

MEMORANDUM OF AGREEMENT

THIS AGREEMENT is made and entered into by the New Mexico State Public Education Department, hereinafter referred to as the "NMPED" and the *Mescalero Apache Tribe* hereinafter referred to as the *Mescalero Apache Tribe*.

WHEREAS, the NMPED recognizes the unique role and sovereignty of the *Mescalero Apache Tribe* in establishing standards and criteria for, and determining competency of, persons seeking certification in Native American Language and Culture K thru 12.

NOW, THEREFORE, the NMPED and the *Mescalero Apache Tribe* do hereby agree as follows:

I. SCOPE OF AGREEMENT

The NMPED and the *Mescalero Apache Tribe* desire to effectuate an agreement whereby the *Mescalero Apache Tribe* establishes standards and criteria for determining and verifying competencies that lead to the issuance by the NMPED of Native American Language and Culture certification pursuant to its rule governing *Certification in Native American Language and Culture, K thru 12*.

II. EFFECTIVE DATE AND TERM

This Agreement shall become effective commencing upon the most recent date of signature by both parties and shall terminate upon written notice by either party in accordance with paragraph V.

III. AMENDMENT

This Agreement shall not be altered, changed, or amended except by an instrument in writing executed by the parties hereto.

IV. ADMINISTRATION OF AGREEMENT

- A. The NMPED and the *Mescalero Apache Tribe* will each designate and notify the other of a liaison to work cooperatively to implement the terms of this Agreement. The liaison for the NMPED shall be the Assistant Secretary of Education for Indian Education.
- B. In addition to the verification by the *Mescalero Apache Tribe*, applicants must comply with all provisions of 6.60.7 NMAC (*Educator Licensure Application Fee*), 6.60.8 NMAC (*Background Checks*), and 6.60.9 NMAC (*Code of Professional Responsibility of the Education profession, Standards of Professional Conduct*).
- C. The *Mescalero Apache Tribe* will perform the following activities pursuant to this Agreement:

1. The *Mescalero Apache Tribe* shall develop and maintain standards and criteria for determining competency to teach the language and culture of the *Mescalero Apache Tribe*. These standards, criteria and competencies shall not be subject to review and approval by the NMPED.
2. The *Mescalero Apache Tribe* shall develop a process to determine a candidate's competency in the initial or continuing certification in Native American Language and Culture. Such process shall not be subject to review and approval by the NMPED.
3. The *Mescalero Apache Tribe* shall evaluate individuals seeking certification in Native American Language and Culture, and will provide in writing to the Professional Licensure Unit of the NMPED, either verification that the applicant meets the standards and criteria developed by the *Mescalero Apache Tribe*, or a denial or verification and the reason(s) for the denial. The verification or denial will be based solely on the applicant's meeting the standards and criteria established by the *Mescalero Apache Tribe*, or failure to meet those standards and criteria. The verification or denial of verification by the *Mescalero Apache Tribe* shall be final and not subject to appeal to or review by the NMPED.
4. Upon receipt of written verification from the *Mescalero Apache Tribe* that an individual has met the standards of competence and language proficiency required for certification, the NMPED shall issue a Level 1, 3-year certification in Native American Language and Culture to that individual; provided that, no other grounds or cause exist, as set forth in Paragraph IV D below, for denying issuance of the certification.
5. The *Mescalero Apache Tribe* shall develop an appeal procedure for individuals whose verification of meeting the *Mescalero Apache Tribe's* standards and criteria has been denied. The decision of the *Mescalero Apache Tribe* shall be final and not subject to further appeal to or review by the NMPED.
6. Within 30 days of the effective date of this MOA, the *Mescalero Apache Tribe* shall file with the NMPED either a detailed summary of its appeal procedure, an outline of the procedure, or a copy of the actual written procedure.

D. The NMPED will perform the following activities pursuant to this Agreement:

1. The NMPED shall permit an individual whose application for initial or renewed certification has been denied pursuant to Paragraph IV D, 2 and 3 below, to request a hearing before the NMPED. The NMPED shall not entertain any appeals based upon the *Mescalero Apache Tribe's* determination

that the applicant has failed to meet standards and criteria for language and culture.

