716. In 2014, Gadsden had no schools with a “D” grade and no schools with an “F” grade. EX P-2499

2717. In 2015, Gadsden had eight schools with a “D” grade and four schools with an “F” grade. EX P-2511

2718. In 2016, Gadsden had two schools with a “D” grade and no schools with an “F” grade. EX P-2523

Gallup

2719. In 2015-16 Gallup School District had 11,686 students enrolled. (Yazzie Stip. #356)

2720. The Geographic size of Gallup School District is 1,226 square miles. (Yazzie Stip. #357)

2721. The District grade for 2013-14 was a D. (Yazzie Stip. #358)

2722. The District grade for 2014-15 was a C. (Yazzie Stip. #359)

2723. The Free and Reduced Lunch (FRL) rates went from 77.4 percent in 2007-08 to 90 percent in 2014-15. (Yazzie Stip. #360)

2724. The English Language Learners (ELL) rates went from 44.5 percent in 2007-08 to 28 percent in 2014-15. (Yazzie Stip. #361)

2725. The Native American student population went from 81.6 percent in 2007-08 to 79 percent in 2014-15. (Yazzie Stip. #362)

2726. In 2014, Gallup had 12 schools with a “D” grade and 11 schools with an “F” grade. EX P-2407

2727. In 2015, Gallup had 10 schools with a “D” grade and three schools with an “F” grade. EX P-2407

2728. In 2016, Gallup had seven schools with a “D” grade and no schools with an “F” grade. EX P-2407

2729. About 79.5 percent of GMCS students are Native American, 92.3 percent are economically disadvantaged, and 28 percent are classified as English language learners (ELL). (Yazzie Stip. #1294)

2730. The academic proficiency rates are low for GMCS’s Navajo ELL students. (White, Dep. Des. at 77:19-78:6; Yazzie Stip. #1295)

2731. GMCS measures whether students are ready for college or a career by counting the numbers of students who receive a high school diploma as compared

to the numbers of students who receive a certificate of attendance. (White, Dep. Des. at 72:14-73:14; Yazzie Stip. #1297)

Grants-Cibola

2732. In 2015-16 Grants School District had 3,702 students enrolled. (Yazzie Stip. #415)

2733. The Geographic size of Grants School District is 3,929 square miles. (Yazzie Stip. #416)

2734. The District grade for 2013-14 was a C. (Yazzie Stip. #417)

2735. The District grade for 2014-15 was a C. (Yazzie Stip. #418)

2736. The Free and Reduced Lunch (FRL) rates went from 69.5 percent in 2007-08 to 100 percent in 2014-15. (Yazzie Stip. #419)

2737. The English Language Learners (ELL) rates went from 14.3 percent in 2007-08 to 14 percent in 2014-15. (Yazzie Stip. #420)

2738. The Native American student population went from 41.2 percent in 2007-08 to 46 percent in 2014-15. (Yazzie Stip. #421)

2739. About 46.2 percent of the Grants-Cibola County Schools' (GCCS) student population is Native American. (See 2016 District Report Card). (Yazzie Stip. #1281)

2740. About 13.1 percent of all students in GCCS are English language learners. (2016 District Report Card) (Yazzie Stip. #1282)

2741. In 2014, Grants-Cibola had three schools with a “D” grade and two schools with an “F” grade. EX P-2422

2742. In 2015, Grants-Cibola had two schools with a “D” grade and two schools with an “F” grade. EX P-2422

2743. In 2016, Grants-Cibola had four schools with a “D” grade and one school with an “F” grade. EX P-2422

2744. GCCS uses some federal funds and State Indian Education Funds to purchase Native American EAs, professional development, and a Navajo curriculum. (Space, 41, lines 8-17). (Yazzie Stip. #1293)

2745. Currently, no GCCS principals are involved in the Principals Pursuing Excellence program. (Space, p. 125, lines 1-4) (Yazzie Stip. #1288)

2746. Two years ago, PED denied one GCCS school principal’s request to participate in the PPE program because the School had received a “C” grade on their school report card. The District was told by PED that the PPE Program focuses on “D” and “F” schools. Soon thereafter, the School received a “D” grade, and the School’s Principal went to Alaska for another job opportunity. (Space, p. 125-126, lines 4-4). (Yazzie Stip. #1289)

2747. One principal of a failing GCCS school recently applied for the PPE program. (Space, p. 126, lines 5-18). (Yazzie Stip. #1290)

Hatch

2748. In 2015-16 Hatch School District had 1,275 students enrolled. 2016 District Report Card. (Yazzie Stip. #470)

2749. The Geographic size of Hatch School District is 1,125 square miles. (Yazzie Stip. #471)

2750. The District grade for 2013-14 was a D. 2014 District Report Card (Yazzie Stip. #472)

2751. The District grade for 2014-15 was a C. 2015 District Report Card (Yazzie Stip. #473)

2752. The Free and Reduced Lunch (FRL) rates were 100 percent in 2007-08 and were 100 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #474)

2753. The English Language Learners (ELL) rates went from 49.4 percent in 2007-08 to 41 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #475)

2754. The Native American student population went from .20 percent in 2007-08 to 0 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #476)

2755. In 2014, Hatch had four schools with a “D” grade and no schools with an “F” grade. EX P-2404

2756. In 2015, Hatch had one school with a “D” grade and no schools with an “F” grade. EX P-2404

2757. In 2016, Hatch had three schools with a “D” grade and no schools with an “F” grade. EX P-2404

Jemez Valley

2758. In 2015-16 Jemez Valley School District had 408 students enrolled. 2016 District Report Card (Yazzie Stip. #510)

2759. The Geographic size of Jemez Valley School District is 1,115 square miles. <http://www.ped.state.nm.us/it/fs/18/district.square.miles.pdf> (Yazzie Stip. #511)

2760. The District grade for 2013-14 was a D. 2014 District Report Card (Yazzie Stip. #512)

2761. The District grade for 2014-15 was a C. 2015 District Report Card (Yazzie Stip. #513)

2762. The Free and Reduced Lunch (FRL) rates went from 70 percent in 2007-08 to 84 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #514)

2763. The English Language Learners (ELL) rates went from 19.1 percent in 2007-08 to 25 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #515)

2764. The Native American student population went from 48.8 percent in 2007-08 to 70 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #516)

2765. In 2014, Jemez Valley had one school with a “D” grade and two schools with an “F” grade. Ex. P-2413

2766. In 2015, Jemez Valley had one school with a “D” grade and one school with an “F” grade. Ex. P-2413

2767. In 2016, Jemez Valley had two schools with a “D” grade and no schools with an “F” grade. Ex. P-2413

Lake Arthur

2768. In 2015-16 Lake Arthur School District had 103 students enrolled. 2016 District Report Card (Yazzie Stip. #538)

2769. The Geographic size of Lake Arthur School District is 399 square miles. <http://www.ped.state.nm.us/it/fs/18/district.square.miles.pdf> (Yazzie Stip. #539)

2770. The District grade for 2013-14 was a D. 2014 District Report Card (Yazzie Stip. #540)

2771. The District grade for 2014-15 was a D. 2015 District Report Card (Yazzie Stip. #541)

2772. The Free and Reduced Lunch (FRL) rates went from 98.1 percent in 2007-08 to 100 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #542)

2773. The English Language Learners (ELL) rates went from 17.1 percent in 2007-08 to 28 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #543)

2774. The Native American student population was 0 percent in 2007-08 and in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #544)

2775. In 2014, Lake Arthur had two schools with a “D” grade and no schools with an “F” grade. EX P-2402

2776. In 2015, Lake Arthur had two schools with a “D” grade and no schools with an “F” grade. EX P-2402

2777. In 2016, Lake Arthur had one school with a “D” grade and no schools with an “F” grade. EX P-2402

Las Cruces

2778. In 2015-16 Las Cruces School District had 24,513 students enrolled. 2016 District Report Card (Yazzie Stip. #559)

2779. The Geographic size of Las Cruces School District is 1,463 square miles. (Yazzie Stip. #560)

2780. The District grade for 2013-14 was a C. 2014 District Report Card (Yazzie Stip. #561)

2781. The District grade for 2014-15 was a D. 2015 District Report Card (Yazzie Stip. #562)

2782. The Free and Reduced Lunch (FRL) rates went from 59.5 percent in 2007-08 to 68 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #563)

2783. The English Language Learners (ELL) rates went from 11.6 percent in 2007-08 to 11 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #564)

2784. The Native American student population went from .8 percent in 2007-08 to 1 percent in 2014-15. 2008/ 2015 District Report Card (Yazzie Stip. #565)

2785. In 2014, Las Cruces had 10 schools with a “D” grade and one school with an “F” grade. EX P-2403

2786. In 2015, Las Cruces had eight schools with a “D” grade and seven schools with an “F” grade. EX P-2403

2787. In 2016, Las Cruces had seven schools with a “D” grade and four schools with an “F” grade. EX P-2403

Los Lunas

2788. In 2015-16 Los Lunas School District had 8,543 students enrolled. 2016 District Report Card (Yazzie Stip. #602)

2789. The Geographic size of Los Lunas School District is 669 square miles. (Yazzie Stip. #603)

2790. The District grade for 2013-14 was a C. 2014 District Report Card (Yazzie Stip. #604)

2791. The District grade for 2014-15 was a D. 2015 District Report Card (Yazzie Stip. #605)

2792. The Free and Reduced Lunch (FRL) rates went from 68 percent in 2007-08 to 79 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #606)

2793. The English Language Learners (ELL) rates went from 12.6 percent in 2007-08 to 10 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #607)

2794. The Native American student population went from 6.8 percent in 2007-08 to 6 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #608)

2795. In 2014, Los Lunas had four schools with a “D” grade and no schools with an “F” grade. EX P-2421

2796. In 2015, Los Lunas had six schools with a “D” grade and three schools with an “F” grade. EX P-2421

2797. In 2016, Los Lunas had four schools with a “D” grade and no schools with an “F” grade. EX P-2421

Magdalena

2798. In 2015-16 Magdalena School District had 372 students enrolled. 2016 District Report Card (Yazzie Stip. #649)

2799. The Geographic size of Magdalena School District is 2,188 square miles. (Yazzie Stip. #650)

2800. The District grade for 2013-14 was a D. 2014 District Report Card (Yazzie Stip. #651)

2801. The District grade for 2014-15 was a D. 2015 District Report Card (Yazzie Stip. #652)

2802. The Free and Reduced Lunch (FRL) rate was 100 percent in 2007-08 and was 100 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #653)

2803. The English Language Learners (ELL) rates went from 35.3 percent in 2007-08 to 16 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #654)

2804. The Native American student population went from 47.2 percent in 2007-08 to 48 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #655)

2805. In 2014, Magdalena had one school with a “D” grade and one school with an “F” grade. EX P-2416

2806. In 2015, Magdalena had no schools with a “D” grade and one school with an “F” grade. EX P-2416

2807. In 2016, Magdalena had one school with a “D” grade and one school with an “F” grade. EX P-2416

Moriarty

2808. In 2015-16 Moriarty School District had 2,489 students enrolled. 2016 District Report Card (Yazzie Stip. #675)

2809. The Geographic size of Moriarty School District is 1,054 square miles. (Yazzie Stip. #676)

2810. The District grade for 2013-14 was a C. 2014 District Report Card (Yazzie Stip. #677)

2811. The District grade for 2014-15 was a C. 2015 District Report Card (Yazzie Stip. #678)

2812. The Free and Reduced Lunch (FRL) rates went from 50.1 percent in 2007-08 to 56 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #679)

2813. The English Language Learners (ELL) rates went from 6.5 percent in 2007-08 to 5 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #680)

2814. The Native American student population went from 1.8 percent in 2007-08 to 2 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #681)

2815. In 2014, Moriarty had four schools with a “D” grade and no schools with an “F” grade. Ex P-2419

2816. In 2015, Moriarty had one school with a “D” grade and no schools with an “F” grade. Ex P-2419

2817. In 2016, Moriarty had four schools with a “D” grade and no schools with an “F” grade. Ex P-2419.

Peñasco

2818. In 2015-16 Peñasco School District had 356 students enrolled. 2016 District Report Card (Yazzie Stip. #708)

2819. The Geographic size of Peñasco School District is 262 square miles. <http://www.ped.state.nm.us/it/fs/18/district.square.miles.pdf> (Yazzie Stip. #709)

2820. The District grade for 2013-14 was a C. 2014 District Report Card (Yazzie Stip. #710)

2821. The District grade for 2014-15 was a D. 2015 District Report Card (Yazzie Stip. #711)

2822. The Free and Reduced Lunch (FRL) rates went from 78 percent in 2007-08 to 81 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #712)

2823. The English Language Learners (ELL) rates went from 20 percent in 2007-08 to 9 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #713)

2824. The Native American student population went from 6.7 percent in 2007-08 to 7 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #714)

