



All Pueblo
Council of
Governors

Officers:
Wilfred Herrera, Jr., Chairman
Governor Phillip A. Perez, Vice-Chair
David M. Toledo, Secretary

Via Email

Acoma May 20, 2021

Cochiti The Honorable Michelle Lujan Grisham
Governor of New Mexico
Isleta 490 Old Santa Fe Trail #400
Santa Fe, NM 87501

Jemez **Re: APCG Response to Governor Michelle Lujan Grisham on Educational
Outcomes in 2021 Legislative Session**

Laguna

Nambe Dear Governor Michelle Lujan Grisham,

Nambe

Ohkay Owingeh On behalf of the All Pueblo Council of Governors (“APCG”), collectively
representing the 20 Pueblo Nations of New Mexico and Texas, I write to express our deep
appreciation for your efforts to secure \$30 million in funding for the APCG education
priorities outlined in the Tribal Remedy Framework, the tribal response to the
Picuris *Yazzie/Martinez* court ruling. Unfortunately, the New Mexico Legislature was unwilling to
negotiate beyond the \$15.7 million it has appropriated. Despite that, we appreciate your
Pojoaque support of APCG’s educational priorities during the 2021 legislative session.

Sandia This investment comes at a critical time for our Pueblo Nations. Due to the
pandemic, we have suffered immeasurable loss, particularly the loss of cultural knowledge
San Felipe bearers, our most precious elders and community members. While we see the light at the
end of this dark and harrowing journey with increased vaccination efforts, we also reflect
San Ildefonso on the incredible educational disparities and learning loss experienced by our children.
Despite repeated requests by Tribal leaders, parents, students, and our communities, to
Santa Ana sufficiently and adequately address the educational needs of Native students, these
continue to fall on deaf ears. The failure by the state to provide Native children with a
preeminent public education experience due to a lack of quality, equitable, and access to
Santa Clara technology has resulted in the courts having to step in and order the state to ensure our
Native students have the necessary resources and supports to be college, career and
Santo Domingo community ready.

Taos We request your immediate attention and leadership to address the ongoing
educational disparities and inequities our Native students face and that have been
Tesuque exacerbated by the COVID-19 pandemic. We offer the following recommendations which
have wide support from our Pueblo Governors and Tribal Leaders, Indigenous advocates
and education experts, Native students and parents, and Native community members:

Ysleta Del Sur

Zia **1. The State of New Mexico and the Public Education Department (PED) Must
Create a Plan To Comply With The *Yazzie/Martinez* Decision, Order, and Findings.**

Zuni



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In 2017, APCG adopted Resolution No. 2017-07 in support of the *Yazzie/Martinez v. State of New Mexico* court filing. Unfortunately, in March of 2020, the State moved to dismiss the lawsuit and the resulting court ruling, despite the impact of the pandemic on the education of our Native children who were forced to learn remotely, on-line. As you are aware, the APCG vehemently opposed the state's motion to dismiss the lawsuit. While the district court denied the state's motion, the fact remains that the State and PED must comply with the court mandate calling for a complete overhaul of the education system and a funding strategy to meet the real needs of students. The best way to come into compliance is for the State and PED to develop a comprehensive education plan to address all the major areas of deficiency as outlined in *Yazzie/Martinez* decision and order and findings of fact, as well as a statewide plan to ensure Native students have digital devices and high-speed internet access pursuant to the April 30, 2021 court ruling on *Yazzie* Plaintiffs' Expedited Motion concerning access to technology for all at-risk public school students.

We remind the State and PED that House Memorial 26, sponsored by Rep. Derrick Lente this past session and passed unanimously by the House, also calls upon the state agency to develop a comprehensive framework to address the systematic education inequities and deficiencies identified in *Yazzie/Martinez*. That effort does not have to begin from scratch. Instead, the Pueblo Governors and Tribal Leaders throughout New Mexico contributed to a plan called the Tribal Remedy Framework (TRF). The TRF provides a step-by-step plan for turning legal and judicial mandates into policy action with concomitant funding support. The solutions contained in the TRF are not radical, untested ideas; they are inspired by successful tribal educational practices as well as based on research and evidence, along with decades of policy recommendations. To date, none of the solutions have been implemented in New Mexico. The TRF contains three strategic solutions:

- Shared responsibility for the public schooling of Native children, grounded in respect for tribal education sovereignty;
- Community-based education, created and centered in tribal communities; and
- A culturally and linguistically relevant education; revitalizing and sustaining an educational approach that builds on the strengths of children and their communities.

