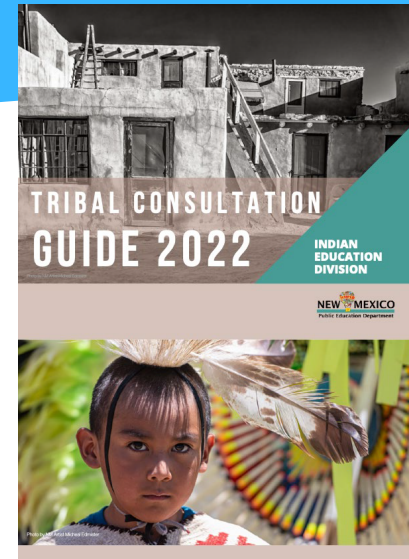


Tribal Consultation Guide 2022

Reference Guide

PURPOSE

The New Mexico Public Education Departments (NMPED) Tribal Consultation Guidance serves as a resource for New Mexico's Local Education Agencies (LEAs), School Administrators, School Boards, Educators, Tribal Leaders, and Tribal Departments of Education. This consultation guide is intended to proactively address the unique educational needs of New Mexico's Native American students, families, and communities by working together in the spirit of cooperation and collaboration. The State of New Mexico, NMPED, LEAs, and New Mexico's 24 federally recognized Native American Tribes, Nations, and Pueblos have a shared responsibility of ensuring that Native American students will become academically prepared for college, career, life, healthy, and secure in their identity.



This document provides an overview of federal and state statutes and regulations, details non-regulatory guidance, and provides the tools necessary to support successful tribal consultation efforts at the state and local levels. It is the goal of the department to ensure that tribal consultation is a priority at all levels that impact Native American students and families, especially when developing, implementing, and supporting impartial programs and services that will result in positive outcomes.

III. HISTORY OF INDIAN EDUCATION

Since the early decades of the 19th century indigenous people faced barriers established by federal and state education policies and law. Contrary to the inherent sovereign rights of tribes the implications of these policies and laws forced curriculum that neglects indigenous histories, culture, and language. This resulted in the loss of language, culture, and access to an adequate education – as a result the rate of dropout, proficiency scores, retention rates, and graduation are significantly poor in comparison to their non-native counterparts.

The treaties established between tribes and the U.S. Government included provisions on education. The Indian Civilization Act of 1819 implemented policies establishing and supporting Indian boarding schools across the country. Since the end of the treaty-making period (1871) and onward many federally operated Indian boarding schools were used to culturally assimilate Native American children. Native children were forcibly removed from their families and communities and relocated to distant residential facilities where their Native identities, languages, traditions, and beliefs were forcibly suppressed. The cruel and abusive conditions of these schools resulted in the trauma that resonates in many Native American communities.

The historical events outlined below provides an overview of landmark decisions that respect tribal sovereignty, including congressional actions pertaining the education of Native American children.

History of Indian Education timeline pg 7-12

Understanding Tribal Sovereignty PG 13

The United States is made up of three sovereign entities – the Federal government, State governments, and Tribal governments.

In New Mexico, treaties were negotiated between all tribes and pueblos and the federal government establishing legal and political status.

The tribe's authority to self-govern has been reaffirmed by the Supreme Court, Congress, Presidents of the United States and supported by numerous Treaties; the Supreme Court acknowledged that it is the oldest sovereign on the continent.

V. TRIBAL SOVEREIGNTY AND AUTHORITY

To ensure the local governing body and tribal entities are providing adequate services to students, and families tribal consultation shall be conducted. Tribal Consultation occurs between an executive member of the district or charter school (i.e., Superintendent, Associate Superintendent or Charter Leader) and the Tribal Leader or their designee (i.e., Tribal Governor, Lt. Governor, President, Vice-President, or Council member).

By guaranteeing that the ultimate authority and decision-makers are at the table when making decisions that impact tribal educational interests, tribal governments, tribal education departments, Native American students, parents, and families, and approved tribal organizations – is of utmost importance.

