

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.

YAZZIE PLAINTIFFS' NOTICE TO THE COURT OF CASE STATUS

On July 20, 2018, after hearing weeks of testimony and considering thousands of pages of evidence, this Court found that Defendants State of New Mexico, the Secretary of Education, and the Public Education Department failed New Mexico's public school students by not providing them with a uniform and sufficient education as mandated by the state constitution. This Court enjoined the Defendants to come into compliance by April 15, 2019, ordering the State:

to take immediate steps 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. Reforms 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. 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.

July 20, 2018 Memorandum Opinion and Order at 74 – 75.

Although the State was put on notice of this Order on July 20, 2018 and given until April 15, 2019, the State failed to enact the programs and funding necessary to come into compliance. The Legislature failed to sufficiently fund the education budget to ensure schools had sufficient resources for their at-risk students, and failed to enact the necessary multi-cultural bilingual curriculum, programs, and services found by the Court to be necessary for the State's at-risk students. Finally, it did not enact legislation to ensure that sufficient numbers of experienced, trained teachers are in the classrooms serving at-risk students.

During the 2019 legislative session, the state increased educator salaries a modest amount, increased the at-risk index a modest amount, made funding available for K-5 Plus, and created an extended learning program for some students, while also adding bits of additional money to some lines of the budget and taking it away from others. While this may sound like progress, the fundamental problem is that after paying for the required salary increases—which are still not high enough to compete with other professions within New Mexico or with teacher salaries in our neighboring states—the districts do not have money to provide necessary programs and services to at-risk students. In the end, the State increased total education funding only by an amount that does not even bring us back to 2008 levels when adjusted for inflation.

The Court's July 2018 Memorandum Opinion and Order made clear the broad, basic problems that needed to be addressed: instructional materials and access to technology; access to PreK, summer school, afterschool programs, reading specialists, smaller class sizes, ELL programming; funding to recruit and retain effective teachers, especially for special education, science and bilingual education; teacher training; putting highly effective teachers in schools with large numbers of at-risk students; and compliance with the Indian Education Act, Bilingual Multi-Cultural Education Act, and Hispanic Education Act.

The Court added significant details in its December 2018 Findings of Fact and Conclusions of Law, specifying how the State has not adequately invested in full day PreK, summer school, smaller class sizes, comprehensive reading programs, counselors, social workers, programming for English Learners, compliance with the Indian Education Act and the Bilingual Multi-cultural Education Act, culturally relevant curriculum, culturally competent programming, funding to pay for more teachers, and to address recruitment and retention problems, and funding for students with disabilities, transportation, instructional materials, and technology. The Court was quite clear about what needed to be done. But instead of doing these things, the Legislature again simply followed its old mode of operation: it took last year's budget, made some adjustments, with some steps forward and some steps backwards, and, in the end, left us with a patchwork system of education and inadequate funding that continues to fail our students.

I. Yazzie Plaintiffs' Remedy Platform

Since the Court's July 2018 Decision, the Yazzie Plaintiffs worked with a broad group of educators, tribal members, community groups, and school districts to craft a platform of actions necessary to transform New Mexico's educational system to address the needs of at-risk children in compliance with this Court's orders. *See* Exhibit I. This Platform presents both short-term remedies that the State could have implemented before the April 15, 2019 deadline set by the Court, as well as long-term remedies that the State could incorporate into an implementation plan for the future as the State increases its capacity. Plaintiffs worked with legislators to develop the necessary legislation that would have supported the programs and funding set forth in the Platform. Most of the programs and funding supported by Plaintiffs were blocked by legislative leaders and died in committees.

II. The Outcome of the 2019 Legislative Session

Since the end of the legislative session, the Yazzie Plaintiffs have met with the

superintendents and finance staff of all 23 focus districts. Plaintiffs tracked how each focus district implemented the legislation enacted in the 2019 session. As a result of this extensive research, Plaintiffs have determined that the outcome of the 2019 legislative session was anything but the “moonshot” as claimed by legislative leadership. Instead, after making required raises, districts are left with little or no money to implement additional programming, supports and services for at-risk students. Thus, while districts are pleased to give their teachers and staff much needed raises, they are left in the continued position of not being able to provide their students with a sufficient education as required by the constitution and this Court.

The main pieces of education legislation that passed during the 2019 session were SB 1 and HB 5—identical bills making modest adjustments to the funding formula and teacher salaries—combined with the budget bill, HB 2. Through this legislation, the Legislature made numerous changes to the funding formula and teacher salaries without accurate calculations of how they would play out district by district. While the Legislature changed the at-risk index in the state equalization guarantee (“SEG”) funding formula from a weighting of .13 to a weighting of .25 (which added \$113 million to the SEG and still provides less than 20% additional funding for at risk students), it also set a school age limit of 22 (subtracting money from the SEG), introduced a phase out of the school size adjustment (subtracting money from the SEG), and replaced rural isolation units with rural population units which also caused some districts, like Zuni, to lose money. At the same time, the State miscalculated and appropriated what it called the average amount of money that would be needed to cover a mandated 6% salary raise and an increase to teacher base level pay. But the amount added to the SEG for these salaries was far less than what was needed, resulting in almost all of the 23 focus districts having to spend their entire SEG increase (and in some cases, even more) on teacher salaries, leaving districts either cutting or struggling to maintain programs for at-risk students.

In addition, SB 1 and HB 5 failed to ensure that all students would have access to K-5 Plus and other extended learning time programs. With SB 1 and HB 5, the State funded K-5 Plus with \$119.9 million, which the State claims is enough to serve all Kindergarten through fifth grade students who are low-income or low performing and who are currently eligible for K-3 Plus to participate. The State also funded an Extended Learning Time Program to serve only one third of eligible students. But there were problems with the way both programs were enacted that have denied access to the vast majority of at-risk students. Although both programs are funded “above-the-line” and are part of the SEG, both programs are also voluntary and require districts to apply to PED for funding. By the time the law was passed and signed, districts had little time to consult with teachers and parents to determine whether the districts could apply for the programs. Many districts did not apply for funding because they determined that the money available would not cover the actual cost of the programs; the program requirements as enacted were too strict and inflexible; and the districts did not have time to determine whether they could implement the program, create a new schedule for schools, or receive commitments to participate from teachers and parents. Further, because both programs are funded on a per pupil basis, small districts cannot generate enough funding to implement them. Notably, the State was on notice from PED that only \$31.2 million of the \$119.9 million that the State set aside for K-5 Plus would be spent in FY 2020 since most districts would not be able to apply for or use the money under the requirements and time frame imposed. Thus, another \$88 million could and should have been directed at all the other unfunded programs for at-risk students.

At the same time, programs that used to be funded below-the-line—such as Reads to Lead, and Truancy/Drop-Out Prevention—were eliminated and districts were expected to fund them through their already completely-spent SEG allocation. The Legislature underfunded PreK for PED by about \$20 million (the additional amount necessary if the State were to make full-day

programs available to all four year-olds). Even with the limited money appropriated, many districts applied for full-day slots, resulting in a \$7 million shortfall. PED is unable to fund all of the district applications, let alone fund full-day slots for all four year-olds. No new multi-cultural and bilingual programs were enacted, and existing programs were not fully funded.

While some money was added to transportation and instructional materials, the money added was not based on an analysis of how much money districts actually needed to transport their students or purchase new materials, but instead seemed to be a modest general increase in these two funds. The amounts appropriated were not enough to meet the transportation and instructional materials needs of the 23 focus districts. For example, the State's failure to fully fund instructional materials for the new fiscal year has resulted in many districts being unable to purchase the new science curriculum that was to be adopted this year. And due to the continued lack of funding for transportation, many districts will have to pull money out of their SEG budget to cover transportation costs.

