

Regis Pecos, Chair
Tribal Education Alliance
c/o Leadership Institute at the Santa Fe Indian School
email: regispecos1@gmail.com or tribalremedyframework@gmail.com

February 16, 2026

Honorable Judge Matthew J. Wilson
First Judicial District Court
Santa Fe County District Courthouse
Via email: sfeddiv9proposedtxt@nmcourts.gov

RE: No. D-101-CV-2014-00793; Court Order Requiring Remedial Action Plan

Dear Honorable Judge Wilson,

On behalf of the Tribal Education Alliance, and as an Expert Witness to the Trial, I wish to express my gratitude for your Court's Order of May 20, 2025, requiring the Public Education Department (PED) to develop a comprehensive remedial action plan to bring the State of New Mexico into compliance with the Court's Decision and Order of July 20, 2018, and the Final Judgement and Order of February 14, 2019. The Tribal Education Alliance (TEA) works in partnership with New Mexico's Nations, Tribes, and Pueblos to ensure an equitable, culturally relevant education for Native children within the State's public school system.

Since the Court's 2018 Decision and Order, TEA and our tribal partners have asked the PED for a remedial plan. Additionally, in response to the Court's Order, all Nations, Tribes and Pueblos collaborated in developing our own comprehensive education plan, the *Tribal Remedy Framework*, to demonstrate to PED what actions are needed to fulfill Native students' rights. Over nearly nine months following the Decision and Order, the Leadership Institute was the lead facilitator, supported by a team of subject area experts, of an extensive tribal engagement process, which included meeting separately with the Jicarilla Apache Nation President, Tribal Council and community members, the Mescalero Apache Tribe President, Tribal Council and community members, the Navajo Nation executive and legislative branches, and the 19 Pueblos, which culminated in a large Pueblo Convocation. We have continued tribal deliberations in larger convenings and smaller meetings over the course of the last seven and a half years, collectively refining and advancing the *Tribal Remedy Framework*.

Despite persistent tribal efforts, we are still witnessing how State institutions, systems, budgets, programs, and practices continue to violate Native students' right to a sufficient and uniform education.

We regret to inform you that TEA must reject the "Martinez-Yazzie Action Plan" (the Plan) submitted by PED to this Court on November 3, 2025. PED's Plan does not contain the comprehensive actions necessary to remedy the constitutional violations experienced by Native

students. The Plan does not provide adequate strategies, actions, accountability mechanisms and cost estimates to lift up Native students whose rights and needs have been ignored for so long.

TEA has prepared a detailed analysis of the Plan, which I enclose in an appendix to this letter. I would like to offer a brief summary of our main concerns:

1. The Plan does not contain sufficient actions tailored to Native students and to the specific needs of Native students. The Plan does not address racism, discrimination, the legacy of colonialism, systemic resource deprivation, and the need to protect and enforce civil rights.
2. The Plan does not sufficiently differentiate between the four “at-risk” student groups. The Plan omits data of disparities in educational inputs and outcomes and offers no explicit strategies to close persistent gaps in inputs and outcomes. It does not sufficiently target interventions to the four student groups who need them most.
3. The Plan contains no proposal or cost estimate for fully implementing the Indian Education Act (NMSA 1978 Chapter 22, Article 23A).
4. The Plan does not address, or seek to rectify, the lack of funding for Native students. The state funding formula does not include a factor for Native students or Native languages, which means school districts do not have a regular funding stream for providing services tailored to Native students. The Plan also does not contain an accountability mechanism to ensure that districts spend the money they receive for “at-risk” students on those same students.
5. The Plan does not contain robust, specific, and achievable actions to maintain Native languages, as required by the Indian Education Act.
6. The Plan does not contain robust, specific, and achievable actions to reduce the persistent Native teacher shortage.
7. The Plan does not contain specific actions to support, develop and implement curricula, instructional methods, and materials relevant to Native students and created in collaboration with Tribes and Indigenous education experts.
8. The Plan does not contain any actions to strengthen collaboration with sovereign Tribes. It also does not support tribal community-based education programs, which are essential for Native students’ out-of-school time learning.

In addition to our concerns about the Plan itself, I must also to notify this Court that the State did not conduct formal tribal consultations about the Plan and its development. While tribal members and some tribal leaders participated in regional community meetings organized by PED’s consultants, PED did not hold designated government-to-government consultations about the Plan, nor did they collaborate with Nations, Tribes, and Pueblos in the development of the Plan.

