

Indian Education Consultation Report

July 2016



Consultation Report – NMPED Indian Education Division

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Executive Summary

Per the New Mexico Indian Education Act, the Secretary of Education and Assistant Secretary of Indian Education convene a semi-annual government to government meeting for the express purpose of receiving input on the education of American Indian students. To further strengthen efforts toward improving education for Native American students, the Indian Education Division invited Tribal leaders, Tribal education directors and staff, school district leaders and school district staff, educators, parents and community members to participate in a two-day education summit following the government to government meeting. The first day of the education summit was designated as a consultation day to discuss the challenges of providing quality educational opportunities and learning environments for Native American students and to brainstorm solutions that will lead to increase educational outcomes for Native American students. The second day of the education summit was designated for enrichment workshops and the sharing of best-practices.

Over 150 participants took part in the all-day consultation session on day one of the education summit which was organized to formally gather feedback in five strategic areas: cultural competency; college and career readiness; maintenance of Native language; attendance and truancy; alignment of the Public Education Department, Bureau of Indian Education and Tribally-Controlled Schools. Five small group discussions for each priority topic area were held to maximize the opportunity for participants to provide their feedback. These five priority areas were identified based on the input gathered from the Tribal and school district meetings that were held over the 2015-16 school year.

The key themes and recommendations from each small group session were captured and compiled within this report. Each priority area also lists next steps that the Indian Education Division will take over the course of the next three years to ensure that progress is being made toward supporting our Native American students.

Based on the input from the community discussions, the Indian Education Division has developed a three year plan which addresses and incorporates many of the recommendations that were made for each of the five priority areas. The next steps will be to establish actionable goals, a work plan and key performance indicators to measure the effectiveness and success of each initiative.



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Mission

To increase American Indian student **academic** and **cultural** achievement through culturally-relevant pedagogy, native language, and collaborative partnerships.

Vision

All American Indian students will become proficient in **academic**, **cultural**, and **leadership** standards to become productive and contributing members of their Pueblo, Tribe, Nation and State.

Profile of Indian Education in New Mexico

- 23 Districts and 5 Charter Schools Identified as Native-Serving Institutions
- ~35,000 American Indian students in public schools
- ~6,000 American Indian students in 28 BIE-operated and Tribally-controlled schools
- ~ 3% of state-wide district staff identified as American Indian
- Average 27% proficiency in reading and average 10% proficiency in math (2015-16)
- 63% 4-year graduation rate (2015)
- 7 of the 8 languages of NM Tribes and Pueblos are taught in school-based language programs
- ~8,000 students participating in Native language programs
- ~8,500 students participating in Bilingual Multicultural Education Programs

Priority Areas for Indian Education

The following areas were identified as priority areas based on site visits, and both formal and informal consultation that was conducted throughout FY16:

- Attendance and Truancy
- College and Career Readiness and Pathways
- Maintenance of Language and Support for English Learners
- Cultural Competency Training and Culturally Responsive Education
- Systems Alignment – PED/BIE-Operated Schools/Tribally Controlled Schools



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Priority Area 1 -Attendance and Truancy

Overarching Goal – Increase the attendance rate and decrease the truancy rate among Native American students.

Summary of Key Themes

Participants were asked a series of questions regarding truancy. They were encouraged to provide suggestions and recommendations on how to address truancy among American Indian students. Participants passionately discussed their concerns and suggestions and unveiled some misconstrued information that the NM Public Education Department (PED) can help clarify.

Participants expressed a need to see real change and results regarding their input. There were concerns that although the parties are coming together to discuss issues, students need to be included in the discussion as part of a solution. The idea of going straight to the source - students - received positive affirmation.

Participants also relayed concerns that absentee reporting systems are not accurate nor are they user friendly. This causes a breakdown in reporting. For example, if a student is tardy, some school personnel are not trained on how to change an absence to reflect a tardy. This prompts inaccurate information on student attendance. There is a need for clear and consistent definitions on terms that impact truancy and attendance such as “excused”, “unexcused”, and “tardy”.

Participants expressed that the Compulsory Act (Attachment I) is not clearly understood and is possibly not being used properly within schools. There was a misconception that statute and rule read that a student has to be truant for ten “consecutive” days prompting students to miss nine “consecutive” days and return on the tenth day with no consequence. There was a suggestion that the word “consecutive” be removed and that the PED clarify how rule and statute apply to absences. Another suggestion was for the Indian Education Act and Truancy Act to be reviewed and used in conjunction with each other for the purpose of strengthening the attendance expectations for Native American students.

The participants indicated that there is little guidance on how to follow through once schools have documented and presented evidence regarding truancy. Court systems are not equipped to take on cases. Acoma, Sandia and Zuni were consistently brought up as examples of how truancy can be addressed through a variety of strategies. One example was to implement court systems within schools. In some schools this is already a model. In other schools, a consequence of truancy is to direct students to a facility similar to a detention center that ensures students’ educational needs are met.

There was a consensus that districts take Tribal cultural days into consideration to compile calendars. However, there are other traditional days needed that are not universal tribe across tribes. Some districts have changed their calendars back to generic school calendars, eliminating previously allowed feast days. On the flip side, there was also conversation related to students abusing “excused time off” and not participating in cultural events which results in students neither being in school nor participating in cultural events.

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There were several teachers who expressed that districts need to provide culturally sensitive training at the beginning of each school year. Participants expressed the importance of culture and a basic understanding of the needs of Native American students and home traditions. Some teachers stated that in the past they were given culturally sensitive training which made it easier to communicate with students and families.