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¹⁵ USA GOV – Official Guide to Government Information and Services. (2020) Federally Recognized Indian Tribes and Resources for Native Americans. <https://www.usa.gov/tribes>

Conducting a consultation without the proper decision-making authority slows down the process considerably and may result in miscommunication and the deterioration of trust and relationships.

VI. PURPOSE OF TRIBAL CONSULTATION

With the passage and reauthorization of Every Student Succeeds Act (ESSA), the act established opportunities for states, districts, charters, and tribes to work together to strengthen education system and improve outcomes for Native American students throughout the country. The Tribal Consultation guide is intended to create a clear framework and path for tribes and school districts or schools to follow as mandated by law. The NMPED Indian Education Division (IED) is tasked with providing technical support to local education agencies (LEAs) and tribes as they navigate the process to increase opportunities for successful engagement and partnerships with stakeholders.

Tribal consultation is defined as *formal* when required by federal or state law or mandated by federal or state policy. ESSA and NM's Indian Education Act (IEA) require tribal consultation for NMPED and LEAs. NMPED's Collaboration and Communication Policy establishes agency requirements for government-to-government relations that are designed to achieve educational attainment for Native American students. All consultation with NM's 24 Tribes, Nations, and Pueblos is formal as set forth by federal and state laws.

Tribal Consultation as required by ESSA is intended to help develop relationships among state, tribal, and local educators, and officials. Specifically, establish grounds for a trusting relationship and foster transparent dialogue regarding the leverage of state or federal funds to meet the needs of Native American students and families. Tribal Consultations is meant to be an ongoing communication that can be held monthly, bimonthly, quarterly, and annually.

The effort to build these relationships leads to mutual understanding, respect, and consensus-based decision that results in collaborative efforts to develop appropriate curricula, programs, and services.

Purpose of Tribal Consultation Pg 15

COMPONENTS OF A SUCCESSFUL TRIBAL CONSULTATION

The following are recommended for a successful outcome Page 16

Consult early and often – prior to acting or finalizing decisions that may impact tribal education interests; conduct regular outreach to tribal governments, tribal departments of education with substantive data and information; accept feedback on the subject matter requiring consultation, or elements of the activity or decision to be made.

NMPED, school districts and charters, Tribal governments, tribal departments of education, and approved tribal organizations are encouraged to *share information early and often* as it applies to the educational success of Native American students.

Establish/create a list/agenda that identifies mutual educational priorities, issues, and responsibilities.

Ask tribal stakeholders for advice and collaboration on cultural awareness and diversity training for LEA leadership and administrators to foster, support, and sustain positive and productive government to government relationships.

Recognize and honor tribal sovereignty and tribal governmental authority as it relates to tribal educational priorities, educational issues, and challenges; and

All meetings including government to government (G2G) consultation should not conflict with tribal cultural calendars, feast days, and tribal holidays.

The NMPED and School Leaders should follow-up with tribal leaders to ensure that communication regarding decisions and consultation issues is timely while honoring tribal sovereignty and authority.

VII. SUGGESTED TRIBAL CONSULTATION MEETING PROTOCOL

The following is a suggested tool/format when conducting tribal consultations.

MEETING ONE	MEETING TWO	MEETING THREE	MEETING FOUR
Onboarding and Building Relationships Take the time to share, listen, and learn. Design meeting procedures and norms together. Create a list of active participants, list documents needed, and build a mechanism to share items openly and honestly. GOAL: Establish common understanding along with building trust.	Building Background and Information Sharing Gather all pertinent information that is important to everyone regarding tribal consultation. Ensure everyone has an opportunity to speak and that all voices are heard. Make a list of must-haves, agreements, and items that can be achieved together. Ask for continued feedback and proactive active listening.	Compliance, Funding, and Data Review Conduct a data workshop. Learn about laws, regulations, policies, funding, and data. Ensure that everyone understands the non-negotiables and facts that surround the tribal consultation topic.	Consensus, Agreement, and Formalization Come to an understanding, consensus, or agreement, and formalize the consultation, when appropriate.

