

The Indian Education Act After Martinez/Yazzie

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Session Objectives

- Better understand the relationship between *Martinez/Yazzie v. New Mexico* and the IEA
- Know the purpose of the IEA
- Learn what Boards of Education can do to improve their program offerings under the IEA
- Become familiar with pending legislation related to the IEA



NM Constitution

Education Clause.

"A uniform system of free public schools *sufficient* for the education of, and open to, all the children of school age in the state shall be established and maintained."

N.M. Const. art. XII, § 1.

Ruling in *Martinez/Yazzie v. New Mexico*

"The New Mexico Constitution requires the State to provide every student with the opportunity to obtain an education that allows them to become **prepared for career or college**...New Mexico has failed to meet this obligation."

Judge Sarah Singleton

CONSTITUTION OF THE STATE OF NEW MEXICO

ADOPTED JANUARY 21,
1911

PREAMBLE

We, the people of New Mexico, grateful to Almighty God for the blessings of liberty, in order to secure the advantages of a state government, do ordain and establish this constitution.

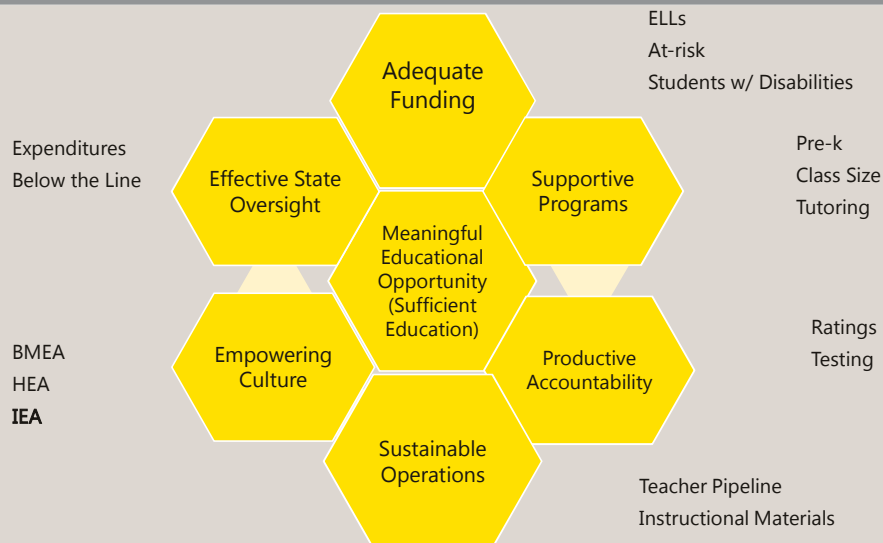
ARTICLE I

Name and Boundaries

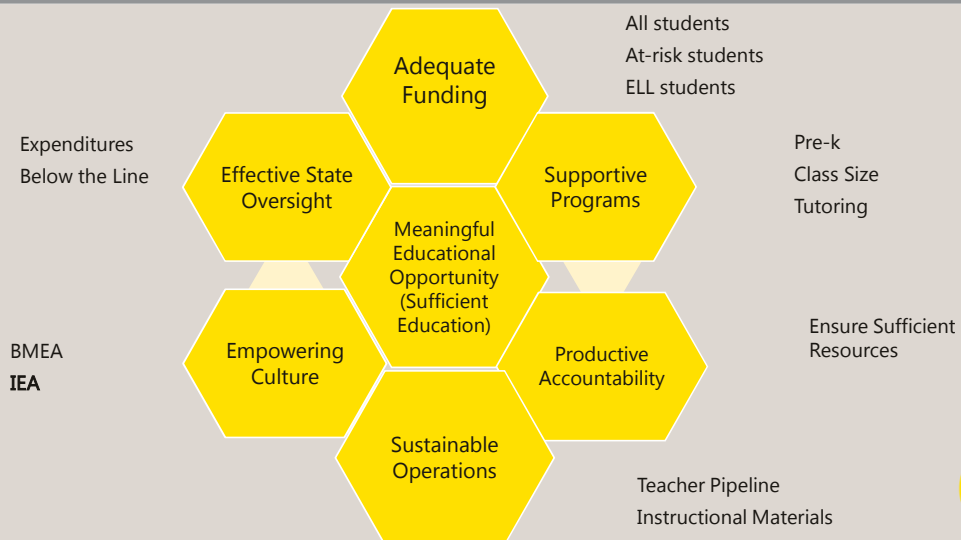
The name of this state is New Mexico, and its boundaries are as follows:



Plaintiffs' Martinez Claims



Plaintiffs' Yazzie Claims

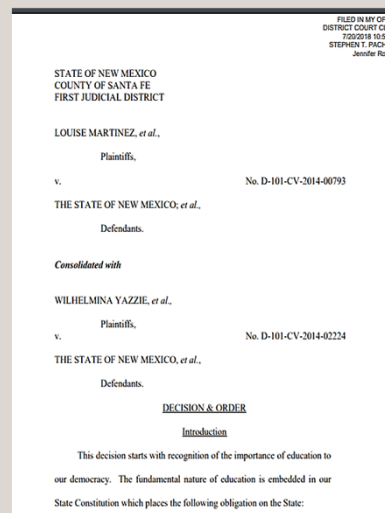


Martinez/Yazzie v. State of New Mexico

The New Mexico Indian Education Act (NMIEA)

- "In the Court's opinion, [the NMIEA] sets the legislative determination of what constitutes a constitutionally adequate education for Native American children...thus, **failure to comply with the NMIEA amounts to a violation**" of the NM Constitution."

Judge Sarah Singleton
Decision and Order, July 20, 2018



Martinez/Yazzie v. New Mexico Key Findings on the Indian Education Act

- ❑ Instructional Materials
 - ❑ Lack of appropriate instructional materials for Native American students
 - ❑ Failure to develop PED & tribal relationships
- ❑ Reasonable Curricula
 - ❑ PED has not monitored English learner programs for Native American students
- ❑ Quality of Teaching
 - ❑ High poverty schools disproportionately staffed by low-paid, entry level teachers
 - ❑ NMTEACH does not measure whether teacher is providing culturally relevant instruction to Native American students



New Mexico Indian Education Act (IEA)

The **purpose** of the Indian Education Act is to:

- A. ensure **equitable and culturally relevant** learning environments;
- B. Ensure **maintenance of native languages**;
- C. study, develop and implement **educational systems that positively affect the educational success** of American Indian students;
- D. ensure that the **[public education department] partners with tribes** to increase tribal involvement and control over schools . . .;
- E. encourage cooperation among the educational leadership of AZ, UT, NM and the Navajo Nation to address the **unique issues of educating students in Navajo communities**;

NMSA 1978, § 22-23A-2



New Mexico Indian Education Act (IEA) (cont.)

- F. Establish **formal government-to-government relationships** between the state and NM tribes and **develop relationships with the education divisions**;
- G. Support **relationship between the state and urban American Indian community members** to participate in initiatives and educational decisions;
- H. Ensure that parents; tribal departments of education; community-based organizations; the PED; universities; and tribal, state and local policymakers **work together to find ways to improve educational opportunities**;
- I. Ensure that tribes are **notified of all curricula development** for their approval;
- J. Encourage agreement regarding the **alignment of the Bureau of Indian Affairs and state assessment programs** so that comparable information is provided to parents;
- K. encourage and foster **parental involvement**.

NMSA 1978, § 22-23A-2



Board Responsibilities under the NMIEA

- Improve services** to meet the educational needs of tribal students
- Develop curricula and instructional materials** in native languages, culture, and history in conjunction with practitioners and elders (except where prohibited)
- Obtain approval** by tribal government(s) within district boundaries **verifying their agreement** to Indian education policies and procedures
- Incorporate native language** bilingual programs into district's **professional development** plan as provided in NMSA § 22-10A-19.1
- A district with tribal lands shall provide a **district-wide tribal education status report** to all tribes represented within the district (semiannual)



SLIDO.com

- Using your personal technology device
- Login to www.slido.com
- Enter event code: WG01
- Question: Choose all items of an IEA program/service that your Board/District is currently implementing (w/ fidelity).



Choose all items of an IEA Program/Service that your Board/District is Currently Implementing (w/ fidelity).

- Plan to improve services** to meet the educational needs of tribal students
- Develop curricula and instructional materials** in native languages, culture, and history in conjunction with practitioners and elders
- Obtain approval** by tribal governments(s) within district boundaries **verifying their agreement** to Indian education policies and procedures
- Incorporate native language** bilingual programs into district's **professional development** plan
- Provide a **district-wide tribal education status report** to all tribes represented within the district (semiannual)



NMIEA and Post-Secondary Education

The department shall collaborate and coordinate efforts with the higher education department and institutions of higher education, including tribal colleges and teacher education institutions and tribal education departments, to facilitate the successful and seamless transition of American Indian students into post-secondary education and training.

NMSA 1978, § 22-23A-4.1



IEA - Indian education division; created; assistant secretary; duties.

- A. The secretary shall appoint an assistant secretary for Indian education, **who shall direct the activities and advise the secretary on development of policy regarding the education of tribal students.** The assistant secretary **shall also coordinate** with the higher education department.
- B. Assistant secretary **shall coordinate** with appropriate administrators and divisions to ensure administrators make **the Indian Education Act a priority.**
- C. Secretary and the assistant secretary, with the Indian education advisory council, **shall collaborate with state and federal departments and agencies and tribal governments** to identify ways to assist in the implementation of the IEA.
- D. Secretary and assistant secretary **shall convene semiannual government-to-government meetings** to receive input on education of tribal students.

