



INSTITUTE FOR AMERICAN INDIAN
EDUCATION

AT
THE UNIVERSITY OF NEW MEXICO

POST SUMMIT REPORT ON THE YAZZIE/ MARTINEZ RULING

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Educational Stakeholders Object to Limited Responses to the Yazzie/Martinez Ruling: Post Summit Report

On May 15, 2020, the Institute for American Indian Education (IAIE) at the University of New Mexico hosted a virtual summit, the purpose of which was to address the impact of the *Yazzie/Martinez v. State of New Mexico* ruling on the current state of Indian education. The summit provided updates on the legal issues and a legislative perspective by expert speakers followed by small- and large-group discussion among all attendees.

The mission of IAIE is to support community intergenerational well-being and educational outcomes of Indigenous Peoples by cultivating professionals through community engagement and collaborative partnerships. IAIE has six guiding principles: Educator Preparation, Leadership, Curriculum, Language and Culture, Family and Life Preparation, Individual and Community Health and Wellness. The Institute is composed of Indigenous faculty from the College of Education and the Department of Native American Studies, professional staff, and a seven-member Advisory Council.

Background

In July 2018, Judge Sarah Singleton of the 1st Judicial District Court ruled the state, the Public Education Department (PED), and the Secretary of Education is failing to provide Native American students with a college and career ready education. Judge Singleton stated in her ruling that “lack of funds is no excuse” for providing equitable services and programs for “all at-risk students.” Her ruling was a clear signal to PED, Secretary of Education, and the state that they are responsible for “providing an adequate, sufficient education to at-risk students i.e., socioeconomically disadvantaged children, English learners, Native American students, and children with disabilities.” While legislation during the 2019 and 2020 session sought appropriations to fund tribal and school efforts to transform the education system, it fell short in many areas.

On March 13, 2020, PED and the state filed a motion to dismiss *Yazzie/Martinez v. State of New Mexico*. The timing of the motion to dismiss occurred at the rise of the COVID-19 pandemic which blindsided tribal leaders and educational stakeholders focused on safety and remote delivery of instruction. One has to question the intent of the state’s commitment to government-to-government relationship. PED contends they are working to address Judge Singleton’s order. The *Yazzie* plaintiffs filed an opposition to the motion to dismiss on May 1, 2020. The motion hearing is scheduled for June 29, 2020 in Santa Fe, New Mexico.

Process

The Department of Information Technologies and Brianna Fragua (IAIE staff) provided technical support in organizing the virtual meeting. Utilizing Zoom video conferencing, the two and half hour summit consisted of two large-group sessions and seven breakout rooms for participants to meet in smaller groups. Including IAIE faculty, staff, and advisory council members, 124 individuals registered. Each breakout session had 7 to 10 participants plus the facilitator and notetaker. A majority of the registrants were school administrators (27%) followed by higher education (17%) and tribal education representatives (15%). Other registrants included tribal leadership, representatives from educational organizations, funders, educators, and students.

The first part of the meeting centered on two presentations by Attorney Gail Evans and New Mexico House District 65 Representative Derrick Lente. Ms. Evans, Lead Counsel for the *Yazzie v. State of New Mexico* case, presented an overview of the case, ruling, and the subsequent motion to dismiss. Representative Derrick Lente of Sandia Pueblo representing Pueblo and Navajo constituents provided an overview of his legislative proposals to address *Yazzie/Martinez* and his experience as a legislator.

The second part of the summit focused on communal discussions vis-à-vis breakout sessions that considered two questions:

1. Are the remedies in Judge Singleton's ruling being met? What else is needed to not only comply with the ruling, but to transform public education for American Indians in the state?
2. Are equity councils a sufficient response (relief) to the *Yazzie/Martinez* court decision?

IAIE wanted to focus on a communal format allowing stakeholders to offer their perspectives and to listen to statewide concerns from teachers, policy makers, administrators, and higher education representatives. The breakout sessions allowed participants to reflect on the information presented and then share their own experiences since the Judge's ruling on *Yazzie/Martinez*.

Results and Conclusions

After analyzing participant comments and questions, IAIE identified common themes. The themes are the following:

Funding is a major concern.

- Insufficient timing for grant application, limited time frames for implementation, and competitive grants among districts and tribes resulted in returning large unspent funds to the state.
- The grant process is a piece-meal approach that does not adequately create transformative change necessary to sustain the education of Native American students.

- Federal funding sources (i.e., Impact Aid, Title Funding, Johnson O'Malley) earmarked for Native American students are circumvented for other school priorities that do not meet their direct needs.
- Lack of adequate guidance for tribal education directors and/or school administrators to navigate the many requirements and competing directives to apply for state grants.

PED needs to be accountable.

- School readiness assessments are being pushed upon school districts to complete without adequate PED guidance.
- School staff such as tribal liaisons and directors are expected to create comprehensive plans with limited resources and guidance.
- School boards are expected to create transformative long-term plans with limited short-term grant funding.
- No Assistant Secretary of Indian Education has been selected to advocate for Native American students.
- PED's reliance on equity councils to examine and determine the plans for student success is seen as questionable, ineffective and redundant.
- Equity councils are at odds with current school policies and tribal sovereignty.
- PED's focus on quantified assessment measures of student progress institutionalizes racial disparities.

Communication must be inclusive.