SUGGESTED TRIBAL CONSULTATION MEETING PROTOCOL PG 21

A. Agenda Template

AGENDA Tribal Consultation

Date
Start Time – End Time
Meeting called by:

Attendees: _____ Attendee Names
Please read: _____ Reading List
Please bring: _____ Supply List

Start Time – End Time	Introduction	Location
Start Time – End Time	Item #1 Topic 1: Review Applicable Title Funds and other Funding Sources	Location
Start Time – End Time	Item #2 Topic 2: Review Data	Location
Start Time – End Time	Item #3 Topic 3: Review Program and Services for Students	Location
Start Time – End Time	Item #4 Topic 4: Additional topics and open Q&A	Location

Additional Instruction:
Use this section for additional instructions, comments, or directions.

Agenda Template Pg 24

VIII. SUGGESTED DATA TO PROVIDE

Number of AI/AN by tribe:

<ul style="list-style-type: none"> Test scores disaggregated by grade level State and local assessments on students' academic progress and growth over time Average GPA (secondary students only) Students who have dropped out of school Transfer students Students enrolled in career technical education Students enrolled in AP, Dual Credit, At-risk students Numbers of students concurrently enrolled in college Students with disciplinary concerns 	<ul style="list-style-type: none"> Students involved in extracurricular programs (sports, band, choir, academic team, FFA, etc.) Students with high mobility Students participating in free and reduced lunch programs Students attending after-school programs Students who have an Individualized Education Program (IEP) or 504 plan Students identified as English language learners (ELL) Students identified for truancy services 	<ul style="list-style-type: none"> Teachers who are fully certified Teachers on Alt. Licenses or Waivers. Total # of Subs, EAs, NALC, Counselors, SW, ETC. To include # of Native American Staff/All Staff Data that is specific to the tribes (specifically student or staff population and how it's relevant to the community) # of students taking native language classes by language
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AI/AN student population by tribe and grade:	AI/AN student assessment scores:	Federal Program Funding
<ul style="list-style-type: none"> Elementary Middle School Junior High School High School 	<ul style="list-style-type: none"> Reading Mathematics Science 	What funding amount do you receive per program and what is this money spent on? <ul style="list-style-type: none"> Title I, Parts A, C & D Title II Part A Title III Part A Title IV, Parts A & B Title V, Part B subpart 2 Title VI Part A subpart 1 Title VII, Impact Aid State Grant Opportunities Other

IX. EXAMPLE OF DATA SHARING AGREEMENT

I. **PARTIES.** *(Tribe/Nation/Pueblo)* and *(Tribal Dept. of Education)* affirm that they are authorized to receive information from local educational authorities (*LEAs/School district or Charter school*) subject to Family Educational Rights and Privacy Act (FERPA). The parties wish to share data collected by *(local educational authorities)*.

- SCOPE OF DATA TO BE DISCLOSED.** To fulfill the objectives of this Agreement, the following data must be provided to *(Tribe/Nation/Pueblo)* and *(Tribal Dept. of Education)*. This data includes personally identifiable information:
 - Class rosters by grade level
 - iStation K-3 Literacy Assessment Data by school, by grade, by subgroup beginning in 2018-19 and annually and thereafter.
 - PARCC proficiency data by school, by grade, by subgroup beginning in 2017-18 and annually and thereafter.
 - Information regarding students who are in danger of failing or need credit recovery to increase graduation success and to support the TPETD Summer School Program.
 - Early Warning System Attendance information for Taos Pueblo students with 5 or more days absent.

Data shall be provided to *(Tribe/Nation/Pueblo)* and *(Tribal Dept. of Education)* for K-12 *(Tribe/Nation/Pueblo)* students in *School District or Charter School*.