The six plaintiff school districts illustrate these fundamental issues:

1. Rio Rancho – Rio Rancho Public Schools' School Equalization Guarantee ("SEG") for 2019-20 is \$144 million dollars, approximately a \$14.5 million increase over last year's SEG. However, after funding the mandatory salary increases, additional teaching positions to ensure classroom sizes meet the statutory requirements and other mandatory obligations, Rio Rancho will only have approximately \$300,000 left in its 2019-20 SEG. While the district believes that teacher salaries are a priority as it helps recruit highly qualified teachers, the remaining amount is not enough to cover other essential costs. The district will need to continue to cover transportation costs through the operating budget, as the budget is short \$800,000. The district is also waiting to hear on its final allocation for instructional materials—another area in which funding has been insufficient. Rio Rancho is providing

the Extended Learning Program for 3,000 students for the 2019-20 school year but was interested in providing a more extensive program. The timeframe for submitting the plan made it impossible to create a plan that would benefit more students. In addition, Rio Rancho continues to be unable to expand its PreK program and is only able to offer a half-day program with an extensive waiting list, as there is not enough PreK funding to cover additional staff and insufficient facilities. Also, in the past, Rio Rancho had two reading instructional coaches that were covered by Reads to Lead money, but because that fund was cut, those positions also had to be cut. This means that in the end, after providing the Extended Learning Program to some of its students, and after giving the mandated pay raises, Rio Rancho continues to be unable to meet the needs of their at-risk population.

2. Santa Fe – Santa Fe Public Schools has an SEG allocation for 2019-20 of a little over \$111 million. This amounts to \$7.1 million more than last year. However, the mandated teacher salary increases cost \$6.7 million, and the increases in the district's fixed costs (insurance, benefits, etc.) will more than offset the SEG increase, requiring the district to actually have to make cuts to programs that serve at-risk students, such as reading programs and social services. PreK participation will drop from 395 full-day slots to 340 full-day slots. There is no additional funding for new bilingual, multi-cultural programs. Finally, Santa Fe applied for and received some additional funding for the K-5 Plus and Extended Learning Programs, but because of the short time allowed to apply for these funds this year and because of the difficulty in meeting the programs' requirements, not all children who would benefit from these programs will be enrolled in the coming year.
3. Gallup – Gallup will receive an additional \$18 million dollars for operational spending, which includes the funding for both K-5 Plus and the Extended Learning Program. After providing the mandated salary increases, Gallup continues to face massive shortages since

the district will not have any additional money for additional services and programs for at-risk students. Gallup applied for funding for 18 PreK teachers, but was granted enough money for only 10, meaning many children will go without. Likewise, Gallup continues to face large teacher shortages and it cannot recruit and retain teachers without some kind of salary differential to attract teachers to Gallup—a large rural district with many schools on reservation land meaning teachers who are not from the reservation cannot buy housing near the school. Gallup also continues to go without funding for language revitalization and culturally relevant materials and support—both required by the Indian Education Act—in a district where more than 80% of the students are Native American.

4. Cuba – For the 2019-2020 school year, Cuba Independent Schools' SEG allocation is \$6,336,571.42, an increase of \$741,328.83 from the 2018-19 school year, which includes funding for K-5 Plus and the Extended Learning Program. After paying for mandatory salary increases and fixed costs, however, Cuba is left with about \$250,000 for at-risk students—the majority of whom are low-income, Native American, Hispanic, ELL, and students with disabilities. Making the most of its new revenue, Cuba hired a federal programs director—a position lost years ago due to funding cuts—and an IT staff to train district personnel. The remaining funds paid for developmental staff teams to address the socio-emotional needs of students and teams to revise the district's curriculum. Cuba, however, still cannot afford to provide or expand at-risk student access to: culturally relevant materials, instructional resources, and professional development; bilingual programs; Indian Education programs; English language learner curriculum and materials; or ancillary services for students with disabilities. Further, for 2019-20, Cuba received only about \$140,000 in state bilingual funds, which is not enough to cover the salaries and benefits of its bilingual instructors—twice that amount is needed to cover K-12 materials in

Spanish and Navajo, bilingual and TESOL stipends, and more Native American Language and Culture instructors. Cuba, once again, must take operational funds from student programs and services to subsidize the basic costs of bus maintenance and gas, and the adoption of some K-12 instructional and supplemental materials.

5. Moriarty -- Moriarty-Edgewood received an additional \$2.17 million dollars for its operational budget, going from \$17.8 million to \$19.9 million. Most of that increase is due to the increase in the at-risk unit, with Moriarty's at risk allocation going from \$792,000 to \$1.5 million. However, rather than adding programs, Moriarty is actually having to cut programs. All of the new money is being used to add three teachers—a requirement to work towards meeting statutory class size requirements—and raising salaries. Moriarty has to cut two reading interventionists and one reaching coach because of a loss of Reads to Lead below-the-line funding.
6. Lake Arthur – Lake Arthur only saw an increase in SEG of \$76,000 for the 2019-20 school year, bringing their total SEG for 2019-20 to \$1,847,964. With the increased cost in teacher and employee salaries, the district does not have any extra money to provide new programs or services to its at-risk students. Further, as a very small district, the money generated on a per pupil basis for K-5 Plus and Extended Learning will not cover the cost of the program. Thus, the district cannot provide these opportunities to its students. The district also does not have enough funding to pay for the science textbook adoption and has not adopted new instructional materials since 2016-17.

III. Yazzie and Martinez Plaintiffs are working with PED to develop an implementation plan.

Despite the record of insufficient remedial actions by the Legislature, both sets of Plaintiffs have undertaken to work with the Governor and PED officials to fashion a joint implementation

plan aimed at bringing the State into compliance with its constitutional duties as set forth by this Court. Our first meeting was on June 18, 2019 and the next is scheduled for July 1, 2019. The confidentiality of these discussions prevents us from detailing our joint approach. Plaintiffs will keep the Court apprised of progress by way of another notice to the Court in several weeks. Because of the anticipated cooperation of the parties in these discussions, Plaintiffs do not intend to seek discovery or file remedial motions at this time.

Of course, Plaintiffs will comply with any orders by the Court for additional information.

Respectfully submitted,

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PLATFORM FOR ACTION:

Yazzie Proposed Remedies

Updated December 11, 2018

The Platform for Action proposes remedies for the State of New Mexico to comply with the District Court's ruling in *Yazzie & Martinez v. State of New Mexico*, issued on July 20, 2018. The platform is based on overwhelming evidence from trial and expert reports and further confirmed through the voices and input of tribal leaders, education experts, families, educators, superintendents, community organizations, and with the Yazzie plaintiff school districts and families that were represented by the New Mexico Center on Law & Poverty. Over the course of three large events, bringing together more than 300 stakeholders in attendance, consensus was developed on the actions the state must take to truly transform education in New Mexico.

The proposed remedies represent the **minimum the state must do to meet its constitutional obligation** to ensure that all of our students are provided a sufficient educational opportunity to prepare for college and the workforce. The Court's decision focuses particularly on the cultural, linguistic, and academic needs of Native American, Hispanic, English language learner, low-income and students with disabilities (termed "at-risk" by the court).

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

Multicultural & Equitable Foundation

At the core of a sufficient and equitable education system is multicultural and multilingual learning that responds to the cultures, language and heritages of our diverse student populations. The Court found that the State is not meeting its own standard of providing students a sufficient educational opportunity, including its duties and responsibilities for a multicultural education established in the New Mexico Indian Education Act, Hispanic Education Act, Bilingual Multicultural Education Act, and other state education laws. Research shows that a multicultural and multilingual education approach reinforces students' cultural and linguistic identity, thereby improving learning and enabling students to do well in school.

