





The State of New Mexico
Identity, Equity, and Transformation Division
Language and Culture Division
The Hispanic Education Act Guidance Handbook

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Required Notice

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Notes

This Guidance Handbook may be periodically updated to reflect the changes to statute and regulation that may impact guidance. When such updates or revisions occur, they will be noted. This document is available on the NMPED website under Language and Culture Division (LCD) at <https://webnew.ped.state.nm.us/bureaus/languageandculture/>.

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This manual, and other resources, can be found on the Language and Culture Division's (LCD) webpage on the PED's website at:

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Hispanic Education Act Guidance Handbook

Serving New Mexico’s Hispanic Students

The land we now consider New Mexico has long been home to people of Hispanic or Latino descent, with Hispanic people comprising nearly half of the total population today. Recently, the U.S. Census Bureau (2021) reported that 49.3% of the state’s total population self-identifies as Hispanic or Latino. Roughly 62% of students in New Mexico public schools, or about three out of every five students, are Hispanic (New Mexico Vistas, 2021).

Demographically, New Mexico prefigures the population shift that will occur across the nation in coming decades. The number of Hispanics or Latinos in the United States is projected to almost double within the next forty years, and one in every three people is expected to identify as non-white (Vespa et al., 2020). With these demographic changes, Hispanic people will continue to play a critical if not much more visible role in our communities—in business, science, healthcare, government, education, and every other field. The future of New Mexico and the rest of the nation depends on our children, and so ensuring all children, including Hispanic children, receive a culturally and linguistically responsive education that prepares them for life in the twenty-first century is crucial.

The Hispanic Education Act (HEA), signed into law in 2010, focuses on improving the educational success and post-secondary attainment of Hispanic students in New Mexico. The HEA is an outcome of the reality that Hispanic students have often been inadequately resourced throughout the state, both in our schools and in our communities. As a 2020 New Mexico Voices for Children report points out, many of the disparities among minoritized communities in our state are not natural but the “direct result of institutional and systemic racism and the discriminatory policies that have determined who does and does not have access to income and wealth-building opportunities” (Knight, 2020, p. 5).

22-23B-2. Purpose

The purpose of the Hispanic Education Act is to:

- A. provide for the study, development and implementation of educational systems that affect the educational success of Hispanic students to close the achievement gap and increase graduation rates;
- B. encourage and foster parental involvement in the education of their children; and
- C. provide mechanisms for parents, community and business organizations, public schools, school districts, charter schools, public post-secondary educational institutions, the department and state and local policymakers to work together to improve educational opportunities for Hispanic students for the purpose of closing the achievement gap,

increasing graduation rates and increasing post-secondary enrollment, retention and completion.

Who Are Hispanic Students?

How to implement the HEA might seem exceptionally difficult for districts and charter schools to determine given both the majority status of Hispanic students and the ambiguity of the ethnic category. Hispanics, as scholar of education Angela Valenzuela (2016) states, “can be of any race, and they differ by class, language, dialect, linguistic fluency in English and Spanish, region of the country from which they emanate, documentation status and generational status in the United States (p. 17).” In other words, Hispanic students may be Black or they may be Indigenous; they may also be Black and Indigenous or Asian American. Hispanic students may speak a dialect of Spanish or no Spanish at all. They may be immigrants or they may have multigenerational roots in the land we now consider the United States.

Some of New Mexico’s Hispanic students may prefer to use terms like Latina or Latino, rather than Hispanic, to describe themselves. Others may choose to use Latinx over Hispanic.¹ The pan-ethnic category of Hispanic describes a heterogeneous group of people who, together, represent a spectrum of cultures and carry a multitude of lived experiences. For districts and charter schools, administrators, teachers, and other school staff, determining which targeted interventions and supports would most benefit Hispanic students largely depends on the intersectional needs of these students.

Given the purpose of the HEA, guidance issued by the New Mexico Public Education Department’s Language and Culture Division aims to assist districts and charter schools in working to serve Hispanic students by providing a critical lens for understanding just how diverse self-identifying Hispanic students, families, and communities of New Mexico are. A critical lens will aid districts and charter schools in responding to the needs of Hispanic students with more intentionality and specific care. The emphasis the HEA places on fostering greater parental involvement and building partnerships between community and business organizations, districts, schools, and post-secondary institutions should serve as a reminder that it indeed takes a village, as the saying goes, to meet the needs of our students, whether those needs are academic, emotional, social or cultural.