TEA is concerned that if this Plan were to be adopted, it would not provide the necessary guidance to the executive and legislative branches requested by the Court. The Executive’s FY27 budget request did not mention the Plan, and the general appropriations act of 2026, as passed by the New Mexico House of Representatives, earmarks only \$2 million for the implementation of the “Martinez-Yazzie Action Plan”. The vast majority of education budget items is heavily skewed toward measures that are not tailored to the four student groups and that sideline the mandates of the Indian Education Act and the Bilingual Multicultural Education Act.

New Mexico urgently needs a sound and robust education plan to guide the State toward compliance with the Court's 2018 Decision and Order. Any plan that lacks targeted and tailored actions, estimated costs, and clear lines of accountability will give policymakers an excuse to continue avoiding compliance.

On behalf of TEA and our partners, I hope that PED will be compelled to come to the table and work with our Nations, Tribes and Pueblos, alongside other stakeholders and subject matter experts, to rewrite this plan and turn it into a robust tool that can guide New Mexico toward an education system that works for all children.

Thank you for your continued attention to this important matter.

Sincerely,



Regis Pecos
Expert Witness
Chair, Tribal Education Alliance
Director, Leadership Institute at the Santa Fe Indian School

Enclosed:
Tribal Education Alliance: Analysis of PED's "Martinez-Yazzie Action Plan"

TRIBAL EDUCATION ALLIANCE

Tribal Education Alliance: Analysis of PED’s “Martinez-Yazzie Action Plan”

February 12, 2026

The Tribal Education Alliance (TEA) works in partnership with New Mexico’s Pueblos, Tribes, and Nations to ensure an equitable, culturally relevant education for Native children within the State’s public school system. TEA advocates for the implementation of the Tribal Remedy Framework (TRF), a comprehensive plan for remedying the violations identified in the Yazzie/Martinez Court ruling. The TRF has been endorsed by all Nations, Tribes, and Pueblos in New Mexico.

Introduction

The Tribal Education Alliance and its tribal partners have advocated for a remedial education plan since the 2018 *Yazzie/Martinez* court ruling. When the Court required the State to remedy the constitutional violations experienced by four “at-risk” student groups – students with disabilities, English Language Learners, Native American students, and economically disadvantaged students – New Mexico’s Tribes came together to create the *Tribal Remedy Framework*, a comprehensive plan for transforming education for Native students. The TRF contains strategies and actions for complying with the court ruling and delivering equitable inputs and outcomes for Native students. When the Court ordered the Public Education Department (PED) in April 2025 to finally meet its obligations and develop an action plan that remedies the inequities faced by *Yazzie/Martinez* students, TEA welcomed this step.

TEA also welcomed PED’s readiness to engage in a public process to discuss and develop the court-ordered plan. TEA members and partners helped bring tribal leaders, tribal experts, and tribal community members to the table to provide their ideas and recommendations for the plan. We were inspired by the many people – from tribal and other communities – who spoke at the regional meetings and expressed, in their own ways, why New Mexico needs a new approach to education, with new structures, norms, and policies to create the conditions under which Native and other marginalized children learn best.

Yet TEA also found this public process flawed. First, formal tribal consultation did not take place, and Tribes were not treated as collaborators or co-equal partners in the development of a plan. The State did not conduct tribal consultations about the plan. The Governor of the Pueblo of San Felipe had to self-organize a regional meeting to help collect input from Pueblos, yet that meeting is not listed in the Plan (p. 188), indicating that those Pueblo comments may not have been analyzed. No regional meetings were held at Navajo Nation Chapter Houses or elsewhere on Navajo Nation lands.

Second, the format for public input was not open-ended nor developed jointly with participants, but pre-determined in a way that limited the flow of ideas. This forced participants to funnel their contributions into four categories that were designated, from the get-go, as the Plan’s core issues. These categories did not correspond to the issues or priorities contained in the *Tribal Remedy Framework* and other existing reform proposals.

Third, the community and tribal input gathered and documented in multiple formats is insufficiently reflected in the Plan. The Plan omits or sidelines many themes, comments, and ideas collected from participants and stakeholders. It fails to understand and address why the dominant education model, in most of its facets, does not match the expectations and visions expressed by community, tribal and other stakeholders.

