

Questions About Requirements and Law

1. Under what authority are the equity councils being established?

The Superintendent's or Executive Director's Equity Councils are established under the authority of the Court's decision in the *Martinez* and *Yazzie* consolidated lawsuit.

2. What authority do the equity councils have?

Superintendent's or Executive Director's Equity Councils are advisories that focus on assisting school districts and charter schools with actions that are responsive to the Court's order in the *Martinez* and *Yazzie* consolidated lawsuit.

3. Is this required for every school?

Yes. Every district, its schools, and all charter schools in New Mexico must participate.

4. Is the creation of the equity councils mandatory?

Part of the State's response to the specific findings in the Court's decision in the *Martinez* and *Yazzie* consolidated lawsuit is to take immediate remedial action, which includes the establishment of Superintendent's or Executive Director's Equity Councils.

5. If so, what is the penalty for not appointing?

While the department is currently reviewing what actions it might take if the Superintendent's or Executive Director's Equity Council is not created, establishing an equity council will help school districts and charter schools prepare for additional activities that will be required under revised mandatory reporting requirements effective in 2021. It should also be noted that the Court's order in the *Martinez* and *Yazzie* consolidated lawsuit requires the State to take immediate remedial action and the required establishment of Superintendent's or Executive Director's Equity Councils is an important part of the State's action in response to that direction from the Court.

6. Why is this happening now and not at start of the 2020-2021 school year?

Judge Singleton's ruling requires immediate implementation and the need to support the development of systems and key strategies for full implementation.

7. Why do we need to complete this work?

Judge Singleton's decision in the *Martinez* and *Yazzie* consolidated lawsuit highlighted that New Mexico has failed to meet the legal provisions of the Indian Education Act (IEA), the Hispanic Education Act (HEA), the Bilingual Multicultural Education Act (BMEA), and the federal Individuals with Disabilities Education Act (IDEA) as well as Office of Civil Rights (OCR) requirements for English Learners (ELs) under Title VI of the Civil Rights Act of 1964. As such, the NMPED, school districts and schools must come into compliance with these laws.

8. Are there plans to enact legislation for districts to have Equity Councils?

The NMPED plans to formalize in New Mexico Administrative Code (NMAC).

9. How do districts and charters provide a main contact for the Equity Council work to the NMPED?

The NMPED has provided a link in SharePoint so that it may be linked to STARS and other NMPED information systems. The form will ask who the contact is, who the equity council members are, and how the council was chosen/created.

10. What is the definition of an at-risk student?

In New Mexico and in reference to the Martinez/Yazzie consolidated lawsuit, at-risk means: Native American students, students with disabilities, students who are English learners, economically disadvantaged students, and students who are highly mobile.

11. Do Native Americans have to be registered with a tribe/pueblo, or can they simply self-identify?

Superintendent's and Executive Director's Equity Councils are being established as one of many efforts to respond to the Court's order in the Martinez and Yazzie consolidated lawsuit, which required better and more complete implementation of the Indian Education Act. The Act focuses on helping "tribal students." "Tribal" is defined as "pertaining to urban Indians who are residents of New Mexico or an Indian tribe, nation, or pueblo located in the state." "Urban Indian," in turn, means a member of a federally recognized tribe or an Alaskan native who lives in an off-reservation urban area and who is a resident of New Mexico. Therefore, a person claiming Native American status for these purposes should be registered with a tribe, nation, or pueblo.

Questions About Roles and Responsibilities

12. Why are the equity councils named "Superintendent's and Executive Director's Equity Council"?

The Department is requiring the establishment of a Superintendent's or Executive Director's Equity Council, at the school district- or charter school-level, because the duties of school district or charter school administrative leaders are more broadly defined than those of a school board or charter governing body, and span finance, management, operations, and programs.

13. Who is responsible for appointing the equity councils?

Districts and charters are responsible for determining the processes for appointing council members. Department guidance notes that "school districts and charter schools must establish a fair and transparent process for the selection of the Superintendent's [or] Executive Director's Equity Council members and shall post an explanation of that process on the school district's or charter school's website."

14. Who do the equity councils report to?

The Superintendent's or Executive Director's Equity Councils are a school district- or charter school-level advisory body that will report to school districts' and charter schools' administrative leadership.

15. Can boards appoint the equity councils?

Districts and charters are responsible for determining the processes (aligned to established local practices) for appointing council members. Department guidance notes that school districts and charter schools are required to "establish a fair and transparent process for the selection of the Superintendent's [or] Executive Director's Equity Council members." That fair and transparent process should be used to identify members of a Superintendent's or Executive Director's Equity Council.