	Judge's Finding	LESC & LFC Analysis	Short-term Plan	Long-term Plan
NM Indian Education Act (NMIEA)	<p>NMIEA</p> <ul style="list-style-type: none">• The State has failed to comply with the Indian Education Act.• NMIEA sets forth the legislative determination of what constitutes a constitutionally adequate education for Native	<p>LESC Report</p> <p>➤ Researchers have found that culturally relevant instruction and pedagogy increases Native student achievement results." See p. 6 for research-based strategies for improving literacy, math, and science outcomes for Native American students.</p>	<p>NMIEA</p> <p>➤ In 2019, amend the New Mexico Indian Education Act to add an Indian Student Needs-Assessment (see HB 151 sponsored by Rep. Derrick Lente)</p> <p>In 2019, PED shall finalize statewide culturally relevant</p>	<p>NMIEA</p> <p>➤ Create IED "Expert" positions in ELL education, Higher Education, and Curriculum Development;</p> <p>➤ Require the NM Governor Administration, including the Education Secretary and administrative staff, to</p>

EXHIBIT

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	<p>American children in NM public schools. (p.28)</p> <ul style="list-style-type: none"> • A culturally relevant education is to be produced through the cooperation of schools and tribal communities, which has not been realized in the Districts serving native students. (p.28) • PED has failed to fill the three regional IED offices; (p.28) • There is a failure to develop government to government relationship to achieve statutory goals. (p.28-29). • PED has not provided a framework for districts to use in providing multicultural education. (pg. 32) 	<p>➤ The IEA, if implemented effectively, provides an excellent opportunity for the State's Native American students to be successful. (p.6).</p> <p>➤ HB 484 (Spon. Rep. Derrick Lente) from the 2017 legislative session, which was vetoed, was introduced to amend the IEA to require certain districts to conduct needs assessments for Native students and a systemic framework for improving Native student outcomes. (p. 6)</p>	<p>curricula standards for use in SY 2019-2020.</p> <p>➤ In 2019, develop training/instructional materials about the structure and functions of New Mexico's tribal governments for use in 2019-2020.</p> <p>➤ In 2019, ensure IED Headquarters in the PED and the 3 Regional offices are staffed and have expertise in Native American education; and that staff are paid reasonable salaries</p> <p>➤ Ensure IED staff are certified teachers and administrators with <i>experience</i> working in schools serving Native students and have related <i>expertise</i> in curriculum and materials development, assessment of student learning, native language instruction, and bilingual/TESOL endorsements; in order to ensure central and regional offices provide knowledgeable and culturally appropriate guidance for serving NA students.</p> <p>➤ PED shall, in collaboration with local Tribal Communities and their experts, develop and provide culturally relevant</p>	<p>undergo NMIEA implementation training and culturally relevant training.</p> <p>➤ Analyze alternative pathways for language instructors to move through the Tier system.</p> <p>➤ Analyze and implement best mechanism for sufficient and sustainable funding for the NMIEA.</p>
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			curriculum training for all school district administrators and teachers in NM.	
Hispanic Education Act (HEA)	<p><u>HEA</u></p> <ul style="list-style-type: none"> • PED has not provided a framework for districts to use in providing multicultural education. (pg. 32) • the [HEA] is to...provide for the study, development and implementation of educational systems that affect the educational success of Hispanic students to close the achievement gap and increase graduation rates. . . NMSA 1978, §22-23B-2(A) (2010). (p.21) • "This Act recognizes the importance of bilingual and multicultural school programs by requiring PED to report on the number of such programs." (21). 	<p><u>LESC Report</u></p> <p>➤ The HEA focuses on "... closing the achievement gap, increasing graduation rates, fostering parental involvement, and providing mechanisms for collaboration among various stakeholders." (p.1)</p> <p>➤ The HEAC highlighted 11 promising practices, including developing indicators for emerging bilingual students, researching models that work to develop academic language proficiency, providing culturally responsive teaching and leading modules, and a providing a TESOL Alternative endorsement program for teachers working with EL students, to name a few – see p. 4.</p> <p>➤ [There] is no mention within the HEA of PED having rulemaking authority and, accordingly, there are no PED administrative rules directly tied to the HEA. (P. 7)</p>	<p><u>HEA</u></p> <p>➤ Establish an HEA Division in the PED at the same level as the IEA Division and with an Assistant Secretary and regional offices to administer and manage, in collaboration with the HEAC, all HEA related activities, including providing support and T/A to districts and RECs.</p> <p>➤ Amend HEA law to strengthen language of law and provide for accountability measures.</p> <p>➤ Amend the HEA to add a Hispanic Student Needs Assessment, requiring the HEA (Division) in collaboration with the HEAC and the Hispanic/Latino community to develop and implement, in coordination with similar requirements in the IEA & BMEA, an Equity Index scorecard that ensures that LEAs are prioritizing student needs, equitably, with staffing, budgeting, instructional materials, etc., and mapping HEA student/districts strengths around the state.</p>	<p><u>HEA</u></p> <p>➤ The HEA Division shall guide the development of research, in partnership with HED, to identify research based practices for improving teacher efficacy, professional development, leadership development and instructional strategies in order to ensure linguistic, academic and socio-cultural student success.</p> <p>➤ Require LEAs to respond to the HEA needs-assessment with training and adequate resources so as to ensure that LEAs are meeting student-needs by providing equitable staffing, budget, and materials.</p>

			<p>➤ In collaboration with the HEAC and the Hisp/Latino community, PED shall set qualifications for the HEA Director (or Asst. Secretary). In 2019, provide PED with the resources to hire qualified personnel with expertise in the HEA, including a highly qualified director, in collaboration with the HEAC and the Hispanic/Latino community.</p>	
Bilingual Multicultural Education Act (BMEA)	<p>BMEA</p> <ul style="list-style-type: none"> • Bilingual programs are not necessarily the same as programs for English learners. (p.20). See EEOA, Title III. • With regard for ELL students, NM is not meeting the requirements under the BMEA...(p.31) • PED lacks sufficient monitoring programs of ELL students and their ELL programs. (p.31) • PED has not provided a framework for districts to use in providing multicultural education. (pg. 32) 	<p>LFC Report 2014</p> <p>➤ An analysis of bilingual education ...highlights several issues noted in previous LFC evaluations, including uneven identification rates, low percentages of students achieving English-language proficiency levels, and minimal oversight from the PED. (P.3)</p> <p>➤ The state's bilingual program lacks accountability, does not require school districts to service ELLs, and few students receiving bilingual services attain English-language proficiency. (p.9)</p> <p>➤ Hispanic and Native American students participating in a bilingual and multicultural education program slightly outperform students in those</p>	<p>BMEA</p> <p>➤ Establish a BME Division in the PED at the same level as the IEA Division and with an Assistant Secretary, and regional offices that administer and manage, in collaboration with the SBAC, all BMEA related activities, including providing support and T/A to districts and RECs.</p> <p>➤ Reinstitute the practice that the Language and Cultural Bureau (formerly the BMEB) and PED, in partnership with local experts, provide annual training to LEAs on developing and implementing a BMEP.</p> <p>➤ Mandate higher qualifications for the new Director (or Assistant</p>	<p>BMEA</p> <p>➤ The HEA Division shall guide the development of research, in partnership with HED, to identify research based practices for improving teacher efficacy, professional development, leadership development and instructional strategies in order to ensure linguistic, academic and socio-cultural student success.</p> <p>➤ Sustain required-training ongoing.</p>