NMSA 1978, § 22-23A-5



IEA - Indian education division; created; assistant secretary; duties. (cont.)

- E. In accordance with the rules of the department and after consulting with the Indian education advisory council and determining the resources available within the department, the **assistant secretary shall:**
- (1) provide assistance **to improve services to meet the educational needs of tribal students;**
 - (2) provide assistance in the **planning, development, implementation and evaluation of curricula in native languages, culture and history;**
 - (3) develop or select for implementation a **challenging, sequential, culturally relevant curriculum** to provide instruction to tribal students in **pre-k through 6th grade to prepare them for pre-AP and AP coursework;**
 - (4) provide assistance to school districts, public post-secondary schools and New Mexico tribes to **develop curricula and instructional materials in native languages, culture and history;**

NMSA 1978, § 22-23A-5



IEA - Indian education division; created; assistant secretary; duties. (cont.)

- (5) conduct indigenous research and evaluation for effective curricula;
- (6) provide distance learning for tribal students;
- (7) maintain an Indian education advisory council;
- (8) enter agreements with each New Mexico tribe or its authorized educational entity to share programmatic information and to coordinate technical assistance for public schools that serve tribal students;
- (9) seek funds to establish and maintain an Indian education office in the NW corner of the state or other location to implement agreements with each NM tribe, monitor progress of tribal students and coordinate TA;

NMSA 1978, § 22-23A-5



IEA - Indian education division; created; assistant secretary; duties. (cont.)

- (10) require school districts to obtain a signature of approval by the New Mexico tribal governments or their government designees;
- (11) seek funds to establish, develop and implement culturally relevant support services for the purposes of increasing the number of tribal teachers, administrators and principals and providing continued professional development:
 - (a) recruitment and retention of highly qualified teachers and administrators;
 - (b) academic transition programs;
 - (c) academic financial support;
 - (d) teacher preparation;
 - (e) teacher induction; and
 - (f) professional development;

NMSA 1978, § 22-23A-5



IEA - Indian education division; created; assistant secretary; duties. (cont.)

- (12) **develop curricula to provide instruction in tribal history and government** and develop plans to implement these subjects into history and government courses in school districts throughout the state;
- (13) **ensure that native language bilingual programs are part of a school district's professional development plan**, as provided in Section 22-10A-19.1 NMSA 1978; and
- (14) **develop a plan to establish a post-secondary investment system** for tribal students to which parents, tribes and the state may contribute.

NMSA 1978, § 22-23A-5



IEA - Indian education division; created; assistant secretary; duties. (cont.)

B. A school district with tribal lands located within its boundaries shall provide a districtwide tribal education status report to all New Mexico tribes represented within the school district boundaries.

C. The **status reports** shall be written in a brief format and shall include the following information:

- (1) student achievement on statewide test, results disaggregated by ethnicity;
- (2) school safety;
- (3) graduation rate;
- (4) attendance;
- (5) parent and community involvement;
- (6) educational programs targeting tribal students;
- (7) financial reports;
- (8) current status of federal Indian education policies and procedures;
- (9) school district initiatives to decrease dropouts and increase attendance;
- (10) public school use of variable school calendars;
- (11) school district consultations with district Indian education committees, school-site parent advisory councils and tribal, municipal and Indian organizations; and
- (12) indigenous research and evaluation measures and results for effective curricula for tribal students.

NMSA 1978, § 22-23A-7



Statewide status report.

B. The **status report shall include** the following information, by school district, by charter school and statewide, which may be compiled from data otherwise required to be submitted to the department:

- (1) Hispanic student achievement at all grades;
- (2) attendance for all grades;
- (3) the graduation rates for Hispanic students; and
- (4) the number and type of bilingual and multicultural programs in each school district and charter school.

NMSA 1978, § 22-23B-6



Proposed Legislation

- Amend Bilingual Multicultural Education Act, Indian Education Act, Hispanic Education Act**
- Establish Assistant Secretary for BMEA and HEA
- Provide funding and accountability mechanisms
- Make implementation mandatory
- Create a statutory state bilingual advisory council
- Create a statutory multicultural education commission
- Include a student needs assessment under IEA
- Increase funding for higher education



Proposed Legislation

- Increase teacher salaries
- Increase professional development days to 10
- Increase parent/teacher conference days to 3
- Prohibit instructional time for professional development or parent/teacher conference
- Teacher pipeline
- Expand Pre-K
- Extended learning time
- Evidence-based literacy instruction



Proposed Legislation

- Social services at schools
- Community schools
- Funding formula
- Increase funding for instructional material, transportation and technology
- Increase REC's capacity



Questions?



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The information in this presentation was prepared by Walsh Gallegos Treviño Russo & Kyle P.C. It is intended to be used for general information only and is not to be considered specific legal advice. If specific legal advice is sought, consult an attorney.

