

**Evaluation of November 2025 Revised Action Plan**  
**Matthew Gardner Kelly, PhD**  
**Assistant Professor, University of Washington**

## **INTRODUCTION**

The Public Education Department’s October 2025 Draft Action Plan contained a series of critical, interrelated deficiencies: (1) unclear connections between proposed actions and the needs of Native American students, English language learner students, students with disabilities, and students from low-income families (hereafter, marginalized youth, or MY); (2) excessive vagueness in action items; (3) complete absence of a systematic cost analysis; and (4) an inadequate three-year timeline. In this report, I evaluate whether the revised plan addresses these deficiencies and provides the detailed guidance and comprehensive cost estimates necessary to remedy constitutional violations and allow the Court to conclude this litigation.

The plan before the Court fails to provide the detailed guidance, comprehensive cost analysis, and accountability mechanisms necessary to remedy the constitutional violations MY students experience. Most critically, the plan still contains no systematic fiscal analysis whatsoever beyond a single proposed item related to transportation. It proposes no new cost studies, no budget specifications, no funding commitments, and no mechanisms to determine whether proposed investments will be sufficient to remedy the constitutional violations outlined in detail by the Court, often acknowledged by the State, and described in the Plaintiff’s Non-Compliance motion. This complete absence of fiscal analysis—the deficiency which was most fundamental to the October 2025 Draft Action Plan—means the Legislature cannot know what adequate funding requires, districts cannot plan for implementation, the Court cannot evaluate whether the plan will succeed, and MY students have no assurance they will receive the resources the Constitution guarantees them. A plan to remedy violations rooted in inadequate funding that refuses to determine what adequate funding requires cannot credibly claim it will achieve constitutional compliance.

These four deficiencies are interconnected. Vagueness makes cost analyses more difficult, but the absence of systematic cost analyses also enables vagueness—if the State never determines what adequacy requires, it can propose vague actions and claim any level of funding is adequate. Similarly, an arbitrary timeline enables both vagueness and fiscal evasion—if the plan must conclude in three years regardless of whether violations are remedied, there is no incentive to be specific about what must be done or realistic about what it will cost.

### **Organization of This Report**

This report analyzes the revised Action Plan’s most critical deficiencies at a high level in four sections, then provides a series of more detailed, illustrative examples. Section I analyzes how excessive vagueness persists across most action items despite some changes, documenting why vague actions cannot provide the detailed guidance the Court requires. Section II examines the continued absence of any systematic fiscal analysis, explaining why this omission prevents the plan from guiding legislative appropriations, ensuring adequate implementation, or providing any basis for evaluating whether sufficient resources will reach MY students. Section III evaluates the plan’s three-year timeline and describes how it fails to provide any assurance, especially in the context of vague action items and the absence of systematic cost analyses, that constitutional violations noted by the Court will be remedied. Section IV discusses two examples to describe in detail consequential places critical to findings of the Court, where the description of action items in the final plan was

slightly changed from the draft plan, but where the underlying, fundamental issues described in Section II persist.

Throughout this analysis, I emphasize that the absence of systematic fiscal analysis is not merely one deficiency among several—it is the foundational failure that undermines everything else in the plan. A state cannot remedy violations rooted in inadequate funding without determining what adequate funding requires. It cannot ensure sufficient resources reach MY students without analyzing costs and committing to meet those costs. It cannot demonstrate constitutional compliance without establishing adequacy standards and measuring performance against them. The revised plan does none of these things, and as a result, it cannot credibly claim it will remedy the systematic denial of MY students’ constitutional rights to a uniform and sufficient education.

## I. EXCESSIVE VAGUENESS

Excessive vagueness remains a critical deficiency that would prevent implementation, evaluation, and compliance with the Court’s requirements. The Court required a plan “detailed enough to provide necessary guidance to the legislature and the executive branches of government, particularly when making difficult budgetary decisions that need to survive political and economic shifts.” Seventy-eight percent of action items in the draft plan were vague in at least one critical dimension—lacking specificity about trainers, capacity, scope, quality standards, costs, resources, monitoring criteria, or implementation requirements.

The removal and consolidation of some action items, the replacement of the MY abbreviation with an enumerated list of the student groups MY signifies, and minor revisions to some of the details shared about items like 2.3a do not address the excessive vagueness that permeates the plan. Action items in the Action Plan continue to suffer from the same deficiencies that existed in the draft plan. These items still lack specificity about:

- Training and professional development: Multiple action items continue to propose “professional development,” “technical assistance,” or “training” without specifying who will provide training, what capacity exists to deliver it at scale, what quality standards will ensure effectiveness, how implementation will be monitored, what resources are needed, and how those resources will be provided.
- Monitoring and evaluation: Several action items continue to propose “monitoring” implementation or “evaluating” effectiveness without establishing what standards will be used, what data will be collected, what constitutes adequate performance, and what consequences follow if inadequate results are identified.
- Legislative action: Multiple items propose to “pass legislation” without specifying what that legislation must include, what funding levels it must provide, or what enforcement mechanisms it must contain.
- Resource provision: Various items reference providing “resources” or “supports” without defining what those resources are, how their adequacy will be determined, or whether funding will be sufficient.