		subgroups who do not participate in a bilingual program. (p. 9)	<p>Secretary) of the Language and Culture Bureau (or Division) (including: 5 years teaching experience in a bilingual setting; a state-certified bilingual endorsement; and an administrative license).</p> <p>➤ Require L/EA Bilingual education directors to have and an administrative license and, within two years of employment, a bilingual education endorsement.</p> <p>➤ Require professional development and collaboration, within the statutorily required timeframe, for bilingual program implementation and instruction for all teachers and administrators. (i.e. identification and assessment, use of instructional materials, classroom practices, parent involvement, etc.).</p> <p>➤ Amend the BMEA (or pass new legislation) to require the NMPEd, in collaboration with tribal governments, to develop local tribal expectations for indigenous language proficiency.</p> <p>➤ Amend the BMEA to create an Expert Bilingual Mentorship program in all</p>	
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			<p>districts, where an "expert bilingual teacher" provides mentorship and technical support to 1st & 2nd year bilingual teachers. Attach sufficient funding for Districts to provide a minimum stipend of \$1500 for expert bilingual teachers.</p> <p>➤ Establish and fund a state training institute that provides basic instructional and pedagogical strategies to Native Language instructors pursuing a 520 license.</p>	
ELL Programs and Services	<p><u>ELL services/programs (pg. 31-32)</u></p> <ul style="list-style-type: none"> • The State has not complied with state and federal laws pertaining to the education of ELL students. • An aspect of a reasonable curriculum is "a program to assist students in learning English." • There is a lack of funding for districts to provide adequate services for ELL students. • PED lacks sufficient monitoring programs to determine whether ELL students are receiving adequate assistance. • PED has not provided a framework for districts to 	<p><u>LESC Report</u></p> <p>➤ ELLs are protected under Title VI (Civil Rights Act of 1964) and the Equal Educational Opportunities Act (1974), which require public schools to remove language barriers and provide equal access to instructional programs. Non-compliance with Title VI (CRA) in serving ELLs could result in the loss of federal funding such as special education, Title I, Title II, and Title III funds. (p. 6-7)</p> <p>➤ State school districts may implement the following EL programs: structured English immersion, content-based ESL, ESL or ELD, specially designed academic instruction in English, or sheltered</p>	<p><u>ELL services/programs</u></p> <p>➤ PED shall, in collaboration with school district administration and local experts, ensure all ELLs are provided an EL program that complies with state/fed laws, and are not placed in remedial learning programs.</p> <p>➤ PED shall mandate higher qualifications for the Director for the Language and Culture Bureau (or Assist Sect of BME Division).</p> <p>➤ Amend state law to require the state's Student Assistance Team (SAT) framework includes an EL expert in the decision-making process; establish and fund mandatory training for Administrators and EL instructors identified</p>	<p><u>ELL services/programs</u></p> <p>➤ Develop and fund a rigorous ESL teacher endorsement test.</p> <p>➤ Develop and fund a licensure program for Bilingual/Multicultural/Federal funding directors in school districts.</p> <p>➤ Pass legislation to establish Language Assistance Teams (LAT) within schools to monitor the academic and language progress of ELLs, in order to comply with Federal EL requirements.</p>

Judge's Finding

LESC & LFC Analysis

Short-term Plan

Long-term Plan

<p>use in providing multicultural education.</p> <ul style="list-style-type: none"> • PED does not track whether NAEL students are acquiring English in a timely manner; nor does it track the training given to teachers who teach ELs. • NM Teach does not have any metric to evaluate whether a teacher is effectively serving ELL students; 	<p>instruction. ELs may also be served through bilingual multicultural education programs, like dual language immersion, maintenance, heritage, or transitional models. (p. 7)</p> <p>➤ Teachers of ELs must be proficient in English and have the appropriate training. A TESOL endorsement serves as an indicator of the knowledge and skill needed to effectively serve ELs. A TESOL endorsement is necessary, for fiscal purposes, if serving ELs in a NM state-funded bilingual multicultural education program. (p.7)</p>	<p>to receive sufficient training on EL and Bilingual student learning needs within the SAT process.</p> <p>➤ In 2019, provide PED with resources to hire qualified personnel with expertise in EL and bilingual education, including a highly qualified director.</p> <p>➤ Require all teachers to be TESOL-endorsed and appropriate funding for all current teachers to get the endorsement.</p> <p>➤ In the 2019 session, appropriate additional funding for professional development, and for the development and delivery of rigorous ESL training for all teachers, principals and assessment specialists.</p> <p>➤ In the 2019 session, reinstate full funding for Spanish Immersion Institutes for Bilingual Teachers at universities.</p> <p>➤ In the 2019 session, enact legislation that requires no more than 20 EL students per teacher; under specific circumstances where schools cannot meet this requirement, an additional certified teacher shall also be present in the classroom.</p>	
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			<ul style="list-style-type: none">➤ Pass legislation to create and fund a minimum stipend amount of \$3000 to recruit and hire Bilingual endorsed teachers to provide ESL, bilingual and indigenous-language instruction; allocate additional categorical fund for districts to provide hiring bonuses of \$2000 to bilingual endorsed teachers.➤ PED shall, in collaboration with local experts, create a training program that provides all district administrators the skills necessary to sufficiently monitor literacy programs and classroom literacy practices for Native American, EL, and Low-income students (in order to ensure the program is achieving the particular goals the recipient has established for the program).➤ PED shall, in collaboration with local EL experts, revise and develop a more rigorous TESOL licensure test; allocate sufficient funding to achieve this end.	

Instruction — Pre-K

Early childhood education is proven to greatly enhance children's cognitive, social, and emotional development. The Court found New Mexico has successful programs that close the educational achievement gap — including Pre-K - but the state fails to provide all students access to these programs. High quality and culturally and linguistically responsive Pre-K programs for 3 and 4 year old children will significantly improve long-term educational outcomes for students.

Prek	Quality, full-day Prek: The efficacy of Prek has been recognized, but not all at-risk students have access to a quality, full-day program because it is inadequately funded. (pg. 29-30)		Quality, full-day Prek	Quality, full-day Prek
	<ul style="list-style-type: none">The LFC has consistently found prekindergarten programs improve math and reading proficiencies for low-income 4-year-olds and lower special education and retention rates. <u>LFC 2017 Accountability Report</u> at 7.LFC has also found prekindergarten programs deliver a positive return on investment for NM taxpayers based on improvement in test scores. <u>LFC 2017 Accountability Report</u> at 7.LFC reports have found lasting effects for students participating in prekindergarten including higher student achievement, lower special education identification, and reduced retention rates through the 3rd grade. <u>LFC 2017 Accountability Report</u> at 7.		<ul style="list-style-type: none">➤ Pass legislation that expands full-day New Mexico Prek in the 2019 legislative session to full capacity given current infrastructure and workforce➤ Mandate that all Prek programs have a plan to implement a culturally and linguistically relevant program, that involves consultation with local community.➤ Make all slots for New Mexico Prek full-day slots in the 2019 legislative session.➤ Invest in infrastructure growth. (build classrooms)➤ PED shall facilitate MOUs between districts and tribes to provide Prek services on tribal lands.➤ Require PED to develop a statewide system for the identification of ELL's in all NM Prek programs receiving state funding.➤ Make state funding available for Prek teachers to acquire a TESOL or bilingual endorsement.	<ul style="list-style-type: none">➤ Develop and implement a plan to build the infrastructure (buildings) to ensure all 4-year-olds have access to full-day Prek in New Mexico within 5 years.➤ Develop ECE teacher workforce – <i>see teaching section below.</i>➤ Develop and implement a long-term (5-year) phase-in plan that will expand full-day Prek programs that are culturally and linguistically relevant to all 4-year-olds in the state.➤ Develop and pass regulations/legislation that streamlines all Prek programs (Head Start, CYFD, PED) so that all programs require teachers to be fully qualified and/or licensed, the same curriculum, and the same standards so that all students receive the same level of quality.➤ Develop and implement a plan to ensure that all program curriculum,