2. The scope of any hearing held by NMPED shall be limited to:
 - (a) the *Mescalero Apache Tribe's* use or failure to use its own appeal procedure in denying initial or renewed verification that a person has met the *Mescalero Apache Tribe's* standards and criteria;
 - (b) non-payment of the NMPED's application fee pursuant of 6.60.7 NMAC (*Educator Licensure Application Fee*),
 - (c) failure to submit or clear a background check pursuant to 6.60.8 NMAC (*Background Checks*),
 - (d) engaging in behavior that violates 6.60.9 NMAC (*Code of Professional Responsibility of the Education Profession, Standards of Professional Conduct*),
 - (e) engaging in behavior that violates 6.68.3 NMAC (*Suspension or Revocation of a License Held by a Licensed School Individual*), and
 - (f) engaging in behavior that violate 6.68.2 NMAC (*Denial of Applications for Licenses for School Personnel*).
3. Any hearing held before the NMPED under this MOA shall be conducted pursuant to the *Uniform Licensing Act* [Sections 61-1-1 through 61-1-31, NMSA 1978].

V. RENEWAL OF CERTIFICATE

The *Mescalero Apache Tribe* shall develop and maintain standards and criteria for determining a person's eligibility to receive issuance of renewed certification to teach the language and culture of the *Mescalero Apache Tribe*. These standards, criteria and competencies for renewed certification shall not be subject to review and approval by the NMPED. The *Mescalero Apache Tribe* shall follow the same process for reviewing a person's eligibility to receive issuance of renewed certification as is described in Paragraph IV C above. The NMPED shall perform the same functions as set forth in paragraph IV D above. Any renewed certification issued by the NMPED shall be at Level 2 and be for a period of nine (9) years.

VI. TECHNICAL ASSISTANCE

The NMPED will work cooperatively with the *Mescalero Apache Tribe* to provide technical assistance regarding standards and criteria for certification. Technical assistance will be provided according to the availability of NMPED resources.

VII. TERMINATION OF AGREEMENT

Either party hereto, upon thirty (30) days written notice to the other party, may terminate this Agreement. By such termination, neither party may nullify obligations incurred prior

to the effective date of the termination. Termination of the agreement shall not operate to negate certification issued pursuant to the Agreement.

VII. INTEGRATION OF AGREEMENT

This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreements or understandings, verbal or otherwise, of the parties or their agents shall become valid or enforceable unless contained in this Agreement.

IX. MAINTENANCE OF RECORDS

The *Mescalero Apache Tribe* agree to maintain, store, protect and safeguard records setting forth the Mescalero Apache Tribe's standards and criteria for verifying competencies described in Paragraph IV C above. The *Mescalero Apache Tribe* agrees to permit inspection of these standards and criteria by the Secretary of Education or her/his designee.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS Agreement as of the most recent date of both signatures appearing below.

THE Mescalero Apache Tribe

Mark A. Chino, PRESIDENT
[Name and Title of Tribal Official]

Jan. 23, 2006
DATE

STATE OF NEW MEXICO
PUBLIC EDUCATION DEPARTMENT

Veronica C. Garcia
Dr. Veronica C. Garcia
SECRETARY OF EDUCATION

Feb 2, 2006
DATE

**MESCALERO APACHE TRIBE
MESCALERO, NEW MEXICO**

RESOLUTION NO. 05-70

WHEREAS, the Mescalero Apache Tribe, an Indian Tribe organized under the Indian Reorganization Act of June 18, 1934 (25 U.S.C. Section §476) and under its Revised Constitution has full power and authority to act for the Tribe, and

WHEREAS, the Mescalero Apache Tribal Council has full power and authority to authorize the President to negotiate contracts, leases and agreements of every description not inconsistent with Federal law or with the Revised Constitution of the Mescalero Apache Tribe pursuant to Article XI, Section 1(f) of the Revised Constitution of the Mescalero Apache Tribe. and

WHEREAS, the Mescalero Apache Tribal Council has the power and authority to negotiate with federal, state or local governments pursuant to Article XI, Section 1(j) of the Revised Constitution of the Mescalero Apache Tribe, and

WHEREAS, the preservation of the Apache language is of the utmost importance to the Tribe and the Tribal Council, and

WHEREAS, the Tribal Council wishes to enter into a Memorandum of Agreement with the New Mexico State Public Education Department to provide for the licensure of teachers of the Apache language, a copy of which is attached hereto as Exhibit "A."


NOW, THEREFORE, BE IT RESOLVED that the President of the Mescalero Apache Tribe be and hereby is authorized and directed to execute and deliver the attached Memorandum of Agreement with the New Mexico State Public Education Department, and to enter into said agreement on behalf of the Tribe.