2825. In 2014, Peñasco had no schools with a “D” grade and one school with an “F” grade. EX P-2418

2826. In 2015, Peñasco had one school with a “D” grade and no schools with an “F” grade. EX P-2418

2827. In 2016, Peñasco had no schools with a “D” grade and one school with an “F” grade. EX P-2418

Pojoaque

2828. In 2015-16 Pojoaque School District had 1,910 students enrolled. 2016 District Report Card (Yazzie Stip. #730)

2829. The Geographic size of Pojoaque School District is 309 square miles.
(Yazzie Stip. #731)

2830. The District grade for 2013-14 was a C. 2014 District Report Card (Yazzie Stip. #732)

2831. The District grade for 2014-15 was a D. 2015 District Report Card (Yazzie Stip. #733)

2832. The Free and Reduced Lunch (FRL) rates went from 52.2 percent in 2007-08 to 66 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #734)

2833. The English Language Learners (ELL) rates went from 29.2 percent in 2007-08 to 19 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #735)

2834. The Native American student population went from 18.8 percent in 2007-08 to 15 percent in 2014-15. 2008/2015 District Report Card (Yazzie Stip. #736)

2835. In 2014, Pojoaque had one school with a “D” grade and one school with an “F” grade. EX P-2415

2836. In 2015, Pojoaque had three schools with a “D” grade and one school with an “F” grade. EX P-2415

2837. In 2016, Pojoaque had two schools with a “D” grade and one school with an “F” grade. EX P-2415

Rio Rancho

2838. In 2015-16 Rio Rancho School District had 17,215 students enrolled.

(Yazzie Stip. #773)

2839. The Geographic size of Rio Rancho School District is 147 square miles.

(Yazzie Stip. #774)

2840. The District grade for 2013-14 was a B. 2014 District Report Card (Yazzie

Stip. #775)

2841. The District grade for 2014-15 was a B. (Yazzie Stip. #776)

2842. The Free and Reduced Lunch (FRL) rates went from 33.1 percent in 2007-

08 to 42 percent in 2014-15. (Yazzie Stip. #777)

2843. The English Language Learners (ELL) rates went from 4.9 percent in 2007-

08 to 3 percent in 2014-15. (Yazzie Stip. #778)

2844. The Native American student population went from 4.1 percent in 2007-08

to 5 percent in 2014-15. (Yazzie Stip. #779)

2845. In 2014, Rio Rancho had two schools with a “D” grade. EX P-2420

2846. In 2016, Rio Rancho had two schools with a “D” grade. EX P-2420

Santa Fe

2847. In 2015-16 Santa Fe School District had 13,268 students enrolled. (Yazzie

Stip. #820)

2848. The Geographic size of Santa Fe School District is 1,016 square miles.
(Yazzie Stip. #821)

2849. The District grade for 2013-14 was a C. (Yazzie Stip. #822)

2850. The District grade for 2014-15 was a C. (Yazzie Stip. #823)

2851. The Free and Reduced Lunch (FRL) rates went from 64.9 percent in 2007-08 to 72 percent in 2014-15. (Yazzie Stip. #824)

2852. The English Language Learners (ELL) rates went from 34 percent in 2007-08 to 22 percent in 2014-15. (Yazzie Stip. #825)

2853. The Native American student population went from 2.7 percent in 2007-08 to 2 percent of the student population in 2014-15. (Yazzie Stip. #826)

2854. In 2014, Santa Fe had 13 schools with a “D” grade and two schools with an “F” grade. EX P-2414

2855. In 2015, Santa Fe had seven schools with a “D” grade and eight schools with an “F” grade. EX P-2414

2856. In 2016, Santa Fe had 12 schools with a “D” grade and five schools with an “F” grade. EX P-2414

Silver City

2857. In 2015-16 Silver City School District had 2,876 students enrolled. (Yazzie Stip. #867)

2858. The Geographic size of Silver City School District is 2,929 square miles.
(Yazzie Stip. #868)

2859. The District grade for 2013-14 was a B. (Yazzie Stip. #869)

2860. The District grade for 2014-15 was a D. (Yazzie Stip. #870)

2861. The Free and Reduced Lunch (FRL) rates went from 53.9 percent in 2007-08 to 82 percent in 2014-15. (Yazzie Stip. #871)

2862. The English Language Learners (ELL) rates went from 3.4 percent in 2007-08 to 3 percent in 2014-15. (Yazzie Stip. #872)

2863. The Native American student population went from 0.70 percent in 2007-08 to 1 percent of the student population in 2014-15. (Yazzie Stip. #873)

2864. In 2014, Silver City had one school with a “D” grade and no schools with an “F” grade. EX P-2406

2865. In 2015, Silver City had two schools with a “D” grade and three schools with an “F” grade. EX P-2406

2866. In 2016, Silver City had one school with a “D” grade and one school with an “F” grade. EX P-2406.

Taos

2867. In 2015-16 Taos School District had 2,827 students enrolled. (Yazzie Stip. #893)

2868. The Geographic size of Taos School District is 637 square miles. (Yazzie Stip. #894)

2869. The District grade for 2013-14 was a C. (Yazzie Stip. #895)

2870. The District grade for 2014-15 was a B. (Yazzie Stip. #896)

2871. The Free and Reduced Lunch (FRL) rates went from 99.9 percent in 2007-08 to 85 percent in 2014-15. (Yazzie Stip. #897)

2872. The English Language Learners (ELL) rates went from 12.5 percent in 2007-08 to 9 percent in 2014-15. (Yazzie Stip. #898)

2873. The Native American student population went from 7.1 percent in 2007-08 to 8 percent of the student population in 2014-15. (Yazzie Stip. #899)

2874. In 2012, Taos had three schools with a “D” grade and no schools with an “F” grade.

2875. In 2014, Taos had four schools with a “D” grade and no schools with an “F” grade. EX P-2417

2876. In 2015, Taos had one school with a “D” grade and one school with an “F” grade. EX P-2417

2877. In 2016, Taos had three schools with a “D” grade and one school with an “F” grade. EX P-2417

Tucumcari

2878. In 2015-16 Tucumcari School District had 955 students enrolled. (Yazzie Stip. #934)

2879. The Geographic size of Tucumcari School District is 996 square miles. (Yazzie Stip. #935)

2880. The District grade for 2013-14 was a C. (Yazzie Stip. #936)

2881. The District grade for 2014-15 was a D. (Yazzie Stip. #937)

2882. The Free and Reduced Lunch (FRL) rates went from 95 percent in 2007-08 to 100 percent in 2014-15. (Yazzie Stip. #938)

2883. The English Language Learners (ELL) rates went from 5.2 percent in 2007-08 to 4 percent in 2014-15. (Yazzie Stip. #939)

2884. The Native American student population went from 0.4 percent in 2007-08 to 1 percent of the student

2885. In 2014, Tucumcari had no schools with a “D” grade and no schools with an “F” grade. EX P-2409

2886. In 2015, Tucumcari had three schools with a “D” grade and no schools with an “F” grade. EX P-2409

2887. In 2016, Tucumcari had no schools with a “D” grade and no schools with an “F” grade. EX P-2409

Zuni

2888. According to the 2015-16 district report card, the Zuni School District had 1,298 students enrolled. (Yazzie Stip. #956)

2889. The Geographic size of Zuni School District is 506 square miles. (Yazzie Stip. #957)

2890. The District grade for 2013-14 was a D. (Yazzie Stip. #958)

2891. The District grade for 2014-15 was a B. (Yazzie Stip. #959)

2892. The Free and Reduced Lunch (FRL) rates went from 99.8 percent in 2007-08 to 78 percent in 2014-15. (Yazzie Stip. #960)

2893. The English Language Learners (ELL) rates went from 98.9 percent in 2007-08 to 42 percent in 2014-15. (Yazzie Stip. #961)

2894. The Native American student population went from 99.7 percent in 2007-08 to 99 percent of the student population in 2014-15. (Yazzie Stip. #962)

2895. In 2014, Zuni had no schools with a “D” grade and three schools with an “F” grade. EX P-2423

2896. In 2015, Zuni had one school with a “D” grade and no schools with an “F” grade. EX P-2423

2897. In 2016, Zuni had two schools with a “D” grade and one school with an “F” grade. EX P-2423

2898. According to Dr. Lewis, from 2012-2016, ZPS received limited state support through PED's Priority Schools Bureau, albeit for two years, which provides instructional services to failing schools. Lewis, 6/30/17 at 170:11-171:22.

VII. General Finding

2899. Proposed findings not adopted herein were rejected on the grounds that they were duplicative, unnecessary to the decision, or inconsistent with the decision. In many instances there was conflicting evidence; these findings adopt the evidence the Court found to be more persuasive.

CONCLUSIONS OF LAW

I. The State of New Mexico's Public School System Violates the Education Clause, Article XII, Section 1, of the New Mexico Constitution

A. STANDING - Under governing New Mexico law, the plaintiffs have standing to maintain their claims under Article XII Section 1 of the New Mexico Constitution. 11/14/14 Order Denying Defendants' Motion to Dismiss at 2-4.

2900. Parent plaintiffs have standing to assert their claim under Article XII, Section 1 of the New Mexico Constitution because they suffered injury as a result of inadequate education practices.

2901. Plaintiffs' claims are not moot. *See* December 2017 Order Denying Defendants' Motion to Dismiss.

2902. Plaintiffs' claims regarding students who have graduated are not moot because they involve issues that are capable of repetition yet evading review.

2903. Plaintiffs' claims regarding students who have graduated are also not moot because they are claims of substantial public interest.

2904. School district plaintiffs have standing to assert their claims under Article XII, Section 1 of the New Mexico Constitution because they suffered injury as a result of inadequate services, programs, and resources provided by Defendants.

2905. School district plaintiffs have standing to assert their claims under Article XII, Section 1 of the New Mexico Constitution because they received inadequate funding from Defendants to provide students a constitutionally required education. See NMSA 1978 § 22-5-4E.

2906. New Mexico school districts are independent, have "political and fiscal autonomy," and are not protected by statutory governmental immunity. See *Daddow v. Carlsbad Mun. School Distr.*, 120 N.M. 97 (1995).

2907. "It is generally recognized with regard to standing, even one plaintiff with standing is sufficient to bring a claim for injunctive relief." See *City of Artesia v. Public Emps. Ret Ass'n of N.M.* 2014-NMCA-009, ¶8; 12/27/17 Order at 3-4.

2908. "New Mexico state courts are not subject to the jurisdictional limitations imposed on federal courts by Article III, Section 2 of the United States

Constitution.” *New Mexico Right to Choose/NARAL v. Johnson*, 1999-NMSC-005, ¶ 12, 126 N.M. 788, 975 P.2d 841, 847.

2909. The New Mexico Supreme Court has “exercised its discretion to confer standing and reach the merits in cases where the traditional standing requirements were not met due to the public importance of the issues involved.” *ACLU of New Mexico v. City of Albuquerque*, 2008-NMSC-045, ¶ 9, 144 N.M. 471, 475, 188 P.3d 1222, 1226.

2910. New Mexico courts have conferred standing on plaintiffs when their claims are of sufficient importance to the state that they fall under the “great public importance doctrine” *See, e.g., In Baca v. N.M. Dept. of Pub. Safety*, 2002-NMSC-017, ¶ 4, 132 N.M. 282, 42 P.3d 441 (conferring standing based on the great public importance doctrine in a case concerning the validity of the Concealed Handgun Carry Act); *State ex rel. Sego v. Kirkpatrick*, 86 N.M. 359, 363, 524 P.2d 975, 979 (Sup. Ct. 1974) (holding that constitutionality of partial vetoes by the Governor was a matter of substantial public interest).

2911. Several federal and state courts have held that school districts have standing to sue the state. *See, e.g., Olson, et al., v. Guindon, et al.*, 771 N.W.2d 318 (S.D. 2009); *Neeley v. West Orange-Cove Consolidated Independent School District, et.al.*, 176 S.W.3d 746 (Tex. 2005); *Washakie County School District Number*

One et al. v. Herschler, et al., 606 P.2d 310, 317 (Wyo. 1980); *Seattle School Dist. No. 1 of King County v. State*, 585 P.2d 71 at 80-83 (Wash. 1978).

B. JUSTICIABLE - “[T]his Court, just like courts across the country, must exercise its constitutional authority and enforce judicially manageable standards to ensure that Defendants are meeting their constitutional duty to ensure that all school aged children in New Mexico receive a sufficient and uniform education. 11/14/14 Order Denying Defendants’ Motion to Dismiss at 6.

2912. Plaintiffs’ claims are justiciable because they assert discrete rights under the New Mexico Constitution which the Court’s decision redressed by the decision in Plaintiffs’ favor.

2913. Courts have a duty to interpret the Constitution, and nothing exempts the courts from applying that duty to Article XII, Section 1 of the New Mexico Constitution.

2914. It is a basic principle of our government structure that the judiciary determines the constitutionality of legislative action. *Marbury v. Madison*, 5 U.S. 137, 177-178 (U.S. 1803).

2915. “It is the role of the judiciary, and not the legislature to interpret the constitution.” *State v. Nunez*, 2000-NMSC-013, ¶ 48, 129 N.M. 63; *State v. Gutierrez*, 1993-NMSC-062, ¶ 55, 116 N.M. 431.