			<ul style="list-style-type: none"> ➤ Require any state department (e.g. PED or CYFD) administering early childhood programs to incorporate linguistically and culturally responsive practices into at least 30% of their required trainings. ➤ Create alternative pathways for teacher-candidates to attain early childhood credentials in non-English languages, and remove English-only assessment requirements for non-English speaking teachers. 	<ul style="list-style-type: none"> ➤ instructional materials, and teaching is culturally and linguistically relevant. ➤ Develop and implement a plan to ensure that all PreK programs allow parental involvement. ➤ Determine whether to amend the definition of "school age" to include 4-year-olds. ➤ Pass legislation to establish an evaluation system that determines whether PreK providers are meeting the learning needs of their ELLs via curriculum, instructional practices, and teacher credentials. ➤ Pass legislation to establish a funding mechanism that allocates recurring funds to develop preschool, native-language bilingual programs. ➤ Require all early childhood teacher preparation programs to credit hours in working with linguistically and culturally diverse students, including second language acquisition, bilingual or ESL methodology, and culturally responsive teaching practices.
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			➤ Require all PreK teachers to acquire a TESOL or bilingual endorsement.
<p>Instruction—Curriculum, Materials, Extended Learning and Enrichment</p> <p><i>Students need the time and opportunities to learn in school and prepare for college and career. The Court found that New Mexico's instructional materials are insufficient and out of date due to a lack of adequate funding, and that the state has not provided a culturally and linguistically relevant instructional materials or curriculum. Research shows that extended learning programs that offer more time in the classroom, like K-5 Plus, summer school and afterschool programs, can close the achievement gap when combined with PreK. Students also benefit from more individualized attention through smaller class sizes and opportunities for technical and vocational training.</i></p>			
Culturally and linguistically relevant materials	Culturally & linguistically relevant materials: The State has failed to comply with the NM IEA which requires culturally and linguistically relevant education [and instructional materials]. (pg. 27-28)	<p><u>Culturally & linguistically relevant materials</u></p> <ul style="list-style-type: none"> ➤ In 2019, PED shall finalize statewide culturally relevant curricula standards for use in SY 2019-2020. ➤ Require the PED, in collaboration with local experts, to develop a rubric for the selection of high-quality English Language Development instructional materials. ➤ Require the PED (Instructional Materials Bureau), in collaboration with local experts, to establish and fund an adoption cycle of English Language Development materials. 	<p><u>Culturally & linguistically relevant materials</u></p> <ul style="list-style-type: none"> ➤ Develop and implement plan so that all curriculum and materials across the state are culturally and linguistically relevant ➤ Pass legislation that creates a system or mechanism to ensure that EL students have adequate access to instructional materials in their native language, where a written language exists.

Instructional materials	Funding is inadequate. (pg. 26-27)	Oversight and Spending of Instructional Materials in Public Schools	Funding	Funding
	<ul style="list-style-type: none"> Funding cuts have prevented schools from purchasing adequate and up-to-date textbooks The instructional materials stipend is insufficient. 	<ul style="list-style-type: none"> According to a 2014 LFC report, "the system for funding instructional material does not meet current needs, resulting in reports of inadequate resources while allocated money goes unspent; A disconnect between what school districts are expected to purchase and annual appropriations to the instructional materials fund exists; According to teachers, classroom instructional material needs are not currently met." (p. 21, 23); "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; Modify statute to require all districts have a plan in place to ensure all students have adequate access to instructional materials as defined by the Legislature." "The PED should ... Require that public instructional material fund recipients demonstrate sufficient 	<p>➤ Put in place a uniform mechanism for determining what funding necessary to comply with current instructional materials / textbook laws and appropriate that additional funding in 2019 session. Put in place a requirement that every student have access to adequate instructional materials at school and at home, including have a textbook for each class that conforms to curriculum requirements and that allows students to take those textbooks home.</p>	<p>➤ Determine ongoing need, create sustainable funding stream, and maintain sufficient funding for all schools to have up-to-date materials based on text book cycles.</p>

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		instructional materials are available to students as part of the annual instructional materials report." (p.27)		
Technology	<u>Technology</u> : Lack of access to technology, particularly in rural districts. (pg. 27)	<ul style="list-style-type: none"> The LFC found that New Mexico lacks a uniform mechanism for funding educational technology and standards for determining educational technology needs. <u>LFC Report 2014</u> at 32. The Technology for Education Act establishes an Education Technology Fund that is meant to distribute funds to districts on a per-pupil basis; however, no funds have been appropriated to the education technology fund since FY10 and the Education Technology Bureau within the PED no longer exists. <u>LFC Report 2014</u> at 32. 	<u>Technology</u> ➤ Increase funding for technology, especially in rural and schools located on or near tribal lands ➤ Re-establish the Technology for Education Act Bureau, develop a uniform funding mechanisms that will support the development and maintenance of an effective educational technology infrastructure in the state and assess and determine the educational technology needs of school districts <u>according to uniform standards</u>	<u>Technology</u> ➤ Put in place a mechanism to determine the need for technology in the state and appropriate and maintain sufficient funding for all schools to have up-to-date technology.
Extended Learning Time	<u>Extended Learning</u> : The efficacy of extended learning time has been recognized, but not all at-risk students have access to an extended learning program because it is inadequately funded. (pg. 29-30)	<u>Extended Learning</u> <ul style="list-style-type: none"> New Mexico lacks comprehensive after school programs relying on limited federal funds and local discretionary resources. <u>2015 LFC Report</u> at 39. 	<u>Extended Learning</u> ➤ In 2019 session, amend K-3 Plus statute to mandate that K-5 Plus (expand to K-5 graders) is available to all eligible children and districts have the opportunity to implement it for all eligible children. ➤ Include transportation in the bill	<u>Extended Learning</u> ➤ After culturally and linguistically relevant curriculum is in place, amend 22-2-8.1 to extend the school year to 190 days (or equivalent) for instruction. ➤ Develop and implement a plan on how to expand access to culturally and linguistically relevant

		<p>improve student performance relative to peers when programs are executed correctly. <u>LFC 2017 Accountability Report</u> at 9.</p> <ul style="list-style-type: none"> • Participation in both PreK and K-3 Plus can close the achievement gap. <u>LFC 2017 Accountability Report</u> at 7. • The LFC estimates that it would cost \$62,452,457 to fund all eligible clients for K-3 Plus. <u>LFC 2018 Post-Session Review</u> at 58. <p><u>Instructional Time</u></p> <ul style="list-style-type: none"> • The LFC has recommended that the Legislature repeal parent-teacher conferences (PTC) and home visits from counting towards instructional hours. Schools districts and charter schools may conduct these activities in addition to instructional hours. <u>LFC Report: Time-on-task 2016</u> at 4. • The LFC has recommended that the Legislature increase minimum instructional time by equalizing elementary and secondary school hourly requirements. <u>LFC Report: Time-on-task 2016</u> at 4. 	<p>➤ Mandate that all K-5 Plus programs are required to put in place a plan to ensure culturally and linguistically relevant instruction</p> <p>➤ In the 2019 session, amend 22-2-8.1 (and NMAC 6.10.5) to ensure that all students have at least 182 days (or equivalent) in schools; repeal section of statute that allows home visits and parent teacher conferences to count towards instructional time. (see below on extending school year/teacher contracts)</p> <p>➤ Mandate by law parent-teacher conferences in addition to instructional time. NMSA 22-2-8.1</p>	<p>after school and summer school programs for at-risk students, including programs for community/tribal-based programs, credit recovery, and internship programs.</p>
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Reading/ Literacy	Reading/Literacy: The efficacy of research-based reading programs has been recognized, but not all at-risk students have access to them because it is inadequately funded. (pg. 29-30) Other programs have inadequate funding to fully achieve their goals. For example, Reads to Lead does not allow for hiring reading teachers, and funding cuts have been made to this program. (pg. 44)		Reading/Literacy ➤ Ensure that all districts have resources to provide literacy instruction.	Reading/Literacy ➤ Determine the necessary number of reading specialists and instructional coaches in each district and allocate the funding necessary to meet those needs. (All small districts will have money for at least one) ➤ Make funding part of SEG or above the line funding.
Class Size	Class size: The efficacy of smaller class size has been recognized, but not all at-risk students have access to a smaller class size because of the lack of sufficient funding or sufficient numbers of teachers. (pg. 29-30, 36); ELL students benefit from smaller class size, like 15:1. (pg. 37)		Class size ➤ In the 2019 session, do not pass statute that allows blanket class size waivers. Return to class size limits where districts have the ability to apply and obtain for class size waivers where necessary due to lack of staffing shortage or a special circumstance (lack of funding is not a special circumstance)	Class size ➤ Increase number of teachers in the system to ensure smaller class sizes (<i>see below under teachers</i>)
College & Career Readiness Curriculum	The Defendants have failed to provide at-risk students with programs and services necessary to make them college or career ready. (pg. 70)		➤ Allocate funding to districts for them to develop technical and vocational training programs	➤ Develop a statewide plan that ensures that all districts have the capacity and resources to provide technical and vocational training programs

Social Services

Students do best when their health, social and emotional needs are met. The Court acknowledged that students facing economic hardship are less likely to do well in school. Research shows that wraparound services, including counselors nurses and social workers, help students access the healthcare and nutrition they need to do well in school.