Community Recommendations

- Gather feedback directly from students on issues of attendance and truancy
 - Share student feedback and input with PED departments and school districts
- Provide guidance on best practices for ways districts can hold students accountable for absences and truancy
- Support districts in consultation processes that will help districts to better understand and meet each tribal community's distinct needs
- Ensure greater consistency in reporting of absences
- Collaborate with tribes to restore, maintain and elevate the value of education within the community
- Provide guidance on legal guardianship given the mobility of American Indian children who may transition frequently between caregivers
- Share out the developments and progress of the PED truancy coach initiative across districts

Key Actions to Achieve Goals

- Provide technical assistance to school districts for planning and implementing student listening sessions on challenges and solutions to attendance and truancy
 - Share student feedback with all stakeholders to support the development of local and state plans
- Provide technical assistance to school districts, in consultation with Tribes, for the development of local attendance and truancy plans to address the following:
 - Accountability for absences and truancy
 - Consistency in the reporting of absences
 - Restoring, maintaining and elevating the value of education within the community
 - Promoting the importance of attendance (sharing research-based solutions)
 - Consultation between school districts and Tribes to better understand the local needs of American Indian students
 - Development of MOUs between school districts and Tribes to jointly address attendance and truancy challenges
 - Parent engagement and outreach
- Communicate the opportunities, developments and progress of PED truancy initiatives
 - Report on the dissemination of information and action planning at the semi-annual Government to Government Meetings in Fall 2016 and Spring 2017
 - Report on the improvements and outcomes of SY2016-17 in the annual Tribal Education Status Report in November 2017

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Priority Area 2 - College and Career Readiness

Overarching Goal – Ensure equitable access and opportunities for Native American students to keep them engaged in school and on a pathway to college and career success.

Summary of Key Themes

Participants were asked a series of questions regarding college and career readiness. They were encouraged to provide suggestions and recommendations on how to address the challenges that result in inadequate college and career readiness of American Indian students.

Participants expressed concern about a lack of alignment of curriculum and assessments across high schools within districts as well as across districts. Participants believe that there is an inequitable distribution of college and career readiness programs, courses and resources across schools.

Participants also expressed that there may be misunderstandings in preparing students for college and career due to cultural differences. For example, American Indian students may not be encouraged to explore or be exposed to certain occupations in which Americans Indians are not largely represented, such as science, engineering and technology fields.

Additionally, in certain rural areas and districts, students may not have access to technology and technological resources which are important tools that will help students prepare for success in college and career. Expectations of technology use and access vary in some remote and rural areas and some students lose out by not having access to these important tools for 21st century learning.

Participants indicated that students could benefit from better communication between the Tribes, Public Education Department and Higher Education Department in coordinating efforts that support college and career readiness.

Lastly, there was consistency in concern that transportation in rural, remote areas makes it difficult for students and families to participate in school activities that promote student success. For example, students who rely on school transportation may not be able to participate in extracurricular activities that enhance their school experience as well as after school tutoring or other support services directly related to supporting academic improvement. Furthermore, parents may not have transport to school meetings and activities that will support their child's success.

Community Recommendations

- Gather feedback directly from students on issues of attendance and truancy

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- Share this feedback and input with PED departments and school districts
- Conduct an equity review of college and career readiness resources and programs
- Ensure greater consistency of college and career readiness expectations in schools and for Native American Students
- Support departments, districts and higher education institutions in consultation processes that will result in better understanding of how to meet the needs of American Indian students
- Collaborate with tribes and higher education institutions to facilitate a smooth transition from high school to higher education
- Identify solutions to transportation challenges that impede academic success
- Share out the developments and progress of successful college and career readiness initiatives taking place across the state

Key Actions to Achieve Goals

- Provide technical assistance to school districts to plan and implement student listening sessions on challenges and solutions to college and career readiness
 - Share student feedback and input with all stakeholders
- Provide technical assistance for the development of local and state college and career readiness plans, in consultation with Tribes, to address the following:
 - Equity of college and career readiness resources and programming
 - Consistency of college and career readiness expectations and opportunities
 - Consultation practices across Tribes, PED, School Districts, Higher Education and Workforce Readiness
 - Successful Transitions
 - between middle school and high school
 - between 9th and 10th grade
 - between high school and higher education and/or workforce
 - College and Career Pathway planning in the middle grades
- Provide action-research opportunities for teachers to identify best classroom practices that result in success for Native American students
- Strengthen the American Indian educator pipeline by developing, recruiting and retaining effective American Indian teachers and administrators
- Report on the progress of action planning at the semi-annual Government to Government Meetings in Fall 2016 and Spring 2017
Report on the improvements and outcomes of SY2016-17 in the annual Tribal Education and Status Report in November 2017



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Priority Area 3 - Cultural Competency and Culturally Responsive Learning Environments

Overarching goal(s):

- *Improve student outcomes by developing learning environments that acknowledge, respond to, and leverage the cultural backgrounds of Native American students;*
- *Equip all school personnel with an understanding and awareness of Native American tribes to:*
 - *Increase sensitivity, cultural awareness, and respect for diversity in order to improve relationships between school personnel and students and parents*
 - *Help students recognize and appreciate Native American history, culture and people*
 - *Equip students with knowledge about historical and contemporary Native American issues.*

Summary of Key Themes

Participants were asked a series of questions regarding cultural competency and culturally responsive learning environments. They were encouraged to provide suggestions and recommendations on how to support and strengthen learning environments that are culturally responsive and educators who are aware of the diverse cultures and backgrounds of the Native American students who they serve.

Overall, the responses fell into three key themes: 1) absence of curriculum and resources; 2) lack of training for teachers and school leaders to support Native American students' success; and 3) need for building partnerships and collaboration to support American Indian students.