2916. In *State v. Gutierrez*, 116 N.M. 431, 446, 863 P.2d 1052, 1067 (1993), the New Mexico Supreme Court held that “the primary responsibility for enforcing

the Constitution's limits on government, at least since the time of *Marbury v. Madison*, has been vested in the judicial branch.”

2917. The framers of the New Mexico Constitution “intended to create rights and duties and they made it imperative upon the judiciary to give meaning to those rights through judicial review of the conduct of the separate governmental bodies.” *State v. Gutierrez*, 116 N.M. 431, 446, 863 P.2d 1052, 1067 (1993).

2918. “The very backbone of the [the judiciary’s] role in a tripartite system of government is to give vitality to the organic laws of this state by construing constitutional guarantees in the context of the exigencies and the needs of everyday life.” *State v. Gutierrez*, 1993-NMSC-062, ¶ 55.

2919. In *New Mexico Dept. of Health v. Compton*, 2001-NMSC-032, ¶ 11 n.2, the New Mexico Supreme Court emphasized “the judiciary’s responsibility to ensure that statutes enacted by the Legislature satisfy the minimum procedural requirements of the Fourteenth Amendment, both on their face and as applied.”

2920. At least one New Mexico court has previously exercised authority, under Article XII Section 1 of the State Constitution, to strike down the statutory scheme for funding capital improvements in New Mexico public schools. *Zuni Pub. Sch. Dist. v. State*, No. CV-98-14-II, ¶3-4 (11th Jud. Dist. N.M. Oct. 1999).

2921. In *State v. Campbell County Sch. Dist.*, 32 P.3d 325, 331-32 (Wyo. 2001), the Wyoming Supreme Court in a school adequacy case recognized that “it is our

duty to declare void all legislation that is unconstitutional...These truths of which Hamilton spoke found expression in *Marbury v. Madison*, and most state courts, including Wyoming's, have followed this judicial path.”).

2922. In *Rose v. Council for Better Educ.*, 790 S.W.2d 186, 209 (Ky. 1989), the Kentucky Supreme Court in a school adequacy case held that the “judiciary has the ultimate power, and the duty, to apply, interpret, define, construe all words, phrases, sentences and sections of the Kentucky Constitution as necessitated by the controversies before it...This duty must be exercised even when such action serves as a check on the activities of another branch of government...”

2923. In *McCleary v. State*, 269 P.3d 227, 246 (Wash. 2012), the Washington Supreme Court held that “the judiciary has the primary responsibility for interpreting [the state constitution education clause] to give it meaning and legal effect...The legislature has the responsibility to augment the broad educational concepts under [the state constitution education clause]by providing the specific details of the constitutionally required “education.”

2924. In *W. Orange-Cove Consol. I.S.D. v. Alanis*, 107 S.W.3d 558, 563-564 (Tex. 2003), the Texas Supreme Court held that “the final authority to determine adherence to the Constitution resides with the Judiciary. Thus, the Legislature has the sole right to decide *how* to meet the standards set by the people in [the state

constitution education clause], and the Judiciary has the final authority to determine *whether* they have been met.”

2925. In *Gannon v. State*, 319 P.3d 1196, 1226 (Kan. 2014), the Kansas Supreme Court held that “Kansas Constitution clearly leaves to the legislature the myriad of choices available to perform its constitutional duty; but when the question becomes whether the legislature has actually performed its duty, that most basic question is left to the courts to answer under our system of checks and balances.”

2926. “[W]hen a citizen sues the state on the theory that the state has failed to fulfill its constitutional obligation to provide for adequate education, the judiciary has the institutional duty to interpret the education clause to determine whether the state has complied with its constitutional obligation.” William F. Dietz, *Manageable Adequacy Standards in Education Reform Litigation*, 74 Wash. U. L.Q. 1193, 1194 (1996).

2927. “[T]he proper approach to a judicial definition of educational adequacy is to adopt as mandatory the standards that the legislature and the education bureaucracy have adopted for themselves in the form of accreditation standards or statutory statements of educational goals.” William F. Dietz, *Manageable Adequacy Standards in Education Reform Litigation*, 74 Wash. U. L.Q. 1193, 1194 (1996).

2928.

C. BURDEN OF PROOF - The Burden Of Proof For A Claim Arising Under The Education Clause Is A Preponderance Of The Evidence, and the Court will “determine whether a preponderance of the evidence shows the administrative or legislative actions at issue achieve or are reasonably related to achieving the constitutional requirement of providing all school children with an adequate education.” 7/20/18 Decision and Order at 16-17.

2929. The issue of burden of proof is an issue of first impression for New Mexico courts; varying approaches from state supreme courts in South Dakota and Washington guide how to determine the plaintiffs’ burden. *See Davis v. State*, 804 N.W.2d 618, 628 (S.D. 2011); *McCleary v. State*, 269 P.3d 227, 246-48 (Wash. 2012). 7/20/18 Decision and Order at 15-16.

2930. The standard set forth in *McCleary* is “more consistent with the Court’s duty [than the *Davis* standard] to interpret and enforce constitutional mandates, as previously ruled by the Court in declining to dismiss this case. 7/20/18 Decision and Order at 16-17.

2931. In *Davis v. State*, 804 N.W.2d 618, 628 (S.D. 2011), the court found that the school finance system would be upheld unless “the unconstitutionality of the act is clearly and unmistakably shown and there is no reasonable doubt that it violates fundamental constitutional principles.”

2932. In *McCleary v. State*, 269 P.3d 227, 246-48 (Wash. 2012), the court adopted a standard that recognized that “the legislature has the responsibility to augment the broad educational concepts under [the Education Clause] by providing the

specific details of the constitutionally required ‘education.’” and that there is a “*right* of Washington children to receive an education.”

2933. In *McCleary v. State*, 269 P.3d 227, 248 (Wash. 2012), the court held that the right to an education is a positive constitutional right, and that because of this positive constitutional right, the court adopted the standard of review which asked “whether the state action achieves or is reasonably related to achieve the ‘constitutionally prescribed end.’”

2934. In *McCleary v. State*, 269 P.3d 227, 248 (Wash. 2012), the court held that the legal standard applied to the case requires “the court to take a more active stance in ensuring that the State complies with its affirmative constitutional duty.”

2935. In New Mexico, the language of a mandatory substantive Constitutional provision is neither interpreted nor enforced differently than a statutory provision. *State v. Boyse*, 2013-NMSC-024, ¶ 8, 303 P.3d 830.

2936. In New Mexico, when a statutory scheme is alleged to violate fundamental rights—as here, children’s right to a sufficient education—then the burden is on the government to demonstrate a compelling state interest that is narrowly tailored to implement that interest. *ACLU of N.M.*, 2006–NMCA–078, ¶19; *Trujillo v. City of Albuquerque*, 1998-NMSC-031, ¶16.

2937. The standard of proof for Plaintiffs’ Education Clause claim is the preponderance-of-the-evidence standard. *See, e.g., United Nuclear Corp. v.*

Allendale Mut. Ins. Co., 1985-NMSC-090, ¶ 14, 103 N.M. 480, 709 P.2d 649.

D. SUFFICIENCY STANDARD - “After consideration of the New Mexico Constitution’s Education clause, authorities from other states, and relevant statutes, the State Constitution requires the State to provide every student with the opportunity to obtain an education that allows them to become prepared for career or college.” 7/20/18 Decision and Order at 24-25.

1. Relevant Federal Authority

2938. Providing an education is “perhaps the most important function of state and local governments,” as school prepares children to be good citizens capable of performing and contributing to their communities. *Brown v. Board of Education*, 347 U.S. 483, 493 (1954).

2939. When children are denied access to an education, “we deny them the ability to live within the structure of our civic institution, and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our Nation.” *Plyler v. Doe*, 458 U.S. 113, 221-23 (1982).

2940. Saving money is not a compelling state interest for curtailing a fundamental constitutional right. *See, e.g., Plyler v. Doe*, 457 U.S. 202, 222-224 (1982).

2941. [E]ducation provides the basic tools by which individuals might lead economically productive lives to the benefit of us all. In sum, education has a fundamental role in maintaining the fabric of our society. We cannot ignore the significant social costs borne by our Nation when selected groups are denied the means to absorb the values and skills upon which our social order rests. *Plyler v.*

Doe, 457 U.S. 202, 221 (1982).

2942. Without educational opportunities “it is doubtful that any child may reasonably be expected to succeed in life.” *Brown v. Board of Education*, 347 U.S. 483, 493 (1954).

2943. In the special education context, that Congress’s use of the term “appropriate” public education meant much more than *de minimis* progress from year to year. “[A] student offered an educational program providing ‘merely more than *de minimis*’ progress from year to year can hardly be said to have been offered an education at all.” *Endrew F. v. Douglas County School District*, 580 U.S. ___, No. 15-837 (2017).

2944. In *Ellenberg v. N.M. Military Inst.*, 478 F.3d 1262 (10th Cir. 2007), the Tenth Circuit held that the New Mexico Constitution gives each child the right to a free public education. NM Const. art. Xii, § 1; *see also* NMSA 22-1-4, and that the New Mexico Legislature has defined this right as an entitlement to attend a public school within the school district in which the student resides according to 1978 NMSA 22-12-4.

2. New Mexico Constitution and General Statutory Authority

2945. The education clause of the New Mexico Constitution mandates, “A uniform system of free public schools sufficient for the education of, and open to, all children of school age in the state shall be established and maintained.” N.M.

Const. art. XII, § 1.

2946. The New Mexico Constitution provides that “The secretary of public education shall have administrative and regulatory powers and duties, including all functions relating to the distribution of school funds and financial accounting for the public schools to be performed as provided by law.” N.M. Const. art. XII, § 6.

2947. The New Mexico Constitution requires the legislature to provide for the training of teachers “so that they may become proficient in both the English and Spanish languages, to qualify them to teach Spanish-speaking pupils and students in the public schools and educational institutions of the state” N.M. Const. Article XII, § 8.

2948. The New Mexico Constitution states that students of Spanish descent shall “enjoy perfect equality with other children in all public schools and educational institutions of the state[.]” N.M. Const. Article XII, § 10.

2949. New Mexico courts give meaning to every word when interpreting constitutional provisions, avoiding interpretations that would render certain language superfluous. *Block v. Vigil-Giron*, 2004-NMSC-003, ¶ 9, 135 N.M. 24.

2950. A source of guidance for New Mexico courts when determining of the educational mandated is the plain meaning of the terms in the educational mandate. *Moses v. Skandera*, 2015-NMSC-036, ¶ 15.

2951. “The legislature has already adopted statutory provisions which appropriately define adequacy for purposes of this litigation. This court will use those statutory definitions in determining whether the State, primarily through the Public Education Department (“PED”), has met its obligation.” 7/20/18 Decision and Order at 13.

2952. The legislature determined that “no education system can be sufficient for the education of all children unless it is founded on the sound principle that every child can learn.” NMSA 1978, § 22-1-1.2(A).

2953. The legislature has found that the key to success is having a multicultural education system that:

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

NMSA 1978 § 22-1-1.2(B).

2954. The legislature also recognized the importance of an accountability system for students and teachers. NMSA 1978 § 22-1-1.2(D).

2955. The legislature requires that student improvement in reading, writing, and literacy “must remain a priority of the state.” NMSA 1978, 22-1-1.2(E).

2956. The legislature found that “the system must meet the needs of all children by recognizing that student success for every child is the fundamental goal.” NMSA 1978 § 22-1-1.2 (A).

2957. The legislature determined that “[S]tudents who do not meet or exceed expectations will be given individual attention and assistance through extended learning programs and individualized tutoring.” NMSA 1978 §22-1-1.2(D)(1).

2958. The legislature determined that PED has a duty to prescribe requirements for graduation and standards for all public schools. 1978 NMSA, §§22-2-2(D) and 22-2-8(A).

2959. The legislature has determined that PED’s duty to prescribe educational standards includes prescribing standards for “curriculum, including academic content and performance standards.” NMSA 1978 22-2-8(A) (2003).

2960. The legislature has determined that PED “shall establish a statewide assessment and accountability system that is aligned with the state academic content and performance standards.” NMSA 1978 § 22-2C-4(A) (2015).

2961. The legislature has determined that the State has an obligation to “supervise all schools and school officials coming under its jurisdiction, including taking over the control and management of a public school or school district that has failed to

meet requirements of law or department rules or standards,” and to “determine policy for the operation of all public schools and vocational education programs in the state.” NMSA 1978 § 22-2-2(C) (2004).

2962. The legislature has determined that PED requires “[t]he department [to] establish a readiness assessment system to measure the readiness of every New Mexico high school student for success in higher education or a career.” NMSA 1978 § 22-2C-4.1(A).

2963. In order to graduate, a student must demonstrate “competence in the subject areas of mathematics, reading and language arts, writing, social studies and science, . . . based on a standards-based assessment or assessments or a portfolio of standards-based indicators established by the department by rule.” NMSA 1978 § 2-13-1.1 (2017).

2964. PED is charged with adopting academic content and performance standards in math, reading, language arts, science, and social studies. 1978 NMSA §22-2C-3.