The Federal Definition of Hispanic

The history of the federal category Hispanic underscores the importance of acquiring data about the individuals who claim Hispanic ethnicity, and, at the same time, creates opportunities to discuss the term’s pitfalls when it comes to implementing policy.

¹ A 2020 Pew Research report states that Hispanic women between the ages of 18-29 are the most likely to use the term Latinx (Noe-Bustamante, et al).

Today, agencies like the United States Census Bureau are required to follow the Office of Management and Budget's (OMB) Statistical Policy Directives, which are designed to ensure the quality and consistency of federal data. The OMB's Statistical Policy Directive No. 15, Race and Ethnic Standards for Federal Statistics and Administrative Reporting, emerged as part of the federal government's "new responsibilities to enforce civil rights laws" by the end of the long Civil Rights Movement era, in 1977 (Office of Management and Budget, 1997, p. 2).

Directive No. 15, since revised, stipulates that the minimum standard categories for collecting data on race and ethnicity include five racial categories (American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, and White) and two ethnic categories (Hispanic or Latino and Not Hispanic or Latino).² The categories, according to the OMB, "represent a social-political construct designed for collecting data on the race and ethnicity of broad population groups in this country and are not anthropologically or scientifically based" (Office of Management and Budget, 1997, pp. 2-3). In effect, the federal government acknowledges that the categories upon which it relies for collecting data have no biological foundations.

The OMB defines a Hispanic or Latino as "a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race" ("About Hispanic Origin," 2022). This means that any person who self-identifies as Hispanic or Latino may also self-identify as one or more of the five minimum racial categories. The OMB's definition of Hispanic has largely remained unchanged since its initial adoption in 1977.



However, the OMB changed the standard category from the standalone term of Hispanic to "Hispanic or Latino" after the OMB conducted a comprehensive review of Directive No. 15 in collaboration with the Interagency Committee for the Review of the Racial and Ethnic Standards in 1997.³ In addition to modifying the official terminology to Hispanic or Latino, the OMB decided the use of "Spanish Origin" is also an acceptable means of describing Hispanics.

² On the topic of the original 1977 Directive No. 15, scholars Silvio Torres-Saillant and Nancy Kang (2017) posit, "U.S. Hispanics thus became an 'ethnicity' as opposed to other four subdivisions that consisted of 'races' in the original taxonomy that the U.S. Census Bureau would recognize. Yet, one wonders how Asian Americans can constitute a single 'race' given that the configuration of ancestries and phenotypes in their midst appears at least equally diverse" (p. 175).

³ The review conducted by the OMB in collaboration with the Interagency Committee was prompted by criticism that the minimum categories previously used by the federal government did not reflect the heterogeneity of the United States. Other revisions to the former standard categories included breaking the Asian or Pacific Islander category into two categories—one titled "Asian" and the other "Native Hawaiian or Other Pacific Islander." The separation of these two terms expanded the minimum number of racial categories from four categories to five.

The U.S. Department of Education (ED) published its own guidance for educational institutions and other ED grant recipients on collecting, maintaining, and aggregating the racial and ethnic data of students and staff in 2007. The ED’s “Final Guidance on Maintaining, Collecting, and Reporting Racial and Ethnic Data to the U.S Department of Education” aligns with the decisions reached by the OMB. Educational institutions and other grant recipients must use a two-part question to collect data on race and ethnicity. The first part of the question should ask about the student or staff person’s ethnicity, that is, whether they are Hispanic or Latino. The second part should ask respondents to indicate their race or races from the five categories recognized by the OMB. The ED also specifies that, at the elementary and secondary level, parents and guardians should identify their student’s race and ethnicity instead of the student.

District and charter school personnel may be aware of the federal requirements for collecting, maintaining, and reporting data on race and ethnicity, but the conditions that initiated these processes, especially as they pertain to Hispanics, are probably less familiar to folks working in the field of education. The following section provides a brief history on the origins of the federal category Hispanic, which should elucidate how the term came to represent an extremely diverse population in the United States.

