

**FIRST JUDICIAL DISTRICT
COUNTY OF SANTA FE
STATE OF NEW MEXICO**

FILED 1st JUDICIAL DISTRICT COURT
Santa Fe County
4/22/2026 5:31 PM
KATHLEEN VIGIL CLERK OF THE COURT
Alitzah F Garcia

**LOUISE MARTINEZ, individually and
as next friend of her minor children, et al.,**

Plaintiffs,

v.

D-101-CV-2014-00793

THE STATE OF NEW MEXICO, et al.,

Defendants.

Consolidated with

**WILHELMINA YAZZIE, individually and
as next friend of her minor child, et al.,**

Plaintiffs

v.

D-101-CV-2014-02224

THE STATE OF NEW MEXICO, et al.,

Defendants.

**PLAINTIFFS' JOINT REPLY TO PED DEFENDANTS' RESPONSE TO
PLAINTIFFS' JOINT MOTION FOR FURTHER RELIEF**

The Yazzie and Martinez Plaintiffs jointly reply to PED Defendants' response to Plaintiffs' Joint Motion for Further Relief. This Reply is filed contemporaneously with and in conjunction with the Reply to PED's response to Plaintiffs' original Objections to PED's plan. Plaintiffs' Objections and their Objections Reply are incorporated herein by reference. Defendant State of New Mexico did not object to this Motion.

In its Order, entered on May 20, 2025, the Court ruled: "On the basis of this evidence, this

Court finds that Defendants NMPED and the State of New Mexico are not in compliance with this Court's Decision and Order, issued July 20, 2018, and Final Judgment and Order, issued on February 14, 2019, and that Defendants continue to violate at-risk students' right to a uniform and sufficient education mandated by the New Mexico Constitution." Id. To remedy the violations of Plaintiffs' constitutional rights, the Court ordered the PED Defendants to draft a "comprehensive remedial plan that would remedy the constitutional violations repeatedly found by this Court and bring the State's educational system into compliance with the New Mexico Constitution's mandate." Recognizing that the plan drafted by PED may not be adequate to remedy the massive failure by the State to provide Plaintiff at-risk students with a uniform and sufficient education, the Court allowed Plaintiffs to "file objections to the final plan. Defendants will then have 15 days to file a response, and the Plaintiffs will have 15 days to file a reply." Id.

On February 19, 2026, the Yazzie Plaintiffs and the Martinez Plaintiffs filed their separate Objections to the PED plan submitted to the Court. These objections described in detail the many deficiencies in PED's submission and explained that this plan would not remedy the constitutional violations found by the Court. At the same time, to give the Court a solution to PED's failure to submit an appropriate remedial plan, the Yazzie and Martinez Plaintiffs jointly filed their motion for further relief in conjunction with their Objections to PED's plan. Notably, PED's co-defendant in this case, the State of New Mexico represented by the New Mexico Attorney General, did not object to the relief sought in Plaintiffs' joint motion for further relief.

PED's response to Plaintiffs' joint motion for further relief basically makes one argument – that because they complied with the plan development process set forth in the Court's May 20, 2025 Order no further relief is necessary. This argument misses the point. The issue before the Court today is whether the Final Remedial Action Plan ("Plan") submitted by PED is sufficient to remedy the constitutional violations found by the Court and, if it is not sufficient, what the next steps should be to develop such a plan. That is the reason the Court allowed Plaintiffs to file

Objections: to inform the Court about the substantive adequacy of the Plan – whether it is adequate to remedy the constitutional violations from which the Plaintiffs continue to suffer. PED’s insistence in its Response brief that it complied with the Court’s Order as to the drafting of the plan, does not mean the Plan is sufficient to bring the State into compliance. Even if the Plan was developed in full compliance with the drafting steps set forth in the Court’s May 20, 2025 Order – and Plaintiffs have shown in their Objections that it was not – further relief is still necessary because, as fully explained in Plaintiffs’ Objections and in Plaintiffs’ reply to PED’s response to Plaintiffs’ Objections, the content of the Plan is demonstrably deficient.