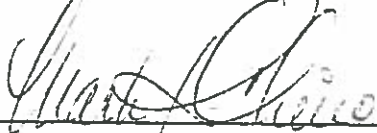
RESOLUTON NO. 05-70

CERTIFICATION

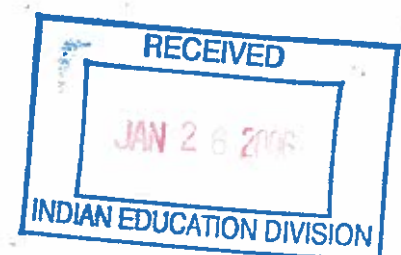
The foregoing enactment of the Mescalero Apache Tribal Council is duly adopted and approved on the December 6, 2005, at legally called session of the Mescalero Apache Tribal Council, by a vote 7 for and 0 against, with 0 abstaining, at which a quorum was present and at which a majority of the members voted in favor thereof. This enactment is approved by the President of the Mescalero Apache Tribe under authority of Article XII, Section 1, of the Revised Constitution.



Naomi Sainz, Secretary



Mark R. Chino, President



Level I Certification for the Mescalero Apache Tribe Language and Culture

Section A:

Persons seeking certification must meet these requirements to receive an endorsement from the Mescalero Apache Tribe as determined by the following criteria.

1. Mescalero Apache Tribal Member (CIB proof)
2. Must be over 18 years of age.
3. Must demonstrate fluency and accuracy of the language and culture before the Mescalero Apache Language and Culture Committee.
 - a. Candidate will tell a story or speak about a subject of their choice in Mescalero Apache for 5 minutes and/or
 - b. Will be observed in the classroom delivering instruction in the Apache language in a natural classroom environment by the Language Team. The classroom observations may be announced.
 - c. Candidate will answer five questions in Mescalero Apache as asked by the Language and Culture Committee.
4. Must comply with New Mexico State Standards, as stated in Roman Numeral IV Part B of the Memorandum of Agreement.
5. Must have lived in the Mescalero community for a period of 5 (five) consecutive years, prior to submitting application.

Section B:

Criteria for Mescalero Apache Language teachers:

1. Have knowledge of common cultural activities, language, tribal protocol, practices, and history of the Mescalero Apache.
2. Have knowledge of policies of the school or program where the Mescalero Apache language will be taught. (i.e., leave, staff meetings, confidentiality, etc.)
3. Have knowledge of procedures of the school/program where Mescalero Apache teaching will occur. (i.e., fire drills, attendance, students discipline, etc.)
4. Have ability to coordinate and communicate with teachers, parents regarding student progress, student needs, language acquisition, and Mescalero Apache language culture and history.

COPY

5. Have ability to coordinate and assist with developing materials and planning lessons and Mescalero Apache writing, where applicable.
6. Must continue to show proof of involvement in college classes and professional development activities and events. (Elders 55 and over must show professional development activities and events).
7. Have knowledge of classroom management strategies and skills.
8. Must submit portfolio of evidence showing, photos, sample lesson plans, etc.

Level II Certification for the Mescalero Apache Language and Culture

Section A:

Person seeking Level II Certification must meet the following requirements:

1. Must have successfully met and completed all requirements in Level I.
2. Have satisfactory teacher performance evaluations during employment at Level I and have the recommendation and approval of the school superintendent or designee.
3. Level II certification may be granted at any time the candidate is recommended by the Language Licensure Committee.
4. Must have completed one school semester of mentoring with another Apache language teacher.

Level III Certification for the Mescalero Apache Language and Culture

All Apache Language Teachers may stay at Level II for the remainder of their career. Any teacher wanting to move to level III must have successfully met the criteria for level I and II and obtain a Master's in Education or a similar field.

Appeal Process

Should a candidate be denied a recommendation for licensure upon meeting the Mescalero Apache Language Licensure Committee's standards and criteria, the following procedure can be followed:

1. An appeal letter must be submitted to the Mescalero Apache Tribal Council Education Committee within two (2) weeks of denial.
2. Upon receiving an appeal letter the Education Committee has two (two) weeks to set a date for a hearing.
3. The Education Committee will render a decision within ten (10) business

days.

The decision of the Mescalero Apache Tribal Council Education Committee shall be final and not subject to further appeal.