TEA believes that the “Martinez-Yazzie Action Plan” (the Plan) submitted by PED on November 3, 2025, does not do justice to the public and tribal input received, nor does it remedy the constitutional violations and deficiencies identified by the Court. It does not offer adequate strategies and solutions to lift up those children whose rights and needs have been ignored for so long.

After years of tribal recommendations provided to PED and other state agencies, TEA expected more. The Plan does not incorporate the *Tribal Remedy Framework*, and it does not treat sovereign Tribes as co-equal partners in education governance.

In the following analysis, TEA presents why PED’s plan is unacceptable in both form and substance. To summarize, the Plan is a disjointed collection of piecemeal actions that continue current PED projects instead of disrupting business-as-usual. The proposed actions are not guided by desired population-level results, and they lack cost estimates and accountability mechanisms. The Plan omits data of disparities in inputs and outcomes and offers no strategies for closing those gaps. It does not target resources and interventions to the students who need them most. It does not address racism, discrimination, and the legacy of colonialism.

TEA is concerned that if this Plan is adopted, its shortcomings will impede implementation. The Executive’s FY27 budget request presented an early example: the Plan was neither mentioned nor were its proposed actions adequately budgeted for. Rather, the Executive and PED pursued sizable and expensive initiatives during the 2026 legislative session that sidelined the mandates of the Indian Education Act, the Bilingual Multicultural Education Act, and the Hispanic Education Act. A Plan without built-in budgets and clear lines of accountability gives politicians, policymakers, and education leaders readymade excuses to continue ignoring the obligations arising from the *Yazzie/Martinez* ruling.

To avoid this fate, TEA offers its analysis in the spirit of constructive critique and collaboration. We hope that PED will come to the table and work with stakeholders and subject matter experts to revise this Plan and create a tool that sets New Mexico on a path toward an education system that works for all children and their communities.

Summary of the Plan’s key shortcomings:

Approach:

- **Business-as-usual rather than transformation:** The Plan’s actions are based on “Progress to build on” (p. 20) rather than the results that the Court, Tribes, and communities want to see.
- **No plan for Native students:** The Plan has few specific actions benefiting Native students and their tribal communities. In contrast to the Court’s findings and conclusions, the Plan does not sufficiently differentiate between the four “at-risk” student groups. To eliminate disparities, a plan would have to identify each group’s assets, challenges, and needs and then target actions accordingly.
- **No attention to the causes of the education crisis:** The Plan’s actions are not grounded in an understanding of the problems they intend to solve. Many actions address symptoms, not root causes of the crisis in education.

Structure and organization:

- **Not results-based:** The Plan risks recycling the assumptions and actions that have produced persistent injustices and inequities, since all of its proposed actions flow from current PED-designed inputs (the so-called “progress”). A meaningful plan for change would need to start with desired population-level results and work backwards to the strategies and actions necessary for achieving those results.

- Not aligned with Yazzie/Martinez Court findings and conclusions: The Plan is organized around four areas of education inputs and does not center the four student groups identified by the Court. The Court requires the State to remedy disparities faced by these four student groups (in both inputs and outcomes) and be accountable for that. The Plan should have been structured accordingly.
- Not a coherent plan but a disjointed task list: The various components of the Plan fail to coalesce into a strategic document and instead appear like a list of disconnected, fairly random and piecemeal tasks.
- Not a long-term plan: The three-year timeline is insufficient to plan meaningful change. Many actions are presented as short-term interventions whose sustainability is not addressed.
- No budgets, no cost estimates: None of the actions in the Plan are costed, and no budget is included with the Plan or any of its components or actions.
- Insufficient accountability and participation: The Plan lacks specific accountability measures for actions and goals. It is unclear how PED will know whether the actions are effective and how it will assess progress on goals and outcomes. The Plan also lacks an overarching accountability mechanism, such as an oversight body or review team. It contains no strategies or opportunities for public participation.

