



All Pueblo Council of Governors

Officers:
Mark Mitchell, Chairman
Jerome Lucero, Vice-Chairman
Governor Val Panteah Sr., Secretary

July 8, 2022

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Dr. Kurt Steinhaus
Secretary of Education
New Mexico Public Education Department
300 Don Gaspar Ave.
Santa Fe, NM 87501

Re: APCG Comments on PED Draft Martinez/Yazzie Action Plan

Dear Secretary Steinhaus,

Thank you for granting our request for extending the comment period regarding NMPED's Draft *Martinez/Yazzie* Action Plan. The All Pueblo Council of Governors (APCG) has now reviewed and discussed your draft plan and decided to submit formal comments via this letter. On behalf of APGC, I respectfully transmit the following comments for your consideration and official record. This also includes a table, prepared by the Tribal Education Alliance, which aligns the Court ruling and the Tribal Remedy Framework with tribal suggestions for NMPED's plan.

APCG welcomes NMPED's long overdue release of a draft plan to respond to the landmark *Martinez/Yazzie* 2018 Court ruling, along with the commitments expressed in the plan. However, it is APCG's position that this draft plan is insufficient. It is insufficient to comply with the Court ruling, it is insufficient to meet the State's constitutional duties toward Native students, and it is insufficient to address and reverse the long history of forced assimilation, discrimination, and inequitable educational opportunities and outcomes suffered by Native children, their families, and our tribal communities.

In the following, APCG offers constructive comments and concrete suggestions for addressing the shortcomings of the current draft. Because tribal involvement in, and control over, the education of our children is essential, as affirmed by the Indian Education Act (IEA), APCG expresses the hope that our recommendations will be carefully considered and that, going forward, we can collaborate on creating a plan that satisfies Native students' rights and needs.

APCG welcomes NMPED commitments stated in the draft plan:

- Ensuring that tribal consultation is a priority at every level (p.15)
- Preserving Native languages and cultures (p.15)
- Increasing representation of Native teachers by 7% (p.11)
- Improving academic outcomes for Native students (p.21)



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We also recognize that the draft plan includes other valuable commitments (e.g. regarding early education, career and college readiness, and technology), yet these are framed in general terms, not targeted at Native students. In order to close the equity gap, we suggest that NMPED, in all its activities, explicitly analyzes and responds to the disparities faced by each of the at-risk student groups.

APCG requests that key shortcomings of the draft plan be rectified:

- The draft plan **lacks sufficient respect for tribal education sovereignty**, the right of Native Nations, Pueblos, and Tribes to shape their children’s education. The Indian Education Act requires NMPED to increase tribal involvement and control over the education of Native children. Yet NMPED’s draft plan does not offer explicit strategies for increasing tribal involvement in education. Moreover, the tribal response to the Court ruling, known as the Tribal Remedy Framework, is neither mentioned nor incorporated into the draft.
 - NMPED should align its *Martinez/Yazzie* plan with the Tribal Remedy Framework and with the *Martinez/Yazzie* Court ruling (please see the attached table for guidance). Such an alignment should guide investments in Indian Education over the next five to ten years, and proposed investments should be specified in the plan. NMPED, through its new *Martinez/Yazzie* Response Team, should consider establishing joint sub-teams with tribal education advocates to prepare an aligned action plan and guide its implementation in specific subject areas (e.g. governance; holistic student needs & supports; language; teacher pipeline; curriculum, college & career).
 - NMPED should consult and collaborate with Tribes in developing overarching goals and strategies for improving Native students’ educational outcomes and well-being, sustaining and revitalizing Native languages, and advancing equity for Native students.
 - NMPED should require districts and schools to engage in more meaningful consultation and collaboration with Tribal Education Departments (TEDs) to ensure implementation of the needs assessments and systemic frameworks required by the IEA. This should include the development of MOUs/MOAs for shared responsibilities for Native students.
 - NMPED should respect and fund tribal education priorities rather than develop its own Indian Education projects. When state grants are made available that do not align with tribal priorities, needs, and capacities, Tribes are forced to redirect their activities, work to NMPED’s timetables and criteria, or risk that funds revert back into state coffers. Projects designed by state agencies are often based on assumptions rather than explicit tribal consultation and collaboration. For example, NMPED announces that “competitive grants will be issued to five entities for three years to develop Indigenous language programs” (p. 21). What say will Tribes have in this effort? Well-meaning interpretations of tribal needs often miss the point, or,



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worse, appear paternalistic: State agencies decide on behalf of Tribes and tell Tribes what works best for Native students. We suggest that NMPED replace its piecemeal project and grant-funding approach with a permanent, predictable funding stream for tribal education priorities, as decided by Tribes themselves.