Social Services	<u>Social Services:</u> “At-risk students begin school with certain disadvantages which are not the making of the school system. This fact does not, however, mean that at-risk students cannot learn if given proper support.” (pg. 29)	> High-performing schools provide wraparound services for parents and students, like full-time counselors, nurses, social workers, and instructional coaches to work with at-risk students and teachers of high-risk students. <u>LFC 2014 Report</u> at 17.	<u>Social Services</u> > In the 2019 session, pass legislation that mandates that nursing services, school counseling and/or behavioral health services are part of a basic sufficient education and districts will establish a plan that meets national standards so that all students can access those services and the State shall monitor and fund it. In the 2019 session, appropriate funding to the Community Schools Act (22-32-4) so that districts and schools have the resources to create community schools.	<u>Social Services</u> > Develop a plan to use Regional Educational Cooperative (RECs) as hubs for services to the community and to students in addition to providing professional development and training for teachers. > Develop culturally and linguistically responsive social services plan and work force. > Expand Community Schools in New Mexico.
	<p>It is not a sufficient answer to this systemic problem of poor outcomes by at-risk students to urge, as Defendants do, that the problems are caused by the socio-economic factors not attributable to the school system. While the initial cause of the poor outcomes may not be the schools, steps can be taken by the educational system to overcome the adverse impacts of a student's background. (pg. 44-45)</p> <p>The Defendants have failed to provide at-risk students with programs and services necessary to make them college or career ready. (pg. 70)</p>			

Teachers

Teachers are at the heart of the education system. But according to the Court's ruling, New Mexico lacks enough teachers to meet student and classroom demands. Teachers are leaving the profession at alarming rates. And our most experienced educators are not teaching in low-income communities.

Recruitment & Retention	Recruitment & Retention	Recruitment and Retention	Recruitment & Retention	Recruitment & Retention
<p>Teacher Pay: "Low teacher pay is an impediment to recruiting and retaining teachers in schools with high at-risk populations." (pg. 35)</p> <p>Number of teachers: "School districts do not have the funds to pay for all the teachers they need." (pg. 32); It is difficult to recruit teachers in rural areas and to obtain teachers in special education, STEM, and bilingual education." (pg. 36); Some districts cannot maintain a sufficient number of TESOL-endorsed teachers. (pg. 36); Lack of sufficient funding or sufficient numbers of teachers has led to larger class sizes. (pg. 36)</p> <p>Experienced teachers for at-risk students: "The quality of teaching for at-risk students is inadequate." (pg. 33); "Teacher turnover has a negative impact on student achievement." (pg. 34)</p>	<ul style="list-style-type: none"> • The LFC has recommended that the Legislature add extra weight in the T&E index for teachers at high-poverty schools. <u>LFC Report 2015</u> at 5. • The LFC has recommended that the Legislature convene a workgroup to gain consensus on updating NM's system to attract, prepare, compensate, and evaluate public school teachers. <u>LFC Report 2015</u> at 5. • Recruiting and retaining high quality teachers in low-income schools is integral to ensuring students in poverty achieve academically. <u>LFC Report 2015</u> at 16. • [D]eclining enrollment in teacher preparation programs has forced New Mexico school districts to compete with other states to both recruit new teachers and retain experienced teachers. <u>LESC Brief 2016</u> 	<p>Teacher Pay</p> <p>➤ In the 2019 session, increase teacher base salaries in all three tiers to \$45,000; \$55,000; and \$65,000 and tie regular increases to inflation.</p> <p>Number of teachers</p> <p>➤ In the 2019 session, pass a bill that establishes a "teacher pathway" that would pay for the tuition and a living stipend for Native American teachers, dual language teachers, special education, and early childhood teachers in exchange for them working in NM for a certain number of years. This bill should also include a pathway for EAs to become teachers with their tuition paid.</p>	<p>Teacher Pay</p> <p>➤ Determine whether increased pay, which is still below surrounding states for starting salaries, is enough to address recruitment and retention issues, when combined with other changes</p> <p>➤ Develop and implement plan to increase qualifications and salaries for EAs.</p> <p>Number of teachers</p> <p>➤ Build teacher capacity to ensure that all schools have intervention specialists and fund these positions.</p>	

			Experienced teachers for at-risk students	Experienced teachers for at-risk students
		<p>Experienced teachers for at-risk</p> <ul style="list-style-type: none"> • There are no statewide systemic incentives for highly effective teachers and principals to work at high-poverty schools with large at-risk populations. <u>LFC 2014 Report at 34.</u> • The LFC recommended that the PED create guidelines for placing highly-effective teachers and principals at "low-performing" schools. <u>LFC 2014 Report at 36.</u> • There are no state prescribed financial distinctions for becoming a principal or for remaining at a high-poverty school. <u>LFC 2014 Report at 34.</u> 	<p>Experienced teachers for at-risk students</p> <p><u>Teacher Prep Programs:</u></p> <ul style="list-style-type: none"> ➤ Establish and sufficiently fund a "Bilingual/TESOL Pipeline" in Institutions of Higher Education that have a fully staffed ESL/Bilingual program ➤ Ensure that salaries for Bilingual Education faculty at Institutions of Higher Education are competitive regionally. ➤ Create a recurring Language Revitalization fund and application process for scholarships that would cover four years of tuition for students pursuing a teaching degree in bilingual and indigenous language education. ➤ Allocate appropriate funding to Institutions of Higher Education to recruit and hire sufficient faculty in the areas of Bilingual and ESL education, in order to expand pre-service programming and increase the number of teachers enrolled in BE/ESL programs. (Goal: to increase the pool of qualified BE/ESL teachers incrementally by 15/% per year in order to 	<p>Experienced teachers for at-risk students</p> <ul style="list-style-type: none"> ➤ Develop and implement a plan with funding that places experienced & effective teachers with at-risk students; monitor. <p><u>Teacher Prep Programs:</u></p> <ul style="list-style-type: none"> ➤ Establish a framework that requires Bilingual-clinical support teachers from the Institutes of Higher Education to provide instructional support to first and second year bilingual teachers in all districts. ➤ Develop a teacher certification pathway for immigrants pursuing a career in education. ➤ Develop a pathway for bilingual seal recipients to enter an undergrad teacher program with a scholarship and mentoring within Bilingual Educators Rising. ➤ Develop a Scholarship application process for students who are bilingual (without the bilingual seal) pursuing bilingual education pathway. ➤ Develop a pathway for indigenous students graduating after 4 years from a post-secondary institution in a career path

			<p>➤ acquire the 8000 new bilingual teachers).</p> <p>➤ Allocate funding to review and revise the Spanish language test ("Prueba") that bilingual teachers must pass in order to attain to their Bilingual endorsement.</p>	<p>other than education, to extend for a 5th year at the university to enter a teacher preparation program or other school support program. Ex: SLP, Counselors, Psychologist.</p>
Professional Development	<p>Capacity Building</p> <ul style="list-style-type: none"> • <u>Adequate training:</u> (colleges of education) • <u>Professional development and collaboration:</u> There are inadequate funds to adequately train teachers. (pg. 36) • <u>Administrative professional development and collaboration:</u> Participation in the programs lauded by PED is limited; frequently, the LFC and LESC found that PED had failed to provide verifiable evidence that its programs were working. Many programs cited by the State, such as Teachers Pursuing Excellence and Principals Pursuing Excellence, have only minimal participation by the schools in the state. While these programs may be worthwhile, their coverage is too limited and their funding is too 		<p>Capacity Building</p> <p><u>Adequate training</u></p> <p>➤ Require all teachers to be TESOL-endorsed and that appropriates funding for all current teachers to get the endorsement.</p> <p>➤ Align the university level teacher preparation programs in the state and develops more robust teacher training programs addressing the need for all teachers to be trained in culturally and linguistically relevant instruction for New Mexico's students.</p> <p><u>Professional development & Collaboration</u></p> <p>➤ In the 2019 session, pass bill that would make school year 192 days (or hourly equivalent) that mandates 10 days of embedded professional development and collaboration for teachers These 10 days should be</p>	<p>Capacity Building</p> <p><u>Adequate training</u></p> <p>➤ Determine what required training teachers need to effectively teach New Mexico's students.</p> <p><u>Professional development & Collaboration</u></p> <p>➤ Study additional professional development and collaboration models and needs of teachers and add additional time as needed, with increased</p>