Content and proposed actions:

- Lack of strategies for implementing the Indian Education Act and other statutory mandates pertaining to “at-risk” students
- Insufficient support for tribal sovereignty
- Insufficient support for Native languages
- Insufficient attention to the Native teacher shortage
- Insufficient support for Indigenous curricula, instruction, and materials
- Lack of funding for Native students
- Lack of support for tribal community-based education
- Lack of protection from civil rights violations

The Tribal Plan for remedying the violations identified by the Court

TEA’s analysis of PED’s Plan is guided by tribally desired results for students and communities, consistent with years of tribal advocacy. The *Yazzie/Martinez* case has been a key part of this advocacy. Following the 2018 Court ruling, Tribes developed the *Tribal Remedy Framework* as a comprehensive compliance roadmap for the State. The TRF functions as an iterative and interactive plan, containing desired results, goals, strategies, actions, and budget estimates, all referencing the Court’s extensive findings and conclusions.

TRF desired results:

1. Native students are confident and respected in their identities, cultures and languages and can contribute to sustaining their Indigenous ways of life (corresponding to the *Yazzie/Martinez* Court’s Conclusions of Fact and Findings of Law ¶¶458, 463, 475, 486, 496, 511, 522, 523).
2. Native students have equitable education outcomes and are ready for college, career, and community, on par with their peers (CFFL ¶¶323, 458, 522, 525, 560, 630, 667, 3187).
3. Native students receive community and school-based supports that meet their social, health, technology and learning needs (CFFL ¶¶162, 178, 180, 198, 266, 270, 271, 272, 273).
4. Tribes are partners in public education governance and exercise self-determination over their children’s education (CFFL ¶¶588, 603, 3067, 3083).

Will PED's Plan help achieve results for Native students?

TEA is concerned that this Plan may not achieve meaningful results for Native students. One reason is that the Plan is not driven by results. Although the Plan's introduction lists overarching goals, these are not reflected in the action plan itself. None of these goals were present in the first Draft Plan, which means goals were superimposed onto actions at a later stage. In other words, the Plan's actions were designed to follow current practices ("progress to build on", the first column in each action table) rather than to follow goals or desired results.

The Plan does not explain how its goals were decided. Of the five overarching goals, three are about improving the academic performance of the *Yazzie/Martinez* student groups, measured through existing assessments and criteria. One goal, reducing chronic absenteeism, merely indicates a symptom of the current crisis. The final goal is about "reduc[ing] gaps in students' sense of belonging" (p.12), measured by a generic school culture survey. While the Plan's goals may be superficially related to TRF results #1 and #2, they are tethered to existing priorities (reading and math proficiency) and standard assessments and do not reflect a vision for an equitable and relevant education system in a diverse, multicultural state. There are no overarching goals specifically for Native students.

The following analysis shows why this Plan is unlikely to achieve meaningful results for Native students and their tribal communities. Its approach is not conducive to creating the systemic change necessary for eliminating disparities, its organization lacks rigor, cohesion, and specificity, and its proposed actions fall short of remedying the many ways in which the education system continues to fail Native students.

I. The Plan takes the wrong approach

1. **Business-as-usual rather than transformation:** The Plan continues PED's existing actions. This is intentional and stated clearly in the introduction and conclusion: "This plan represents ongoing, systemwide actions" (p.1) and it "represents a continuation of PED's work" (p.159). Instead of reflecting people's ideas for change, the plan is grounded in ongoing initiatives. This business-as-usual approach stands in stark contrast to communities' call for change and to PED's stated vision of a "transformed education system" (p.1). While PED refers to existing and ongoing actions as "progress to build on," no data or evidence is provided to identify such actions as "progress." Progress toward what? How have existing actions addressed the Court Order and improved educational outcomes for the *Yazzie/Martinez* student groups? Has PED agreed with stakeholders, including plaintiffs, that these are initiatives worth continuing and building on? Has PED received public support for these actions? Most education stakeholders, including TEA, have consistently advocated for a remedial plan precisely because they did not see PED's initiatives as part of a strategic and transformative approach that could remedy the constitutional violations identified by the Court. PED provides no justification for using those same initiatives – initiatives that have propped up a failed system – as the foundation for a new plan, a plan that is supposed to transform this unjust and inequitable education system.

It is imperative for Tribes and Native students that a remedial plan includes explicit actions to dismantle the assimilationist education model and to establish a culturally relevant and respectful system that nurtures Native students' cultural and linguistic identities and provides access to Indigenous knowledge systems and ways of learning. Although assimilation is no longer a publicly accepted approach, it continues to run as an undercurrent, embedded in systems, institutions, and policies. A plan for change would need to make this visible and propose actions to dismantle all discriminatory and harmful policies and practices.

