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January 19, 2015

**MEMORANDUM**

**TO:** Legislative Education Study Committee  
DTC

**FR:** David T. Craig and Heidi L. Macdonald 

**RE: STAFF BRIEF: UPDATE ON THE STATUS OF LAWSUITS REGARDING SUFFICIENCY OF EDUCATION FUNDING**

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**INTRODUCTION**

At the April 2014 Legislative Education Study Committee (LESC) interim meeting, LESL staff provided a staff brief on lawsuits regarding the sufficiency of education funding. The April staff brief provided an overview of complaints of two lawsuits filed on behalf of groups of parents presenting a legal challenge to the sufficiency and equity of the state's public school funding system. On March 20, 2014 New Mexico Center for Law and Poverty (NMCLP) issued a press release indicating *Yazzie et al. v. State of New Mexico* was filed in the Eleventh Judicial District Court in McKinley County. On April 1, 2014 the Mexican American Legal Defense and Education Fund (MALDEF) issued a news release indicating it had filed a lawsuit, *Louise Martinez v. State of New Mexico*, in the First Judicial District Court in Santa Fe County. Both complaints referenced Article XII, Section 1 of the New Mexico Constitution.<sup>1</sup> This staff brief provides an update on the status of the complaints.

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<sup>1</sup> "A uniform system of free public schools sufficient for the education of, and open to, all the children of school age in the state shall be established and maintained."

## UPDATE ON THE STATUS OF COMPLAINTS

### *Yazzie et al. v. State of New Mexico*

According to the Eleventh Judicial Court website, the complaint was closed on October 7, 2014 via stipulated dismissal. A stipulated dismissal is a dismissal without prejudice by entering a formal agreement, a stipulation, with the defendant. The dismissal terms are then filed with the court and the court passes a dismissal that reflects the stipulated terms.

### *Martinez v. State of New Mexico*

According to the First Judicial District Court website:

- on November 14, 2014 the Court denied a motion to dismiss;
- on November 25, 2014, the *Martinez v. State of New Mexico* plaintiffs made a motion to consolidate complaints;
- on December 22, 2014 the defendants in the case (the State of New Mexico, the Public Education Department (PED), and Hanna Skandera, Secretary-designate of Public Education) filed a motion in support of the motion to consolidate complaints; and
- publicly available information on the court's website does not yet indicate if the court has granted the motion to consolidate.

If the court grants the motion to consolidate, the two cases will become one case, *Martinez v. State of New Mexico*.

Among its provisions, the original complaint requests the District Court to:

- declare sufficient education a fundamental state constitutional right;
- declare the school finance system for funding economically disadvantaged and English language learners (ELL) students insufficient and in violation of the education mandate;
- declare the teacher evaluation system and district and state accountability systems insufficient and in violation of the educational mandate;
- declare the failure to implement the *Bilingual Multicultural Education Act*, the *Hispanic Education Act*, the *Indian Education Act*, and Children of Spanish Descent and Spanish Teacher Training clauses of the state constitution insufficient;<sup>2</sup>
- declare the exclusion of economically disadvantaged students as a group from targeted funding violates due process guarantees of the state constitution;
- declare the deprivation of the fundamental right to a sufficient education and graduating with a high school diploma for ELL and economically disadvantaged students due process guarantees of the state constitution; and
- enjoin defendants from discriminating against economically disadvantaged and ELL students by failing to provide the necessary opportunities and resources they need to acquire a sufficient education.

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<sup>2</sup> Includes Article XII, Section 10, or the "Children of Spanish Descent Clause," and Article XII, Section 8 "Spanish Teacher training Clause," *Public School Code*, *Hispanic Education Act* (HEA); *Indian Education Act* (IEA); and the *Bilingual Multicultural Education Act* (BMEA).