16. Can boards appoint themselves as the council?

Superintendent's or Executive Director's Equity Councils are advisory bodies that will address actions in response to the Court's decision in the *Martinez* and *Yazzie* consolidated lawsuit. The guidance provided by the Department to school district and charter school leaders regarding the establishment of Superintendent's or Executive Director's Equity Councils provides that school district and charter school leaders and school districts and charter schools are required to "establish a fair and transparent process for the selection of the Superintendent's [or] Executive Director's Equity Council members." The guidance provided by the Department to school district and charter school leaders regarding the establishment of Superintendent's or Executive Director's Equity Councils describes the required composition of a Superintendent's or Executive Director's Equity Council, including the maximum number of members and the demographics that are required to be represented on the council. The Department's guidance regarding the make-up of a Superintendent's or Executive Director's Equity Council should be adhered to as equity councils are established.

It should be noted that if more than one school board member is named to a Superintendent's or Executive Director's Equity Council, those members should take care to ensure that the provisions of the Open Meetings Act are followed, particularly those related to the establishment of a quorum.

17. Who is responsible for this work at the district or charter school?

The Superintendent's or Executive Director's Equity Council is responsible for advising the district/charter school's actions and solutions in response to *Martinez* and *Yazzie*. Ultimately, implementation is a collective effort .

18. Who chooses/appoints the district equity council coordinator/lead?

The superintendent or charter school executive director chooses/appoints the district equity council coordinator/lead.

19. Does the district equity council coordinator/lead count as one of the 15 members of the equity council?

The district coordinator/lead does not count as one of the 15 council members.

20. Is the district or charter contact person a position will also be rotated out after 3-4 years?

As it is the local school district or charter school who will be providing the department with the Equity Council contact, the particulars of how and when those persons are selected would be up to the discretion of the school districts, schools, and their respective Superintendent's or Executive Director's Equity Council.

21. How will the State ensure that all districts are accurately represented on the NMPED Equity Team?

Equity Councils are only at the local level. The NMPED equity team is made up of internal, State of New Mexico employees.

22. Is there school board representation on the State Equity Team?

The Public Education Department's Equity Team is made up of Department staff members only.

23. What the deliverables from the Equity Council?

The current deliverables are as follows:

- By February 3, 2020 (this deadline has been extended to March 1), the completion of the required Martinez and Yazzie Readiness Assessment.
- By April 1, 2020, based on the completed Martinez and Yazzie Readiness Assessment, the creation of a district- or charter-level Equity Plan to support school transformation to align with the Department's goals in implementing the court's decision.
- By June 30, 2020, the creation and implementation of a culturally and linguistically responsive (CLR) framework for schools.
- By July 15, 2020, a report describing the school district's or charter school's system for, and tracking of, funding and uses of funding to improve outcomes for at-risk students, Native American students, students with disabilities, students who are English learners, economically disadvantaged students, and highly mobile students.

For more information, please check the Martinez/Yazzie webpage periodically for updates:

<https://webnew.ped.state.nm.us/martinez-and-yazzie-consolidated-lawsuit-updates/>

24. How many times a year are the equity councils required to meet?

Equity Councils should meet as often as needed to complete the deliverables (see question above regarding deliverables.)

25. Is identifying a student as representing "students with disabilities" on the Equity Council a FERPA violation?

Districts and charters should obtain parental¹ permission for students to participate on the Equity Council and for the name of the students to be listed on the district or charter's website as participating on the council.

Districts and charters cannot supply a student's identification number, access to the student's record, or any confidential information relating to children with disabilities who receive evaluations, services, or other benefits under the Individuals with Disabilities Education Act.

26. Can the Equity Council take the place of Parent Advisory Councils for other programs?

No. The work and deliverables of the Equity Councils are specific to the Martinez/Yazzie consolidated lawsuit. Members of the Equity Council represent staff members, students, experts, community members, and parents.

¹ Parent means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.

Questions About Consortiums or MOUs

27. Can districts and charter schools work together?

Yes. Districts and charter schools may form consortia to better leverage resources, share best practices, and meet the needs of students. Such consortia must be formalized through Memoranda of Understanding.

28. If we work with another charter school, do we create one equity council, or two equity councils that work together?

This is a local decision and if the decision is to form one council, it must be formalized through a consortium agreement.