- Community input is needed to actualize the *Yazzie/Martinez* ruling.
- Honest communication includes providing families and communities with the tools and understanding needed to elicit meaningful conversations and feedback.
- Student input is essential to the planning for resources, instruction, funding, and professional development for educators to better serve them.
- COVID-19 has highlighted and increased disparities with lack of access to technology.
- PED outreach must be comprehensively inclusive of parents, community, tribal/local/regional leadership, elders, and educators.

Educator preparation needs to be improved.

- Educators are not prepared to work effectively with culturally and racially diverse students.
- Recognizing, valuing, and honoring student identities is key.
- Education leaders at all levels need to be prepared to conduct equity audits and to identify the gaps and assist tribal communities.
- Undergraduate and graduate programs need the resources and institutional support to be able to adequately prepare educators and leaders.

Curriculum and instruction has to be culturally responsive.

- Lack of guidance and support for culturally responsive teaching.

- Curriculum and lessons do not validate or affirm the home culture and language of Native American families.
- Need to better communicate with parents and students to elicit true partnerships, conversations, and feedback.
- Need to recognize effective culturally responsive pedagogies.

Recommendations

IAIE developed a set of six recommendations in response to the concerns raised by the Summit attendees. These recommendations are directed to the New Mexico Public Education Department, the Secretary of Education, and the State.

- Need for Sustainable Funding – PED must ensure that grants and funds directed to school districts are given sufficient time to apply, to implement, and to execute these funds to create long term and sustainable solutions defined under the *Yazzie/Martinez* ruling. The summit stakeholders define long term as creating transformational change that resolves the systematic issues plaguing Native American children. The summit stakeholders discourage grants as an adequate source of additional funding. Grants do not create long term action and funding must be guaranteed over an extended time period to create long term strategic action. The discrimination against Native American children cannot be fixed within one fiscal year. IAIE recommends long term and sustainable funding.
- Hold PED Accountable – PED at the State Education Agency level must be held solely accountable in addressing and resolving the *Yazzie/Martinez* orders. The schools are not the defendants; the state must be held directly accountable. The “equity councils” are not a suitable response as it decentralizes the role of the PED and places pressure on the schools. In response to the lawsuit, the state mandated “equity councils” to address Judge Singleton’s ruling. The equity councils are not funded by the state and would require school districts to seek voluntary participation from community members. In addition, the state expects school districts to develop a 15-member council to develop guidance for how schools can make education culturally appropriate and assess how they will serve at-risk students. Many educational leaders and stakeholders question the effectiveness of the “equity councils” to solve the lack of infrastructure, materials, instruction, and funding within New Mexico’s public education classrooms. IAIE wants to see a state-wide strategy to resolve the challenges articulated by the ruling with annual measurable goals. IAIE recommends a means to measure a ten-year overview of the PED’s progress on all elements of Judge Singleton’s order.
- Intensify Communication Outreach – PED must improve their outreach to all stakeholders to educate everyone on their approaches and strategies to resolve the *Yazzie/Martinez* ruling. Based on the concerns raised by the summit participants, IAIE recommends that PED in partnership with tribal leaders host monthly town halls through social media and other online tools to detail the progress of the *Yazzie/Martinez* ruling. Government-to-government bi-annual meetings are not adequate venues to engage in

dialogue with all stakeholders. IAIE recommends these updates be recorded and made accessible on the PED's website. In addition, PED must publish a monthly newsletter widely distributed in local, tribal, school district newspapers describing the progress of PED to meet these needs.

- Improve Educator Preparation – PED must increase their advocacy to state legislators to improve and expand educator preparation at Higher Education institutions (HEI). Education leaders at all levels need to be prepared to conduct equity audits and to identify the gaps and assist tribal communities. These equity audits will inform actions toward resolving the disproportionately low numbers of culturally competent and highly qualified teachers working in rural tribal communities. IAIE recommends expanding funding opportunities for future teacher pipelines from the most rural communities to HEI's. This data will serve as a baseline metric of the annual progress of PED's effort to assist HEI's effort to close the vacancy need for schools in the state.
- Increase Support for Curriculum and Instruction – PED must provide resources to teachers on developing culturally sensitive curriculum and instruction. Stakeholders are seeking a report on best practices occurring within all schools serving Native American students. This report will serve to support the ability of faculty and educational stakeholders to determine how to support schools. Approximately all 87 school districts in the state serve Native American students. PED needs to analyze the efficacy of effective programs that can create authentic school/tribal partnerships with shared resources.
- Critical Review of Existing Laws – PED must review and revise their existing policies to determine alignment with the *Yazzie/Martinez* ruling. A critical review of the existing laws and its alignment to Judge Singleton's order is sorely needed. A report to show how existing statutes, laws, and appropriated funding meets or does not meet Judge Singleton's order is warranted. PED must provide a meaningful solution that allows their schools to comply with state and federal laws regarding the education of Native Americans and English Language Learners, including the New Mexico Indian Education Act, Bilingual Multicultural Education Act, and other relevant laws and policies. IAIE also recommends the inclusion of case studies providing how policy is currently enacted and funded at the school levels, specifically for the schools serving Native American students.

The IAIE faculty thanks all the attendees, presenters, and partners that supported the virtual summit. We did our best to capture the perspectives and concerns raised by all respondents. If we have missed any pertinent comments or suggestions, you may contact us directly.

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