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- The draft plan **lacks sufficient understanding of how to advance equity for Native students**. If NMPED wants to improve outcomes for Native students, it must understand what the barriers are, what disparities exist and why, and what strategies might help with closing gaps. Yet this draft rarely mentions disparities and never analyzes the drivers of disparities. It lacks an analysis of which populations might benefit from certain programs, which populations might be burdened, and why.
 - NMPED should engage in a system-wide effort to understand the United States' systematic attempt to eradicate Indigenous languages and cultures. This should include examining how the assimilation paradigm has worked and continues to work, and how it is embedded in systemic and institutional racism.
 - NMPED should require and implement equity goals, assessments, and strategies, with an explicit focus on Native students, at every level and in every area (e.g. through disaggregated data collection and analysis, needs and impact assessments, and equity training). This includes cross-cutting or "wide-ranging strategies" (p. 32-52), whose equity impacts are not currently considered.
- The draft plan does not yet present a forward-looking strategy for transforming New Mexico's failed education system and meeting the constitutional rights of Native children. The draft plan is **not an action plan** in the usual sense; rather, it is largely a list of past and current projects that are not connected to goals and outcomes. Many of these projects emerged from tribal advocacy efforts, not from NMPED's own initiative. Very little information is forward facing. The draft includes few strategies, no future budgets, and no accountability mechanisms. This illustrates NMPED's ongoing piecemeal approach, which consists of disconnected projects and short-term grants.
 - NMPED should turn this document into an Action Plan based on coherent, forward-looking strategies that explain how actions contribute to overall goals, specific objectives, and measurable outcomes. Costs and budgets must be attached to each strategy and set of actions.
 - NMPED should align actions with the Court findings and decisions to ensure compliance.
 - NMPED should consult and collaborate with Tribes to consider tribal graduate profiles and develop outcome targets for the Native student group that go beyond academic achievement (including targets related to languages and culture, tribal involvement, student well-being, etc.).
 - NMPED should reflect on its own capacity, especially within the Indian Education Division. It should specify what human resources are needed and which staff is responsible for what actions. While the establishment of a *Martinez/Yazzie* Response Team is a step in the right direction, it is unrealistic to designate this team



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as the only oversight, support and technical assistance body for the transformative change required by the Court. There is likely a need for sub-teams, involving non-PED stakeholders, on specific issues and populations, as well as a need for permanent Indigenous Technical Assistance Centers led by Indigenous education experts in partnership with Tribes.

Suggestions for core elements of a NMPED action plan for Native students:

- **Fully fund and implement the Indian Education Act**, a constitutional mandate. This requires a long-term strategy, accountability at all levels, and permanent, sufficient funding for Native students, Tribal Education Departments, and for Native-led education infrastructure from community to higher education.
 - NMPED should collaborate with tribal education advocates to develop a permanent funding mechanism, possibly in the form of a trust fund, to ensure adequate and sustainable financial resources for tribally determined education priorities, including education capacity, facilities, and programs, that implement the purposes stated in the IEA.
- **Incorporate and fund Tribal Remedy Framework (TRF) proposals**, endorsed by all Pueblos, Nations, and Tribes. The TRF offers three main solutions: shared governance responsibility; community-based education; and creating culturally relevant education systems through assistance from Native-led higher education institutions/programs. APCG has previously shared TRF documents with NMPED. We reiterate here the following key proposals:
 - Ensure school and district-level accountability through involving TEDs in governance decisions, including the development and implementation of needs assessments and frameworks mandated by the IEA,
 - provide recurring, permanent, and flexible funding for tribal education departments and tribal, community-based facilities and programs,
 - develop a Native teacher pipeline by funding Native-led teacher training programs and require districts to adopt goals and strategies for increasing Native teacher recruitment and retention,
 - ensure the development of culturally and linguistically responsive curricula, materials, pedagogy, and trainings through funding Indigenous Curriculum Development Centers operated by Native-led higher education institutions/programs in partnership with Tribes, and
 - establish and fund Indigenous Technical Assistance Centers operated by Native-led higher education institutions/programs in partnership with Tribes, to guide districts, schools, Tribes, and NMPED in the design and implementation of policies, programs, and practices that can effectively support Native students.
- **Adopt an integrated, sequential, and collaborative approach to educating Native children.** This requires NMPED to work with Tribes and across state and federal agencies. NMPED's plan should prioritize a strategy for creating an integrated and balanced education system that supports a continuum of education from family and community to schools to higher education. This should include a strategy for health

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and social supports to create an environment where Native children are valued, feel safe, and can learn.

○ NMPED should fund community-based education alongside school-based education, as well as Native-led higher education programs to provide assistance to communities and schools.

○ NMPED should work with relevant tribal, state, and federal agencies to coordinate, support, and fund an integrated network of holistic social, health, and economic support services for Native students.

○ NMPED should consider investing in Native-led programs such as the Center for Native American Health (CNAH), Honoring Native Life (formerly the Center for Native American Suicide Prevention), and the Native American Social Work Studies Institute to build capacity, programs, protocols, and partnerships for holistic, long-term strategies to address social and health issues in schools and communities.

APCG respectfully offers the above comments and suggestions in the hope of opening, not closing, a dialogue with NMPED and other state agencies about the future of Native children, their rights, opportunities, and dreams. Pueblo communities have a vision of an ideal graduate, a graduate grounded in Indigenous values, balanced and centered in their identity, educated in Western and Indigenous knowledge systems, fluent in their Native language, and engaged in the Pueblo community. This is a vision worth pursuing with all our energy and resources, however long it may take. APCG hopes that NMPED will be a partner in this pursuit.

We thank you for your careful consideration of our comments and look forward to a constructive dialogue and collaboration.

Sincerely,

Mark Mitchell, Chairman
All Pueblo Council of Governors

Cc:

Dr. Vicky Bannerman, NMPED Deputy Secretary