2. No plan for Native students: Native students and their communities are not specifically targeted with this Plan, nor are any of the other three *Yazzie/Martinez* student groups. This stands in contrast to the Court’s analysis of violations affecting each student group. The Court presented separate sections of findings for each group before determining overlapping factors. The Plan’s introduction proceeds similarly, briefly addressing each *Yazzie/Martinez* student group separately, yet the action plan itself groups “at-risk” students together, with few actions specific to a particular student population. This has the effect of blurring both the differences and the intersections between those student groups. It is assumed, without providing evidence, that most actions will benefit all student groups. But when everyone is treated the same, those with different needs are marginalized.

The failure to disaggregate the four *Yazzie/Martinez* student populations means the Plan cannot remedy the specific violations identified by the Court, nor can it understand and address disparities between each of these groups and the general student population. The plan does not contain data on the disparities in inputs and outcomes affecting each student group. Despite an introductory statement promising to “eliminate the persistent gaps in student achievement,” the Plan does not present a strategy to close those gaps. A plan that treats all students the same and does not identify different assets, challenges, and needs cannot narrow gaps and advance equity. For Native students and their communities, this means that specific priorities related to culture and language are sidelined in the Plan and largely subsumed under generic actions related to multiculturalism.

3. No attention to the causes of the education crisis: The Plan’s actions are not informed by an analysis (or at least a description) of the problems they intend to solve. Many actions appear to address symptoms, not root causes of the crisis in education. It is difficult to design appropriate actions if the causes and underlying drivers of persistent challenges are poorly understood. Any actions developed to benefit Native students would need to be grounded in an analysis of the lasting impacts of colonialism, racism, forced assimilation, and cultural erasure, yet the Plan shows no such awareness.

Although TEA appreciates that the Plan’s introduction replicates verbatim the vision presented in TEA’s own plan (“a just and equitable education system that upholds the rights and meets the needs” of the *Yazzie/Martinez* student groups, one that honors tribal sovereignty and sustains Indigenous histories, cultures, and languages, p.1), the Plan does not connect this visionary language to an understanding of the problem and a recognition of how the current education system prevents the realization of such a vision. Throughout history, and to this day, Western education has threatened Indigenous identities and ways of life. To be relevant to Native people, a meaningful plan for transforming education must start there.

II. The Plan lacks appropriate structure and organization

The Plan has methodological problems that will likely impede the usefulness, effectiveness, and impact of the proposed actions.

1. Not results-based: A plan for change should be driven by desired population-level results and work backwards to the strategies and actions for achieving those results. To avoid recycling the assumptions and actions that have produced persistent injustices and inequities, the planning of actions should flow from the desired results, not vice versa. PED’s Plan is not positioned to do things differently, because it starts with “progress to build on,” which consists of PED-designed inputs rather than student-level results. Continued inputs into a failed system will perpetuate that same system.
2. Not aligned with the *Yazzie/Martinez* Court findings and conclusions: The Plan is organized around four areas of system inputs, which the introduction says are “the four critical needs highlighted by the Court” (p.12). However, the Court did not highlight four issue areas, it highlighted four disadvantaged student groups. Yet the Plan’s four areas are not centered on “at-risk” students, the four student

groups that are the subject of the Court order. The Court requires the State to remedy disparities faced by these four student groups (disparities in both inputs and outcomes) and be accountable for that. This is the purpose of the court-ordered remedial plan and PED's plan should have been structured accordingly.

Instead of focusing on disparities, the Plan is organized around educational inputs (e.g., instruction, educators, social services, funding) that do not specifically target the four disadvantaged student groups. Improving inputs across the board does nothing to reduce equity gaps and may even increase them. As a result, it is unclear whether this Plan and its proposed actions can be seen as responding to the Court ruling. The Plan does not reference the Court's findings, conclusions, or decision.

With regard to Native students, it is worth noting that tribally developed solutions and actions (contained in several iterations of the *Tribal Remedy Framework*) do not easily fit into the Plan's four issue areas. During the public participation process, tribal stakeholders struggled to present their perspectives to fit with the pre-determined categories of inquiry (the same four issue areas). The Plan's structure was not designed to examine and address the inequities experienced by Native students and their Tribes.