Origins of the Federal Category

Statistics shape policy, but policy also shapes statistics. The origin of the federal category of Hispanic is a case in point. There was no standard method for collecting, maintaining, and reporting data about people of Hispanic or Latino descent on behalf of the federal government prior to the Civil Rights era. For years, people of Mexican descent—the largest Hispanic population in the nation—were considered white by U.S. Census enumerators, unless the logics of race that existed at the time otherwise led them to believe the person was of a different race.

The U.S. Census Bureau made one attempt, in 1930, to track the number of people of Mexican descent in the United States by making “Mexican” a racial category. A report from the Pew Research Center suggests the increase in Mexican immigration following the Mexican Revolution (1910-1920) inspired the addition of Mexican as a racial category to the 1930 census (Parker et al., 2016). The addition of the new category coincided with government sanctioned efforts to deport people of Mexican descent, many of whom were citizens of the United States.⁴ The U.S. Census Bureau eliminated the Mexican census category in 1940 after leaders in the Hispanic community called for its removal.

During the 1970s, Hispanic leaders and activists demanded data collection methods that would more accurately document the ways people of Hispanic or Latino descent encountered systems of oppression in their daily lives. Requests for an alternate category that would draw attention

⁴ In 2006, the state of California formally apologized for the nation’s campaign to deport people of Mexican descent, recognizing that approximately 2 million people were deported from the United States and more than half the total number of individuals deported were US citizens in SB-670 Mexican repatriation program of the 1930s, also known as the [Apology Act for the 1930s Mexican Repatriation Program](#).

to social inequities was largely an outcome of the Civil Rights Movement and increased critical consciousness about systemic racism and oppression in the United States. In 1976, Public Law 94-311 mandated the development of new data collection methods and was passed only after Mexican Americans, Puerto Ricans, and Cuban Americans called on the federal government to collect and publish data about their communities; the law required the federal government to collect and analyze data on people who could “trace their origin or descent from Mexico, Puerto Rico, Cuba, Central and South American, and other Spanish-speaking countries.”

At the time, while many activists, policymakers, and other stakeholders recognized the need for a category that would represent people of Hispanic or Latino heritage, they also realized that no single category would fully describe a group of people who descended from various regions with similar but unique colonial histories and whose lives were impacted by factors like racism and poverty in different ways. Sociologist G. Cristina Mora (2014) writes that the backgrounds and concerns of the largest national Hispanic groups (Mexican Americans, Puerto Ricans, and Cubans) varied; they were “so distinct in terms of geography, political agenda, and cultural understanding of race that coming together to identify and organize under a common category could very likely have remained unthinkable” (Mora, 2014, p. 5). For Mora, part of what has made Hispanic pan-ethnicity useful for these different groups of people is its ambiguity. At the same, the ambiguity of the category has elided key differences that exist among people of Hispanic descent.

Hispanics and Federal Racial Categories

Some scholars link the emergence of modern concepts of race to the so-called discovery of the Americas and the rise of global capitalism. By the eighteenth century, race became a codified method for seizing lands and enslaving people, often in the name of empire building and the accumulation of wealth. Referencing the work of Howard Winant (2000) in “The Social Funding of Race: The Role of Schooling,” scholar of education Gloria Ladson-Billings (2017) writes, “As nation-states began to participate in a worldwide economy—seaborne empires, conquest of the Americas, and the rise of the Atlantic slave trade—the development of race became a practical project to create an ‘Other’ whose threat and necessity could be integrated and deployed into every aspect of society (p. 2). In other words, race became a tool that could be used to justify enslavement and the appropriation of lands. Attempts to scientifically classify the world in the eighteenth and nineteenth centuries further refined notions of race, as characteristics like skin color and phenotype were used to stratify groups of people. Ordering people and things and maintaining records about supposedly ‘new’ species and human cultures according to a logic rooted in Europe became a method of asserting power (Smith, 2012; James and Burgos, 2020).