XI. RELIEVING THE REPETITIVE CONSULTATION BURDEN ON TRIBES ASSOCIATED WITH MULTIPLE LEAS

The following are suggestions for LEAs to use in helping relieve the burden of tribes dealing with high turnover in LEA leadership that may cause lack of continuity in systems and processes, and repetitive meetings:

- Review, provide consistency, and strengthen MOUs with the purpose of streamlining the consultation and collaboration components.
- Review annual tribal consultation and collaboration trainings provided by the NMPED to districts, schools, and charters to ensure new LEA staff is informed.
- LEAs may create "unique-to-tribes" onboarding manuals for consistency in tribal consultation and collaboration.
- District/Charter Schools can prepare a document with a high-level overview of current initiatives, services, budget that impact tribes, students, and families.
- District/ Charter Schools can request pertinent information from tribal archives.
- Use information from the Tribal Education Status Report (TESR) as a resource.

Tribal Consultation Checklist: To ensure timely and meaningful tribal consultation as well as enhanced positive outcomes the NMPED, school districts, charter schools are encouraged to create a tribal consultation checklist similar to the chart detailed here. PG 18

PLANNING – BEFORE THE MEETINGS	
	Understand the role of tribal leadership (i.e., Governor vs President, Lt. Governor vs Vice-President, Council members, etc.) and structure of tribal government.
	Understand the cultural differences of each Tribe, Nation, and Pueblo. Respect and honor cultural and traditional practices and incorporate into meeting structure.
	Design a one-pager about the district/charter's current initiatives for tribal leaders (<i>Be advised that tribal leaders may not be familiar with educational content or regulations and programming</i>).
	Understand tribal sovereignty and tribal governmental authority as it relates to tribal educational priorities, educational issues, and challenges.
	Establish or enhance internal systems and processes to support consulting early and often, and prior to actions or decisions finalized.
	Design the consultation process in partnership with the tribe, nation, and pueblo.
	Ensure that all parties (LEA and Tribes) have agreed to time, place, agenda, and length of meeting. Both parties should identify a point-of-contact to work out the logistics.
	For all Tribal consultations and public meetings, an agenda should be submitted for review and approval. (<i>Note: the agenda should include date, time, and location</i>).
	Conduct outreach to tribal governments, tribal departments of education, and approved tribal organizations with the goal of sharing data and information.
	Receive and respond to feedback on the subject matter requested prior, during, or after consultation.
	Share information early and often as it applies to the educational success of Native American students. <ul style="list-style-type: none"> (i.e., curriculum development, the implementation of education policies and procedures, notice of deadlines for LEA's educational plans and applications; or the allocation of resources that may impact the education of Native American students). Conduct outreach to tribal governments, tribal education departments, and approved tribal organizations with the goals of sharing data and information.
	Plan government-to-government consultation and meetings; such gatherings should not conflict with tribal cultural calendars, feast days, tribal holidays, etc.
	Provide notice of deadlines of the school district and charter school's education plans and applications.

	Collaborate with tribal government to provide cultural awareness and diversity training for school district and charter school leadership and administrators to foster, support, and sustain positive and productive government-to-government relationships.
DURING THE MEETINGS	
	Share information and presentations on educational programs, policies and data (it is recommended that such documents are shared in advance to allow all parties to review).
	Explain proposed program or policy changes; provide an opportunity for questions and input on the proposed program or policy changes; and respond contemporaneously or as soon as possible thereafter.
	Establish/create and agree upon a list that identifies tribal educational priorities, issues, challenges, and establish a timeline for action items that require a follow up.
	When applicable, ensure that both the tribal official and the school district or charter school leader have signed a consultation agreement.
	Review and update (as needed) points of contact for school districts, charter schools, tribal governments, tribal education departments, and approved tribal organizations.
	Receive and respond to feedback on the subject matter requiring consultation, or elements of the activity or decision to be made.
AFTER THE MEETINGS	
	Ensure that the consultation process includes a timeline and agreements for follow-up and transparency. <ul style="list-style-type: none"> Meeting documents, notes taken for the meeting, and agendas should be considered documentation within the purview of the Public Information Act and should be made available to parents, families, and the community upon request.