3. Not a coherent plan but a disjointed task list: The various components of the Plan fail to coalesce into a strategic document and instead appear like a list of disconnected, fairly random and piecemeal tasks. There are major disconnects between statements made in the introduction and the tables of proposed actions, between outcomes and actions, between goals and outcomes, and even between the various actions. Action items do not build on each other, many actions reflect activities already underway or existing responsibilities that PED has struggled to carry out. As a result, the Plan appears more like a running task list or a work plan than a strategic tool for transformation.

Although the Plan includes a mix of outcomes, these are not part of the sequenced action tables but were added as afterthoughts in response to public feedback to the Plan's first draft. It is unclear who decided those outcomes, how they were prioritized, and on what grounds. Outcomes vary by type; some are about inputs, some about results. Many outcomes are too vague. Even quantitative outcomes are not always specific ("fewer", "on average", "an increase") and none are easily measurable because baseline data is missing. There is no guidance about how to measure progress. In addition to "outcomes" the Plan features "goals" related to each of the four issue areas, which are vague, not specific, and not measurable. These are primarily input goals, and at least one (4.4) reads like a task. Goals are not clearly linked to outcomes. Finally, the Plan also includes five "overarching goals," as discussed above (page 4 of this analysis), which are presented in the introduction (p.11) but then not mentioned again.

In TEA's opinion, this Plan does not fulfil the purpose of an action plan. An action plan should enable strategic and sustained progress toward a defined set of population-level results. It must include specific, measurable, achievable, relevant, and time-bound goals, and specific and measurable actions, actors, metrics, timelines, and budgets that serve to meet those goals.

4. Not a long-term plan: The three-year timeline is insufficient to plan meaningful change. Many actions are presented as short-term interventions. Where issues clearly require longer timelines, the Plan limits itself to an assessment and evaluation phase, never attempting implementation. An extended timeline – a minimum of five years – is needed.
5. No budgets, no cost estimates: None of the actions contained in the Plan are costed, and no budget is included with the Plan or any of its components or actions. There is no fiscal analysis that could guide implementation or inform expectations. What might it cost to close the gaps for "at-risk" students?

What might it cost to fully implement the Indian Education Act? These questions are not raised, let alone answered. A meaningful education plan would need to include a budget for each of its actions.

6. Insufficient accountability and participation: The Plan lacks specific accountability measures for each action and goal. It is unclear how PED will know whether actions are effective and how it will assess progress on stated goals and outcomes. The Plan also lacks an overarching accountability mechanism, such as an oversight body or review team, to evaluate progress and impact and to help ensure the sustainability and expansion of actions beyond year three. This could be an opportunity for public participation, which is currently missing from the Plan.

Participation is briefly mentioned in the introduction – as a phase of “ongoing communication and stakeholder feedback” (p.4) – but it is not included in the Plan itself. None of the four issue areas contains proposals for public, community and tribal engagement in the Plan’s implementation and evaluation (except when Tribes are designated as “responsible” actors). To satisfy both existing legal obligations and best practices, any government plan that impacts the public and Tribes must include a robust strategy (and funding) for meaningful and ongoing public participation and tribal consultation.

III. The Plan’s disjointed actions fail to fulfil Native students’ rights and needs

The Plan’s content does not adequately reflect tribal priorities, including those contained in the TRF, the tribal plan for remedying the violations experienced by Native students and recognized by the *Yazzie/Martinez* Court. While PED and its consultants received and reviewed TRF related materials, as evidenced in the Plan’s list of references, the TRF’s solutions were not incorporated into the Plan. Below is a non-exhaustive list of tribal priorities that are not, or not sufficiently, addressed in the Plan.

1. Lack of strategies for implementing the Indian Education Act and related statutory mandates: The Court affirmed the status of the New Mexico Indian Education Act (IEA) as a constitutional mandate. The Plan’s introduction promises that the State will “honor its responsibilities” (p.2) under the Indian Education Act and mentions some of the Act’s provisions. Yet the Plan’s actions do not contain any strategies, initiatives, cost estimates or budgets for fully implementing the IEA. It remains unclear what specific actions PED will take to comply with the IEA and what compliance with the Act will cost in the short and long term. The Plan does not specify what capacities would need to be added at the tribal, school, district, and departmental level to meet the IEA’s goals. The Plan does not include any specific actions for PED’s Indian Education Division, which carries the primary responsibility for implementing the IEA.