This persistent vagueness remains problematic for five reasons. First, when costs are unspecified, the Legislature can appropriate inadequate amounts and claim compliance. Second, when requirements are unclear, agencies and districts can implement minimally and claim compliance. Third, when targets are undefined, any improvement can be declared a success regardless of whether constitutional violations were remedied. Fourth, when multiple parties are listed as “responsible” without a clear delineation of duties, accountability is diffused. Fifth,

vagueness allows PED to evade its obligation to provide MY students with a constitutionally required education that is uniform and sufficient.

Excessive vagueness is not merely a technical deficiency requiring editorial revision. It is a structural feature that can allow constitutional violations to continue while creating the appearance of remedial action. Between the draft and revised versions of the plan, the state removed or consolidated some action items but did not add the specificity, cost analyses, or implementation details that would make the remaining items operational. The strategy of removing vague items rather than making them specific does not address this fundamental problem—the plan before the Court remains too vague to provide the guidance the Court requires.

## II. SYSTEMATIC FISCAL ANALYSIS REMAINS ENTIRELY ABSENT

The plan before the Court contains no comprehensive cost analysis necessary to remedy constitutional violations. Not a single action item proposes systematically determining the actual funds needed to meet goals, with the sole exception of studying transportation costs for before- and after-school programs—and even that exception lacks concrete budgetary commitments to ensure identified needs would be met. The plan contains no cost studies, no budget specifications, no funding commitments, and no mechanisms to determine whether proposed investments will be sufficient to remedy the violations documented by the Court.

This was the most fundamental deficiency of the October 2025 draft, and the revised plan does not address it in any way. It only slightly tinkers with the language of some fiscal action items, expressing in slightly different words action items that continue to lack any basis in a systematic examination of costs.

For decades, educational cost analysts have used rigorous, well-established methods to determine what resources students need to have an opportunity to meet state standards. These comprehensive studies—commonly referred to as adequacy studies or costing-out studies—systematically examine whether existing educational investments within a state system are sufficient and, if not, what additional investments are needed, for which districts, and for which student groups.<sup>1</sup> They help state lawmakers and courts across the country identify the specific investments needed to remedy constitutional violations. Multiple states have commissioned such studies following court rulings on education finance adequacy.<sup>2</sup> New Mexico has not.

While comprehensive statewide adequacy studies examine entire education systems, the same methods can be applied at smaller scales to specific educational goals or student populations. For example, a state could commission a study to determine the actual costs of providing adequate special education services, sufficient bilingual education programming, or transportation that ensures all students can access educational opportunities. The plan's failure to employ any such analysis—whether comprehensive or focused—is therefore not a matter of methodological limitation. These

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<sup>1</sup> For overviews of adequacy study methods, see Allan R. Odden, Michael E. Goetz & Lawrence O. Picus, *Using Available Evidence to Estimate the Cost of Educational Adequacy*, 3 Educ. Fin. & Pol'y 374 (2008); Michael A. Rebell, *Adequacy Cost Studies: Perspectives on the State of the Art*, 1 Educ. Fin. & Pol'y 465 (2006).

<sup>2</sup> As Rebell documented, by 2006 judicial review of adequacy studies had already been undertaken by courts in eight states: New Jersey, Ohio, Wyoming, Arkansas, Kansas, Massachusetts, Texas, and New York. *Id.* at 468 n.5. The number of such studies has grown substantially since that time. For a review of studies from 2003 to 2014, see Aportela, A., Picus, L., Odden, A. & Fermanich, M., *A Comprehensive Review of State Adequacy Studies Since 2003* (Augenblick, Palaich & Associates, 2014). Additional recent examples include, but are not limited to, Levin, J. et al., *What Does It Cost to Educate California's Students? A Professional Judgment Approach* (American Institutes for Research, 2018); Atchison, D. et al., *Equity and Adequacy of Colorado School Funding: A Cost-Modeling Approach* (2024). For a more comprehensive listing of state adequacy studies, See Appendix.

tools exist, are well-established, and could be applied to any of the specific areas where the Court has documented violations.

New Mexico lawmakers have long recognized the principles underlying these cost studies. The State Equalization Guarantee formula—embedded in state law for decades—applies weighted adjustments for different student groups and district characteristics based on cost differentials. The formula recognizes that it costs more to educate certain groups of students, such as students with disabilities, and modifies the distribution of appropriated funding accordingly. The same body of research on cost differentials can be used to determine how much funding should be allocated to a formula like SEG—not just how the funding lawmakers decided to appropriate should be distributed. This distinction is critical: the plan proposes evaluating whether SEG factors appropriately distribute existing funding (action item 4.1a) without ever determining whether the total amount being distributed is adequate.

Throughout the Martinez/Yazzie Action Plan, the State treats increased investments since FY19 as evidence of sufficiency without ever systematically determining what sufficiency requires. The “Progress to Build On” sections reference funding increases from the FY19 baseline or recent legislative sessions without answering the critical question: Are these investments adequate to provide MY students with the uniform and sufficient education the Constitution requires?

The absence of systematic fiscal analysis means the Legislature cannot fulfill its constitutional duty to fund an adequate education system because it does not know what adequacy requires. It means school districts cannot plan effectively because they do not know what resources will be available. It means the Court cannot evaluate compliance because there are no standards against which to measure sufficiency. And it means MY students will continue to be denied their constitutional rights because the state refuses to determine—and commit to providing—what they need.