Cultural Consideration Checklist: This section is intended for NMPED, school district, and charter school staff who are new, unfamiliar or may need a review or update with cultural considerations to keep in mind with conducting tribal consultation with Native American students and families, tribes, nations, and pueblos. PG 19

PRE-PLANNING AND LEARNING	
	Review the link below on the 24 federally recognized tribes, nations, and pueblos as well as their annotated histories, and geographic locations. https://www.newmexico.org/places-to-visit/native-culture/pueblos-tribes-nations/
	Each tribe has their own website. Take time to review each site. Review information on the government structure, tribal leadership, linguistic landscape, geographic components, internal departments/entities, education structure, etc. <i>(Be aware newly appointed tribal governors/presidents may not be available to meet within the first two months of their appointment.)</i> https://www.iad.state.nm.us/#
	Review district and charter school calendars along with the dates of tribal traditional and cultural events to prepare for conversations about tribal students attending event when school is in session. This is a great opportunity to work in collaboration with tribal leaders to place specific feast/cultural days on the calendar for the school board approval for each SY.
	Review State-Tribal Consultation, Collaboration and Communication Policy. See link below: https://webnew.ped.state.nm.us/wp-content/uploads/2019/02/STCR-Policy-with-Colver-Letter.pdf
	When working with a tribe, nation, or pueblo in NM regarding public education, carefully review the NM Public Education Department's Tribal Consultation resources webpage. https://webnew.ped.state.nm.us/bureaus/indian-education/tribal-consultation/
	Understand the linguistic landscape, tribal language structure, including the preferences by tribes, nations, and pueblos about language use by non-tribal members. <i>(For example: If you would like to learn and use a basic welcome/hello/greeting in the tribal language of the tribe(s), nation(s), or pueblo(s) you are meeting with or hosting, seek proper permission to ensure it is permissible.)</i>
	Understand the diversity of tribal cultures and language. Within a tribe, nation, or pueblo, tribal members have their own identities. Identities are comprised of many facets (i.e., language, gender, age, religion, sexuality, socioeconomic status, family, class, ethnicity, clan, etc.)

BEFORE THE MEETING/EVENT	
	All parties should identify a point-of-contact (POC). If a POC is not identified, please reach out to tribe, nation, or pueblos administrative offices, or the NMPED IED.
	When scheduling, know and honor when the tribe celebrates feast days and other important cultural dates and events.
	Design an outcomes-based agenda in partnership with your tribal points of contact or representative.
	Ask your tribal contact person about the general terms and specific titles of tribal leaders to ensure it is properly documented and used during meetings.
	Provide meeting participants with the agenda and relevant handouts (data, funding, etc.) prior to the meeting.
	Seek advice and guidance regarding proper protocol, (i.e., opening remarks from leadership; appropriate greetings; potential restrictions, if any, are applicable due Public Health Orders, etc.)
DURING THE MEETING/EVENT	
	Come to the meeting with an open mind. This is an opportunity for all parties to engage and partner free of biases or stereotypes.
	When hosting a meeting, ensure you include plenty of time for introductions and relationship-building.
	"Wait time" and "reflection time" is appropriate when requesting for information, ideas, etc. These meetings may have long periods of silence; do not try to fill the space or move quickly through your
	agenda. Certain requests may require official action from tribal council before committing to any work with an organization outside of their tribal structure.
	Understand and respect that your meeting may move slower than you anticipated; new topics may be added to the agenda; or your expected outcomes might change during the meeting. If you are dealing with looming deadlines, be prepared for those not to be met or to request more time. Tribal decisions are often communal, which may differ from what is the norm in your organization.
	Listen and learn. Observe social queues during the meeting/event. Avoid interrupting, talking over people, or raising your hand while someone else is speaking. Take notes and wait until an appropriate time to speak. Be mindful of communication patterns across all cultures.
AFTER YOUR MEETING/EVENT	
	Allow up to 60 days for input from tribal leaders and/or tribal council if your meeting content includes making decisions that directly impact the tribal community. Work with your tribal points of contact.
	Circle back as needed while adhering to the communal norms mentioned in this document.