The Plan omits the IEA’s specific obligations on school districts (NMSA 1978 ¶22-23A-9), in particular the requirement to assess Native students’ needs and prepare a framework to meet those needs. The Plan references needs assessments only in passing, in relation to other programs (at 2.1g and 3.2b). There are no actions related to supporting and enforcing the development and implementation of needs assessments. There are also no actions to monitor and evaluate needs assessments, to guide their design and utility as transformational tools, or to integrate tribal involvement. While the Plan briefly mentions compliance with the IEA in relation to school administrator and superintendent preparation programs (2.1g), there is no action related to training all education leaders and practitioners (including school board members and teachers) in the IEA’s mandates. The Plan also fails to mention another statutory requirement, at NMSA 1978 ¶21-1-50, to establish Tribal Technical Assistance Centers, an obligation the State has yet to meet.

2. Insufficient support for tribal sovereignty: The Plan promises in the introduction to honor tribal sovereignty and engage in meaningful consultation (p.2), but the Plan’s actions contain hardly any provisions for tribal consultation and collaboration, and none for shared decision-making, governance

partnerships, obtaining consent, or similar strategies for respecting and supporting tribal self-determination. The Plan lacks actions to effectuate the government-to-government relationships mandated by law (NMSA 1978 ¶22-23A-2.F, ¶11-18-3). The Plan does not address standards for tribal consultation and the need to implement and improve existing consultation guidelines, nor does it mention whether and how tribal consultation by school districts will be monitored and enforced. The Plan ignores districts' statutory obligations to engage in shared governance with Tribes (NMSA 1978 ¶22-23A-9.C. and F.; ¶22-23A-10), passed into law in 2019 (HB 250). While Tribes are mentioned repeatedly as "responsible" for action items, it is not indicated how such responsibility would be effectuated, shared, and funded.

3. Insufficient support for Native languages: The Plan's focus on English language literacy is dominant throughout. This approach is also reflected in the Executive's FY27 budget request, which includes, in addition to general state formula funding for "structured literacy", \$30 million for a "science of reading" program, \$14.56 million for early literacy coaches, and \$3 million for the annual operations of a literacy institute. All of these supports are tailored to a plan and policy agenda prioritizing an English-dominant literacy model that, according to Indigenous language experts, cannot be applied to Indigenous language teaching and learning. In comparison, the Executive's special appropriation request to expand resources for heritage language and bilingual programs is \$580,000. The Plan itself proposes no specific actions or funding to increase access to Native language learning. It is unclear how the Plan intends to achieve its target of increasing the number of students served by Native language teachers by 10% (p.66) – a target that is insufficient given the immediate threat to the survival of Indigenous languages. The Plan does not contain actions that could build robust pathways and sustainable support for Native language teachers, nor does it address how schools will be incentivized to provide more Native language classes.
4. Insufficient attention to the Native teacher shortage: The Plan recognizes that student outcomes "improve when they have educators who share their cultural and linguistic heritage" (p.71), which is presumably why an increase in Native teachers is included as an outcome (p.93). Yet the Plan contains no action related to building a robust Native educator pipeline and no specific quantitative target for the desired Native teacher increase. The Plan's proposal to develop better recruitment strategies (2.1a) is insufficient as it contains no details about what this would look like. This action largely consists of monitoring and evaluation, with a potential development of formal recruitment plans left to year 3. According to TEA's calculation, closing the gap in the number of Native teachers would require employing 1400 more Native teachers (*Pathways to Education Sovereignty*, 2020). The Plan contains no projections of numbers and cost.
5. Insufficient support for Indigenous curricula, instruction, and materials: The Plan mentions the need for heritage language and bilingual education, yet it offers no strategy for developing and supporting Indigenous curricula, instruction, and materials. Who would create and support the use of Indigenous materials and methods, how would Tribes be involved, and how much would this cost? The Plan ignores the TRF's proposal of establishing Indigenous curricula and materials development centers. The Plan does not mention whether and how PED will support the existing Indigenous Wisdom curriculum developed by Pueblo experts or the New Mexico Indigenous Instructional Scope developed under PED's guidance. The Plan is also silent on the Indian Education Act's requirement for curricula to be approved by Tribes (NMSA 1978 ¶22-23A-2.I), even though compliance has been a problem.