A plan designed to remedy constitutional violations must begin by determining costs. What does it actually cost to:

- Provide sufficient culturally and linguistically responsive instruction for Native American students and English Learners?
- Ensure all students with disabilities receive appropriate special education services?
- Guarantee economically disadvantaged students have access to the same educational opportunities as their more affluent peers?
- Train and retain sufficient numbers of qualified bilingual and special education teachers?
- Provide adequate instructional materials, technology, and facilities?
- Deliver comprehensive student support services?

The Martinez/Yazzie Action Plan answers none of these questions. Action items reference desired outcomes—expanded programs, improved training, better resources—without explaining how the state will determine what resources are needed, what those resources are, what investments from lawmakers will be required, and whether the state even commits to providing them. This absence of systematic cost analyses reflects a fundamental failure to grapple with what the Court’s ruling requires: a plan that will actually remedy the systematic underfunding that denies MY students their constitutional rights.

The plan’s fiscal deficiencies are particularly troubling given PED’s emphasis on funding increases since FY19. This approach is conceptually flawed: comparing current funding to prior inadequate funding does not demonstrate sufficiency. Investments made in FY23, FY24, and FY25 were largely in place when the Court ruled in April 2025 that the state continues to violate Native

American students’, English Learners’, students with disabilities’, and economically disadvantaged students’ constitutional rights. Yet the plan continues to frame these same investments as “progress to build on” without acknowledging that they have already been found insufficient.

The plan’s reliance on decontextualized funding increases to suggest compliance illustrates precisely why the absence of a comprehensive adequacy study is so consequential. Without a systematic determination of what sufficiency requires, the state can cite aggregate figures that suggest compliance but obscure whether investments are reaching the students who need them and addressing the concrete, constitutional violations documented by the Court. Consider the two funding claims the plan presents as “progress to build on” for Goal 4.1. The plan states that “[p]ublic school funding that flows directly to schools increased by 70 percent between FY19 and FY26.” This figure lacks critical context. State Equalization Guarantee funding—the largest source of operational funding for schools and the mechanism through which the state accounts the most for the additional needs of students the Court finds are having their constitutional rights violated—has increased in real dollars, but the increase is far more modest than this figure suggests when adjusted for inflation.<sup>3</sup> Moreover, the investments in FY19 were deemed inadequate by the court and remained inadequate when the Court ruled about ongoing violations in FY25. Without the results of a comprehensive adequacy study, the Court cannot determine whether increasing an inadequate base by any percentage corrects underlying constitutional violations and achieves sufficiency. Further, any real increase must be evaluated against growing need: the number of English Learners increased by approximately 5,931 students (11%) and the number of students with disabilities increased by approximately 8,174 students (15%) over this period.<sup>4</sup> When need is growing by double digits, a funding increase spread across all students—not targeted specifically to MY populations—may not represent progress toward adequacy at all.

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<sup>3</sup> For example, this figure is only 29% if we (a) obtain the SEG value for the FY19 operating budget reported in LESC, *Annual Report to the Second Session of the 54<sup>th</sup> New Mexico Legislature* ([https://www.nmlegis.gov/Entity/LESC/Documents/Reports\\_To\\_The\\_Legislature/LESCReportToLegislature\\_2019.pdf](https://www.nmlegis.gov/Entity/LESC/Documents/Reports_To_The_Legislature/LESCReportToLegislature_2019.pdf)) at 136 (tbl, line 32, “FY 19 OpBud” column); (b) convert that figure into comparable FY 25 dollars using fiscal year monthly averages from “Consumer Price Index Historical Tables” to generate fiscal year values in accordance with the procedure recommended by the National Center for Educational Statistics and found to best account for the impact of inflation as described in Kenneth Shores & Christopher Candelaria, *Get Real! Inflation Adjustments of Educational Finance Data*, 49 *Educ. Researcher* 3 (2020); and (c) compare that inflation-adjusted figure to the SEG value obtained from *2024 Annual Report to the 57<sup>th</sup> New Mexico Legislature* [https://www.nmlegis.gov/Entity/LESC/Documents/Reports\\_To\\_The\\_Legislature/LESC%202024%20Annual%20Report%20-%20Web.pdf](https://www.nmlegis.gov/Entity/LESC/Documents/Reports_To_The_Legislature/LESC%202024%20Annual%20Report%20-%20Web.pdf) at 124 (tbl, line 22, “FY25 OpBud” Column) and round to the nearest percent.