2965. In addition to specific course requirements, the State requires that 11th grade students pass or demonstrate proficiency on the PARCC test in ELA (reading and writing) and math to graduate. NMSA 1978 §22-13-1.1(N).

2966. “Content standard” means what students should know and be able to do in content areas at each grade level. NMAC 6.29.1.7.AC.

2967. The legislature determined that “[PED] shall properly and uniformly enforce the provisions of the Public School Code” as dictated by the Legislature, and “supervise all schools and school officials coming under its jurisdiction.” NMSA 1978 § 22-2-2 (A), (C).

2968. The legislature determined that [PED] shall approve and certify to each local school board ... an operating budget for use by the school district [.]” NMSA 1978, § 22-8-11(A).

2969. “Performance standard” means the statement of a standard that describes the specific level of mastery expected in achieving the New Mexico content standards with benchmarks and performance standards. NMAC 6.29.1.7.BP.

2970. PED determines “[t]he program cost for each school district ... in accordance with the provisions of the Public School Finance Act,” and is “authorized to require from each school district ... the information necessary to make an accurate determination of the district program cost.”). NMSA 1978 §2-8-17.

2971. The State, through the Secretary of PED, has control, management and direction of all public schools. NMSA 1978 §22-2-1.

2972. PED has authority to take over districts, approve and deny district and school budgets, and suspend school boards, superintendents and principals for failure to meet the State’s laws and standards. NMSA 1978 §22-2-14, §22-8-4,

§22-2-1, §22-2-2, §22-2-2.1, §22-2-8.

2973. “Subject to the rules of the Department,” school districts develop policies for their districts, and in accordance with State rules and standards and with the funding they receive from the State, deliver educational services to students. NMSA 1978, §22-5-4(A), §22-5-14(B)(1).

2974. New Mexico school districts have the independent right to sue and be sued. NMSA 1978, §22-5-4E.

2975. Local school boards govern school districts and have ultimate authority and responsibility for districts’ budgets, hiring of superintendents, educational policy and property, and litigation. NMSA 1978, §22-5-4A-E.

2976. The legislature has determined that “[t]he state equalization guarantee distribution is that amount of money distributed to each school district to ensure that its operating revenue, including its local and federal revenues as defined in this section, is at least equal to the school district’s program cost.” NMSA 1978 § 22-8-25(A) (2017).

2977. The legislature has determined that allocations to each school district for transportation services shall be sufficient to pay for to-and-from school transportation costs for students in grade K – 12 attending public schools within each district. NMSA 1978 § 22-8-26A.

3. Authority regarding English Language Learners (“ELL”)

2978. Title VI of the *Civil Rights Act of 1964*, 20 U.S.C. § 1703(f), and associated regulations and case law compels the State to provide appropriate guidance, monitoring, and oversight to school districts to ensure that all ELLs receive language assistance programs that:

- a. are supported by an underlying educational theory that is recognized as sound by some experts in the field or considered a legitimate experimental strategy;
- b. are reasonably calculated to implement effectively the underlying educational theory; and
- c. succeed, after a legitimate trial, in producing results indicating that students' language barriers are actually being overcome within a reasonable period of time.

2979. The federal Equal Educational Opportunities Act (“EEOA”) declares unlawful “the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.” 20 U.S.C. § 1703(f).

2980. According to Title III of the Every Student Succeeds Act, all English learners must be assisted in attaining English proficiency and high academic levels, P.L. 114-95, §§ 3001-3004, 3102 (December 10, 2015), 129 Stat. 1802.

4. Hispanic Education Act (2010)

2981. The legislature has determined that the purpose of the Hispanic Education Act is to:

- a. 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;
- b. encourage and foster parental involvement in the education of their children; and,
- c. provide mechanisms for parents, community and business organizations, public schools, school districts, charter schools, public post-secondary educational institutions, the department and state and local policymakers to work together to improve educational opportunities for Hispanic students for the purpose of closing the achievement gap, increasing graduation rates and increasing post-secondary enrollment, retention and completion.

N.M. Stat. Ann. § 22-23B-2.

2982. Through the Hispanic Education Act, the legislature recognizes the importance of bilingual and multicultural school programs by requiring PED to report on the number of such programs. NMSA 1978, § 22-23B-6 (2015).

5. Bilingual Multicultural Education Act (2004)

2983. In the Bilingual Multicultural Education Act the legislature found: “the Bilingual Multicultural Education Act will ensure equal education opportunities for

students in New Mexico. ...Cognitive and affective development of the students is encouraged by:

- a. using the cultural and linguistic backgrounds of the students in a bilingual multicultural education program;
- b. providing students with opportunities to expand their conceptual and linguistic abilities and potentials in a successful and positive manner; and
- c. teaching students to appreciate the value and beauty of different languages and cultures.

NMSA 1978 § 22-23-1.1 (2004).

2984. The legislature has determined, regarding the program cost calculation application to bilingual multicultural education, “It is the responsibility” of the local board or governing body of a charter school “to determine its priorities[,]” and it further provides that funds are discretionary with the local board or charter governing body, “provided that the program needs as enumerated in this section are met[.]” NMSA 1978 § 22-8-18(B).

6. New Mexico Indian Education Act (2003)

2985. The purpose of the New Mexico Indian Education Act (NMIEA) is to:

- a. ensure equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials for Native American students enrolled in public schools;
- b. ensure maintenance of native languages;
- c. provide for the study, development and implementation of educational systems that positively affect the educational success of Native American students;

- d. ensure that the department of education [public education department] partners with tribes to increase tribal involvement and control over schools and the education of students located in tribal communities;
- e. encourage cooperation among the educational leadership of Arizona, Utah, New Mexico and the Navajo Nation to address the unique issues of educating students in Navajo communities that arise due to the location of the Navajo Nation in those states;
- f. provide the means for a formal government-to-government relationship between the state and New Mexico tribes and the development of relationships with the education division of the bureau of Indian affairs and other entities that serve Native American students;
- g. provide the means for a relationship between the state and urban Native American community members to participate in initiatives and educational decisions related to Native American students residing in urban areas;
- h. ensure that parents; tribal departments of education; community-based organizations; the department of education [public education department]; universities; and tribal, state and local policymakers work together to find ways to improve educational opportunities for Native American students;
- i. ensure that tribes are notified of all curricula development for their approval and support;
- j. encourage an agreement regarding the alignment of the bureau of Indian affairs and state assessment programs so that comparable information is provided to parents and tribes; and
- k. encourage and foster parental involvement in the education of Indian students.

1978 NMSA §22-23A-2.

2986. The NMIEA creates an “Indian education division” within PED. N. M. S. A. 1978, § 22-23A-5A.

2987. The NMIEA requires the Education Secretary to appoint an assistant secretary for Indian education, “who shall direct the activities of the division and advise the secretary on development of policy regarding the education of tribal students. The assistant secretary shall also coordinate transition efforts for tribal students in public schools with the higher education department and work to expand appropriate Indian education for tribal students in preschool through grade twenty.” N. M. S. A. 1978, § 22-23A-5A.

2988. The NMIEA requires the assistant secretary of Indian education to “coordinate with appropriate administrators and divisions to ensure that department administrators make implementation of the Indian Education Act a priority. N. M. S. A. 1978, § 22-23A-5B.

2989. The NMIEA requires the education secretary and the assistant secretary of Indian education, “in cooperation with the Indian education advisory council, [to] collaborate with state and federal departments and agencies and tribal governments to identify ways such entities can assist the department in the implementation of the Indian Education Act.” N. M. S. A. 1978, § 22-23A-5C.

2990. The NMIEA requires the education secretary and assistant secretary of Indian education to “convene semiannual government-to-government meetings for

the express purpose of receiving input on education of tribal students.” N. M. S. A. 1978, § 22-23A-5D.

2991. The NMIEA requires the assistant secretary of Indian education, “after consulting with the Indian education advisory council and determining the resources available within the department, [to]:

- a. provide assistance, including advice on allocation of resources, to school districts and tribes to improve services to meet the educational needs of tribal students based on current published indigenous best practices in education;
- b. provide assistance to school districts and New Mexico tribes in the planning, development, implementation and evaluation of curricula in native languages, culture and history designed for tribal and nontribal students as approved by New Mexico tribes;
- c. develop or select for implementation a challenging, sequential, culturally relevant curriculum to provide instruction to tribal students in pre-kindergarten through sixth grade to prepare them for pre-advanced placement and advanced placement coursework in grades seven through twelve;
- d. provide assistance to school districts, public post-secondary schools and New Mexico tribes to develop curricula and instructional materials in native languages, culture and history in conjunction and by contract with native language practitioners and tribal elders, unless the use of written language is expressly prohibited by the tribe;
- e. conduct indigenous research and evaluation for effective curricula for tribal students;
- f. collaborate with the department to provide distance learning for tribal students in public schools to the maximum limits of the department's abilities;
- g. establish, support and maintain an Indian education advisory council;

- h. enter into agreements with each New Mexico tribe or its authorized educational entity to share programmatic information and to coordinate technical assistance for public schools that serve tribal students;
- i. seek funds to establish and maintain an Indian education office in the northwest corner of the state or other geographical location to implement agreements with each New Mexico tribe or its authorized educational entity, monitor the progress of tribal students and coordinate technical assistance at the public pre-kindergarten to post-secondary schools that serve tribal students;
- j. require school districts to obtain a signature of approval by the New Mexico tribal governments or their government designees residing within school district boundaries, verifying that the New Mexico tribes agree to Indian education policies and procedures pursuant to federal requirements;
- k. seek funds to establish, develop and implement culturally relevant support services for the purposes of increasing the number of tribal teachers, administrators and principals and providing continued professional development for educational assistants, teachers and principals serving tribal students, in conjunction with the Indian education advisory council:
 - a. recruitment and retention of highly qualified teachers and administrators;
 - b. academic transition programs;
 - c. academic financial support;
 - d. teacher preparation;
 - e. teacher induction; and
 - f. professional development;
- l. develop curricula to provide instruction in tribal history and government and develop plans to implement these subjects into history and government courses in school districts throughout the state;
- m. ensure that native language bilingual programs are part of a school district's professional development plan, as provided in Section 22-10A-19.1 NMSA 1978; and

- n. develop a plan to establish a post-secondary investment system for tribal students to which parents, tribes and the state may contribute.

(See generally 1978 NMSA §22-23A-5).

2992. The NMIEA requires the education secretary to “ensure that the duties prescribed in the Indian Education Act are carried out and that each division within the department is collaborating to fulfill its responsibilities to tribal students.” 1978 NMSA §22-23A-4A.

2993. The NMIEA requires the education secretary to “consult on proposed rules implementing the Indian Education Act with the Indian education advisory council and shall present rules for review and comment at the next semiannual government-to-government meeting pursuant to Section 22-23A-5 NMSA 1978.” 1978 NMSA §22-23A-4B.

7. Authority Regarding Low Income or Economically Disadvantaged (“ED”) Students

2994. Title I of the Elementary and Secondary Education Act provides assistance to local education agencies with high percentages of children from low-income families. 20 U.S.C.A § 6301.

2995. New Mexico’s State Equalization Guarantee (“SEG”) assigns additional program units to “at-risk” students, through the “at-risk index” calculating the at-risk rate by way of a three-year average percentage of students (members): “used to determine its Title I allocation, a three-year average of the percentage of

membership classified as English language learners using criteria established by the federal office of civil rights, and a three-year average of the percentage of student mobility.” Section 22-8-23.3(B).

2996. The Legislature has determined that “[a] school district is eligible for additional program units if it establishes within its department-approved educational plan identified services to assist students to reach their full academic potential. A school district receiving additional at-risk program units shall include a report of specified services implemented to improve the academic success of at-risk students. The report shall identify the ways in which the school district and individual schools use funding generated through the at-risk index and the intended outcomes....” 1978 NMSA, § 22-8-23.3(A)

8. Statutes regarding Students with Disabilities

2997. The Individuals with Disabilities Education Improvement Act (“IDEIA”) part B applies to school-age children with disabilities.

2998. The Elementary and Secondary Education Act (Every Child Succeeds Act) (“ESEA”) applies to school-age children with disabilities.

2999. The IDEIA entitles each student with a disability with a “Free and Appropriate Public Education.” P-2798, ¶ 15.

3000. The ESEA applies the same academic and achievement standards on all students except those with the most significant cognitive disabilities. P-2798, ¶ 19.

3001. Students with significant cognitive disabilities may be held to “Alternative Achievement Standards” but not more than one percent of the total student population may be held to these standards. P-2798, ¶ 19.

3002. All other students with a disability are to receive an education that “emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.” 20 U.S.C. § 1400(d).

3003. The Education Clause requires the State to provide every student with disability the opportunity to obtain an education that allows them to become prepared for career or college.

3004. New Mexico law defines a “[c]hild with a disability” as a “child who meets all requirements of 34 C.F.R. Sec. 300.8 and who:

(a) is aged 3 through 21 or will turn 3 at any time during the school year;

(b) has been evaluated in accordance with 34 CFR Secs. 300.304-300.311 and any additional requirements of these or other public education department rules and standards and as having one or more of the disabilities specified in 34 CFR Sec.