In the area of curriculum and resources, participants expressed the belief that there is lack of native-based resources and curricula for New Mexico teachers. They also felt that teachers didn't have a complete cultural understanding of New Mexico history. The participants expressed the importance of teachers being knowledgeable about tribes, tribal teaching methodologies and pedagogies, language, societal roles and responsibilities, differences, and responses to educational systems. They also felt it imperative that leaders and decision-makers across the school systems support curricula and culturally and linguistically responsive instruction for all educators and staff. Moreover, participants felt it important that school leaders and educators maintain consistent academic expectations at all grade levels in order to support American Indian students' academic success.

There was a consensus among the participants that both districts and Tribes would like to see more cultural competency training offered to teachers, administrators and school personnel. They indicated that staff training and professional development needs to be implemented at all levels and within all disciplines. The purpose of the cultural competency training should be to enhance total educational performance of students. It was recommended that the PED offer a high-level online cultural competency training for teachers and other credentialed staff integrated into licensure and teacher prep programs. Furthermore, the participants felt it imperative that district personnel, including substitutes, receive adequate ongoing professional development and support as relates to cultural responsiveness and sensitivity.

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On the topic of building partnerships and collaboration, participants expressed the strong desire to strengthen connections between schools, families and communities, as they work together in partnership to support student success across all grade levels. One idea that emerged from the discussion was to provide educators with the tools, resources and training for strengthening partnerships between schools and Native communities. School district staff who were present requested assistance with parent and community outreach efforts for developing communication, trusting relationships and skills necessary to bridge school, family and community. Others stressed the importance of building community relationships in seeking input from Tribes and Pueblos for building a curriculum that will infuse American Indian core values into the schools and classrooms.

Community Recommendations:

- Gather direct feedback from students on issues of culturally relevant learning environments and culturally responsive adults
 - Share this feedback and input with PED departments and school districts
- Collaborate with Tribes, Pueblos and Higher Education Institutions to strengthen cultural competency training and knowledge of the Tribes and Pueblos of New Mexico and American Indian students
- Incorporate NM history and culture courses into licensure requirements
- Support or develop cultural orientation trainings for new employees
- Create, support and publicize American Indian curricula and materials that can be used in classrooms and schools
- Strengthen the American Indian teacher pipeline across the state and recruit teachers from the Native community
- Strengthen the American Indian history component within New Mexico's history classes
- Create greater understanding of the socio-emotional needs of American Indian students and develop specific plans to address them
- Develop training to improve the proper identification of Special Education and English learners who are American Indian
- Proactively seek to eliminate stereotypes and promote accurate representations of American Indian history, culture and people
- Promote cultural understanding and knowledge of areas of sensitivity within specific subjects such as history and science

Key Actions to Support Goals

- Provide technical assistance to plan and implement student listening sessions on the cultural responsiveness of their learning environments
 - Share feedback of consultations and input with all stakeholders
- Develop an online cultural competency curriculum for school personnel
- Develop an American Indian history and government curriculum to be implemented in all schools
 - 7th and 11th grade New Mexico history curriculum

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- Supplemental materials for K-12 history
- Identification and knowledge of culturally sensitive subject matter with science, history and other subject areas
- Provide technical assistance to districts for the development of cultural competency professional development plans, in consultation with Tribes, to address the following:
 - Cultural competency training for all school personnel
 - Cultural competency training as part of new employee onboarding in collaboration and partnership with School Districts
 - Cultural competency training for school board members and school district leadership in collaboration with the New Mexico School Board Association and New Mexico Superintendent’s Association
 - Cultural competency training in educator pre-service programs in collaboration and partnership with Higher Education Institutions
- Strengthen the American Indian educator pipeline to develop, recruit and retain effective American Indian teachers and administrators
- Report on the improvements and outcomes of SY2016-17 in the annual Tribal Education Status Report in November 2017.
- Education Status Report in November 2017.



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Priority Area 4 - Supporting the Maintenance of Native Language and Native American English Learners

Overarching Goal(s) –

- *Support the maintenance of Native language by strengthening the training of Native language teachers and language program coordinators*
- *Increase academic outcomes for American Indian English Learners (ELs) by supporting and initiating efforts to improve the American Indian EL identification process, increase parent knowledge and outreach about EL programs and services, and strengthen academic support to American Indian ELs*

Summary of Key Themes

Participants were asked a series of questions regarding the support for maintenance of Native Languages and the progress of current language programs in schools. They were encouraged to provide suggestions/plans on how to support, strengthen and expand new and existing language programs in schools.

Overall, the discussion was organized into six key areas: 1) Bilingual Multicultural Education (BME) Act and Regulation; 2) Tribal policy on instructors with Native American language & culture (NALC) certification 3) BME funding for Native American language programs; 4) State Seal of Bilingualism- Biliteracy; 5) Inequity and differences in state-funded BME programs; and 6) Needs within language program development

As relates to the Bilingual Multicultural Education (BME) Act and Regulation (Attachment II), participants revealed that this statute and regulation is not well-known or understood by district directors, Tribal leaders or community members. While the BME Bureau currently provides information and technical assistance to district/school BME directors across the state via in-person quarterly meetings, webinars, the BMEB website, email and phone assistance, participants revealed a need for increased and improved participation in these trainings and expanding these training opportunities to Tribal education staff.

Nations, Tribes, and Pueblos also demonstrated a need and desire to better understand the NALC Certification process (otherwise known as the 520 certification). There was not clear and uniform guidance provided to Nations, Tribes, and Pueblos regarding what persons are qualified to become NALC-certified instructors, how instructors apply and receive NALC certification and who pays the NALC instructors. There were also questions regarding the responsibility for training and support of NALC instructors, and the decision-making process for curriculum and assessment.