Though a construct, race continues to have numerous real consequences for people across the United States to this day. Notions of racial difference were upheld and made more salient by the law and thus ensured that power and wealth was maintained by some racialized groups and not others. While historian and activist W.E.B DuBois (1903/1994) stated the “problem of the Twentieth Century is the problem of the color-line,” the first two decades of the twenty-first

century show that race continues to affect how people live—their (in)access to healthcare, education, housing, voting rights, jobs, etc.—and, frankly, how people die. To say that race is merely a construct and therefore does not matter is to ignore the material effects that racism has on everyday life. On the topic of race versus racism, law and sociology professor Laura E. Gómez (2020) writes, “...what we as interacting humans make up, create, or invent has power in our lives. To put it more bluntly: race isn’t real, but racism is” (p. 5).

Hispanic people may or may not identify with any of the race categories recognized by the federal government given their lived experiences. Critics of the current federal race and ethnicity self-identification process have noted that, while self-identification provides individuals with an opportunity to express their own identities, this practice can hinder the capacity of federal, state, and local governments to work on behalf of historically marginalized populations when folks who experience the world as white people—beneficiaries of a system that privileges whiteness—claim non-white identities. Sociologist Nancy López (n.d.) argues in her essay “What is ‘Street Race’?: Street Race Explained For Identifying and Eliminating Inequality” that a more effective method for collecting data on race would ask individuals to indicate their “street race,” that is, the race that people on the street might assign an individual based on their appearance. López asserts that street race would allow us to better track racism and injustice because it accounts the ways in which light-skinned Hispanic people might receive different treatment than Hispanic people with darker skin. For López, the concept of street race recognizes the complex ways race, though a construct, impacts people’s daily lives. Because the federal term Hispanic refers to ethnicity, not race, it is crucial to remember that race affects Hispanics who experience the world as white people quite differently than Hispanic people who experience the world as Black or brown people. For people who self-identify as Hispanic, the reality that people of the same ethnicity experience the world differently based on their skin tone may be unsettling. However, many people deal with this reality on a daily basis.

Proximity to whiteness has often been, though not always, socially, economically, and politically advantageous for people of Hispanic descent. A recent Pew Research Center report states, for instance, that “Hispanics in the U.S. may face discrimination because they are Hispanic (a form of racism), but the degree of discrimination may vary based on skin color, with those of darker shades experiencing more incidents (a form of colorism)” (Noe-Bustamante et al., 2021). Preferential and discriminatory treatment based on skin tone often takes the form of colorism among non-white communities, even in New Mexico. Colorism refers to preference for lighter skin and what were long considered traditional European phenotypes over darker skin and what were considered non-European phenotypes. Colorism is an extension of racism that exists throughout the United States and Latin America, where modern concepts of race were established within similar though often competing settler colonial projects that have relied on assimilation, anti-Blackness, and Indigenous genocide.

New Mexico's Hispanic Category

Federal reporting requirements comply with the Every Student Succeeds Act (ESSA). ESSA requires that any student who is reported as Hispanic must be counted as Hispanic, no matter the student's reported race. By contrast, New Mexico statute requires that the Hispanic category be considered equivalent to other racial categories. Under New Mexico classification standards, students who identify as Hispanic and White and no other race are



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recoded as Hispanic. Put differently, the only students recoded as Hispanic under New Mexico classification standards are those who report only White and are not reported as any other race. In other cases where students identify as one or more races and identify as Hispanic, students are counted among the racial group reported (American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander). It has been speculated that the New Mexico classification system is more responsive to students in other minoritized populations, identifying more students who are Black, Asian, Native American, and multi-racial to better serve and represent them.

Why the Nuances of Hispanic Identity Are Important in New Mexico

How race is understood and maintained in specific socio-historical contexts has complicated attempts to define Hispanic people in New Mexico. Some scholars have linked the Hispanic or Latino penchant for using terms that emphasize European ancestry over other identities (most notably the term “Spanish”) to the racism and xenophobia with which many people of Hispanic descent have had to contend in the United States. Historically, many people of Hispanic descent in New Mexico often rejected mainstream U.S. attempts to classify them with the English-language term “Mexican,” preferring terms like *Hispano*, *mexicano*, or *español* instead. In 1929, for instance, writer Ruth Laughlin Barker referenced the proclivity for New Mexico's Hispanic population to disassociate themselves from the term Mexican, citing the “contempt” Texans had attached to the word as part of the reason for Hispanic New Mexicans' preference for “Spanish-American” (p. 568). Historian John Nieto-Phillips (2000) has argued that claiming European, or Spanish American identity, allowed Hispanic people in New Mexico to achieve recognition that the broader population of the United States was often unwilling to grant them in the context of the late nineteenth and early twentieth centuries.

