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New Mexico Education Policy: A Work in Progress

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As this edition goes to press, the battle over education in New Mexico continues. In 2014, two mothers – Wilhelmina Yazzie and Louise Martinez – separately filed lawsuits against the state claiming its schools were not providing their children with a constitutionally guaranteed sufficient education. In 2018, 2020, 2021, and 2025 the courts agreed, and ordered the state to develop a comprehensive plan for education that would provide all students with an education that is sufficient for them to succeed in either a career or in college that is culturally and linguistically responsive.

That still has not happened.

Education in State Law

When the New Mexico State Constitution was adopted in 1912, policies regarding education were included. The Education Clause required that "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" (NM Const., Art. XII, §1). The constitution went on to address the education of non-White students through the Children of Spanish Descent Clause. "Children of Spanish descent in the state of New Mexico shall never be denied the right and privilege of admission and attendance in the public schools… (and) they shall forever enjoy perfect equality with other children (NM Const., Art. XII, §10). Additionally, the constitution included a provision that required teachers to be bilingual in the Spanish Teacher Training Clause. "The legislature shall provide for the training of teachers… so that they may become proficient in both the English and Spanish languages, to qualify them to teach Spanish speaking pupils and students in the public schools" (NM Const., Art. XII, §8).

However, laws and policies have been adopted throughout the years that conflict with the constitution. In 1925, a policy was adopted that allowed "County school boards… may provide separate rooms for the teaching of pupils of African descent and such pupils may not be admitted to school rooms occupied by pupils of Caucasian or other descent" (Section 55-1201, NM School Code, 1925). In all, schools in nine communities around the state became segregated. Another, the Gadsden School District in Southern New Mexico opted for complete segregation, choosing to bus Black students 30+ miles away to Philips A.M.E. Church in Las Cruces rather than teach Black students in any of their schools. After Brown v. Board of Education (1954), Gadsden's superintendent agreed to let Black students return to the district only after a meeting with their parents and a guarantee that there would be no trouble (personal communication, B. Boyer, Aug. 13, 2021).

Bilingual/Multicultural Education Act

Long after Brown v. Board, state legislators began adopting a series of acts intended to embrace the longstanding myth of three enduring and co-existing cultures in New Mexico - Native, Hispanic, and White ("Our diversity is our strength", n.d.). New Mexico became the first state in the country to approve a **Bilingual/Multicultural Education Act** in 1973. Revised in 2004, the act aims to ensure equal education opportunities for students in New Mexico. This is to be achieved by encouraging school district to:

> (1) use the cultural and linguistic backgrounds of the students in a bilingual multicultural education program;
> (2) provide students with opportunities to expand their conceptual and linguistic abilities and potentials in a successful and positive manner; and
> (3) teach students to appreciate the value and beauty of different languages and cultures (§22-23-1).

However, the act stops short of requiring school districts to develop a bilingual multicultural education plan (NMSA 1978 §22-23-5, A). The hope is that districts will be lured into creating such a plan by offering special funding. The Public Education Department admits, only 64% of New Mexico schools have instituted such plans. And, of the $42M allocated for Bilingual and Multicultural Education programs, only 3% were actually spent on BMEP expenses (NMPED, 2024). Legislators found "districts do not fully understand how to properly assess, place and monitor students in bilingual multicultural education programs so that students may become academically successful (NMSA 1978 §22-23-1.1, C).

Much of New Mexico education policy is touted as being grounded in a series of education acts adopted by the legislature but, as has been successfully argued in court, few of the tenets included in these acts have actually been implemented.

Indian Education Act

In 2003, legislators adopted the **Indian Education Act** which established the Indian Education Division of the Public Education Department and an Indian Education Advisory Council. Amended in both 2007 and in 2019, it was created to "ensure equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials for American Indian students enrolled in public schools" (NMSA 1978 §22.23A-2(A)). The act has consistently come under fire from the state's 39 Tribes, Nations, and Pueblos arguing that it has never been fully funded or implemented. Some Indigenous leaders have gone so far as to say the biggest threat to Native children in New Mexico is public education (Pecos, 2022).

Hispanic Education Act

New Mexico was the first state to adopt a **Hispanic Education Act**, doing so in 2010. The act was designed to "create education systems that improve academic outcomes for Hispanic students, foster parental involvement, and build collaborative mechanisms… to close the achievement gap, increase graduation rates, and promote post-secondary success" (NMPED, 2025b). Even though it was adopted in 2010, a full-time Hispanic Education Act liaison was not hired by the Public

Education Department until 2022. New Mexico is a minority-majority state with 64% of New Mexico students in K-12 identifying as Hispanic. By its own admission, "91% of students that participated in Hispanic Education Bureau supported arts programs felt inspired to do better in school" (NMPED, 2025a).

Black Education Act

New Mexico lawmakers responded to the increased focus on racism in the classroom following the murder of George Floyd with the adoption of the **Black Education Act** in 2021. The act requires racial sensitivity and anti-racism training for school personnel and requires NMPED to "develop programs, curricula, and instructional materials that recognize and teach Black Culture" (NM House Bill 43). Critics claim that, while the act was a "beacon of hope for New Mexico's Black and African American students" it has fallen short due to a lack of compliance and more unkept promises (Watson, 2024).

Yazzie/Martinez v. State of New Mexico

In 2014, two mothers – Wilhelmina Yazzie and Louse Martinez – separately filed suit against the State of New Mexico claiming it had failed to provide their children a constitutionally mandated sufficient education. Together with 24 other parents and three school districts, they successfully argued that the state had violated its own laws by "failing to provide… programs and services necessary to make (students) college or career ready" (Martinez et al., & Yazzie et al. [4]v. State of New Mexico, 2018, p. 3). Four student groups were specifically identified in the consolidated cases: students with disabilities, Native students, English Language Learners, and students from low-income families. Given the intersectional nature of student identities, that meant almost all students were covered by the case.

In issuing her ruling, the late judge Sarah Singleton found that the New Mexico Public Education Department had "failed to meet its supervisory and audit functions to assure the money (that) has been spent so as to efficiently provide… programs and services." Additionally, the state had not "properly exercised its authority to ensure that districts are properly prioritizing and funding programs and services… through district allocations" (Yazzie/Martinez, 2018, p. 3). She found that the PED had not given the school districts a framework to use in providing a multicultural education and that the State had not implemented the NM Indian Education Act, the Hispanic Education Act, or the Bilingual/Multicultural Education Act. She also found that programs like full-day PreK, extended learning time, and culturally and linguistically relevant curriculum and instructional materials are effective, but not available to all at-risk students. Subsequent to the ruling, the state funded a study of the status of its schools. It determined that "students who face barriers in school success – including poverty and systemic racism – are not exceptions in New Mexico; rather they are the norm" (Oakes et al., 2020, p. v).

The case has been back to court several times since the initial ruling, and each time the state was found out of compliance. Most recently, in April 2025, the court again found the state had not complied with its order. In the latest hearing, Judge Matthew Wilson said, "A court-ordered plan

[4] While Martinez et al. v. State of New Mexico was the first case filed, the consolidated cases have come to be known as the Yazzie/Martinez case.

would provide guidance to the Legislature and the executive branches of government, particularly when making difficult budgetary decisions that need to survive political and economic shifts" (Romero, 2025). The judge set a series of deadlines for development of the plan with a final document to be on his desk by November 2025.

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