<sup>4</sup> Figures for FY 2019 are based on the demographics table reported in LESC 54th Leg. Rep. at 87-91 (tbl). Statewide totals are not reported in table, so data was converted to excel. Each school district or charter school percentage for relevant demographic was then multiplied by the total number of students in that district/charter school. Total is based on sum of those figures. Figures for most recent year come from Legislative Education Study Committee, *2024 Annual Report to the 57<sup>th</sup> New Mexico Legislature* at 91 (Jan. 2025), [https://www.nmlegis.gov/Entity/LESC/Documents/Reports\\_To\\_The\\_Legislature/LESC%202024%20Annual%20Report%20-%20Web.pdf](https://www.nmlegis.gov/Entity/LESC/Documents/Reports_To_The_Legislature/LESC%202024%20Annual%20Report%20-%20Web.pdf). Percentages less than 1 are now reported as <1%, preventing the use of the same procedure for 2018-19. However, total number of students and district/charter school percentages statewide are reported on page 91. The economically disadvantaged figures are labeled differently between the two years, and changes in poverty measurement/reporting can shape comparability. The FY24 figures specify “direct cert” in column 10, pages 86-91. For impact of poverty measurement/reporting, see LESC Hearing Brief: *Alternative Methods for Including At-Risk Students in the At-Risk Index* (Nov. 2020) <https://www.nmlegis.gov/handouts/ALESC%20110420%20Item%2011%201%20Brief%20-%20Alternative%20Methods%20for%20Including%20At-Risk%20Students%20in%20the%20At-Risk%20Index.pdf>. The Native American population remained relatively unchanged (10% of FY24 Membership vs. ~11% of FY19 Membership).

The plan also highlights that “HB63 (2025) updated the funding formula to increase funds for some student groups, resulting in a \$132.9 million increase to public school funding.” This characterization also demands context and cannot be used by the Court to assess progress without a comprehensive adequacy analysis. Approximately \$91.3 million of the \$132.9 million increase (69%) was allocated through grade-level units that do not specifically target MY students. Only approximately \$41.7 million (31%) represented increased funding targeted to MY student populations.<sup>5</sup> The plan presents the \$132.9 million increase as if it addresses MY student needs, when more than two-thirds of that increase serves the general student population.

These examples illustrate what happens when a state makes funding decisions without a comprehensive adequacy study. Without first determining what MY students need, the State cannot know whether any investment—however large it may sound in aggregate dollars unadjusted for inflation—is sufficient. A comprehensive cost study would determine the actual resources MY students need and then evaluate whether existing funding mechanisms deliver those resources. Instead, the State cites percentage increases from baseline and dollar figures that largely bypass the students whose constitutional rights are at issue.

Without systematic cost analysis, such funding increases are arbitrary. They may represent what the Legislature was willing to appropriate, given political and economic constraints, but they do not represent what MY students actually need. The Court required that the plan provide “necessary guidance to the legislature...when making difficult budgetary decisions.” Guidance requires knowing what sufficiency costs. The revised plan provides no such guidance.

### III. INADEQUATE TIMELINE RAISES FUNDAMENTAL QUESTIONS

The plan before the Court proposes a three-year timeline that is inadequate to remedy constitutional violations that have persisted since the Court’s 2018 ruling and to provide the Court assurance that students who were in kindergarten when the Court first ruled will have their constitutional rights no longer violated by the state for the remainder of their PK-12 education. This timeline was a deficiency of the October 2025 draft, and the revised plan maintains it without modification. The fundamental problem persists: the plan does not propose determining whether its actions are sufficient to remedy constitutional violations. The question is not whether three years is sufficient time to implement specific programmatic changes. The question is whether a three-year plan without a comprehensive cost analysis to guide changes and support substantive monitoring for compliance in the future can remedy systematic constitutional violations documented by the Court.

Put differently: the students who will start kindergarten in fall 2026 deserve to enter a system that provides them with the uniform and sufficient education the Constitution requires. The revised plan, even if fully implemented, offers no assurance that they will receive it. Three years of vaguely described activities, without knowing their costs or whether they will succeed, does not constitute a remedy for the systematic denial of constitutional rights that has already persisted for six years and counting. Even if it did (which it does not), the action items do not provide a clear guarantee they will be recurring beyond Year 3, limiting the constitutional rights of students with disabilities, English Learners, Native American students, and economically disadvantaged students to a three-year window of compliance.

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<sup>5</sup> N.M. Legis. Educ. Study Comm., *2025 Post Session Report* 61 tbl. (2025), <https://www.nmlegis.gov/Entity/LESC/Documents/051625%20-%20LESC%202025%20Post%20Session%20-%20Final.pdf> (MY student investment increase calculated as line 6 net lines 4 and 5, GAA of 2025 column; adding grade-level units calculated as sum of lines 8 and 9, GAA of 2025 column).

#### IV. ILLUSTRATIVE EXAMPLES

##### **Illustrative Example #1: Access to Qualified Educators**

Goal 2.2 ostensibly addresses the educator shortages that contribute to constitutional violations noted by the Court, acknowledged by the State, and detailed by Plaintiffs in their Non-Compliance Motion. The revised plan makes several changes to the wording of the goal and its associated action items. These changes reveal a broader pattern evident throughout the revised version of the plan: slight textual changes that add a modest amount of detail about a handful of items but ultimately use slightly different words to describe vague changes that offer no credible assurance that underlying constitutional violations noted by the Court will be addressed by failing to provide comprehensive cost analyses to determine the fiscal resources needed to remedy the underlying constitutional violations.