Participants raised concerns and questions about the generation of funding for Native language instruction and programming. Some members of Nations, Tribes, and Pueblos believed that their only funding option for NALC instructor salaries was to cover it themselves while others believed that the grant provided through the Indian Education Division was the only funding available for Native language instruction and programming.

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Many participants were not aware that their district can receive state-funding for approved BME programs through the State Equalization Guarantee (SEG) for approved BME programs. The Indian Education Division's *Supporting Native Language Grant* to each Tribe, however, was one of the best known and utilized resources for Tribes to fund their language teachers at the Tribe's discretion.

Several session participants raised concerns around the equity of state-funded BME programs, especially around perceived differences in the funding, support, and implementation of Native American languages compared to Spanish language programs. Specifically, participants noted several disparities identified such as:

- Education Assistant wages are paid to full-time NALC-certified instructors though some of the NALC-certified instructors teach full loads of students similar to their bilingual language teacher peers
- Many NALC-certified instructors are not provided stipends or benefits provided to other bilingually-endorsed teachers even within the same districts and schools
- Instructional time requirements (60 minutes for one-hour funded programs) are routinely unmet. Some session participants articulated that Native language instruction is often reduced to less than the full hour (sometimes to only 15-20 minutes) or skipped altogether to accommodate other courses or events in ways that do not affect other bilingual programs in the same ways.
 - For example, Spanish language arts instruction is not scheduled in ways that would conflict with other core content areas; however, Native American language courses are sometimes scheduled in conflict

Participants expressed a limited knowledge of the New Mexico Bilingual Seal (Attachment III) and the implications of the seal for students across the State. Tribes must be made aware of their rights and role in developing policy and procedures for determining what students are "proficient" speakers of their Native languages. Additionally, Nations, Tribes and Pueblos must hold districts accountable for Tribal consultation regarding the language proficiency process to ensure that Tribal sovereignty is respected in terms of decisions around the seal.

A final theme that was expressed during the language consultation was the need to support the strengthening of language programs through professional development to improve on instructional practices, curriculum development, and assessment. Participants expressed the dissatisfaction of some of their children in the older grades with covering the same material from earlier grades. This repetition of subject matter can lead to students opting for other high school electives. Some participants, speaking as parents, shared a concern that their secondary students wanted to enroll in other extracurricular courses rather than continue in a language elective.

Community Recommendations:

- Conduct training to ensure that BME statute and regulation as well as Indian Education Act and regulation are understood by all stakeholders and to ensure consistency of serving Native American students through state-funded BME programs

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- Collaborate across PED departments to provide information to parents and communities in ways that are culturally and linguistically responsive
- Provide and/or facilitate discussions between tribes, school district leadership, and school boards regarding tribal sovereignty especially as relates to language, bilingual seal statute, bilingual regulation and guidance
- Develop a program of professional development for NALC teachers and language program developers to strengthen the effectiveness of language programs for students learning

Key Actions to Support Goals

- Provide technical assistance for holding student and parent listening sessions to gather input on their attitudes, hopes and desires related to Native language and school-based language programs
 - Share feedback and input with all stakeholders
- Provide technical assistance to Tribes and School Districts for the development of language programs and professional development plans to address the following:
 - Equity of language programs and opportunities
 - Cross training of departmental, district and tribal staff to provide improved technical assistance regarding language programs and opportunities
 - Professional development support for Native language teachers and program developers
 - Parental engagement and outreach regarding EL programming and supports
 - Bilingual Seal process
- Support and initiate research for the academic improvement and English language acquisition of American Indian English Learners
 - Support the American Indian English Learner Research Alliance (AIERA)
- Provide and coordinate professional development for Native language teachers and language coordinators on pedagogy and program assessment
- Report on the progress of information dissemination and action planning at the semi-annual Government to Government Meetings in Fall 2016 and Spring 2017
- Report on the improvements and outcomes of SY2016-17 in the annual Tribal Education and Status Report in November 2017

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Priority Area 5 – Systems Alignment - PED-BIE-Tribally Controlled Schools

Overarching Goal – Increase the success of Native American students through the alignment of standards, programs and communication across educational systems.

Summary of Key Themes

Participants were asked a series of questions regarding the current alignment between the Public Education Division and School Districts, Bureau of Indian Education administered schools, and the Tribally Controlled Schools. They were encouraged to provide suggestions on how to support, strengthen and improve alignment and collaboration between the distinct educational systems.

Overall, five main themes emerged across the small group discussions: 1) accountability of all school systems; 2) inclusion of Tribally-driven decision-making; 3) data-sharing through appropriate Memorandums of Understanding (MOUs); 4) collaboration, and 5) overcoming parental involvement challenges.

Overall, participants expressed concerns, strategies, feedback and input on alignment for all school systems - not just for the BIE and PED school systems, but also among and between charters and tribally-controlled schools. All groups expressed a desire to see more communication and collaboration between PED, BIE, Tribes, parents, and students in providing a guide to a cohesive transition system across schools and data sharing. Participants felt it imperative that student information is shared out regularly and that teachers, including substitutes, receive the adequate professional development and support. They also felt that the leadership and decision makers among the school systems need to communicate in the sharing of curriculum and in the setting of academic expectations at all grade levels in order to accomplish Native American students' academic success.

The facilitator provided background information on the systemic challenges that American Indian children are faced with when entering into different school systems and on the difficulties of tracking students when they have various options of school systems. The State of New Mexico has the PED and Local Education Agencies (school districts and charters) for its public school system. Tribes have BIE operated schools, tribally controlled schools, charter schools and combinations thereof. Participants believe it is important to recognize all of the school systems and include all of them in alignment discussions, as this affects all Native American students. Solutions or approaches to improving our children's education will most likely vary in school system governance and differences between all systems provide different response in addressing the need for student success.