300.8 including intellectual disability, a hearing impairment including deafness, a

speech or language impairment, a visual impairment including blindness, emotional disturbance, orthopedic impairment, autism, traumatic brain injury and

other health impairment, a specific learning disability, deaf-blindness, or being developmentally delayed as defined in paragraph (4) below; and who has not received a high school diploma; and

(c) at the discretion of each local educational agency and subject to the additional requirements of Paragraph (2) of Subsection F of 6.31.2.10 NMAC, the term ‘child with a disability’ may include a child aged 3 through 9 who is evaluated as being developmentally delayed and who, because of that condition, needs special education and related services.” 6.31.2.10 NMAC

3005. State law requires school districts to provide special education programs to children with disabilities regardless of cost.

3006. School districts must provide all children with disabilities a free, appropriate education in the least restrictive environment pursuant to an individualized education plan.

3007. The New Mexico legislature recognizes that supplemental funding is necessary for

students with disabilities. The SEG generates revenue for special education based on the

number of students per service level. The formula has four classification levels for students with disabilities in K-12 (A, B, C, and D), and also defines units for three- and

four-year olds through the PSFA, Section 22-8-21 NMSA 1978. Students classified at

the A or B level receive an additional 70 percent of the unit value, students classified as C-level

receive an additional 100 percent of the unit value, and students classified as D-level receive an additional 200 percent of the unit value.

9. Case law from both New Mexico and other states results in the conclusion that an the goal of an adequate education is one that prepares school children to be functioning members of the civic, cultural and economic aspects of our society. 7/20/18 Decision and Order at 12.

a. New Mexico cases

3008. New Mexico courts have interpreted “sufficient” to mean “adequate, enough, equal to the end proposed, and that which may be necessary to accomplish an object.” *Nissen v. Miller*, 1940-NMSC-055, ¶ 10, 44 N.M. 487.

3009. In *Michael v. Warner/Chilcott*, 1978-NMCA-043 ¶¶27, 32, the New Mexico Court of Appeals held that in the context of evaluating what constituted an “adequate” warning on a drug label that

“The word ‘sufficient’ is defined to mean adequate, enough, equal to the end proposed, and that which may be necessary to accomplish an object; it embraces no more than that which furnishes a plentitude, which, when done, suffices to accomplish the purpose intended in light of present conditions and viewed through the eyes of practical and cautious men.” ...

b. Case Law from other States

3010. The Court does not agree with the approach taken by a number of cases that have adopted a list of specific criteria to define adequacy. *See, e.g., Rose v. Council for Better Educ.*, 790 S.W.2d 186, 212 (Ky. 1989), and other cases cited at

pp. 10-11 of 7/20/18 Decision and Order. In the Court's opinion these cases substitute a court's criteria for what constitutes an adequate education for the legislature's judgment.

3011. In the Court's opinion, to avoid the potential violation of the separation of powers doctrine created by the *Rose* type of approach, the Court should use the standards adopted by the legislature (as noted above) as the baseline definition of adequacy. *See, e.g. McCleary*, 269 P.3d 227, 249-50 (Wash. 2012) (adopting as constitutionally required under the Washington education clause the specific standards that had been adopted by statute and regulation in nine separate content areas, including reading, math, science, writing, communication, social studies, the arts, health and fitness, and educational technology).

3012. A further refinement in the quest to determine adequacy is found in *Campaign for Fiscal Equity, Inc. v. State*, 100 N.Y.2d 389, 392, 801 N.E.2d 326, 330, 769 N.Y.S.2d 106, 109 (2003). The New York court emphasized its focus on educational inputs [e.g., teachers and facilities] as the primary measure of adequacy, but clarified the connection of inputs to outputs [e.g., test results and graduation rates] . . . The plaintiffs' showing of both inadequate inputs and outputs led the court to presume that the inadequate inputs caused the inadequate outputs.

3013. In *Chase v. McMasters*, 573 F.2d 1011, 1017 (8th Cir. 1978), the Eighth Circuit held that while the violation of a federal statute is not necessarily

constitutional in scope, so as to give rise to a § 1983 claim, the violation of a statute that is based on “the unique legal relationship between the Federal Government and tribal Indians” is constitutional in dimension).

3014. In *United States v. Cleveland*, 507 F.2d 731, 741 (7th Cir. 1974), the Seventh Circuit granted habeas corpus relief in part on the ground that “[n]on-compliance with a statute which has as one of its purposes the effectuation of a constitutional right” is constitutional in dimension.

3015. In *Lobato v. State*, 218 P.3d 358, 374 (Colo. 2009), the Colorado Supreme Court held that Plaintiffs are not required to quantify a precise dollar amount needed to achieve sufficiency or present evidence on the existence of a superior funding formula. Rather, the Court’s task is “to determine whether the [current] system passes constitutional muster.”

3016. In *Columbia Falls Elementary Sch. Dist. No. 6 v. State*, 2005 MT 69, ¶¶ 25, 28, 326 Mont. 304, 310–11, 109 P.3d 257, 261, the Montana Supreme Court when considering the constitutionality of its system of education stated that:

This funding system is not correlated with any understanding of what constitutes a “quality” education. The evidence for this is two-fold. First, as the State admitted at oral argument, in passing HB 667, the Legislature did not undertake a study of what the Public Schools Clause demands of it. That is, it did not seek to define “quality.” As stated above, since the Legislature has not defined “quality” as that term is used in Article X, Section 1(3), we cannot conclude that the current funding system was designed to provide a quality education. Second, as found by the District Court, the Legislature, in creating the spending formula of HB 667, did not link the formula to any factors that might constitute a “quality” education.

...

The above analysis is essentially prospective in nature—that is, it states what the Constitution demands of the Legislature and what the Legislature must do to fashion a constitutional education system. Nonetheless, in order to address the Coalition's claims we have to address the *educational product* that the present school system provides, not just the *manner* in which the Legislature funds that school system. Even given the absence of a definition of “quality” education, the District Court's findings demonstrate that whatever legitimate definition of quality that the Legislature may devise, the educational product of the present school system is constitutionally deficient and that the Legislature currently fails to adequately fund Montana's public school system.

3017. In *Montoya v. State*, 278 Kan. 769, 120 P.3d 306, 310 (2005) *supplemented*, 279 Kan. 817, 112 P.3d 923 (2005), the Kansas Supreme Court, after deciding that the current system for funding public education was unconstitutional, held that “We do not dictate the precise way in which the legislature must fulfill its constitutional duty. That is for the legislators to decide, consistent with the Kansas Constitution. It is clear increased funding will be required; however, increased funding may not in and of itself make the financing formula constitutionally suitable.”

10. Secondary Authority

3018. According to Joshua Kagan, when defining constitutionally adequacy, courts could “use existing legislative or executive standards to define and measure adequacy; order the legislature or executive branch to decide upon a definition and measurement; come up with its own list of required outputs; or come up with its

own list of inputs.” Joshua Kagan, *A Civics Action: Interpreting Adequacy in State Constitutions’ Education Clauses*, 78 N.Y.U. L.Rev. 2241, 2248 (2003)

E. MULTI-CULTURAL FRAMEWORK - Defendants have not provided a multi-cultural framework.

3019. In order to meet the needs of the State’s culturally and linguistically diverse student population, the State has a duty to ensure that all students enrolled in New Mexico public schools are provided a multicultural education. See generally N. M. S. A. 1978, § 22-1-1.2; N. M. S. A. 1978, § 22-23A; BMEA; and HEA.

3020. Defendants have a duty to ensure student success in New Mexico by providing “a multicultural education system that:

- a. attracts and retains quality and diverse teachers to teach New Mexico's multicultural student population;
- b. holds teachers, students, schools, school districts and the state accountable;
- c. integrates the cultural strengths of its diverse student population into the curriculum with high expectations for all students;
- d. recognizes that cultural diversity in the state presents special challenges for policymakers, administrators, teachers and students;
- e. provides students with a rigorous and relevant high school curriculum that prepares them to succeed in college and the workplace; and

f. elevates the importance of public education in the state by clarifying the governance structure at different levels. N. M. S. A. 1978, § 22-1-1.2

3021. Defendants have a duty to provide for the study, development and implementation of educational systems that positively affect the educational success of Native American students NMSA 1978, §22-23A-2.

3022. Defendants have a duty to coordinate with appropriate administrators and divisions to ensure that PED administrators make implementation of the Indian Education Act a priority. N. M. S. A. 1978, § 22-23A-5B.

3023. Defendants have a duty to ensure that the IEA [is] carried out and that each division within PED is collaborating to fulfill its responsibilities to tribal students. NMSA § 22-23A-4 A

3024. Defendants have a duty to provide for the study, development and implementation of educational systems that affect the educational success of Hispanic students. N.M. Stat. Ann. § 22-23B-2A.

3025. Defendants have a duty to administer and enforce the provisions of the Bilingual Multicultural Education Act. N.M. Stat. Ann. § 22-23-4

3026. Defendants have a duty to ensure equal education opportunities for students in New Mexico, and that cognitive and affective development of the students is encouraged by:

- a. using the cultural and linguistic backgrounds of the students in a [BMEP];
- b. providing students with opportunities to expand their conceptual and linguistic abilities and potentials in a successful and positive manner; and
- c. teaching students to appreciate the value and beauty of different languages and cultures. NMSA § 22-23-1.1(L)

3027. The provision of a multi-cultural education is necessary for the state to meet its constitutional mandate of providing a sufficient system of education.

3028. These laws must be complied with in order for New Mexico to ensure that the provisions of a multi-cultural education are being met.

3029. Defendants have failed to comply with these laws.

3030. Defendants have failed to meet their duty to provide a framework for districts to use in providing a multicultural education.

F. ENGLISH LANGUAGE LEARNERS - Defendants have not complied with the requirements for English language learner students mandated under New Mexico's statutes, federal statutes and the New Mexico Constitution

3031. Pursuant to Article XII, section 1 of the New Mexico Constitution, English language learner students enrolled in New Mexico public schools have a right to a constitutionally sufficient education.

3032. A constitutionally sufficient education for English language learner students, including Native American English learners, under Article XII, Section 1 of the New Mexico Constitution, is one that adequately prepares them for college and career.

3033. English language learners, including Native American English language learners, have a right to an adequate English language acquisition program.

3034. An adequate English language acquisition program is necessary for preparing English language learners, including Native American English learners, for college and career.

3035. Defendants have a duty to ensure and oversee that language programs provided to English language learner students enrolled in New Mexico public schools are compliant with both state and federal laws.

3036. Defendants have a duty to ensure that Local Education Agencies (LEAs), including New Mexico school districts, that do not have either a Bilingual

Multicultural Education program, or “stand-alone” Title III program, are providing English as a Second Language services and English language development services for students identified as English language learners.

3037. Defendants have a duty to ensure that all LEAs, regardless of whether they have a Bilingual Multicultural Education program or “stand-alone” Title III program, are providing English language learners an adequate English language acquisition program.

3038. Defendants have a duty under federal law to comply with Title VI of the Civil Rights Act of 1964, 20 U.S.C. § 1703(f), and associated regulations and case law. Defendants have a duty under state law, the state constitution, and federal law, to provide appropriate guidance, monitoring, and oversight to school districts to ensure that all ELLs receive an adequate English adequate language acquisition program.

3039. Defendants have a duty to ensure that no student is denied an equal educational opportunity on account of his or her race, color, sex, or national origin[.] 20 U.S.C.A. § 1703.

3040. Defendants have a duty to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs. 20 U.S.C.A. § 1703 (f).

3041. Defendants have a duty to ensure that English language acquisition programs for English learner students, including Native American English language learners: (a) are supported by an underlying educational theory that is recognized as sound by some experts in the field or considered a legitimate experimental strategy; (b) are reasonably calculated to implement effectively the underlying educational theory; and (c) succeed, after a legitimate trial, in producing results indicating that students' language barriers are actually being overcome within a reasonable period of time. 20 U.S.C.A. § 1703 (f).

3042. Defendants have a duty under federal law to comply with Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, and associated regulations and case law. Defendants have a duty under state law, the state constitution, and federal law, to provide appropriate guidance, monitoring, and oversight to school districts to ensure that all ELLs receive adequate language assistance programs.

3043. Defendants have a duty to ensure that no person is excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance, which includes English language instruction. 42 U.S.C.A. § 2000d.

3044. Defendants have a duty to ensure that no person, including any Native American student, is subjected to discrimination based on national origin, race, or

sex under any program or activity receiving Federal financial assistance. 42 U.S.C.A. § 2000d.

3045. Defendants have a duty to ensure that English Learners, including Native American English learners, are not excluded or denied the benefits of effective English language instruction programs. 42 U.S.C.A. § 2000d.

3046. Defendants have a duty to ensure that English learners, including Native American English learners, are provided an adequate English language instructional program. 42. U.S.C.A. § 2000d.