In New Mexico, it might be easy to focus on numbers and forget that Hispanic students descend from diverse linguistic and cultural backgrounds with lived experiences that are shaped by multiple intersecting social factors not only race and ethnicity. For educators, administrators, counselors, and other public education staff, it is important to keep in mind the complexities that shape Hispanic identity, because the lived experience of one Hispanic student may not mirror the

lived experiences of other Hispanic students. Today, some students may self-identify as Hispanic, while others may use terms like Afro-latino, Latinx, Chicana or Chicanx, dominicana, Guatemalan American or guatemalteco, or Honduran American, among numerous others, because they convey attachments to place or particular shared experiences. Yet even these categories fail to communicate differences that shape the lives of individuals who might otherwise be considered Hispanic.

Decades ago, law professor and Black feminist scholar Kimberlé Crenshaw coined the term intersectionality to describe how Black women are subject to multiple forms of oppression, neither solely on the basis of race nor gender. The term intersectionality has since been used in academia and, more recently, in the public sphere, as a framework for analyzing how overlapping systems of oppression such as racism, sexism, ableism, and transphobia influence people's lived experiences. For those of us working in service of K-12 students, an intersectional lens allows us to think critically about the complex systems all New Mexican students navigate and the multiple identities they may have; it is a methodology that can help us assess how the needs of some Hispanic students might not be the same as the needs of other Hispanic students. Understanding the nuances of Hispanic identity can help lead to changes that will foster more equitable learning environments and opportunities for our students.

Next Steps

The Language and Culture Division seeks to support districts and charter schools in educating students, families, and communities about the Hispanic Education Act so that their intersectional lived experiences, concerns, values, and ideas guide its implementation. Toward this end, the Language and Culture Division will be hosting a series of community listening sessions in the coming months to solicit feedback from communities across New Mexico and develop recommendations for more strategic implementation of the Hispanic Education Act. By listening to our communities, the Language and Culture Division hopes to learn how New Mexico public education can better support the academic success of our state's diverse Hispanic students.

Glossary of Terms & Acronyms

Terms & Acronyms	Interpretation
Culture	refers to socially acquired knowledge that may be learned and is shared among individuals in the home, community, and/or institutions.
Culturally and Linguistically Responsiveness	means validating and affirming an individual's home culture and language to create connections with other cultures and languages in various social contexts.
District	refers to a unit for administration of a public school system often comprising several towns within a state. There are 89 school districts in New Mexico, with Albuquerque Public Schools being the largest and Mosquero Municipal Schools being the least populated.
ED	refers to the United States Department of Education, an agency of the federal government that establishes policy and administers and coordinates most federal assistance to education. The agency assists the president in executing their education policies for the nation and in implementing education laws enacted by Congress.
ESSA	refers to the Every Student Succeeds Act, which reauthorizes the Elementary and Secondary Education Act of 1965 (ESEA) and was signed into law by President Obama on December 10, 2015.
HEA	refers to the Hispanic Education Act, which was signed into law in 2010
Hispanic or Latino	means a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race
LCD	refers to the Language and Culture Division
NMPED	refers to the New Mexico Public Education Department
OMB	refers to the Office of Management and Budget, a federal agency of the United States.

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United States National Hispanic and Latino Americans Heritage Month Image:

https://www.google.com/url?sa=i&url=https%3A%2F%2Fwww.pngwing.com%2Fen%2Ffree-png-yz0lj&psig=AOvVaw1zYPU2IJvJ1kxaedU_VLg&ust=1652998660392000&source=images&cd=vfe&ved=0CA0QjhXqFwoTCOi47YKK6vcCFQAAAAAdAAAAABAE