	<p>ephemeral to justify the State's failure to comply with the constitutional mandate. (pg. 43-44)</p>	<p><u>Administrative Professional Development & Collaboration</u></p> <ul style="list-style-type: none"> • The LFC recommended that the PED create viable professional development and resources for aspiring administrators. <u>LFC 2014 Report</u> at 36. 	<p>embedded in the school year with curriculum development (not tacked on the end) and should allow teachers the opportunity to work in professional learning communities (PLCs), while maintaining time for parent/teacher conferences</p> <p>➤ Require all teachers, district administrators, school board members and PED employees to be trained in culturally and linguistically responsive education/curriculum and anti-racism/racial equity training, annually.</p>	<p>funding for extra days of work.</p> <p><u>Administrative professional development and collaboration</u></p> <p>➤ Determine what administrative support model the PED will use to support, train, and develop district and school administrators. Once this is determined, it must be funded so that all administrators in the state have access to this type of professional development and collaboration.</p>
<p>Teacher Evaluation</p>	<p><u>Evaluation System: NMTEACH</u> does not use any metric to evaluate whether or not a</p>		<p><u>Evaluation System</u></p> <p>➤ In 2019 session, repeal regulations around teacher</p>	<p><u>Evaluation System</u></p> <p>➤ Put in place teacher evaluation system that</p>

	teacher is effectively serving ELL students or whether or not a teacher is providing culturally relevant instruction to a Native American student. (pg. 34-35); Teacher evaluations may be contributing to the lower quality of teachers in high-need schools. (pg. 34)		evaluation system and use prior system in the interim ➤ In 2019 session, appropriate funding to provide professional development of administrators re: evaluation.	acknowledges teaching to diverse students using culturally and linguistically relevant teaching methods
<p align="center">Funding</p> <p><i>The Court ordered the State to increase funding to enable school districts to provide a sufficient education system, and declared that a lack of funding is not an excuse for violating the constitutional rights of our students. The Court further listed numerous options for raising revenue that the state could adopt to ensure adequate funding. The evidence at trial showed that New Mexico's funding is inadequate compared to other states, and is especially inadequate for "at-risk" students including low-income, Native American, English language learner, and students with disabilities students.</i></p>				
Overall Funding	The overall appropriation is insufficient to fund the programs necessary to provide an opportunity for all at-risk students to have an adequate education. (pg. 53)			➤ Develop a plan to build the education budget from the bottom up based on student need. This may require a report/study to analyze the gaps.
At-risk Index	New Mexico has one of the lowest rates used for at-risk calculations. (pg. 48) The at-risk index has been criticized that it does not correctly steer resources needed to educate ELL and children living in poverty and that it uses the census poverty levels	According to the 2011 Joint LESC/LFC Study, "Evaluation of the Public School Funding Formula": ➤ States vary on the incremental dollars allocated for at-risk students, but comparatively, New Mexico allocates a relatively small amount to its most needy students." (p. 13)	➤ In the 2019 session, amend legislation to increase the at-risk index from .13 to .366 so that at-risk students are funded at 25% above a non-harmless clause. Ensure hold additional money in SEG appropriation to cover additional units.	➤ Determine whether the increased at-risk index, combined with an adjustment for FRPL, meets the needs of at-risk students in New Mexico or whether further adjustments are necessary.

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	<p>instead of the FRL levels. (pg. 47-48)</p> <p>The funding formula has been criticized as being too complex and for not being in compliance with statute as it relates to charter schools and the T&E index. (pg. 48)</p>	<p>➤ "Other states allocate per-student incremental funding ranging from five percent to 50 percent for students that qualify for free and reduced-price lunch" (p. 13)</p> <p>➤ "LFC Reports have found that charter schools receive size adjustments despite statutory language specifically barring charter schools and other programs from receiving such units." (p. 4)</p> <p>The Joint Study recommended: increasing the at-risk index and expanding membership to FRPL;</p>	<p>➤ In the 2019 session, amend legislation to adjust the poverty factor of the funding formula to use the FRPL for poverty. Ensure additional money in SEG to cover additional units.</p>	
Bilingual Program Units	<ul style="list-style-type: none"> With regard for ELL students, NM is not meeting the requirements under the BMEA. (pg. 31) 		<p>➤ Increase the bilingual unit of the funding formula from .5 to 1 unit (in order to increase bilingual teaching capacity, teacher preparation and teacher stipends); and create a categorical fund, in addition to funding created by the bilingual unit, for bilingual teacher recruitment, retention and capacity building.</p>	
Rural Isolation Program Units	<p>Court agreed with district testimony that maintaining sufficient cash balances was necessary in order to maintain cash flow and bond ratings, as districts are often forced to supplant shortfalls in funding streams for various services with</p>		<p>➤ Amend the rural isolation unit formula to re-establish GMCS district eligibility and expand eligibility to additional districts.</p>	

	such funds – a particularly chronic problem among small and rural districts. (pgs. 51-52)			
Small/micro-district funding	Court agreed with district testimony that maintaining sufficient cash balances was necessary in order to maintain cash flow and bond ratings, as districts are often forced to supplant shortfalls in funding streams for various services with such funds – a particularly chronic problem among small and rural districts. (pgs. 51-52)		➤ Pass legislation that creates a categorical basic program, supplemental funding stream for small-micro school districts.	
Instructional Materials	<u>Funding is inadequate.</u> (pg. 26-27) <ul style="list-style-type: none"> Funding cuts have prevented schools from purchasing adequate and up-to-date textbooks The instructional materials stipend is insufficient. 		➤ Determine cost and increase funding accordingly for instructional materials so that all students have up-to-date and adequate materials that they can bring home. ➤ Determine cost and increase funding accordingly for technology.	
Programs & Services (Reasonable Curricula)	<u>Generally:</u> The evidence demonstrated that money spent on classroom instruction programs such as quality PreK, 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. (pg. 45); Categorical or below-the-line funding are insufficient to provide sufficient moneys to all the districts to provide programs		➤ Fully fund everything mentioned under the <u>Programs & Services Short-term Plan:</u> <ul style="list-style-type: none"> <u>Quality, full-day PreK</u> <u>Extended learning</u> <u>Reading/Literacy</u> <u>Class size</u> <u>Social Services</u> <u>ELL</u> <u>HEA</u> <u>BMEA</u> <u>IEA</u> 	➤ Fully fund everything mentioned under the <u>Programs & Services Long-term Plan:</u> <ul style="list-style-type: none"> <u>Quality, full-day PreK</u> <u>Extended learning</u> <u>Reading/Literacy</u> <u>Class size</u> <u>Social Services</u> <u>ELL</u> <u>HEA</u> <u>BMEA</u> <u>IEA</u>

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	and other resources needed by ED and ELL students. (pg. 49)		<ul style="list-style-type: none"> Teacher Recruitment and Retention Number of Teachers Experienced teachers for at-risk students Teacher capacity building 	<ul style="list-style-type: none"> Teacher Recruitment and Retention Number of Teachers Experienced teachers for at-risk students Teacher capacity building
Transportation	Court agreed with district testimony that maintaining sufficient cash balances was necessary in order to maintain cash flow and bond ratings, as districts are often forced to supplant shortfalls in funding streams for services such as transportation with such funds. (pgs. 51-52)		<ul style="list-style-type: none"> Increase funding for transportation to ensure that districts do not have to supplement their transportation funding with any other funding stream. 	<ul style="list-style-type: none"> Regular analysis of transportation funding sufficiency.
Regional Education Cooperatives (RECs)			<p>Begin to <u>restore funding cuts to the RECs</u>:</p> <ul style="list-style-type: none"> In 2019 session, pass legislation that appropriates funding for RECs to provide technical assistance to school districts. Allocate additional and sufficient funding to RECS to hire local experts and staff who are knowledgeable in Bilingual, ESL, and Native American education, in order to provide guidance to local districts about BMEA, IEA, and ELL program implementation, which shall include supporting districts 	<ul style="list-style-type: none"> Build the capacity of the RECs to provide teacher training, social services, etc. for small/micro districts.