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Community Recommendations:

- Conduct a BIE, PED, policy, legislative representatives - decision makers assembly to discuss parallel curriculum adoption, social needs, advocacy, tracking/data sharing of students, assessments
- Clearly identify expectations of transitions and a transition framework
- Improve on cross-agency communication
- Provide best practices across systems
- Provide expectations of curriculum delivery to teachers for all school systems
- Create partnerships with students and parents, and gather feedback and ideas from students and partnering with parents
- Provide professional development, English Learner identification and strategies, and special education identification and strategies to teachers in all school systems
- Develop and implement MOUs, including higher education departments
- Provide professional development on cultural competency and cultural sensitivity
- Encourage decision making at the local-level which incorporates tribes as partners in determining allocation of funds toward program support for Native American students and activities supporting American Indian student success.
- Report findings and outcomes on an ongoing basis; tribes and schools need to understand and have awareness about pathways for American Indian children in all school systems from head start to post-secondary and/or vocational careers
- Work closely with BIE and tribally controlled schools to align and identify school structure for a smooth transition for students as they are either a feeder school or school of choice for students
- Foster parental engagements with support from schools and tribes at all levels
- Develop a work plan to include BIE-tribally controlled-PED to work together in sharing out information from each school system

Key Actions to Achieve Goals

- Provide technical assistance for planning and implementation of student and parent listening sessions on challenges and solutions to attending school in different systems of education
 - Share feedback with all stakeholders to support the development of local and state plans
- Provide technical assistance in the development of plans for systems alignment to address the following:
 - Cross-agency communication, professional development, curriculum development, assessment planning and reporting
 - Transition planning between different agencies (early learning institutions, school districts- elementary and secondary, BIE schools, Tribally-controlled schools)
 - Parental engagement across the agencies
 - Communication to parents and communities regarding student and school outcomes

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- Report on the progress of information dissemination and action planning at the semi-annual Government to Government Meetings in Fall 2016 and Spring 2017
- Report on the improvements and outcomes of SY2016-17 in the annual Tribal Education and Status Report in November 2017.



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ATTACHMENT I

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 10 PUBLIC SCHOOL ADMINISTRATION - PROCEDURAL REQUIREMENTS
PART 8 COMPULSORY SCHOOL ATTENDANCE

6.10.8.1 ISSUING AGENCY: Public Education Department
[6.10.8.1 NMAC - N, 12-30-04]

6.10.8.2 SCOPE: All New Mexico school districts, public schools including charter schools, and home schools.
[6.10.8.2 NMAC - N, 12-30-04]

6.10.8.3 STATUTORY AUTHORITY: Sections 22-1-2, 22-1-2.1, 22-2-1, 22-2-2, 22-2-14, 22-5-4, 22-5-14, 22-10A-31, 22-12-1 to 22-12-9, NMSA 1978, and 20 U.S.C. Sections 7111, 7112.
[6.10.8.3 NMAC - N, 12-30-04]

6.10.8.4 DURATION: Permanent
[6.10.8.4 NMAC - N, 12-30-04]

6.10.8.5 EFFECTIVE DATE: December 30, 2004, unless a later date is specified at the end of a section.
[6.10.8.5 NMAC - N, 12-30-04]

6.10.8.6 OBJECTIVE: To set forth the requirements for the implementation of the compulsory school attendance law. Specifically, this rule establishes requirements for the identification, reduction and reporting of truancy in all public schools including charter schools. In addressing truancy, the goal is to keep children in school until age eighteen and not to suspend, expel or outright punish them for being truant.
[6.10.8.6 NMAC - N, 12-30-04; A, 09-30-09]

6.10.8.7 DEFINITIONS:

A. "Attendance" means students who are in class or in a school-approved activity. If a student is in attendance up to one half the total instructional time during a school day, the student will be counted as having attended one-half of a school day. If the student attends school for more than one-half of the total instructional time, the student will be counted as having attended for the full day.

B. "Early identification" means the process by which school districts including charter schools promptly determine and identify students who have excessive absences and tardiness from an instructional day. Early identification includes the school district's, individual school's or charter school's defined system for recording, reporting, and summarizing daily attendance of its students and then providing that data to the district's or charter school's central administration.

C. "Habitual truant" means a student who has accumulated the equivalent of ten or more unexcused absences within a school year.

D. "Home school" means the operation by the parent of a school-age person of a home study program of instruction that provides a basic academic educational program, including reading, language arts, mathematics, social studies and science.

E. "Home school truant" means a school age child whose parent(s)/guardian(s) have filed a home school notification about that child with the department but the child has failed or refused to participate in, or is no longer being offered, any home-study program of instruction.

F. "Intervention" means the partnering that schools engage in with other agencies to implement administrative remedies, provide services and provide support programs that aggressively reduce if not eliminate truancy in a school district or charter school.

G. "Prevention" means school-based innovative or proven successful programs, including alternative programs whether school-based or non-school based, that encourage regular and on-time attendance for students.

H. "School-age person" means a person who is at least five years of age prior to 12:01 a.m. on September 1 of the school year and who has not received a high school diploma or its equivalent. A maximum age

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of twenty-one shall be used for a person who is classified as special education membership as defined in Section 22-8-21 NMSA 1978 or as a resident of a state institution.

I. “Student in need of early intervention” means a student who has accumulated five unexcused absences within a school year.

J. “Tribe” means an Indian nation, tribe or pueblo located within New Mexico.

K. “Unexcused absence” means an absence from school or a class for which the student does not have an allowable excuse pursuant to the compulsory school attendance law or rules of the local school board, governing authority of a private school, or governing board of a charter school.