3047. Defendants have a duty to ensure that English Language instructional programs for English language learner students, including Native American English learners: (a) are supported by an underlying educational theory that is recognized as sound by some experts in the field or considered a legitimate experimental strategy; (b) are reasonably calculated to implement effectively the underlying educational theory; and (c) succeed, after a legitimate trial, in producing results indicating that students' language barriers are actually being overcome within a reasonable period of time. 42 U.S.C.A. § 2000d.

3048. Defendants have a duty to comply with Title III of the Elementary and Secondary Education Act of 1965, also known as the "English Language Acquisition, Language Enhancement, and Academic Achievement Act," including Subparts 1-4 (§§ 6821-6871).

3049. Defendants have a duty to comply with Title III of the Elementary and Secondary Education Act of 1965, and associated regulations and case law, to provide appropriate guidance, monitoring, and oversight to school districts that receive federal funding to improve the education EL students.

3050. Defendants have a duty to ensure that all districts that receive federal funding to improve the education of EL students will: (1) increase the English language proficiency of English learners by providing effective language instruction educational programs that meet the needs of English learners and demonstrate success in increasing (A) English language proficiency; and (B) student academic achievement. 20 U.S.C.A. § 6825.

3051. Defendants have a duty to ensure that all districts that receive federal funding to improve the education of EL students will: (2) provide effective professional development to classroom teachers (including teachers in classroom settings that are not the settings of language instruction educational programs), principals and other school leaders, administrators, and other school or community-based organizational personnel, that is (A) designed to improve the instruction and assessment of English learners; (B) designed to enhance the ability of such teachers, principals, and other school leaders to understand and implement curricula, assessment practices and measures, and instructional strategies for English learners; (C) effective in increasing children's English language

proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of such teachers; and (D) of sufficient intensity and duration (which shall not include activities such as 1-day or short-term workshops and conferences) to have a positive and lasting impact on the teachers' performance in the classroom, except that this subparagraph shall not apply to an activity that is one component of a long-term, comprehensive professional development plan established by a teacher and the teacher's supervisor based on an assessment of the needs of the teacher, the supervisor, the students of the teacher, and any local educational agency employing the teacher, as appropriate.

20 U.S.C.A. § 6825.

3052. Defendants have a duty to ensure that all districts that receive federal funding to improve the education of EL students will: (3) provide and implement other effective activities and strategies that enhance or supplement language instruction educational programs for English learners, which (A) shall include parent, family, and community engagement activities; and (B) may include strategies that serve to coordinate and align related programs. 20 U.S.C.A. § 6825.

3053. Defendants have a duty to ensure that all districts that receive federal funding to improve the education of EL students develop annual reports that provide: 1) a description of how such programs and activities supplemented programs; 2) the number and percentage of English learners in the programs and

activities who are making progress toward achieving English language proficiency; 3) the number and percentage of English learners in the programs and activities attaining English language proficiency based on State English language proficiency standards, by the end of each year; 4) the number and percentage of English learners who exit the language instruction educational programs based on their attainment of English language proficiency; 5) the number and percentage of English learners meeting challenging State academic standards for each of the 4 years after such children are no longer receiving services under this part, in the aggregate and disaggregated, at a minimum, by English learners with a disability; 6) the number and percentage of English learners who have not attained English language proficiency within 5 years of initial classification as an English learner and first enrollment in the local educational agency; and (7) any other information that the State educational agency may require. 20 U.S.C.A. § 6841.

3054. Defendants have a duty to ensure that any authorized programs that serve Native American children include programs of instruction, teacher training, curriculum development, evaluation, and assessment designed for Native American children learning and studying Native American languages and children of limited Spanish proficiency, except that an outcome of programs serving such children shall be increased English proficiency among such children. 20 U.S.C.A. § 6848.

3055. Defendants have not met their duties under 20 U.S.C.A. § 1703 (f).
3056. Defendants have not met their duties under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d.
3057. Defendants have not met their duties under Title III of the ESEA, 20 U.S.C.A. § 6825.
3058. Defendants have not met their duties under Title III of the ESEA, 20 U.S.C.A. § 6841
3059. Defendants have not met their duties under Title III of the ESEA, 20 U.S.C.A. § 6848.
3060. Defendants do not monitor sufficiently the programs and services provided to English learner students, including Native American English learners.
3061. Defendants have failed to ensure that English learner students, including Native American English learners, are provided sufficient English language acquisition programs.
3062. Defendants have failed to ensure that a uniform system of free public schools is constitutionally sufficient for the education of English learner students, including Native American English learners.

G. NATIVE AMERICAN STUDENTS - A constitutionally sufficient education for Native American students, including Native American English learners, under Article XII, Section 1 of the New Mexico Constitution is one that meets their unique cultural

and linguistic needs and adequately prepares them for college and career.

3063. Pursuant to Article XII, section 1 of the New Mexico Constitution, Native American students enrolled in New Mexico public schools have a right to a constitutionally sufficient education.

3064. The passage of the New Mexico Indian Education Act (2003) was meant to mitigate the impact of historical trauma by ensuring that the unique cultural and linguistic needs of Native American students are being met in the public schools.

3065. The New Mexico Indian Education Act sets forth the legislative determination of what constitutes a constitutionally adequate education for Native American children.

3066. Defendants have a constitutional duty to ensure that the New Mexico Indian Education Act is fully complied with and enforced and that its purposes are fully effectuated.

3067. A violation of the New Mexico Indian Education Act is a violation of Article XII, section 1 of the New Mexico Constitution.

3068. Pursuant to the New Mexico Indian Education Act, Defendants have a duty to:

- a. ensure that equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional

materials for Native American students enrolled in public schools. § 22-23A-2A;

- b. ensure maintenance of native languages. § 22-23A-2B;
- c. provide for the study, development and implementation of educational systems that positively affect the educational success of Native American students. § 22-23A-2C;
- d. ensure that the department of education [public education department] partners with tribes to increase tribal involvement and control over schools and the education of students located in tribal communities. § 22-23A-2D;
- e. encourage cooperation among the educational leadership of Arizona, Utah, New Mexico and the Navajo Nation to address the unique issues of educating students in Navajo communities that arise due to the location of the Navajo Nation in those states. § 22-23A-2E;
- f. provide the means for a formal government-to-government relationship between the state and New Mexico tribes and the development of relationships with the education division of the bureau of Indian affairs and other entities that serve Native American students. § 22-23A-2F;

- g. provide the means for a relationship between the state and urban Native American community members to participate in initiatives and educational decisions related to Native American students residing in urban areas. § 22-23A-2G;
- h. ensure that parents; tribal departments of education, community-based organizations, the department of education [public education department], universities, and tribal, state and local policymakers work together to find ways to improve educational opportunities for Native American students. § 22-23A-2H;
- i. ensure that tribes are notified of all curricula development for their approval and support; encourage an agreement regarding the alignment of the bureau of Indian affairs and state assessment programs so that comparable information is provided to parents and tribes. § 22-23A-2I;
- j. encourage and foster parental involvement in the education of Indian students. § 22-23A-2J;

3069. Defendants have a duty to ensure that the twenty-three Indian Education districts have sufficient resources, including funding, to fully implement the New Mexico Indian Education Act.

3070. The Assistant Secretary of the Indian Education Division has a duty to advise districts on the allocation of resources in order to meet the needs of Native American students.

3071. Defendants have a duty to provide school districts with sufficient technical assistance, guidance, monitoring and oversight on the implementation the New Mexico Indian Education Act.

3072. The regional offices of the Indian Education Division must be fully staffed in order to carry out the duties required of the IED and PED under the New Mexico Indian Education Act.

3073. Defendants have failed to provide Native American students a constitutionally sufficient education.

3074. Defendants have failed to prioritize the New Mexico Indian Education Act.

3075. Defendants are in violation of the New Mexico Indian Education Act.

3076. Defendants have failed to implement culturally relevant learning environments and/or educational opportunities for Native American students.

3077. Defendants do not have a mechanism to assess whether equitable and culturally responsive learning environments and educational opportunities are being provided to Native American students.

3078. Defendants have failed to implement culturally relevant instructional materials for Native American students.

3079. Defendants have failed to recognize its own duty to provide for the study, development, and implementation of effective educational systems for Native American students.

3080. Defendants have not developed any educational systems that are specifically targeted at improving the success of Native American students.

3081. Defendants have not staffed the Indian Education Division in a way that would enable it to study, develop, and provide guidance on effective systems of education for Native American students.

3082. Defendants have not studied or developed effective educational systems for Native American students.

3083. Defendants have not provided a means for formal government-to-government relationship between the Tribes and the State.

3084. Defendants have not allocated sufficient funding to the twenty-three Indian Education districts for the purpose of implementing the New Mexico Indian Education Act.

3085. Defendants have not provided school districts with sufficient technical assistance, guidance, monitoring and oversight on the implementation the New Mexico Indian Education Act.

3086. The offices of the Indian Education Division have lacked sufficient capacity and expertise to provide districts technical support and guidance on NMIEA implementation.

3087. Defendants have failed to provide sufficient resources, as required under the State Constitution, to school districts that serve a significant Native American student population, in order to meet their academic and unique cultural and linguistic needs.

3088. Defendants have failed to ensure that a uniform system of free public schools is constitutionally sufficient for the education of Native American students.

H. EDUCATIONAL INPUTS - Defendants do not provide New Mexico's students with the necessary programs, services and resources; in other words, the system's educational inputs are insufficient.

1. Instructional Materials

3089. Under the New Mexico Constitution, Defendants have a duty to provide adequate instructional materials for at-risk students. (While it appears self-evident that the education clause applies to all students, this case involved at-risk students (economically disadvantaged students, English language learners, Native Americans, and students who have disabilities), and the Court's conclusions deal only with at-risk students.)

3090. Defendants have violated their constitutional duty to provide adequate instructional materials for at-risk students.

2. Reasonable Curricula (Programs and Services)

3091. Under the New Mexico Constitution, Defendants have a duty to provide reasonable curricula, i.e. educational programs and services, to at-risk students.

3092. Reasonable curricula include programs and services like PreK, summer school, after school, extended learning time, smaller class sizes, social services, and research-based reading programs.

3093. Defendants have violated their constitutional duty to provide adequate instructional materials for at-risk students.

3. Teacher Recruitment, Retention and Capacity Building.

3094. Under the New Mexico Constitution, Defendants have a duty to provide adequate teaching to at-risk students.

3095. Defendants have violated their constitutional duty to ensure that the districts have the necessary resources to recruit and retain adequate teachers.

3096. Defendants have violated their constitutional duty to provide adequate resources for the adequate training and adequate professional development for New Mexico's teachers.

4. Inadequate funding

3097. The appropriation the State of New Mexico provides for education “is insufficient to fund the programs necessary to provide an opportunity for all at-risk students to have an adequate education,” finding that increased funding for education improves student outcomes. 7/20/18 Decision and Order at 50-51, 53.

3098. “[T]here may be ways for the districts to more effectively and efficiently spend their funds, but PED fails to exercise its [statutory] authority over the districts to require that the money that is allocated is used for programs known to advance the educational opportunities for at-risk students. 7/20/18 Decision and Order at 53-54. The State’s one cited example of inefficiency concerning a tow truck seems like an isolated incident and not necessarily reflective of a broader inefficiency. Sallee, 7/21/17-am, Tr. 57-58.

3099. The State of New Mexico has violated its obligation to provide sufficient transportation to the state’s at-risk students.

3100. The New Mexico Court of Appeals has recognized that the State of New Mexico, PED, and the Secretary of PED, have direct control over operational funds allocated to schools and school districts. *See Taos Mun. Sch. Charter Sch. v. Davis*, 2004-NMCA-129, ¶ 10-12, 136 N.M. 543, 102 P.3d 102.

3101. In *Taos Mun. Sch. Charter Sch. v. Davis*, 2004-NMCA-129, ¶ 10-12, 136 N.M. 543, 102 P.3d 102, the New Mexico Court of Appeals recognized that “[a] key feature of New Mexico’s public school operational funding scheme is the state

equalization guarantee distribution, which is a formula through which the state apportions federal and local revenue for schools equitably among the state's school districts.”

3102. PED’s statutory obligation to “supervise all schools and school officials coming under its jurisdiction, including taking over the control and management of a public school or school district that has failed to meet requirements of law or department rules or standards,” and to “determine policy for the operation of all public schools and vocational education programs in the state” under NMSA 1978 § 22-2-2(C) (2004), “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.” 7/20/18 Decision and Order at 52.

3103. PED fails to exercise its statutory power over districts sufficiently to determine that districts are using these funds as required for at-risk students.” 7/20/18 Decision and Order at 53

3104. “[L]ack of funds is not a defense to providing a constitutional right.” 7/20/18 Decision and Order at 54.

3105. “A sufficient education is a right protected by the New Mexico Constitution. As such it is entitled to priority in funding.” 7/20/18 Decision and Order at 56.

3106. “The remedy for lack of funds is not to deny public school children a sufficient education, but rather the answer is to find more funds.” 7/20/18 Decision and Order at 56.

3107. “[T]he determinative issue for the Court’s purposes is whether at the end of the process sufficient moneys have been allocated to provide the necessary programs to provide an adequate education for at-risk students, finding that the process used to get there is of secondary concern. 7/20/18 Decision and Order at 58.