**Specific Factual Findings Identified by the Court.** The Court made specific, factual findings about educator shortages. The Court found that “[i]t is important for Native American English learners (NAEL) to have Native American teachers” but that “[o]nly 2 percent of all teachers in the state are Native American” (FOF 323, 326). The Court found that “chronic shortages of bilingual psychologists, educational diagnosticians, and special education teachers [exist]” (FOF 2332). The Court noted, as well, that “[h]aving ancillary personnel in the classroom is important to meet the needs of special education students, and there is not sufficient funding in New Mexico to provide the ancillary personnel for special education students” and that New Mexico schools do “not pay ancillary personnel well enough because the legislature is not allocating sufficient funding in order to provide the salary that would be necessary to have these ancillary personnel be employed” (FOF 2341, 2342). The Court further found that “targeted compensation for teachers in high-poverty districts experiencing teacher shortages is a viable strategy for improving the effective recruitment and retention of teachers” (FOF 718). As the Plaintiffs note in their non-compliance motions, the State has conceded critical and persistent facts about educator shortages and the lack of meaningful action to address those shortages.

**Summarizing Changes Between the Draft and Final Action Plan.** To illustrate how Goal 2.2 and its associated action items do not systematically address these violations and fail to provide assurance that the underlying educator shortages noted by the Court will be addressed, it is useful to first summarize the changes made to Goal 2.2 and its associated action items between the two versions of the plan.

The goal statement for 2.2 has been revised to explicitly enumerate “students with disabilities, English Learners, Native American students, and economically disadvantaged students” rather than using “MY students.” The revised plan includes other, modest changes to how action items are worded: some items have been combined (actions 2.2a and 2.2c on bilingual educator preparation are now merged), an action item now includes details that the item will include partnerships with Native American faculty and educator preparation programs in their description (action 2.2c on NALC 520 professional learning), and another item includes specificity about an evaluation metrics (action 2.2f on retention stipends).

Two action items reference fiscal commitments, and the language describing them has slightly changed. The draft action item 2.2e (competitive EPP faculty salaries) shifted from “secure funding” to “request an appropriation” and from aligning salaries with “the updated salary structure” to aligning them with “the appropriation,” while action 2.2f (special education retention stipends) similarly changes from “secure recurring funding” to “request a recurring appropriation.”

Yet, these changes do not address fundamental issues with the Action Plan, they simply make explicit what was implicit in the draft: the state commits only to requesting funding, not to providing adequate amounts based on a comprehensive study of costs, and salary increases—if provided—will be determined by whatever the Legislature appropriates, rather than by what competitive compensation or adequate retention incentives require to address the underlying constitutional violations.

**Slight Changes to Language, Persistent Failure to Address Issues Noted by the Court.** These revisions do not systematically address the violations the Court documented and thus fail to provide assurance that these underlying issues with the training, recruitment, and retention of educators for MY students will be remedied. The action items that propose raising preparation standards (2.2a, 2.2b), developing professional learning resources (2.2c), or requiring educator preparation programs to expand faculty (2.2d), do not address educator recruitment and retention and thus do not directly address these concrete recruitment and retention issues identified by the Court. In addition, these action items remain vague and thus leave critical questions unanswered. What constitutes “national best practice standards”? Who determines alignment? Moreover, it is unclear what resources—if any at all—will be provided to support implementation of these action items. What resources, if any, will be provided to support EPPs in implementing revised preparation programs and expanding their faculty, or what resources will be provided to Native American faculty and EPPs to develop professional learning resources for NALC 520 certified teachers? These action items propose regulatory and legislative changes but provide no cost analysis and no funding commitments.

The two action items calling for fiscal investments are also insufficient. Action item 2.2e asserts that the State will create a competitive salary structure for EPP teaching staff to attract, support, and retain highly qualified faculty. However, this action item remains vague. Key questions are left unanswered. For example, the action item still does not explain how “competitive” will be defined. Will competitive be defined relative to a comparison group and, if so, what group—other states’ educator preparation programs, K-12 teacher salaries, or other university faculty? What is the current salary gap? Without this analysis, the Legislature cannot determine adequate appropriations, and there is no standard against which to evaluate whether any appropriation is sufficiently “competitive.”

Relatedly, this action item still fails to provide a comprehensive cost analysis to determine what amount would be needed to make the salaries sufficiently competitive to address broader issues with inadequate educator preparation program capacity, insufficient alignment of preparation programs with the needs of at-risk students, and the persistent gap between teacher demand in New Mexico and the number of graduates from teacher preparation programs and teachers relocating to the state.

Here, the slight change in language from “secure funding” to “request an appropriation” is itself illustrative. “Secure funding” implied commitment to obtaining necessary resources. “Request an appropriation” merely describes asking the Legislature—with no assurance the request will be granted or that any appropriation will be adequate. The Year 3 change is similarly revealing: salaries will increase “to align with the appropriation” rather than “to align with the updated salary structure.” This language explicitly acknowledges that salary increases may be determined by whatever the Legislature appropriates, which will then be treated as “competitive,” rather than by what an actually competitive salary structure determined by a comprehensive cost study requires. This revision makes explicit what was implicit in the draft: the State is not committing to providing adequate funding to create competitive salaries. It is committing only to ask for funding and to use

whatever funding may be provided—adequate or not—to increase salaries by whatever amount that funding permits.

Action item 2.2f, which attempts to address the underlying challenge of recruitment and retention noted by the Court, is insufficient. This item proposes special education teacher retention stipends, but there are several problems with this action item.

First, it does not propose systematically determining the amount of these stipends and how to distribute them based on a comprehensive cost study, which could determine the actual amount that should be invested in the stipends to meet the specific goal of addressing the shortages noted by the Court. Instead, the plan proposes in Year 2 simply evaluating the impact of the stipends. If the size of the stipends is insufficient, however, we would not expect them to address the actual, underlying recruitment and retention issues.