[6.10.8.7 NMAC - N, 12-30-04; A, 09-30-09]

6.10.8.8 REQUIREMENTS:

A. It is the policy of this state that school age persons receive an education and do not dropout or otherwise withdraw prematurely prior to completing an educational program. To that end, a school-age person shall attend public school, private school, home school or a state institution until the school-age person is at least eighteen years of age unless that person has graduated from high school or received a general educational development certificate. A parent may give written, signed permission for the school-age person to leave school in case of a documented hardship approved by the local superintendent.

B. Each local school board and charter school shall develop a written attendance policy that:

(1) in accordance with the definition of “attendance” stated in this rule, requires that class attendance be taken and maintained by class period for every instructional day for each student in each school or school program in the school district;

(2) provides excused absences for pregnant and parenting students as follows:

(a) provides at least ten days of excused absences for a student who provides documentation of the birth of the student's child and allows the student a time period to make up the work that the student missed that equals the number of days the student was absent for the birth of a child;

(b) provides excused absences for any additional days missed by a pregnant or parenting student for which a longer period of absence is deemed medically necessary by the student's physician and allows the student a time period to make up the work that the student missed that equals the number of days the student was absent;

(c) provides four days per semester of excused absences, in addition to the number of allowed absences for all students, for a student who provides appropriate documentation of pregnancy or that the student is the parent of a child under the age of thirteen needing care and allows the student a time period to make up the work that the student missed that equals the number of days the student was absent;

(d) clearly states that the pregnant or parenting student is responsible for communicating the student's pregnancy and parenting status to the appropriate school personnel if the student chooses to disclose the information; and

(e) provides that the school district or charter school shall provide a copy of the pregnant and parenting student absence policies to all students in middle, junior high and high schools; and

(3) requires each school to report unexcused absences of two or more classes up to fifty percent of an instructional day as one-half day absence, and the unexcused absence of more than fifty percent of an instructional day to be counted as one full-day absence;

(4) prohibits out-of-school suspension and expulsion as a punishment for unexcused absences and habitual truancy;

(5) uses withdrawal as provided in Section 22-8-2 NMSA 1978 only after exhausting intervention efforts to keep students in educational settings;

(6) provides for early identification of students with unexcused absences, students in need of early intervention, and habitual truants; provides for intervention strategies that focus on keeping students in need of early intervention in an educational setting; and further provides that:

(a) if a student is in need of early intervention, the school district or charter school shall contact the student's parent(s)/guardian(s) to inform them that the student has unexcused absences from school and to discuss possible interventions unless the parent(s)/guardian(s) has contacted the school to explain the absence and the excuse complies with the school district attendance policy;

(b) a representative of the school district or charter school shall meet with the student in need of early intervention and his or her parent(s)/guardian(s) to identify the causes for the student's unexcused absences, identify what actions can be taken that might prevent the student's unexcused absences, identify possible school

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district, charter school and community resources to address the causes for the student's unexcused absences, and establish a corrective action plan to address the student's unexcused absences;

(c) the notification to the student's parent(s)/guardian(s) and the meeting with the parent(s)/guardian(s) must be respectful and in a language and in manner that is understandable to the student and the parent(s)/guardian(s);

(d) the corrective action plan must contain follow-up procedures to ensure that the causes for the student's unexcused absences are being addressed;

(e) if the student is a habitual truant, the local school board, charter school or their authorized representatives shall, in addition, give written notice of the habitual truancy by mail to or by personal service on the student's parent(s)/guardian(s); the notice shall include a date, time and place for the parent to meet with the local school district or charter to develop intervention strategies that focus on keeping the student in an educational setting;

(f) if there is another unexcused absence after delivery of a written notice of habitual truancy, the student shall within seven (7) days of this unexcused absence be reported to the probation services office of the judicial district where the student resides;

(g) if the student is a habitual truant the school shall document the following for each student identified as a habitual truant:

- (i) attempts of the school to notify the parent that the student had unexcused absences;
- (ii) attempts of the school to meet with the parent to discuss intervention strategies; and
- (iii) intervention strategies implemented to support keeping the student in school.

C. If the habitual truant is not referred to the children's court by the juvenile probation office for appropriate disposition, including consideration of initial or renewed suspension of his or her driving privileges, the school district may contact the children's court attorney directly to determine what action will be taken.

D. If a determination and finding has been made by the juvenile probation office that the habitual truancy by a student may have been caused by the parent or guardian of the student, and no charges have been filed against the parent or guardian, the school district may contact the district attorney's office to determine what action will be taken.

E. A copy of the local school board or charter school's attendance policy shall be provided to the public education department's health education coordinator or designated staff for approval within ten (10) days of its adoption by the local school board or governing body of a charter school.

F. The public education department's truancy prevention coordinator shall be permitted access to any records and information related to students in need of early intervention or habitual truancy in any school district, any particular school within a district, or any charter school.

[6.10.8.8 NMAC - N, 12-30-04; A, 09-30-09; A, 05-15-14]

6.10.8.9 INTERGOVERNMENTAL AGREEMENTS: In carrying out its duties under this rule and the compulsory school attendance law, school districts and charter schools shall take into consideration the sovereignty of a Native American tribe. While all children attending public schools will still be subject to being reported to the public education department if they are habitually truant, a school district or charter school shall respect tribal laws and traditions in carrying out its duties of early identification, intervention, and parental notification. To do so, school districts and charter schools shall adopt policies that:

- A. emphasize a better understanding of tribal customs, religious practices and laws,
- B. consider entering into a memorandum of agreement, a memorandum of understanding, or some other form of intergovernmental agreement with Native American tribes,
- C. consider respectful and effective ways to notify a parent(s)/guardian(s) of student in need of intervention and habitually truant Native American students,
- D. consider follow-up or reinforcement procedures after Native American children have undergone intervention through Native American or other agreed upon resources.