3108. “It is the legislature’s function to determine as a matter of policy which source or sources are best for New Mexico. Again, which source is chosen is not as important as the end result – a system that adequately educates at-risk children.” 7/20/18 Order and Decision at 58.

3109. The Legislature has determined the appropriate class load and/or class size for grades K-12. 1978 NMSA, § 22-10A-20.

3110. The Legislature has determined that Defendants may waive class size and class load requirements under certain circumstances. 1978 NMSA, § 22-10A-20(G).

3111. The Legislature has determined that “...funding constraints require school districts to have financial flexibility to meet decreased state support. For the 2016-2017 through 2018-2019 school years, the secretary may waive requirements of the

Public School Code and rules promulgated in accordance with that code pertaining to.” 1978 NMSA, § 22-1-10.

3112. Rather than passing statutes to waive individual class load, teaching load, length of school day, staffing patterns, subject areas and purchases of instructional materials based on a lack of financial resources, Defendants have a duty to provide sufficient resources to school districts to ensure that schools meet statutory class size and class load limits.

3113. Defendants have violated their duty to ensure school districts and schools have sufficient resources to provide class size and class load limits that meet statutory requirements.

3114. It is unnecessary to identify possible sources of revenue to fund education because “use of some or all of them is constitutionally mandated.” 7/20/18 Decision and Order at 58.

3115. *Toussaint v. McCarthy*, 801 F.2d 1080, 1110 (9th Cir.1986), recognized that “federal courts have repeatedly held that financial constraints do not allow states to deprive persons of their constitutional rights.”

3116. In *Claremont Sch. Dist. v. Governor*, 794 A.2d 744, 754 (N.H. 2002), the New Hampshire Supreme Court rejected an administrative rule that excused district compliance with standards for fiscal reasons because the New Hampshire

Constitution made it “the States’s duty to guarantee the funding necessary to provide a constitutionally adequate education.”

3117. In *Campbell County Sch. Dist. v. State*, 907 P.2d 1238, 1279 (Wyo. 1995), the Wyoming Supreme Court held that “that lack of financial resources will not be an acceptable reason for failure to provide the best educational system.”

3118. In *Campbell County Sch. Dist. v. State*, 907 P.2d 1238, 1279 (Wyo. 1995), the Wyoming Supreme Court recognized that “supporting an opportunity for a complete, proper, quality education is the legislature's paramount priority; competing priorities not of constitutional magnitude are secondary, and the legislature may not yield to them until constitutionally sufficient provision is made for elementary and secondary education.”

3119. In *Rose*, 790 S.W.2d at 208, the Kentucky Supreme Court held that “neither the Kentucky General Assembly nor those individuals responsible for discharging the duties imposed on them by the state constitution ... can abrogate those duties merely because the monetary obligations becomes unexpectedly large or onerous.”

3120. In *Kadrmias v. Dickinson Pub. Sch.*, 402 N.W.2d 897, 905 (N.D. 1987), Justice Levine of the North Dakota Supreme Court observed: “Each of us is aware of the economic recession in our State. The energy and agricultural sectors are seriously depressed. We read and hear about the need to cut back, to pull in our

belts. Nonetheless, our need to conserve financial resources may not be implemented by depleting our constitutional resources.”

3121. In *Lobato v. State*, 218 P.3d 358, 374 (Colo. 2009), the Colorado Supreme Court noted: “The court's task is not to determine whether a better financing system could be devised, but rather [it is] to determine whether the system passes constitutional muster.”

5. Lack of Accountability

3122. Defendants have a duty to ensure that funding for at-risk students is spent on programs and services that help at-risk students become college and career ready.

3123. Defendants have violated their duty to ensure that funding for at-risk students is spent on programs and services that help at-risk students become college and career ready

3124. Defendants have a duty to supervise all schools and school officials coming under their jurisdiction. NMSA 1978 § 22-2-2 (C).

3125. Defendants have violated their duty to supervise all schools and school officials coming under its jurisdiction.

3126. Defendants have a duty to properly and uniformly enforce the provisions of the Public School Code. NMSA 1978 § 22-2-2 (A)

3127. Defendants have violated their duty to properly and uniformly enforce the provisions of the Public School Code.

3128. Defendants have the duty over the control, management and direction of all public schools. NMSA 1978 §22-2-1.

3129. Defendants have violated their duty over the control, management and direction of all public schools.

3130. The PED has failed to provide districts with the technical assistance and expertise necessary to sufficiently educate New Mexico's students.

3131. The State's systemic failure to ensure that New Mexico's schools and school districts are receiving the assistance they need results in a violation of New Mexico's students' constitutional rights.

I. EDUCATIONAL OUTPUTS – The academic outcomes (i.e. educational outputs) for New Mexico's students are evidence that the system is insufficient.

3132. The educational outputs demonstrate that the education system is not providing the type of education the legislation required in Section 22-1-1.2(B).

3133. The educational outputs reflect a systemic failure to provide an adequate education as required by the New Mexico Constitution.

3134. Defendants have a duty Under Article XII, Section 1 of the New Mexico Constitution to ensure that all at-risk students are provided an education that sufficiently prepares them for college and career.

1. Standardized Tests

3135. Defendants have violated their constitutional duty to prepare at-risk students for college and career based on student outputs on the SBA and on PARCC.

2. Graduation Rates

3136. Defendants have violated their constitutional duty to prepare at-risk students for college and career based on student graduation rates.

3. College Remediation

3137. Defendants have violated their constitutional duty to prepare at-risk students for college and career based on college remediation rates.

J. VIOLATION OF EDUCATION CLAUSE – Defendants have violated Article XII, Section 1, of the New Mexico Constitution because, as Plaintiffs have proven, the State of New Mexico has failed to meet its obligation to “provide every student with the opportunity to obtain an education that allows them to become prepared for career or college.” 7/20/18 Decision and Order at 25 and 59

II. EDUCATION IS A FUNDAMENTAL RIGHT

3138. Article XII, § 1 of the New Mexico Constitution establishes a fundamental right.

3139. A fundamental right is a “personal right or civil liberty—such as first amendment rights, freedom of association, voting, interstate travel, privacy, and fairness in the deprivation of life, liberty or property—which the Constitution explicitly or implicitly guarantees.” *Marrujo*, 1994-NMSC-116, ¶ 10.

3140. The New Mexico Supreme Court has relied on the education clause as well as Article XXI, Section 4 of the New Mexico Constitution to hold that the state has a “responsibility” to provide an education, including to Native American students. *Prince v. Bd. of Ed. of Cent. Consol. Indep. Sch. Dist. No. 22*, 1975-NMSC-068, ¶ 2, 88 N.M. 548, 543 P.2d 1176. This constitutional “responsibility” makes education a fundamental right in the state.

3141. New Mexico’s constitutional history in adopting education clauses evidences that Article XII, § 1 establishes a fundamental right. From 1850 to 1910, each of New Mexico Constitutions has included a prominent education clause. In addition, New Mexico’s Enabling Act mandated that “provision shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of said State and free from sectarian control . . .” Act of June 20, 1910, ch. 310, § 2, 36 Stat. 557, and this provision is embodied in New Mexico’s current Constitution. N.M. Const., art. XXI, § 4.

3142. The many legislative pronouncements evidencing the importance of education provide evidence that Article XII, § 1 creates a fundamental right. For example, the “Legislative findings and purpose” state that “no education system can be sufficient for the education of all children unless it is founded on the sound principle that every child can learn and succeed and that the system must meet the needs of all children by recognizing that student success for every child is the fundamental goal.” NMSA 1978 § 22-1-1.2 (2007). As another example, New Mexico’s compulsory attendance law, which requires children between the ages of five and eighteen to attend school on penalty of criminal charges, provides further evidence of the importance of education. N.M. Admin. Code § 6.10.8

3143. The fact that other state courts construing similar state constitutional provisions concerning education have held that education is a fundamental right evidences that Article XII, § 1 creates a fundamental right. *See Claremont Sch. Dist. v. Governor*, 703 A.2d 1353, 1358 (N.H. 1997) (New Hampshire constitution charges the legislature to provide public education and “[t]his fact alone is sufficient in our view to accord fundamental right status to the beneficiaries of the duty.”); *Leandro v. State*, 488 S.E.2d 249, 255 (N.C. 1997) (North Carolina constitution places a duty on the General Assembly to provide an education, and “the intent of the framers was that every child have a fundamental right to a sound basic education”); *Pauley v. Kelly*, 255 S.E.2d 859, 878 (W.Va.

1979) (West Virginia constitution creates a “mandatory requirement,” which “demonstrates that education is a fundamental constitutional right in this State”)

III. ARTICLE II, SECTION 18 EQUAL PROTECTION CLAIMS

A. Martinez Plaintiffs State A Claim Under the Equal Protection Clause.

3144. New Mexico Constitution, Article II, Section 18 provides, in relevant part: “No person shall . . . be denied equal protection of the laws.” (Hereinafter, this provision will be referred to as the “Equal Protection Clause.”)

3145. The Martinez Plaintiffs have standing to bring their claim under the equal protection clause of Article XII, Section 18 of the New Mexico Constitution.

3146. The Equal Protection Clause “guarantees that the government will treat individuals similarly situated in an equal manner.” *Breen v. Carlsbad Mun. Sch.*, 2005-NMSC-028 ¶ 7, 138 N.M. 331, 120 P.3d 413.

3147. The New Mexico Constitution provides an express right to a “uniform system of free public schools sufficient for the education.” N.M. Const., art. XII, § 1. That is a fundamental right. [11-14-04 ORD 5–6 (“It is difficult to conceive of a service that the State provides its citizens that is more fundamental than the right to education. . . . An educated populace is not only fundamental to our current well-being, it is fundamental to our future well-being.”)].

3148. *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1 (1973), which denied recognition of a federal constitutional right to an education, does not

require dismissal of Martinez Plaintiffs' equal protection claim arising under the Education Clause.

3149. *Ramah Navajo Sch. Bd., Inc. v. Bureau of Revenue*, 1986-NMCA-003, 104 N.M. 302, *abrogated on other grounds as recognized by Ramah Navajo Sch. Bd., Inc. v. N.M. Taxation & Revenue Dep't*, 1999-NMCA-050, 127 N.M. 101, does not require dismissal of Martinez Plaintiffs' equal protection claim arising under the Education Clause because that case did not decide whether the Education Clause provides a fundamental right to a uniform and sufficient education.

3150. Defendant failed to identify authority demonstrating that animus must be proven to prevail on Martinez Plaintiffs' equal protection claim. Because Defendant failed to identify any such authority, the court properly presumed that no such authority exists. *See Johnson & Danley Const. Co., Inc. v. State ex rel. N.M. Dep't of Transp.*, 2009 WL 6622940, at *1 (N.M. App. 2009); *In re Adoption of Doe*, 1984-NMSC-024, ¶ 2, 100 N.M. 764, 676 P.2d 1329 (1984) (same principle). Moreover, Defendants' failure to support their argument with competent legal authority amounts to a forfeiture of the argument.

3151. To prevail on an equal protection claim, Plaintiffs did not need to establish animus on the State's part. *See N.M. Corr. Dep't v. Am. Fed'n of State, Cnty & Mun. Employees, Council 18, AFL-CIO*, 2018-NMCA-007, ¶¶ 12–13, 409 P.3d 983, *cert denied* (Oct. 24, 2017) (declining “to read into the statute a requirement

that there be evidence that anti-union animus was the underlying motivation” for discriminatory treatment).

B. Defendants’ Public Education System Treats Similarly Situated Classes Differently.

3152. Students who are economically disadvantaged are a cognizable class under the Equal Protection Clause. *See* NMSA 1978, § 22-2C-5(E) (recognizing poor students for reporting and accountability purposes).

3153. The class of students who are economically disadvantaged are similarly situated to the class of students who are not economically disadvantaged. See 6.29.13 NMAC (English Language Arts Common Core Standards); 6.29.14 NMAC (Mathematics Common Core Standards); 6.29.1 NMAC (primary and secondary education standards for excellence)

3154. Defendants, through their public education system, treat economically disadvantaged students dissimilarly than economically non-disadvantaged students.

3155. Students with limited English language proficiency (“ELL students”) are a cognizable class under the Equal Protection Clause. *See* NMSA 1978, § 22-2C-5(C) (recognizing students with limited English proficiency for reporting and accountability purposes).

3156. The class of ELL students are similarly situated to the class of non-ELL students. See 6.29.13 NMAC (English Language Arts Common Core Standards);

6.29.14 NMAC (Mathematics Common Core Standards); 6.29.1 NMAC (primary and secondary education standards for excellence); Stipulations Proposed By Martinez Plaintiffs To Which All Parties Agree ¶ 106 (“PED has the same expectations for ELL students as it does for all students.”)