Second, in Year 3 the plan proposes to “request a recurring appropriation for special education teacher retention programs” without offering sufficient assurance that the appropriation request will be funded and, if it is, if the request will take into account the results of the evaluation in Year 2 if they suggest additional funds are needed or, more importantly and related to the first issue noted above, based on the actual projected cost of providing retention incentives that are sufficient to remedy the underlying shortages.

Third, even if the amount provided for retention stipends matched the actual amount determined by a comprehensive cost analysis, they would only address retention, not recruitment.

Fourth, these stipends are not tailored to target the specific challenges noted by the Court, Plaintiffs, and the State. There is no indication that the stipends will be structured to ensure, for example, more experienced and qualified special education teachers work in high-poverty schools/schools serving MY students, are bilingual, or reflect the students they teach. Further, these stipends do not address the need to address the broader category of ancillary personnel for special education students, which the Court identified as critical. There is thus no indication the stipends will be structured to ensure they are sufficiently large to actually support retention or even consider the intersecting issues with educator recruitment and retention noted by the Court, Plaintiffs, and the State for ancillary staff in general and to ensure special education students who are Native American, from low-income families, and/or are English language learners benefit from the stipends as much as special education students who do not fall into these categories.

Without a comprehensive cost analysis, PED and the Legislature could provide token funding that falls short of need and still claim the action item was “completed.” The revised language makes this scenario even more explicit. There is no commitment to provide stipends adequate to improve retention meaningfully—only a commitment to provide some stipends, evaluate their impact, and request continued funding. If Year 1 stipends are too small to affect retention rates, the Year 2 evaluation will show minimal impact, but the state can claim it tried. If the Year 3 appropriation request is denied or inadequately funded, the state can claim it made the request. At no point does the plan commit to determining what adequate stipends would cost or to providing that amount.

Goal 2.2 action items do not address several critical findings of the Court: they provide no additional funding for districts to recruit bilingual special education personnel, do not mention bilingual psychologists or educational diagnosticians, do not address ancillary personnel shortages, propose no incentives to place experienced teachers in high-poverty schools, and—most critically—conduct no cost analysis to determine what competitive salaries, adequate retention stipends, or expanded preparation program capacity would actually require.

## **Illustrative Example #2: Equitable and Sufficient Funding System**

Goal 4.1 addresses school finance—the most fundamental mechanism through which the state either does or does not provide MY students with adequate resources. The Court’s findings document systematic inadequacies in how New Mexico funds education for Native American students, English Learners, students with disabilities, and economically disadvantaged students. The revised plan fails to address the core deficiencies to action items under this goal: the absence of any comprehensive cost analysis to determine what adequate funding requires.

Goal 4.1 action items fundamentally fail to address the same, critical deficiency: the absence of systematic fiscal analysis to determine what funding is required to provide MY students with sufficient opportunities and address underlying constitutional violations. Action item 4.1a proposes evaluating whether current State Equalization Guarantee factors appropriately target funding to MY students and considering whether additional factors may be needed. Without a determination of how much funding is needed, this goal is not meaningful. It is not possible to determine how the funds appropriated for SEG should be distributed without determining what funds are needed for MY students and if the overall SEG appropriation can be reallocated to provide those funds, or if the allocation itself needs to grow. Without this kind of analysis, any change to the SEG distribution will not be based on actual costs. The Legislature could even claim that by allocating an inadequate and insufficient pool of funding to MY students in a slightly different manner—while leaving the amount of funding these students receive overall insufficient and inadequate—they addressed the underlying constitutional violation.

A proper fiscal analysis under Goal 4.1 would begin by determining costs. It would conduct comprehensive adequacy studies to establish what resources MY students need to receive a constitutionally sufficient education—including adequate special education services, effective bilingual education programming, culturally responsive instruction for Native American students, and comprehensive support services for economically disadvantaged students. It would then compare current funding levels to identified needs to determine adequacy gaps. Only after establishing what sufficiency requires and identifying current shortfalls could the State meaningfully evaluate whether changes to an allocation formula with existing appropriations can target resources appropriately or whether additional funds and/or formula factors are needed. Without this foundational cost analysis, evaluating formula factors is premature—the State will be examining the distribution mechanism for funding that may be inadequate, regardless of how it is distributed.

The three-year timeline for Goal 4.1 actions compounds this problem. Action item 4.1a proposes evaluating formula factors in Years 1 and 2, then passing legislation in Year 3 “if warranted” by the evaluation. This sequence defers any potential funding increases until Year 3 at the earliest—and even then, only if an evaluation that does not provide a systematic cost analysis to examine adequacy determines that changes are “warranted.” The timeline is inadequate not merely because three years is insufficient for full implementation, but because the plan sequences actions in ways that defer addressing fundamental questions about funding adequacy.

Moreover, vagueness persists in critical respects. Action item 4.1a proposes that Year 3 legislation will “change the factors in the state equalization guarantee or otherwise amend statute to improve outcomes,” but provides no specificity about what changes might be made, what “improve outcomes” means, or what funding levels any legislative changes would provide. The phrase “or otherwise amend statute” is so broad that it could encompass virtually any legislative action. Without cost analysis establishing adequacy targets, the Legislature could make minimal formula adjustments, claim it improved outcomes, and assert compliance—all while the material circumstances documented by the Court that flow from a constitutionally insufficient education funding system remain unchanged.