[6.10.8.9 NMAC - N, 12-30-04; A, 09-30-09]

6.10.8.10 REPORTING REQUIREMENT:

A. Each school district and each individual charter school shall maintain class attendance records by class period for every instructional day for each student in each school or school program in the school district or charter school in a manner verifiable by the public education department.

B. The local superintendent of each school district or governing body or administrative head of a charter school will report absences with excused and unexcused identifiers through the student teacher

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accountability reporting system and certify that the information is being reported consistently at intervals and in a manner as specified by the public education department.

[6.10.8.10 NMAC - N, 12-30-04; A, 09-30-09]

6.10.8.11 HOME SCHOOLS: Upon receipt of verified information that a school age child whose parent(s)/guardian(s) have previously filed a home school notification about that child with the department but that child has failed or refused to participate in, or is no longer being offered, any home-study program of instruction, the department may obtain a reasonable assurance from the parent(s) or guardian that the child is actually engaged in a home-study program of instruction. In addition to any other remedies permitted by the compulsory school attendance law or the children’s code, upon a determination that a home school student is repeatedly not (or no longer) engaged in a home-study program of instruction, the department may order that the home school habitual truant attend a public school, or at the election of his parent/guardian, a private school. Prior to pursuing these other remedies, the public education department shall make a reasonable effort to accommodate the parents’/guardians’ preference for maintaining their child in a home school.

[6.10.8.11 NMAC - N, 12-30-04; A, 09-30-09]

6.10.8.12 FAILURE TO COMPLY WITH THIS RULE: Failure to comply with this rule may be good and just grounds for the suspension or revocation of a department-issued license or certificate, may result in notification by the department to the local school board, superintendent, school principal or governing body of a charter school that they have failed to meet requirements as prescribed by law or rules promulgated by the department, and may be grounds for seeking a court order to ensure compliance with the requirements of this rule.

[6.10.8.12 NMAC - N, 12-30-04]

HISTORY of 6.10.8 NMAC: [Reserved]



ATTACHMENT II

ARTICLE 23

Bilingual Multicultural Education

22-23-1 Short title.

22-23-1.1 Legislative findings.

22-23-2 Definitions.

22-23-3 Repealed.

22-23-4 Department; powers; duties.

22-23-5 Bilingual multicultural education program plan; evaluation.

22-23-6 Bilingual multicultural education programs; eligibility for state financial support.

22-23-1. Short title. (2004)

Chapter 22, Article 23 NMSA 1978 may be cited as the "Bilingual Multicultural Education Act".

22-23-1.1. Legislative findings. (2004)

The legislature finds that:

A. while state and federal combined funding for New Mexico's bilingual multicultural education programs was forty-one million dollars (\$41,000,000) in 2003, the funds do not directly support bilingual multicultural education program instruction;

B. the state's bilingual multicultural education program goals are for all students, including English language learners, to:

(1) become bilingual and biliterate in English and a second language, including Spanish, a Native American language, where a written form exists and there is tribal approval, or another language; and

(2) meet state academic content standards and benchmarks in all subject areas;

C. districts do not fully understand how to properly assess, place and monitor students in bilingual multicultural education programs so that the students may become academically successful;

D. because inaccurate reporting on student participation in bilingual multicultural education programs has a direct impact on state and federal funding, accountability measures are necessary to track bilingual multicultural education program funds;

E. the federal No Child Left Behind Act of 2001 does not preclude using state funds for bilingual multicultural education programs;

F. Article 12, Section 8 of the constitution of New Mexico recognizes the value of bilingualism as an educational tool;

G. professional development is needed for district employees, including teachers, teacher assistants, principals, bilingual directors or coordinators, associate superintendents, superintendents and financial officers in the areas of:

(1) research-based bilingual multicultural education programs and implications for instruction;

(2) best practices of English as a second language, English language development and bilingual multicultural education programs; and

(3) classroom assessments that support academic and language development;

H. parents in conjunction with teachers and other district employees shall be empowered to decide what type of bilingual multicultural education program works best for their children and their community. Districts shall also provide parents with appropriate training in English or in the home or heritage language to help their children succeed in school;

I. because research has shown that it takes five to seven years to acquire academic

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proficiency in a second language, priority should be given to programs that adequately support a child's linguistic development. The state shall, therefore, fund bilingual multicultural education programs for students in grades kindergarten through three before funding bilingual multicultural education programs at higher grade levels;

J. a standardized curriculum, including instructional materials with scope and sequence, is necessary to ensure that the bilingual multicultural education program is consistent and building on the language skills the students have previously learned. The instructional materials for Native American bilingual multicultural education programs shall be written, when permitted by the Indian nation, tribe or pueblo, and if written materials are not available, an oral standardized curriculum shall be implemented;

K. equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials for all students participating in the program. For Native American students enrolled in public schools, equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials are required to satisfy a goal of the Indian Education Act [22-23A-1 NMSA 1978]; and

L. the Bilingual Multicultural Education Act [22-23-1 NMSA 1978] will ensure equal education opportunities for students in New Mexico. Cognitive and affective development of the students is encouraged by:

(1) using the cultural and linguistic backgrounds of the students in a bilingual multicultural education program;

(2) providing students with opportunities to expand their conceptual and linguistic abilities and potentials in a successful and positive manner; and

(3) teaching students to appreciate the value and beauty of different languages and cultures.