3157. Defendants, through their public education system, treat ELL students dissimilarly than non-ELL students.

C. Defendants’ Dissimilar Treatment of Similarly Situated Classes Fails To Meet Scrutiny.

3158. Because the right to a “uniform education sufficient for the education” is a fundamental right under the New Mexico Constitution, rational basis scrutiny is not applicable to Martinez Plaintiffs’ equal protection claim. *See Breen*, 2005-NMSC-028, ¶ 11 (“Rational basis review applies [only] to general social and economic legislation that does not affect a fundamental or important constitutional right or a suspect or sensitive class.”).

3159. Defendants’ public education system, to the extent that it treats economically disadvantaged students dissimilarly than economically advantaged students, is not substantially related to an important governmental interest, and therefore does not satisfy intermediate scrutiny.

3160. Defendants’ funding system, to the extent that it treats economically disadvantaged students dissimilarly than economically advantaged students, is not

substantially related to an important governmental interest, and therefore does not satisfy intermediate scrutiny.

3161. Defendants' public education system, to the extent that it treats ELLs dissimilarly than non-ELLs, is not substantially related to an important governmental interest and therefore does not satisfy intermediate scrutiny.

3162. Defendants' funding system, to the extent that it treats ELL students dissimilarly than non-ELL students, is not substantially related to an important governmental interest, and therefore does not satisfy intermediate scrutiny.

3163. Defendants have no compelling or important governmental interest for failing to account for ELL students in their funding formula.

3164. Because Defendants' public education system, to the extent that it treats economically disadvantaged students dissimilarly than economically advantaged students, is not substantially related to an important governmental interest and therefore fails intermediate scrutiny, there is no need to analyze the scheme for strict scrutiny. *See Griego v. Oliver*, 2014-NMSC-003, ¶ 55, 316 P.3d 865.

3165. Because Defendants' public education system, to the extent that it treats ELL students dissimilarly than non-ELL students, is not substantially related to an important governmental interest and therefore fails intermediate scrutiny, there is no need to analyze the scheme for strict scrutiny. *See Griego v. Oliver*, 2014-NMSC-003, ¶ 55, 316 P.3d 865.

IV. DUE PROCESS CLAIMS

3166. New Mexico Constitution, Article II, Section 18 provides, in relevant part: “No person shall be deprived of life, liberty or property without due process of law.” (Hereinafter, this provision will be referred to as the “Due Process Clause.”)

3167. The *Martinez* Plaintiffs have standing to bring their claim under the Due Process Clause.

3168. The applicable level of scrutiny and burden of proof for Martinez Plaintiffs’ claim under the Due Process Clause of the New Mexico Constitution is the same as for the Equal Protection Clause. See *Marrujo v. N.M. State Highway Transp. Dep’t*, 1994-NMSC0116, ¶ 9, 118 N.M. 753 (“The same standards of review are used in analyzing both the due process and equal protection guarantees.”); [11-14-14 ORD 4 (“[T]he Court is of the opinion that the equal protection fundamental rights analysis is the same as the substantive due process analysis.”).

3169. Because the right to a “uniform education sufficient for the education” is a fundamental right under the New Mexico Constitution, rational basis scrutiny is not applicable to Martinez Plaintiffs’ due process claim. See *Breen*, 2005-NMSC-028, ¶ 11 (“Rational basis review applies [only] to general social and economic legislation that does not affect a fundamental or important constitutional right or a suspect or sensitive class.”);

3170. [11-14-14 ORD 4 (“[T]he Court is of the opinion that the equal protection fundamental rights analysis is the same as the substantive due process analysis.”).

3171. Defendants, through their public education system’s treatment of economically disadvantaged students, violate the Due Process Clause.

3172. Defendants, through their public education system’s treatment of ELL students, violate the Due Process Clause.

3173. Defendants, through their public education system’s treatment of students with disabilities, violate the Due Process Clause.

3174. Defendants violate the Due Process Clause through its funding system which deprives economically disadvantaged students the resources required to satisfy the Education Clause.

3175. Defendants violate the Due Process Clause through its funding system which deprives ELL students the resources required to satisfy the Education Clause.

3176. Defendants violate the Due Process Clause through its funding system which deprives students with disabilities the resources required to satisfy the Education Clause.

3177. Defendants have no compelling or substantial government interest for their treatment of economically disadvantaged students in violation of the Due Process Clause.

3178. Defendants have no compelling or substantial government interest for their treatment of ELL students in violation of the Due Process Clause.

3179. Defendants have no compelling or substantial government interest for their treatment of students with disabilities in violation of the Due Process Clause

3180. “To the extent [Martinez] Plaintiffs are leveling claims against the funding formula itself, because of the way [Defendants] allocate[] money for special education, those claims do not require exhaustion of administrative remedies.” [6-9-17 ORD 2].

3181. Any claims that “cannot be remedied through the administrative procedures under the IDEA and the state regulations, such as Plaintiffs’ claims as to the state’s funding formula” do not require exhaustion of administrative remedies.” [6-9-17 ORD 2–3]

V. REMEDY

A. Declaratory Relief is Warranted.

3182. The New Mexico Declaratory Judgment Act authorizes New Mexico courts to make declaratory judgments resolving constitutional controversies. See NMSA 1978 § 44-6-1 et seq.

3183. Section 44-6-13 of the New Mexico Declaratory Judgment Act provides that “the state of New Mexico, or any official thereof, may be sued and declaratory judgment entered when the rights, status or other legal relations of the parties call

for a construction of the constitution of the state of New Mexico, the constitution of the United States or any of the laws of the state of New Mexico or the United States, or any statute thereof.” NMSA 1978 § 44-6-13.

3184. The Declaratory Judgment Act is intended to be liberally construed and administered as a remedial measure. *Headen v. D'Antonio*, 2011 WL 234256.

3185. The Court declares that Defendants have violated the Education Clause, and the Due Process and Equal Protection Clauses of the New Mexico Constitution. 7/20/18/ Decision and Order at 70.

3186. “Defendants have violated the rights of at-risk students by failing to provide them with a uniform statewide system of free public schools sufficient for their education.” 7/20/18 Decision and Order at 70.

3187. “Defendants have failed to provide at-risk students with programs and services necessary to make them college or career ready.” 7/20/18 Decision and Order at 70.

3188. “T[he funding provided has not been sufficient for all districts to provide the programs and services required by the Constitution.” 7/20/18 Decision and Order at 70.

3189. The Public Education Department 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 and adequate education.” 7/20/18
Decision and Order at 70-71.

B. Injunctive Relief is Warranted.

3190. The New Mexico Constitution provides that “district courts, or any judge thereof, shall have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari, prohibition and all other writs, remedial or otherwise in the exercise of their jurisdiction...” N.M. Const. art. VI, § 13

3191. In addition to declaratory relief, the Declaratory Judgment Act authorizes the district court to issue further relief “whenever necessary or proper.” NMSA 1978 § 44-6-9.

3192. In *Estate of Cummings by & through Montoya v. United States*, No. CV 12-00081 WJ/GBW, 2018 WL 1271279, at *3 (D.N.M. Mar. 9, 2018), the court, following the Tenth Circuit, held: “[a]s a general rule, even after a district court has entered judgment, it retains ancillary jurisdiction to enforce its own orders and judgments.”

3193. In determining whether an injunction should be granted, Courts in New Mexico look at a variety of factors, including: (1) the character of the interest to be protected, (2) the relative adequacy to the plaintiff of injunction in comparison with other remedies, (3) the delay, if any, in bringing suit, (4) the misconduct of the plaintiff if any, (5) the interest of third persons, (6) the practicability of

granting and enforcing the order or judgment, and (7) the relative hardship likely to result to the defendant if an injunction is granted and to the plaintiff if it is denied. *Cunningham v. Gross*, 1985-NMSC-050, ¶ 11, 102 N.M. 723, 699 P.2d 1075.

3194. All seven factors weigh in favor of issuing an injunction.

3195. As to the character of the interest to be protected, the importance of education for New Mexico's children cannot be overstated, particularly at-risk children. The first factor weighs in favor of an injunction.

3196. The second factor – the adequacy of an injunction as a remedy – also weighs in favor of Plaintiffs. There is no other remedy that would provide meaningful relief.

3197. There was no delay in bringing suit, and any delay in litigating the case was either endemic to this sort of litigation or due to circumstances beyond anyone's control. Therefore, the third factor is at least neutral with regard to an injunction.

3198. The fourth factor – misconduct of plaintiff – is inapplicable because Plaintiffs were not at fault.

3199. The fifth factor looks to the interest of third parties. In the Court's opinion third parties are served by an injunction. All current and future students and their families and the public as a whole are benefited by at-risk children receiving an adequate education. The State is benefited by an educated populace.

3200. The sixth factor – the practicability of granting and enforcing the order or judgment – is the factor that gives the Court the most pause. Crafting the injunction is not without its difficulties. There is a tension between giving the Defendants and the legislature sufficient guidance to allow them to comply and usurping the policy-making role that is appropriately the legislature’s function. As the New York Court of Appeals observed: “We are, of course, mindful . . . of the responsibility . . . to defer to the Legislature in matters of policymaking, particularly in a matter so vital as education financing. . . . We have neither the authority, nor the ability, nor the will, to micromanage education financing. CFE II, 801 N.E.2d at 345.”

3201. In *Campbell County Sch. Dist.*, 907 P.2d at 1279, the court directed the legislature to conduct a cost of education study and analysis to inform the creation of a new funding system for a “proper education which the Constitution requires be the best.”

3202. In *CFE II*, 801 N.E.2d at 348-49, the Court stated that an injunction is “hardly extraordinary or unprecedented” and directing the State to ascertain the cost of providing a sound basic education in New York City, adopt reforms that would ensure that every school in NYC had resources necessary for providing an opportunity for a sound basic education, develop a system of accountability.

3203. In *Edgewood Independent School Dist. v. Kirby*, 777 S.W.2d 391, 397-98 (1989), the court directed the legislature, “[i]n setting appropriations,” to “establish priorities according to constitutional mandate; equalizing educational opportunity cannot be relegated to an “‘if funds are left over’ basis.”

3204. In *McCleary*, 269 P.3d at 261, the court directed the legislature to “develop a basic education program geared toward delivering the constitutionally required education, and it must fully fund that program through regular and dependable tax resources.”

3205. In *Seattle Sch. Dist. . No. 1 of King County v. State*, 585 P.2d 71, 105, the court directed the Legislature “to enact legislation compatible with this opinion” by a date certain.”

3206. An injunction is hereby issued enjoining the Defendants to take immediate steps, by no later than April 15, 2019, to ensure that New Mexico schools have the resources necessary to give at-risk students the opportunity to obtain a uniform and sufficient education that prepares them for college and career.” 7/20/18 Decision and Order at 74.

3207. It is the State’s duty “to provide a constitutionally adequate system regardless of whether an injunction is entered.” 7/20/18 Decision and Order at 74.

3208. “[T]he school children who are now caught in an inadequate system and who will remain there if an injunction is not entered will be irreparably harmed if better programs are not instituted.” 7/20/18 Decision and Order at 74.

3209. “Neither these children nor the Court can rely on the good will of the Defendants to comply with their duty . . . as it is “too easy ‘to conserve financial resources’ at the expense of ‘our constitutional resources.’” 7/20/18 Decision and Order at 74.

3210. “[R]eforms to the current system of financing public education and managing schools should address the shortcomings of the current system by ensuring, as a part of that process, that every public school in New Mexico would have the resources necessary for providing the opportunity for a sufficient education for all at-risk students.” 7/20/18 Decision and Order at 74-75

3211. “The new scheme should include a system of accountability to measure whether the programs and services actually provide the opportunity for a sound basic education and to assure that the local districts are spending the funds provided in a way that efficiently and effectively meets the needs of at-risk students. 7/20/18 Decision and Order at 75.

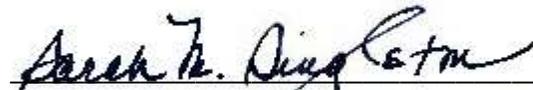
3212. In order to assure not only that the State of New Mexico takes the steps necessary to execute the required short-term reforms, but also to ensure that long-term comprehensive reforms are implemented by the State, the Court will retain jurisdiction over the case. 7/20/18 Decision and Order at 75.

ORDER

Counsel for Plaintiffs jointly are ordered to draft a final judgment consistent with these Findings of Fact and Conclusions of Law and to circulate the proposed judgment to Defendants’ counsel no later than 21 days after these Findings of Fact and Conclusions of Law are accepted for filing. Counsel for all parties are then to confer on any changes Defendants wish to suggest. No later than 35 days after these Findings of Fact and Conclusions of Law have been accepted for filing, Plaintiffs shall submit to the judge undersigned their proposed final judgment indicating whether or not it has been approved as to form. If the proposed final judgment has not been approved as to form then Defendants shall file and submit objections to the form of order no later than 35 days from the acceptance for filing

of these Findings of Fact and Conclusions of Law. All submissions shall be in Word format to sfedsms@nmcourts.gov.

IT IS SO ORDERED.



Sarah M. Singleton, Judge Pro Tem Sitting by Designation

On the date of acceptance for efileing, copies of these Findings of Fact, Conclusions of Law, and Order were eserved on those registered for eservice in this matter.