Action item 4.1b's improvements in specificity do not compensate for the absence of fiscal analysis regarding Indian Education Act funding, either. The item proposes that PED will review the distribution formula annually in partnership with IEAC and may adjust future funding if goals are not met. However, nowhere does the action item propose determining whether total Indian Education Act funding is adequate to meet tribally identified goals. The revised "progress to build on" section of the action item clarifies the appropriation for Native American students by emphasizing a nonrecurring appropriation that may or may not cease to exist after FY28. Moreover, the appropriation remains relatively small and represents roughly \$822 per eligible Native American student, or about 13% of the final value of a single unit under SEG for FY25.<sup>6</sup>

A plan that proposes evaluating and adjusting funding mechanisms without ever conducting a comprehensive cost analysis to establish adequacy targets cannot remedy violations rooted in inadequate funding. It can only perpetuate a system where the state tinkers with the distribution of insufficient resources while never confronting the question of whether total funding is adequate to provide MY students the uniform and sufficient education the Constitution requires.

## CONCLUSION

The plan before the Court does not provide the specificity, comprehensive cost analysis, or adequate timelines necessary to remedy the constitutional violations documented by the Court. Despite the opportunity to revise the October 2025 draft, the plan's fundamental deficiencies remain intact. The state has slightly revised the language of several action items while leaving the underlying problems with those items unaddressed.

Most critically, the revised plan continues to lack a plan for a systematic fiscal analysis of costs—the deficiency most fundamental to the draft plan. Without knowing what MY students need to have access to a sufficient educational experience that no longer violates their constitutional rights, the Legislature cannot appropriate adequate funds, districts cannot plan effectively, and the Court cannot evaluate whether violations have been remedied. A plan that refuses to determine and commit to providing necessary resources cannot remedy violations rooted in insufficient funding. A plan of this sort simply allows the parties historically responsible for the creation of these constitutional violations wide latitude to claim they have remedied them, to end court oversight, and continue to leave them intact or make them even worse.

The Court required a plan that "when implemented will bring the NMPED and the State into compliance with the Court's Final Judgment and will ultimately conclude this litigation." The revised plan offers no assurance of compliance because it never determines what compliance requires, never commits the resources necessary to achieve it, and provides no mechanisms to verify whether violations have been remedied.

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<sup>6</sup> Based on [https://web.ped.nm.gov/wp-content/uploads/2025/09/APPROVED\\_5.29.2025\\_FINAL\\_REA\\_ALLOCATIONBASED\\_HDIISDS\\_FY26.pdf](https://web.ped.nm.gov/wp-content/uploads/2025/09/APPROVED_5.29.2025_FINAL_REA_ALLOCATIONBASED_HDIISDS_FY26.pdf) Appendix A table, page 11, "Number of Enrolled NA students" as percentage of final unit value for FY25 from <https://www.nmlegis.gov/Entity/LESC/Documents/051625%20-%20LESC%202025%20Post%20Session%20-%20Final.pdf> Appendix G, tbl, row 51.

**Appendix: Sample of State Education Adequacy Studies, 2001–2024**

The following table lists education adequacy or costing-out studies commissioned by state lawmakers between 2001 and 2024. These studies used well-established methods—including professional judgment, evidence-based, successful schools/districts, and cost-modeling approaches—to determine the resources students need to meet state standards. This list is illustrative, not exhaustive. For a detailed list of studies between 2003 and 2014 from Aportela, A., Picus, L., Odden, A. & Fermanich, M. (2014), *A Comprehensive Review of State Adequacy Studies Since 2003*. New Mexico’s 2008 study was commissioned by the State but conducted by the American Institutes for Research but predates the Court’s 2018 ruling in *Yazzeje/Martinez*. No adequacy study has been commissioned in response to the Court’s findings.

State	Year(s)	Citation	Notes
Alaska	2015	Silverstein, J., Brown, A., & Fermanich, M. (2015). <a href="#">Review of Alaska’s School Funding Program</a> . Augenblick, Palaich and Associates.	<i>Alaska State Legislature</i>
Arkansas	2003, 2020	Odden, A., Picus, L.O., & Fermanich, M. (2003). <a href="#">An Evidence-Based Approach to School Finance Adequacy in Arkansas</a> . Arkansas Joint Committee on Educational Adequacy.  Augenblick, Palaich and Associates & WestEd. (2020). <a href="#">Arkansas School Finance Study: Final Report</a> . Arkansas House and Senate Education Committees.	<i>Arkansas (2003) Joint Committee on Educational Adequacy (interim legislative committee); Arkansas (2020) House and Senate Education Committees</i>
Colorado	2011, 2024	Augenblick, Palaich and Associates. (2011). <a href="#">Costing Out the Resources Needed to Meet Colorado Education Standards and Requirements</a> . Prepared for Children’s Voices.  Augenblick, Palaich and Associates, Picus Odden & Associates, & Afton Partners. (2024). <a href="#">Colorado Input-Based Financial Adequacy Study Report</a> . Colorado Department of Education.	<i>Plaintiff exhibit commissioned in Lobato v. Colorado (2011); Prepared for Colorado Department of Education (2024)</i>
District of Columbia	2013	Hayes, C.D., Stelow Griffin, S., Ravindranath, N., Katz, I. (The Finance Project) & Silverstein, J., Brown, A., Myers, J. (APA). (2013). <a href="#">Cost of Student Achievement: Report of the DC Education Adequacy Study</a> . DC Deputy Mayor for Education.	<i>DC Deputy Mayor for Education</i>
Kentucky	2003	Picus, L.O., Odden, A., & Fermanich, M. (2003). <a href="#">A State-of-the-Art Approach to School Finance Adequacy in Kentucky</a> . Kentucky Department of Education	<i>Prepared for the Kentucky Department of Education, Evaluation of Changes Mandated by Rose v. Council for Better Education</i>
Maine	2013	Picus, L.O., Odden, A., Goetz, M., Griffith, M., Glenn, W., Hirshberg, D., & Aportela, A. (2013). <a href="#">An Independent Review of Maine’s Essential Programs and Services Funding Act: Part 1</a> . Maine Legislature’s Joint Standing Committee on Education and Cultural Affairs.	<i>Maine Legislature’s Joint Standing Committee on Education and Cultural Affairs</i>