DATA SHARING AGREEMENT

BY AND BETWEEN _____ MUNICIPAL SCHOOL DISTRICT AND _____ PUEBLO
Including the _____ PUEBLO EDUCATION AND TRAINING DIVISION

This Data Sharing Agreement ("Agreement") is entered into by the _____ Municipal School District ("_____"), also known as the Local Educational Agencies (LEA), and _____ Pueblo, including _____ Pueblo Education and Training Division (_____), also known as the Tribal Education Agency (_____) for the purpose of sharing information between the parties in a manner consistent with the Family Education Records Privacy Act of 1974 ("FERPA"). The information will be used by _____ Pueblo and its designee to assist Native American and _____ Pueblo students in school success (including program improvement, increasing school attendance, credit recovery, academic intervention support, applying to college and for scholarships, etc.). In order to assist students with the above, _____ Pueblo and _____ requires the use of student data from _____.

RECITALS

WHEREAS, In December of 2015, the Every Student Succeeds Act (ESSA) was signed into law and New Mexico's state plan includes a continued commitment to robust college and career ready standards and assessments, meaningful school accountability, a commitment to ensure that all students are served by excellent educators, and dynamic strategies for turning around the state's struggling schools;

WHEREAS, New Mexico adopted the Common Core State Standards (CCSS), a set of high-quality standards for social studies, science, technical subjects and adding an additional 15% of state-specific standards focusing on culturally relevant texts and instruction to the CCSS in English language arts (ELA);

WHEREAS, The mission of _____ Municipal Schools is to "Prepare all students academically, socially, physically and emotionally to succeed as responsible citizens;" and,

WHEREAS, _____ Pueblo is a federally recognized Sovereign Government composed of the Tribal Council, Governor's Office and War Chiefs Office; and,

WHEREAS, The _____ Pueblo Tribal Council is the legislative authority and acts in the best interest of _____ Pueblo; and,

WHEREAS, The _____ Pueblo Governor's Office, as an executive branch of _____ Pueblo Tribal Government, has responsibility to oversee the education of its tribal members; and

WHEREAS, the Indian Self-Determination and Education Assistance Act 25 USC 450 (P. L. 93-638 enacted January 4, 1975) and the Indian Employment, Training, and Related Services Demonstration Act 25 USC 3401 (P. L. 102-477, enacted October 23, 1992) authorize and delegate to _____ Pueblo the responsibility to operate programs on behalf of the federal government. This responsibility is carried out through the _____ Pueblo Central Management Systems. Under CMS, the _____ Pueblo Education & Training Division is responsible to design and establish education programs, functions, services and activities that benefit tribal members; and

- b. Use of the data shared under this agreement shall be for no purpose other than to support the academic success of students and to offer services to Native American and _____ Pueblo families.
- c. Require all employees, contractors and agents of any kind to comply with all applicable provisions of FERPA and other federal laws with respect to the data shared under this agreement. _____ Pueblo and _____ agrees to require and maintain an appropriate confidentiality agreement from each employee, contractor or agent with access to data pursuant to this agreement. Nothing in this paragraph authorizes sharing data provided under this Agreement with any other entity for any purpose other than completing _____ Pueblo and _____'s work authorized under this Agreement.
- d. Maintain all data obtained pursuant to this agreement in a secure computer environment and will not copy, reproduce, or transmit data obtained pursuant to this agreement except as necessary to fulfill the purpose of the original request. All copies of data of any type, including any modification or additions to data from any source that contains information regarding students, are subject to the provisions of this agreement in the same manner as the original data. The ability to access or maintain data under this agreement shall not under any circumstances transfer from _____ Pueblo and _____ to any other institution or entity.
- e. Not to disclose any data obtained under this agreement in a manner that could identify an individual student to any other entity, nor attempt to infer or deduce the identity of any individual student based on data provided by School District Name, nor claim to have identified or deduced the identity of any student based on data provided by School District Name.
- f. Not to provide any data obtained under this agreement to any party ineligible to receive data protected by FERPA or prohibited from receiving data from any entity.
- g. Provide to School District Name any materials designed for public dissemination, based in whole or in part on data obtained under this agreement, at least ten days prior to dissemination.
- h. Promptly after termination of this Agreement pursuant to Paragraph VII, destroy all data obtained under this agreement in accordance with 34 CFR Section 99.35(b)(2). Nothing in this agreement authorizes either party to maintain data beyond the time period reasonably needed to complete the purpose of this data. _____ Pueblo and _____ agrees to require all employees, contractors, or agents of any kind to comply with this provision.