The Plan contains no action specifically related to supporting or training teachers in using materials and instructional methods that are responsive and relevant to Native students. On the contrary, last year the State mandated teacher preparation in English-dominant instruction methods. In the 2026

legislative session, PED has actively pursued the passage of an English-dominant literacy bill, alongside substantial budget allocations for that purpose. None of those sizable initiatives emerged from the public input received as part of the action plan development.

The Plan fails to put forward a strategy and actions for creating equitable and relevant learning environments for Native students. Yet Tribes have repeatedly articulated the need for creating relevant learning environments where students, families, and tribal communities can feel a sense of belonging, see their identities and histories reflected, and feel respected. Native students are more likely to love learning if their educational experiences are relevant and enable them to make contributions to their communities. Any plan or policy should respect and reflect this tribal priority.

6. Lack of funding for Native students: The Plan contains no fiscal analysis of what it would cost to fund a constitutionally adequate education for Native students. It is unfortunate that the Plan avoids any discussion of cost or funding, especially since state education funding does not appear to be based on student needs. The State Equalization Guarantee (SEG) does not have a formula factor to provide funding for programs and services that specifically support Native students. The Plan does not propose adding such a factor or factors for Native students and Native languages. The Plan mentions no funding for Native students besides the Indian Education Fund (IEF), a tiny percentage of public education funding. IEF funding is not only insufficient to meet Native students' needs, it is also unstable and unpredictable as there is no statutory requirement to maintain a certain funding level. This is despite years of tribal advocacy for permanent funding for Native students through a trust fund (for Tribes) and the SEG (for schools). Current SEG funding, by means of the formula's at-risk factor, is supposed to benefit Native students, but there is no accountability mechanism to ensure that districts spend "at-risk" funding on "at-risk" students.

In most regional community meetings, participants requested greater accountability from school districts (which the Plan documents on p.131), yet the Plan does not propose an accountability mechanism for the spending of SEG funds. Instead, the Plan announces greater scrutiny of recipients of the Indian Education Fund. This means Tribes will be scrutinized for receiving small IEF amounts, whereas school districts, who receive large amounts of SEG funding for "at-risk" students, are not held accountable for their spending. Although the Plan proposes an "online accountability and transparency tool" for schools and districts (at 4.1c), this is clearly for information only. The Plan does not say what it will do with the information obtained. There is no action proposed to intervene in cases where districts do not spend funding according to purpose, and no indication that PED will use its enforcement powers.

7. Lack of support for tribal community-based education: The Plan contains no data on the education capacity needs of Tribes, even though many Native students depend on their Tribes for access to language classes, out-of-school programs, summer school, experiential learning, library services, wrap-around support services, and much more. No actions are proposed to develop and enhance tribal education capacities, facilities, and infrastructure. Yet Tribes have repeatedly made clear, including in the TRF, that community-based learning is essential for connecting to Indigenous knowledge, deep collective memory, and the shared experiences of Indigenous peoples. Through community-based learning Native students come to understand and value who they are, learn to love learning, learn to contribute to the survival of Indigenous peoples, and become good ancestors. The Plan does not give this any consideration.
8. Lack of protection from civil rights violations: Native students face racism and discrimination on a daily basis. This problem cannot be addressed through a reactive, case-by-case approach. New Mexico needs a strategy for eliminating institutional and systemic racism. The State must proactively protect Native

students' civil rights at a time when federal protections may no longer be enforced. The Plan does not address this challenge and only proposes diversity and inclusion training. Racism, discrimination, and harassment are not mentioned in the Plan. While the Plan intends to reduce the disproportionate rate of suspensions and expulsions of Native students (p.126) and points to Indigenous justice models (3.3b), the proposed actions are limited to training and monitoring. This pushes the responsibility onto teachers rather than providing state-wide rules and protocols for all schools and districts.

Conclusion

The Tribal Education Alliance rejects the "Martinez-Yazzie Action Plan" as submitted to the Court by PED. This Plan, as written, does not remedy the violations faced by Native students in New Mexico's public education system. The Plan's actions are not designed to achieve meaningful results for Native students and their tribal communities. They are not focused on eliminating the educational disparities experienced by Native students and other disadvantaged student groups.

TEA urges the Public Education Department to rewrite the Plan and to do so in a more collaborative manner, with meaningful participation of all stakeholders, subject matter experts, community members, and with full and formal tribal consultation.