

Funding Indian Education: A Primer on New Mexico’s Different Legal Obligations

New Mexico has chronically underfunded the education of Native children, putting the future of our children and our tribal communities at risk.

Recent legal rulings require the State to change how it finances education:

1. The *Yazzie/Martinez v. State of New Mexico* court ruling (July 2018),
2. The U.S. Department of Education’s decision on New Mexico taking credit for federal Impact Aid in its school funding formula (April 2020), and
3. The *Zuni Public School District v. State of New Mexico* court ruling (December 2020) on capital outlay funding for schools.

Each ruling gives rise to different legal obligations on the State, which must be addressed separately. These legal mandates cannot be conflated with each other. Federal dollars cannot be used for funding state obligations. Each ruling requires a different and separate solution for funding public schools. The State must fulfill each and all of its funding obligations and stop shortchanging Native children.

The Navajo Nation “opposes any NM PED plan that proposes using Federal Impact Aid funding to fulfill the Yazzie/Martinez mandate.”

*Jonathan Nez, President; Myron Lizer, Vice President
The Navajo Nation*

	Yazzie/Martinez v. State of New Mexico	U.S. Department of Education	Zuni Public School District v. State of New Mexico
What is this ruling about?	Children’s constitutional right to a sufficient education, which includes implementation of the Indian Education Act (IEA).	The use of federal Impact Aid, generated by Native American-serving school districts, in the State’s school funding formula.	The State’s capital outlay funding system for public schools (i.e. for physical facilities and infrastructure).
What is at stake for our children?	Native students have been deprived of the programs and services they need to be college, career and community ready, resulting in unequal educational, health and employment outcomes.	The State has deepened inequities by reducing funding for school districts serving Native students, which may have lost over \$2 billion in state funding over the last 40 years.	Students in property-poor districts do not have school facilities that meet their educational needs, unlike their more privileged peers in wealthy districts.
What does the ruling say?	The State’s education system violates the constitution and children “will be irreparably harmed if better programs are not instituted.” The State has failed to implement the IEA.	The State cannot reduce funding to a district on the basis of the district receiving federal Impact Aid (also referred to as “taking credit” for federal payments).	The state’s capital outlay funding system for schools is grossly disparate and unconstitutional.
What must the State do?	PED must create a plan for transforming education and implementing the IEA; the legislature must provide more funding to meet the needs of at-risk students, including Native students.	The legislature must restore full state funding to school districts that receive federal Impact Aid. Districts that generate Impact Aid must be allowed to keep it.	The legislature must create a system for funding school capital outlay that equalizes funding among all school districts. The funding system must not privilege wealthy districts.
Must the State provide more funding?	The court ordered the State to provide more funding. Lack of funds cannot be used as a defense for violating Native student’s right to a sufficient education.	The State must provide additional state funding to make up for the federal Impact Aid dollars it redistributed to schools districts across the state.	The court ordered the State to provide sufficient and equal funding for school facilities and infrastructure in all school districts.
How much will this cost?	The 2021 Tribal Remedy Framework bills alone require recurring funding of \$47 million and a one-off capital investment of \$95 million, plus changes to the school funding formula.	The State must add around \$60 million annually to the State Equalization Guarantee formula.	To be determined.