What Plaintiffs seek in this motion is an opportunity to fix the plan by adding the many components necessary to bring the State’s educational system into compliance with the Constitution and this Court’s Orders. Remedying the State’s educational system will require a complex process with multiple moving parts involving several state agencies – the teacher training universities, the Department of Higher Education, and the Early Childhood Education and Care Department – in addition to PED, as well as the Legislature and local school districts. Because PED failed to draft a plan that will comply with this Court’s Orders to remedy the violations of Plaintiffs’ constitutional right to a sufficient education, this Court has the authority to now order Plaintiffs to draft an alternative remedial proposal which will then be presented to Defendants for their agreement or negotiation, with any disputed sections presented to the Court for decision and final approval

To remedy the State’s constitutional violations, Plaintiffs seek the opportunity to enlist a team of experts, many of whom worked with them on the Objections, to now turn to fixing the plan submitted by PED by adding the necessary concrete steps, timelines, policies, procedures, agency commitments and cost estimates the plan must contain and to involve the Tribes and other stakeholders in the process. To fix PED’s defective submission, Plaintiffs request time and funding for their experts to get the job done properly. Contrary to PED’s assertion in its Response to

Plaintiffs' Joint Motion for Further Relief, Plaintiffs are not asking the Court to "throw away" PED's plan. Plaintiffs seek the opportunity to build on and fix PED's inadequate plan. The Court gave PED the chance to develop a comprehensive remedial plan and, as fully explained in the Yazzie and Martinez Objections and Objection Replies, it failed, despite its well-intentioned efforts. Now, Plaintiffs request that the Court give them the opportunity to turn PED's plan into the comprehensive remedial plan previously ordered by the Court.

Specifically, Plaintiffs ask the Court to take the following steps to implement the relief set forth in Part III(B) of their Motion:

I. Issue a Ruling that PED failed to develop a Comprehensive Remedial Action Plan that satisfies the requirements of the Court's May 2025 Order.

II. Order PED to provide Plaintiffs with the "external documents" that give further detail of PED's Plan, referenced by PED at p. 13 of its Response to Yazzie Plaintiffs' Objections¹ and at p. 2 of its Response to Martinez Plaintiffs' Objections.²

III. Order PED to contract with experts selected by Plaintiffs in the areas of multicultural and multilingual education, English learner education, special education, socio-emotional learning, school finance, curriculum design, teacher workforce development, and data systems to work with Plaintiffs to revise Defendants' Plan to include what is now missing:

- A. Specific actions required to remedy each constitutional violation;
- B. A five- to seven-year implementation timeline with annual and quarterly benchmarks;
- C. Identification of the responsible entities for each action item, including but not limited to, PED, the Legislative Education Study Committee staff, Institutions of Higher Education (IHEs), the New Mexico Higher Education Department, the New Mexico Early Childhood Education Department, school districts, and the Legislature.
- D. Measurable short-term and long-term outcomes and evaluation metrics that allow the Court, Plaintiffs, and the public to monitor compliance.

This step will be completed within 120 days of the Court's order granting this Motion.

¹ "PED struck an appropriate balance of specificity with additional reference to external controlling documents."

² "Martinez Plaintiffs have ignored external documents such as programmatic guidance that is specifically referenced by the plan."

IV. Order Plaintiffs to submit this revised Plan to representatives of New Mexico Tribes, Pueblos, the Legislative Education Study Committee, and other stakeholders for their input and comment. After Plaintiffs' experts have addressed this input in the revised plan, Plaintiffs will submit the revised plan to Defendants for their review. This step will be completed within 60 days after Step III.

V. Order Plaintiffs and Defendants to meet to negotiate agreement on the changes proposed by Plaintiffs to the Plan. Any Plan items not agreed on will be presented to the Court for its decision on whether it should be included in the Plan. This step will be completed within 60 days of submission of the revised Plan to Defendants (i.e., after Step IV).

VI. Order Defendants to submit to Plaintiffs for their review and comment a cost estimate identifying the necessary multi-year funding to implement each specific action set forth in the revised Plan and remedy the specific violations identified for at-risk students. This cost analysis shall include sufficient detail to permit independent evaluation of the assumptions, methodology, data sources, and any district- or at-risk student-population-specific components necessary to evaluate whether the funding is sufficient to achieve compliance. This cost analysis will be filed with the Court 90 days after the Court's approval of the final Plan, and made publicly available by posting the materials on the PED website to permit ongoing monitoring by the Court, the parties, and the public.

VII. Once the revised Plan is approved by the Court, PED should be ordered to implement the Plan and adhere to the timelines and benchmarks set forth in the Plan.

VIII. Plaintiffs request that the Court retain jurisdiction until the Plan is implemented and the violations of Plaintiffs' constitutional rights have been remedied. To that end Defendants should be ordered to provide quarterly reports to the Court that include:

- A. Status of implementation for each action item, including any delays and the reasons for them, and progress toward each quarterly benchmark identified in the remedial plan.
- B. Updated data for each measurable outcome and evaluation metric.
- C. Updated staffing levels for PED, including in the areas of Special Education and Bilingual/ELL, specifying vacancies, hires, and retention data.
- D. Identification of any commitments from responsible agencies other than PED that remain unfulfilled, with an explanation and proposed corrective steps.
- E. A description of corrective actions taken in response to missed benchmarks or implementation failures.

