

# DRAFT

## 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 *[Tribe]* hereinafter referred to as the *[Tribe]*.

WHEREAS, the NMPED recognizes the unique role and sovereignty of the *[Tribe]* in establishing standards and criteria for, and determining competency of, persons seeking certification in Native American Language and Culture, K-12;

NOW, THEREFORE, the NMPED and the *[Tribe]* do hereby agree as follows:

### I. SCOPE OF AGREEMENT

The NMPED and the *[Tribe]* desire to effectuate an agreement whereby the *[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-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 *[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 Ms. Penny Bird, Assistant Secretary of Education for Indian Education.

B. The *[Tribe]* acknowledges that its verification pursuant to this Agreement does not ensure that an individual will be certified pursuant to the NMPED rule governing Certification in Native American Language and Culture, K-12. In addition to the verification by the *[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*).

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C. The *[Tribe]* will perform the following activities pursuant to this Agreement:

1. The *[Tribe]* shall develop and maintain standards and criteria for determining competency to teach the language and culture of the *[Tribe]*. These standards, criteria and competencies shall not be subject to review and approval by the NMPED.
2. The *[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 *[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 *[Tribe]*, or a denial of 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 *[Tribe]*, or failure to meet those standards and criteria. The verification or denial of verification by the *[Tribe]* shall be final and not subject to appeal to or review by the NMPED.
4. Upon receipt of written verification from the *[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 *[Tribe]* shall develop an appeal procedure for individuals whose verification of meeting the *[Tribe's]* standards and criteria has been denied. The decision of the *[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 *[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 Paragraphs IV D, 2 and 3 below, to request a hearing before the NMPED. The NMPED shall not entertain any appeals based upon the *[Tribe's]* determination that the applicant has failed to meet standards and criteria for language and culture.

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2. The scope of any hearing held by NMPED shall be limited to:
  - (a) the *[Tribe's]* use or failure to use its own appeal procedure in denying initial or renewed verification that a person has met the *[Tribe's]* standards and criteria;
  - (b) nonpayment of the NMPED's application fee pursuant to 6.60.7 NMAC (*Educator Licensure Application Fee*),
  - (c) failure to submit to 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 violates 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 *[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 *[Tribe]*. These standards, criteria and competencies for renewed certification shall not be subject to review and approval by the NMPED. The *[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 *[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.

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## VIII. 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 *[Tribe]* agree to maintain, store, protect and safeguard records setting forth the *[Tribe's]* standards and criteria for verifying competencies described in Paragraph IV C above. The *[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 *[Tribe]***

\_\_\_\_\_  
*[Name and Title of Tribal Official]*

\_\_\_\_\_  
DATE

**STATE OF NEW MEXICO  
PUBLIC EDUCATION DEPARTMENT**

\_\_\_\_\_  
SECRETARY OF EDUCATION

\_\_\_\_\_  
DATE