Questions About Resources and Support

29. Who do we ask at PED if we have ongoing questions or suggestions or model programs to share?

Please reach out to Mayra Valtierrez, at Mayra.Valtierrez@state.nm.us, for questions specific to the four-part strategy, a model program, or resources to share.

30. Are there facilitation guidelines for developing and nurturing the equity councils?

The NMPED will provide guidance on how to develop and nurture equity councils. Please check the Martinez and Yazzie webpage periodically.

31. Are there examples of teams that are already in place?

The Albuquerque Public Schools and Santa Fe Public Schools districts have begun working to establish equity councils.

32. Can PED implement a pilot program to show success and share with other districts prior to mandatory appointment by all districts?

Compliance with the Court's order in the *Martinez* and *Yazzie* consolidated lawsuit needs to be achieved by all school districts and charter schools in the State. Each Local Education Agency's responses and readiness and implementation of compliance measures will vary based on the character and needs of each Local Education Agency. A statewide response to the Court's order in the *Martinez* and *Yazzie* consolidated lawsuit is necessary, and the measures undertaken by each school district or charter school must be responsive to local needs.

33. Will the NMPED share an exemplar framework?

Yes. Please check the *Martinez and Yazzie* webpage for resources.

Questions About Funding

34. What funding is available for this work?

Districts and charter schools, through their Equity Councils, should undertake a review of resources to determine needs for FY 2021.

35. Are there other things districts and charters can be doing in addition to the Equity Council appointments?

Districts and charters can think about the measures necessary to align with the Department's Martinez and Yazzie initiatives, including the school district's or charter school's ongoing implementation of and compliance with the IEA, HEA, BMEA, IDEA and OCR requirements for ELs.

36. Can Districts move at a more reasonable time frame in appointing equity councils?

The work of Superintendent's and Executive Director's Equity Councils aligns with programmatic and financial planning for the 2020-2021 school year and timelines for the establishment and work of a Superintendent's or Executive Director's Equity Council are closely tied to that planning. The Public Education Department will work, on a case-by-case basis, with school districts or charter schools that have concerns regarding the establishment of a Superintendent's or Executive Director's Equity Council.

Questions About Equity Council Appointments, Representation, Terms, Replacements

37. What is the rationale for size and terms of council members?

The size of a Superintendent's or Executive Director's Equity Council should be determined by a Local Education Agency, while accounting for the requirements in the guidance provided by the Department to school districts and charter schools regarding the establishment of a Superintendent's or Executive Director's Equity Council. As described in the guidance provided by the Department to school districts and charter schools, a Superintendent's or Executive Director's Equity Council is limited to no more than 15 members and must meet all other membership requirements explained in that guidance. The required length and staggering of terms described in the guidance provided by the Department to school districts and charter schools regarding the establishment of a Superintendent's or Executive Director's Equity Council is aimed at providing stability for a Superintendent's or Executive Director's Equity Council.

38. Will the NMPED provide a template for the application/rubric etc.?

Yes, please check the *Martinez and Yazzie* webpage.

39. What does "represents" mean in terms of the required equity council membership?

A member can be community member or an advocate that works in an organization that advocates for one of the four student groups named in the *Martinez and Yazzie* consolidated lawsuit. In terms of representing a Nation, Tribe, or Pueblo, they would need to be a member of the Nation, Tribe, or Pueblo with a significant population of students in the district or charter school.

40. What if our school population does not include one of the membership categories?

Districts and charters must ensure that all four of the student groups are represented.

41. What happens when equity council members move on?

Fill seats ASAP using the same, original, transparent process.

42. Membership requirements seem to be a challenge...is there a way to get input through more of a participatory process?

The Equity Council is at the core of the work, but districts and charters can engage as many voices as needed.

43. What is the age requirement of the student representatives on the Equity Council?

This is a local district decision.

44. Is the member from the Tribe or Nation appointed by the Tribe?

Districts and charters should engage in Tribal consultation and collaboration when choosing representatives.

45. Can one member represent more than 1 required group?

All of the required members must be represented.

46. Is it 15 members + the Superintendent or is the Superintendent one of the 15?

PED guidance on the Superintendent's or Executive Director's Equity Councils indicates it be composed of no more than 15 *members* to include representatives of the required student subgroups, parents and family members, community members and members of Nations, Tribes, and Pueblos. Superintendents would be in addition to that required membership.

For questions, concerns or suggestions, email: YazzieM.Inquiry@state.nm.us