			and tribes in their development of MOAs.	
Restoration of school funding lost since recession	Since 2008, funding for education in New Mexico has not only been cut, but funding has not kept up with inflation or increasing fixed costs of districts. The inflation adjusted appropriation per student in 2014-15 was about 8% below its 2008-09 peak. (p. 50, n. 31).		➤ Provide additional funding to SEG to begin to regain the approximately \$380 million lost since the 2008-09 school year.	➤ Re-evaluate statutory curriculum requirements to determine if any changes need to be made; restore rest of funding lost since recession and determine what additional funding needed for statutory curriculum

Accountability

The Court found that New Mexico's Public Education Department does not have effective accountability systems and audits to ensure students are receiving a sufficient and equitable education. Action must be taken to guarantee greater accountability for the PED to provide oversight and the supports necessary for school districts to assess their programs and ensure funding is reaching the students intended to be served.

Auditing and Monitoring At-risk Funding	<u>Accountability over districts:</u> The PED has failed to meet its supervisory and audit functions to assure that the money that is provided has been spent so as to most efficiently achieve the needs of providing at-risk students with the programs and services needed for them to obtain an adequate education. ➤ PED's statutory obligation to "supervise all schools" "is broad enough for PED to review and assure that districts are using the money provided by the State to provide programs to	According to the 2011 Joint LESC/LFC Study, "Evaluation of the Public School Funding Formula". ➤ "The accountability function of PED is insufficient, resulting in unfair, inaccurate, and inequitable distribution of resources." (p. 4) ➤ "The implementation of performance-based budgeting for schools starting in FY14 would be of great benefit. New Mexico school districts have local control over how their funds are spent and distributed amongst district schools to fit the needs of the	➤ PED shall monitor the use of at-risk funding through the enforcement of NMSA § 22-8-23.3 so that schools specifically show that they have used their at-risk money on services that improve academic outcomes for "at-risk" students: poverty, mobility, and ELL.	➤ Develop and implement an effective accountability plan. This must include auditing and monitoring functions that ensures that special education money follows special education students and that dual language money follows dual language students/supports dual language programs; and at risk money follows at risk students.
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	assist at-risk students." (p. 52)	students in particular communities. But with no accountability measures in place, districts can direct funds to ineffective programs and policies." (p. 4) ➤ "PED should develop a new audit unit that is of sufficient size and skill to meet current administrative requirements for responsibly administering the funding formula." (p. 5)		
Implementation of the Indian Education Act	PED does not have information about which districts have the educational materials required by the Indian Education Act. (pg. 28) PED has failed to fill the three regional Indian Education Department positions which would be instrumental in effectuating this purpose. There has been a failure to develop the government-to-government relationships needed to achieve the statutory goals under the Indian Education Act. (pgs. 28-29)		<ul style="list-style-type: none"> ➤ Require the PED, in collaboration with local districts and tribal leadership, to develop an outline of annual goals and deliverables that align to the provisions of the NMIEA. ➤ Require the Governor and Secretary of Education to attend semi-annual Govt to Govt meetings and require facilitated discussions and official note-taking and minutes. ➤ PED shall ensure that its staff receive training on the implementation of the State Tribal Collaboration Act in order to establish the government to government relationship called for in the IEA. ➤ Require the NM Governor Administration, including the 	<ul style="list-style-type: none"> ➤ Develop a system to monitor the implementation of the IEA in which PED is held accountable for achieving goals/deliverables. ➤ PED shall develop partnerships with Institutes of Higher Education, as required under NMIEA law, to provide appropriate courses and credentials for teachers and professionals working in schools serving NA students to provide culturally competent instruction. ➤ The Legislature shall review the state funding formula to take into account the identified needs of NA students, teachers and schools to assure that the needs of NA students are

			<p>Education Secretary and administrative staff, to undergo State Tribal Collaboration Act training on an annual basis in order to implement NMIEA from a culturally relevant perspective.</p> <p>➤ Require PED and IED to evaluate and assess the impact of the NMIEA Grant Fund.</p> <p>➤ Mandate specific provisions to ensure that grant funding includes training on how to spend the money towards NMIEA approved programs/services;</p> <p>➤ Require grant-funded applications to include measurable outcomes that pertain to the purpose of the NMIEA;</p> <p>➤ Require Districts to develop a 3-5 year plan that PED funds adequately from year to year.</p> <p>➤ Extend timeframe that Districts have to spend NMIEA funds.</p> <p>➤ Increase the base budget of programs in the Higher Education Institutes that serve predominately Native American students and</p>	<p>adequately addressed; Pass legislation to amend the funding formula to guarantee that funds generated by each NA student are provided to the district.</p> <p>➤ NM/PED shall ensure that a working partnership among all divisions within the NM/PED coordinates services and resources for the implementation of the NMIEA, HEA, the BMEA (i.e. assessment and accountability, books and buses, curriculum development).</p> <p>➤ Permit certain NMIEA funds to be spent towards institutions within the State of New Mexico that already work on projects serving the needs of American Indian students (ex: NMABE; Dual Language, College Horizons, etc.).</p> <p>➤ Require ongoing consultation between PED/IED, Districts, and Tribes about how the NMIEA fund will be spent. Provide funding for IEAC to develop an NMIEA Technical Assistance handbook.</p>
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Implementation of the HEA & BMEA	The PED lacks sufficient monitoring programs to determine if ELL students are receiving adequate assistance. (pg. 31)		communities and make these programs permanent.	➤ Develop a system to monitor the implementation of the HEA & BMEA in which the PED is held accountable for achieving goals and deliverables.
	The PED does not track the number of Native American EL students to determine if they are timely acquiring English. (pg. 31)			
ELL Programs/ Services	PED is not tracking the training given to teachers who teach ELL students. (pg. 31-32)		➤ In collaboration with local experts, the PED shall begin working with all districts to set up ELL programs.	➤ The PED shall monitor all districts to ensure the provision of ELL programs.
	The PED lacks sufficient monitoring programs to determine if ELL students are receiving adequate assistance. (pg. 31)			
	The PED does not track the number of Native American EL students to determine if they are timely acquiring English. (pg. 31)			
	PED is not tracking the training given to teachers who teach ELL students. (pg. 31-32)			
College & Career Readiness	At-risk students are not attaining proficiency at the rate of non at-risk students, and the programs lauded by PED are		➤ Continue to gather data on college remediation, graduation rates, proficiency rates, and vocational training	➤ The State must track college and career readiness by collecting data on college remediation, graduation

	not changing the picture. (pg. 43) The Defendants have failed to provide at-risk students with programs and services necessary to make them college or career ready. (pg. 70)		and disaggregate this data by income and race..	rates, proficiency rates, and vocational training.
Teachers	No effort has been made to evaluate the effectiveness of PED's efforts to achieve equitable distribution of effective teachers or recruitment and retention of teachers in high poverty or low-performing schools. (pg. 35)			➤ The State shall examine best practices for ensuring that at-risk students have effective teachers and determine what is best for NM.
A-F Grading System	At-risk students are not attaining proficiency at the rate of non at-risk students, and the programs lauded by PED are not changing the picture. (pg. 43)	➤ Repeal the current A-F School Grading System and replace it with an accountability system that includes measures to monitor whether school districts and schools are providing a culturally and linguistically relevant education.	➤ Monitor the new accountability system to ensure it is a helpful tool for districts and schools.	

For more information and questions about the platform, contact the New Mexico Center on Law and Poverty at (505) 255-2840, contact@nmlawpovertylaw.org.