III. DATA REQUESTS.

- a. School District Name may decline to comply with a request if it determines that providing the data in the manner requested would violate FERPA and/or would not be in the best interest of current or former students in the District. All requests shall include a

WHEREAS, _____ Pueblo Tribal Council (_____) Resolution No. 2006-27, "Establishment of the Pueblo of _____ Board of Education pursuant to _____ Resolution No. 2005-11 (April 1, 2005), wherein By this Charter and the regulations adopted under it, the Pueblo of _____ intends to ensure that the education of Pueblo of _____ members is a quality education that will prepare them for meaningful employment while addressing the unique needs of the Pueblo collectively to preserve its heritage; natural resources, and way of life."

WHEREAS, _____ Resolution No. 2006-27, Article II, 1, (b), (3) The Board of Education shall "monitor the delivery and effectiveness of education services provided by tribal, state, federal, and other entities to ensure that Pueblo of _____ members receive a quality education; and,

WHEREAS, _____ Pueblo designates the _____ Pueblo Education and Training Division as a federally defined Tribal Education Agency (TEA) of the Pueblo whose goal is to support Native American and _____ Pueblo students attain the highest possible level of education while attending schools in the _____ Municipal School system and affiliated institutions.

AGREEMENT

I. **PARTIES.** _____ Pueblo and _____ affirm that they are authorized to receive information from local educational authorities (LEAs/ TMS) subject to FERPA. The parties wish to share data collected by _____.

- **SCOPE OF DATA TO BE DISCLOSED.** In order to fulfill the objectives of this Agreement, the following data must be provided to _____ Pueblo and _____. This data includes some personally identifiable information:

-iStation K-3 Literacy Assessment Data by school, by grade, by subgroup beginning in 2018-19 and annually thereafter;

-PARCC proficiency data by school, by grade, by subgroup beginning in 2017-18 and annually thereafter;

-Information regarding students who are in danger of failing or are in need of credit recovery to increase graduation success and to support the _____ Summer School Program and,

-Early Warning System Attendance Information for _____ Pueblo students with 5 or more days absent.

Data shall be provided to _____ Pueblo and _____ for K-12 _____ Pueblo students in _____ Municipal Schools.

II. **COMPLIANCE WITH FERPA.** To effect the transfer of data subject to FERPA, _____ Pueblo and _____ agrees to:

- a. In all respects, comply with the provisions of FERPA. For purposes of this agreement, FERPA includes any amendments or other relevant provisions of federal law, as well as requirements of Chapter 99, Title 34 of the Code of Federal Regulations. Nothing in this agreement may be construed to allow either party to maintain, use, disclose or share student information in a manner not allowed by FERPA.

statement of the purpose for which it is requested, and an estimation of the time needed to complete the project for which the data is requested. Data requests may be submitted by post, electronic mail, or facsimile.

- b. _____ Pueblo and _____ agrees that School District Name makes no warranty concerning the accuracy of the student data provided.