Implementation would require a shift in approach, a commitment to systemic change backed by substantial targeted investments and a willingness to share responsibility with Tribes at both the state and local levels. The APCG has formally endorsed the TRF recommendations through resolution that aim to set Native children on a path to success.

The APCG requests the State and PED to immediately develop a comprehensive education plan that incorporates the Tribal Remedy Framework recommendations for the benefit of Native students and families who have suffered for far too long from an inequitable, racist, and insufficient public school system.



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2. The State of New Mexico Must Fund and Implement Tribal Education Priorities in the Tribal Remedy Framework

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APCG is thankful for the initial investment of \$15.7 million in non-recurring dollars this past session that will enhance and improve our Tribal Education Departments, Tribal libraries, Native language programs, and develop internet infrastructure possibilities through our Tribal broadband initiatives. We understand that this investment is only the beginning of a phased approach to address the multitude of educational needs of our Native children. We request that the recommendations and solutions offered in the Tribal Remedy Framework be implemented by the PED and that the State provide continued investment of recurring General Fund resources to support and maintain those tribal education initiatives, including education infrastructure and broadband. The APCG requests the state executive and legislative staff to continue working with our Tribal Education Departments and APCG staff to develop future budget and policy recommendations for state funding.

Ohkay Owingeh

Picuris

Pojoaque

Sandia

San Felipe

San Ildefonso

Santa Ana

Santa Clara

Santo Domingo

Taos

Tesuque

Ysleta Del Sur

Zia

Zuni

3. Eliminating the Use of Federal Impact Aid Toward the State's Equalization Guarantee Formula Does Not Fulfill the State's Legal Obligations Under Yazzie/Martinez

Federal law known as Public Law 874 allowed equalized states like New Mexico to take credit for payments "in lieu taxes" where local property tax cannot be collected because local and state taxes cannot be levied on federally recognized lands including Pueblo Land Grants held in trust. The State of New Mexico reduced 75% of Impact Aid funding a school district receives and folded that amount into the state equalization guarantee (SEG) formula and distributes the funding to districts across the state. The passage of HB 6 in the 2021 legislative session has eliminated that practice.

After decades of advocacy and countless calls from New Mexico Tribal Leaders to address this longstanding disparities caused by New Mexico's SEG, we applaud the NM Legislature for finally taking the bold step in passing HB 6 and with your support, chaptering the bill into law. However, the APCG maintains its position, adopted through Resolution in 2019, that the permanent Impact Aid fix coupled with the ruling by the US Department of Education Impact Aid Office in 2020 should be kept separate from the State's obligations under the *Yazzie/Martinez* court ruling.

In closing, this painful period created by the pandemic and our collective efforts to protect the health, safety and welfare of New Mexico's citizens is an indication that we can and must work together and recognize that disparities and inequities do exist. We must transform New Mexico's public education system by helping our most underserved, which, unfortunately, has been our Native students.

We look forward to a continued partnership and invite you to a APCG meeting to further collaborate in order to ensure that our tribal education priorities are sufficiently addressed in the next legislative session.



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Respectfully,

Wilfred Herrera Jr., Chairman

Acoma

Cochiti

Isleta

CC:

Jemez

The Honorable Ryan Stewart, Secretary, Public Education Department
The Honorable Stephanie Rodriguez, Secretary, Higher Education Department
The Honorable Elizabeth Groginsky, Secretary, Early Childhood Education & Care Department
The Honorable Lynn Trujillo, Secretary, Indian Affairs Department
Pueblo Governors

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