22-23-2. Definitions. (2004)

As used in the Bilingual Multicultural Education Act [22-23-1 NMSA 1978]:

A. "bilingual multicultural education program" means a program using two languages, including English and the home or heritage language, as a medium of instruction in the teaching and learning process;

B. "culturally and linguistically different" means students who are of a different cultural background than mainstream United States culture and whose home or heritage language, inherited from the student's family, tribe or country of origin, is a language other than English;

C. "department" means the public education department;

D. "district" means a public school or any combination of public schools in a district;

E. "English language learner" means a student whose first or heritage language is not English and who is unable to read, write, speak or understand English at a level comparable to grade level English proficient peers and native English speakers;

F. "heritage language" means a language other than English that is inherited from a family, tribe, community or country of origin;

G. "home language" means a language other than English that is the primary or heritage language spoken at home or in the community;

H. "school board" means a local school board; and

I. "standardized curriculum" means a district curriculum that is aligned with the state academic content standards, benchmarks and performance standards.

22-23-3. Repealed.

22-23-4. Department; powers; duties. (2004)

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- A. The department shall issue rules for the development and implementation of bilingual multicultural education programs.
- B. The department shall administer and enforce the provisions of the Bilingual Multicultural Education Act [22-23-1 NMSA 1978].
- C. The department shall assist school boards in developing and evaluating bilingual multicultural education programs.
- D. In the development, implementation and administration of the bilingual multicultural education programs, the department shall give preference to New Mexico residents who have received specialized training in bilingual education when hiring personnel.
- 22-23-5. Bilingual multicultural education program plan; evaluation. (2004)**
- A. The school board may prepare and submit to the department a bilingual multicultural education program plan in accordance with rules issued by the department.
- B. At regular intervals, the school board and a parent advisory committee from the district shall review the goals and priorities of the plan and make appropriate recommendations to the department.
- C. Bilingual multicultural education programs shall be located in the district and delivered as part of the regular academic program. Involvement of students in a bilingual multicultural education program shall not have the effect of segregating students by ethnic group, color or national origin.
- D. Each district shall maintain academic achievement and language proficiency data and update the data annually to evaluate bilingual multicultural education program effectiveness and use of funds. The department shall annually compile and report this data to the appropriate interim legislative committee.
- E. Districts shall provide professional development to district employees, including teachers, teacher assistants, principals, bilingual directors or coordinators, associate superintendents, superintendents and financial officers in the areas of:
- (1) research-based bilingual multicultural education programs and implications for instruction;
 - (2) best practices of English as a second language, English language development and bilingual multicultural education programs; and
 - (3) classroom assessments that support academic and language development.
- F. Bilingual multicultural education programs shall be part of the district's professional development plan. Bilingual educators, including teachers, teacher assistants, instructional support personnel, principals and program administrators, shall participate in professional development and training.
- 22-23-6. Bilingual multicultural education programs; eligibility for state financial support. (2004)**
- A. To be eligible for state financial support, each bilingual multicultural education program shall:
- (1) provide for the educational needs of linguistically and culturally different students, including Native American children and other students who may wish to participate, in grades kindergarten through twelve, with priority to be given to programs in grades kindergarten through three, in a district;
 - (2) fund programs for culturally and linguistically different students in the state in grades kindergarten through three for which there is an identifiable need to improve the language capabilities of both English and the home language of these students before funding programs at higher grade levels;
 - (3) use two languages as mediums of instruction for any part or all of the curriculum of the

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grade levels within the program;

(4) use teachers who have specialized in elementary or secondary education and who have received specialized training in bilingual education conducted through the use of two languages. These teachers or other trained personnel shall administer language proficiency assessments in both English and in the home language until proficiency in each language is achieved;

(5) emphasize the history and cultures associated with the students' home or heritage language;

(6) establish a parent advisory committee, representative of the language and culture of the students, to assist and advise in the development, implementation and evaluation of the bilingual multicultural education program; and

(7) provide procedures to ensure that parental notification is given annually prior to bilingual multicultural education program placement.

B. Each bilingual multicultural education program shall meet each requirement of Subsection A of this section and be approved by the department to be eligible for state financial support.



ATTACHMENT III

22-1-9.1. New Mexico diploma of excellence; state seal for bilingual and biliterate graduates.

A. The state seal of bilingualism-biliteracy on a New Mexico diploma of excellence certifies that the recipient is proficient for meaningful use in college, a career or to meet a local community language need in a world language other than English. The graduate's high school transcript shall also indicate that the graduate received the state seal on the graduate's New Mexico diploma of excellence.

B. The department shall adopt rules to establish the criteria for students to earn a seal of bilingualism biliteracy, to include:

- (1) the number of units of credit in a language other than English, including content courses taught in a language other than English, English language arts or English as a second language for English language learners;
- (2) passage of state assessments in a world language other than English or English language arts for English language learners;
- (3) in the case of tribal languages, certification of tribal language proficiency in consultation with individual tribes and adherence to processes and criteria defined by that tribe as appropriate for determining proficiency in its language;
- (4) demonstrated proficiency in one or more languages other than English through one of the following methods:
 - (a) score three or higher on an advanced placement examination for a language other than English;
 - (b) score four or higher on an international baccalaureate examination for a higher-level language other than English course;
 - (c) score proficient on a national assessment of language proficiency in a language other than English; or
 - (d) provide presentations, interviews, essays, portfolios and other alternative processes that demonstrate proficiency in a language other than English.

C. In establishing the criteria for awarding the state seal of bilingualism-biliteracy, the department shall establish and consult with a task force of stakeholders that represent language experts, including:

- (1) Indian nations, tribes and pueblos;
- (2) teachers of world languages;
- (3) endorsed teachers of bilingual multicultural education;
- (4) directors of bilingual education;
- (5) statewide organizations representing language educators, bilingual education, dual language education and teachers of English as a second language;
- (6) university professors of world languages, heritage languages, Indian languages and bilingual education; and
- (7) representatives of the state bilingual advisory council, the Indian education advisory council and the Hispanic education advisory council.

History: Laws 2014, ch. 46, § 1.