IV. **AUTHORIZED REPRESENTATIVE.** _____ Pueblo and _____ has designated herein a single authorized representative able to request data under this agreement. The authorized representative shall be responsible for transmitting all data requests and maintaining a log or other record of all data requests and received pursuant to this agreement, including confirmation of the completion of any projects and the return or destruction of data as required by this agreement. School District Name or its agents may upon request review the records required to be kept under this section. The name and contact information of the designated authorized representative for _____ Pueblo and School District Name is: Director, _____ Pueblo Education and Training Division, address, city, NM 87571 phone number; email address

V. **RELATED PARTIES.** _____ Pueblo and _____ represents that it is authorized to bind to the terms of this contract, including confidentiality and destruction or return of student data, all related or associated institutions, individuals, employees or contractors who may have access to the data or may own, lease or control equipment or facilities of any kind where the data is stored, maintained or used in any way by _____ Pueblo and _____. This Agreement takes effect only upon acceptance by an authorized representative of, by which that institution agrees to abide by its terms and return or destroy all student data upon completion of the research for which it was intended or upon the termination of its current relationship with _____ Pueblo and _____.

VI. **TERM.** This Agreement shall take effect upon signature by the authorized representatives of School District Name and _____ Pueblo, and shall remain in effect until June 30, 20____. The parties to this Agreement shall review this Agreement annually and may elect to renew this Agreement through subsequent annual agreements (or up to three years) running from July 1 of the then-current year to June 30 of the successive year. The Agreement may also be terminated by School District Name or _____ Pueblo and _____ upon fourteen days written notice pursuant to Paragraph VII herein.

VII. **TERMINATION.** This Agreement may be terminated by School District Name or _____ Pueblo and _____ upon written notice delivered to the other not less than fourteen (14) days prior to the intended termination date. By such termination notice, neither School District Name nor _____ Pueblo and _____ shall negate obligations already incurred or required to be performed prior to the effective date of termination. School District Name specifically reserves the right to immediately cancel this agreement should School District Name, in its sole discretion, determine that student information has been released in a manner inconsistent with this agreement, has not been maintained in a secure manner, or that substantially similar data access has become generally available for research purposes through any other mechanism approved by the School District Name. In the event of immediate cancellation, a notice specifying the reasons for cancellation shall be sent as soon as possible after the cancellation to the persons signing the agreement.

VIII. **BREACH AND DEFAULT.** Upon breach of any of the provisions, obligations, or duties embedded in this agreement, the parties may exercise any administrative, contractual, equitable, or legal remedies available, without limitation. The waiver of any occurrence of breach or default is not a waiver of such subsequent occurrences, and the parties retain the right to exercise all remedies mentioned herein.

IX. **AMENDMENT.** This agreement may be modified or amended provided that any such modification or amendment is in writing and is signed by the parties to this agreement. It is agreed, however, that any amendments to laws, rules, or regulations cited herein will result in the correlative modification of this agreement, without the necessity for executing written amendment.

X. **ASSIGNMENT OF RIGHTS.** Neither this agreement, nor any rights, duties, nor obligations described herein shall be assigned by _____ Pueblo and _____ without the prior express written consent of School District Name.

XI. **GOVERNING LAW; CONSTRUCTION.** This Agreement will be governed, construed and enforced under Federal Law and jurisdiction for any dispute will be in the U.S. Federal Courts for the District of New Mexico. This Agreement will be construed neutrally and not in favor of against any party. Nothing in this agreement shall be construed as a waiver of sovereign immunity of _____ Pueblo, its affiliated organizations and programs, and _____.

XII. **ENTIRETY OF AGREEMENT.** All terms and conditions of this agreement are embodied herein. No other terms and conditions will be considered a part of this agreement unless expressly agreed upon in writing and signed by both parties.

IN WITNESS WHEREOF, the parties have caused this Memorandum to be executed on the year and date indicated, with the effective date being the most recent signature.

Reviewed and Agreed Upon by:

Type out Name, _____ Date
Governor, _____ Pueblo

Type out Name, _____ Date
President, _____ Municipal School Board

Type out Name, _____ Date
Superintendent, _____ Municipal Schools

Type out Name, _____ Date
Chairman, _____ Pueblo Board of Education

Type out Name, _____ Date
Director, _____ Pueblo Education and Training Division