If Defendants miss any benchmark, the Court may impose sanctions, including monetary penalties and orders directing specific performance.

To undertake this relief Plaintiffs request that the Court order PED to provide the funds

necessary to pay Plaintiffs' experts for their work with Plaintiffs revising the plan. According to the contracts PED disclosed to Plaintiffs, PED spent well over \$400,000 plus the large cost of its own staff time to draft the inadequate Plan it submitted to the Court. To provide the State with a revised plan that will actually remedy the constitutional violations for at-risk students, Plaintiffs request that the Court order Defendants to pay an amount not to exceed \$200,000 for this purpose. See Exhibit 1 attached hereto for a draft preliminary budget for this Plan revision. This relief is justified by the extensive deficiencies in PED's Plan documented in Plaintiffs' Objections and Reply to the Objections. As set forth in Part II of Plaintiffs' Joint Motion for Further Relief, the Court has the authority to order this relief.

Plaintiffs believe this approach will be the most efficient way to develop the comprehensive remedial plan previously ordered by the Court. Asking PED to revise its own Plan will not generate the significant changes needed because PED has proved unable to do this over the past eight years. Hiring a third party to step in will likely fail because they will not be able to hit the ground running and the parties (and the Court) have not identified someone who could get this complex work done efficiently and effectively.

CONCLUSION

For the reasons set forth above and in the Yazzie Plaintiffs' and Martinez Plaintiffs' Objections to PED's November 2, 2025, plan and their Reply to PED's response to the Objections, Plaintiffs jointly request that the Court grant this motion and Order the relief requested herein.

Respectfully submitted,

/s/ DANIEL YOHALEM
Daniel Yohalem
1232 Vallecita Drive
Santa Fe, NM 87501
505-690-2193
daniel.yohalem@gmail.com

Alisa Diehl
Melissa Candelaria
New Mexico Center on Law and Poverty
301 Edith Blvd NE
Albuquerque, NM 87102
alisa@nmpoertylaw.org
melissa@nmpoertylaw.org

Preston Sanchez
ACLU of New Mexico
1410 Coal Ave. SW
Albuquerque, NM 87104
psanchez@aclu-nm.org

*Attorneys for Yazzie Plaintiffs other than
The Gallup-Mckinley School District*

Ernest Herrera
MALDEF
634 S. Spring Street - 11th Floor
Los Angeles, CA 90014
(213)629-2512 Ext. 114
eherrera@maldef.org

Rosio F. Arriaga*
MUNGER, TOLLES & OLSON LLP
350 South Grand Avenue, 50th Floor
Los Angeles, CA 90071-3426
Rosio.Arriaga@mto.com
*Pro Hac Vice

Attorneys for Martinez Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2026, the foregoing was e-filed and served through the Court's e-filing system upon counsel of record.

/s/ DANIEL YOHALEM
Daniel Yohalem

PLAINTIFFS REPLY EXHIBIT 1 - DRAFT PRELIMINARY BUDGET FOR PLAN REVISIONS

PHASE I: Expert Review and Revisions						
	Total #	Flat Fees	Hourly	Time (hours)		Total Amount
Experts review existing data and records; writing revisions into existing PED plan; editing and final revisions.	20		\$200	30		\$120,000.00
PHASE II: Expert Run Community Outreach and Feedback						
	Total #	Flat Fees	Hourly	Time (hours)		Total Amount
MEETING I -- Informing New Mexico stakeholders and communities on the status of the planning developments and obtainming community feedback on expert revisions.						
Meeting Facilitators:	16		\$50	8		\$6,400.00
Note Takers:	20		\$25	8		\$4,000.00
Rental Space:	1	\$2,500		8		\$2,500.00
Materials:		1,000				\$1,000.00
Planning and preparation costs (organizing plans for large meeting arrangements, technology, and materials)		\$2,000				\$2,000.00
						\$15,900.00
Post Meeting I - Community Revisions: Experts from Phase I organize community feedback and add to Plan as appropriate; editing and making final Plan revisions.	10		\$200	10		\$20,000.00
MEETING II -- informing Tribal leadership on status of the planning developments and seeking community feedback on expert revisions.						
Meeting Facilitators:	16		50	8		\$6,400.00
Note Takers:	20		25	8		\$4,000.00
Rental Space:		\$2,500		8		\$2,500.00
Materials:		1000				\$1,000.00
Planning and preparation costs (organizing plans for large meeting, arrangements, technology, and materials)		2,000				\$2,000.00
						\$15,900.00
Post Meeting II - Tribal Revisions: Experts from Phase I organize Tribal feedback and add to Plan as appropriate; editing and making final Plan revisions.	10		\$200	10		\$20,000.00
					Grand Total	\$191,800.00