State	Year(s)	Citation	Notes
Maryland	2016	APA Consulting, Picus Odden and Associates, & Maryland Equity Project. (2016). <a href="#">Final Report of the Study of Adequacy of Funding for Education in Maryland</a> . Maryland State Department of Education.	<i>Maryland General Assembly</i>
Minnesota	2004	Management Analysis & Planning, Inc. (2004). <a href="#">Minnesota Education Adequacy Study</a> . Minnesota School Funding Task Force.	<i>Minnesota School Funding Task Force, Governor Tim Pawlenty, Education Commissioner Cheri Pierson Yecke</i>
Nevada	2018	Augenblick, Palaich and Associates, Education Commission of the States, & Picus Odden and Associates. (2018). <a href="#">Nevada School Finance Study</a> . Final Report. State of Nevada.	<i>Pursuant to SB 178 (legislatively mandated)</i>
New Hampshire	2020	Atchison, D., Levin, J. (AIR), Baker, B. (Rutgers), & Kolbe, T. (Vermont). (2020). <a href="#">Equity and Adequacy of New Hampshire School Funding: A Cost Modeling Approach</a> . NH Commission to Study School Funding.	<i>New Hampshire General Court</i>
New Jersey	2006	Dupree, A. (NJ DOE) & Augenblick, J. & Silverstein, J. (APA). (n.d.). <a href="#">Report on the Cost of Education</a> . NJ Department of Education, Division of Finance.	<i>New Jersey Department of Education</i>
New Mexico	2008	American Institutes for Research. (2008). <a href="#">An Independent Comprehensive Study of the New Mexico Public School Funding Formula</a> . Funding Formula Study Task Force.	<i>Funding Formula Study Task Force, appointed by the New Mexico State Legislature and Governor</i>
North Carolina	2019	Willis, J., Krausen, K., Berg-Jacobson, A., Taylor, L., Caparas, R., Lewis, R., & Jaquet, K. (2019). <a href="#">A Study of Cost Adequacy, Distribution, and Alignment of Funding for North Carolina's K-12 Public Education System</a> . WestEd.	<i>Mandated by Court in Leandro v. State</i>
North Dakota	2014	Odden, A., Picus, L.O., & Goetz, M. (2014). <a href="#">Recalibrating North Dakota's Per Student Number for the School Foundation Program</a> . ND Interim Education Funding Committee.	<i>North Dakota Interim Education Funding Committee</i>
Pennsylvania	2007, 2023	Augenblick, Palaich and Associates. (2007). <a href="#">Costing Out the Resources Needed to Meet Pennsylvania's Public Education Goals</a> . PA State Board of Education.  Kelly, M.G. (2023). <a href="#">Testimony before the Basic Education Funding Commission</a> . September 12, 2023.	<i>Pennsylvania State Board of Education (2007); Petitioners following William Penn v. PDE</i>
Rhode Island	2007	Wood, C., Smith, S., Baker, B., Cooper, B., DiOrio, R., McLaughlin, C., & Shaw, R. (2007). <a href="#">State of Rhode Island Education Adequacy Study</a> . R.C. Wood & Associates.	<i>Joint Committee on Legislative Services</i>

State	Year(s)	Citation	Notes
Vermont	2012	Picus, L.O., Odden, A., Glenn, W., Griffith, M., & Wolkoff, M. (2012). <a href="#"><i>An Evaluation of Vermont's Education Finance System</i></a> . Lawrence O. Picus and Associates. Vermont Joint Fiscal Office.	<i>Vermont Legislature</i>
Wyoming	2010, 2020	Lawrence O. Picus and Associates. (2010). <a href="#"><i>2010 Cost of Education Study</i></a> . In Report to the Legislature, Select School Finance Recalibration Committee.  Odden, A. & Picus, L.O. (2020). <a href="#"><i>The 2020 Recalibration of Wyoming's Education Resource Block Grant Model</i></a> . Picus Odden & Associates. WY Select Committee on School Finance Recalibration.	<i>(2010 and 2020) Wyoming Legislature's Select Committee on School Finance Recalibration</i>