

ARTICLE 23A INDIAN EDUCATION

22-23A-1. Short title.

This act [[22-23A-1](#) to [22-23A-8](#) NMSA 1978] may be cited as the “Indian Education Act”.

22-23A-2. Purpose of act.

The purpose of the Indian Education Act [[22-23A-1](#) to [22-23A-8](#) NMSA 1978] is to:

- A. ensure equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials for American Indian students enrolled in public schools;
- B. ensure maintenance of native languages;
- C. provide for the study, development and implementation of educational systems that positively affect the educational success of American Indian students;
- D. ensure that the department of education partners with tribes to increase tribal involvement and control over schools and the education of students located in tribal communities;
- E. encourage cooperation among the educational leadership of Arizona, Utah, New Mexico and the Navajo Nation to address the unique issues of educating students in Navajo communities that arise due to the location of the Navajo Nation in those states;
- F. provide the means for a formal government-to-government relationship between the state and New Mexico tribes and the development of relationships with the education division of the bureau of Indian affairs and other entities that serve American Indian students;
- G. provide the means for a relationship between the state and urban American Indian community members to participate in initiatives and educational decisions related to American Indian students residing in urban areas;
- H. ensure that parents; tribal departments of education; community-based organizations; the department of education; universities; and tribal, state and local policymakers work together to find ways to improve educational opportunities for American Indian students;
- I. ensure that tribes are notified of all curricula development for their approval and support;
- J. encourage an agreement regarding the alignment of the bureau of Indian affairs and state assessment programs so that comparable information is provided to parents and tribes; and
- K. encourage and foster parental involvement in the education of Indian students.

22-23A-3. Definitions.

As used in the Indian Education Act [[22-23A-1](#) to [22-23A-8](#) NMSA 1978]:

- A. “assistant secretary” means the assistant secretary for Indian education;
- B. “government-to-government” means the relationship between a New Mexico tribe and a state government;
- C. “indigenous” means native or tribal groups of the Americas that maintain a cultural identity separate from the surrounding dominate cultures;
- D. “tribal” means pertaining to urban Indians who are residents of New Mexico or to an Indian nation, tribe or pueblo located within New Mexico;
- E. “New Mexico tribe” means an Indian nation, tribe or pueblo located within New Mexico; and

- F. “urban Indian” means a member of a federally recognized tribe or an Alaskan native who lives in an off-reservation urban area and is a New Mexico resident.

22-23A-4. Rulemaking.

- A. The secretary shall ensure that the duties prescribed in the Indian Education Act [[22-23A-1](#) NMSA 1978] are carried out and that each division within the department is collaborating to fulfill its responsibilities to tribal students.
- B. The secretary shall consult on proposed rules implementing the Indian Education Act with the Indian education advisory council and shall present rules for review and comment at the next semiannual government-to-government meeting pursuant to Section [22-23A-5](#) NMSA 1978.

22-23A-4.1 Post-secondary education.

The department shall collaborate and coordinate efforts with the higher education department and institutions of higher education, including tribal colleges and teacher education institutions and tribal education departments, to facilitate the successful and seamless transition of American Indian students into post-secondary education and training.

22-23A-5. Indian education division; created; assistant secretary; duties.

- A. The “Indian education division” is created within the department. The secretary shall appoint an assistant secretary for Indian education, who shall direct the activities of the division and advise the secretary on development of policy regarding the education of tribal students. The assistant secretary shall also coordinate transition efforts for tribal students in public schools with the higher education department and work to expand appropriate Indian education for tribal students in preschool through grade twenty.
- B. The assistant secretary shall coordinate with appropriate administrators and divisions to ensure that department administrators make implementation of the Indian Education Act [[22-23A-1](#) NMSA 1978] a priority.
- C. The secretary and the assistant secretary, in cooperation with the Indian education advisory council, shall collaborate with state and federal departments and agencies and tribal governments to identify ways such entities can assist the department in the implementation of the Indian Education Act.
- D. The secretary and assistant secretary shall convene semiannual government-to-government meetings for the express purpose of receiving input on education of tribal students.
- E. In accordance with the rules of the department and after consulting with the Indian education advisory council and determining the resources available within the department, the assistant secretary shall:
- (1) provide assistance, including advice on allocation of resources, to school districts and tribes to improve services to meet the educational needs of tribal students based on current published indigenous best practices in education;
 - (2) provide assistance to school districts and New Mexico tribes in the planning, development, implementation and evaluation of curricula in native languages, culture and history designed for tribal and nontribal students as approved by New Mexico tribes

- (3) develop or select for implementation a challenging, sequential, culturally relevant curriculum to provide instruction to tribal students in pre-kindergarten through sixth grade to prepare them for pre-advanced placement and advanced placement coursework in grades seven through twelve;
- (4) provide assistance to school districts, public post-secondary schools and New Mexico tribes to develop curricula and instructional materials in native languages, culture and history in conjunction and by contract with native language practitioners and tribal elders, unless the use of written language is expressly prohibited by the tribe;
- (5) conduct indigenous research and evaluation for effective curricula for tribal students;
- (6) collaborate with the department to provide distance learning for tribal students in public schools to the maximum limits of the department's abilities;
- (7) establish, support and maintain an Indian education advisory council;
- (8) enter into agreements with each New Mexico tribe or its authorized educational entity to share programmatic information and to coordinate technical assistance for public schools that serve tribal students;
- (9) seek funds to establish and maintain an Indian education office in the northwest corner of the state or other geographical location to implement agreements with each New Mexico tribe or its authorized educational entity, monitor the progress of tribal students and coordinate technical assistance at the public pre-kindergarten to post-secondary schools that serve tribal students;
- (10) require school districts to obtain a signature of approval by the New Mexico tribal governments or their government designees residing within school district boundaries, verifying that the New Mexico tribes agree to Indian education policies and procedures pursuant to federal requirements;
- (11) seek funds to establish, develop and implement culturally relevant support services for the purposes of increasing the number of tribal teachers, administrators and principals and providing continued professional development for educational assistants, teachers and principals serving tribal students, in conjunction with the Indian education advisory council;
 - (a) recruitment and retention of highly qualified teachers and administrators;
 - (b) academic transition programs;
 - (c) academic financial support;
 - (d) teacher preparation;
 - (e) teacher induction; and
 - (f) professional development;
- (12) develop curricula to provide instruction in tribal history and government and develop plans to implement these subjects into history and government courses in school districts throughout the state;
- (13) ensure that native language bilingual programs are part of a school district's professional development plan, as provided in Section [22-10A-19.1](#) NMSA 1978; and
- (14) develop a plan to establish a post-secondary investment system for tribal students to which parents, tribes and the state may contribute.

22-23A-6. Advisory council.

- A. The "Indian education advisory council" is created and shall advise the secretary and assistant secretary on implementation of the provisions of the Indian Education Act [[22-23A-1](#) NMSA 1978]. The council consists of sixteen members as follows:
 - (1) four representatives from the Navajo Nation;

- (2) two representatives, one from the Mescalero Apache Tribe and one from the Jicarilla Apache Nation;
 - (3) four representatives, two from the southern pueblos and two from the northern pueblos; and
 - (4) urban Indians representing urban areas, including Albuquerque, Gallup and Farmington; and
 - (5) three at-large representatives, one from the federal bureau of Indian affairs, one from a head start organization and one from the general public, at least one of whom shall be nontribal, but all of whom shall have knowledge of and involvement in the education of tribal students.
- B. Members shall be appointed by the secretary with input from New Mexico tribes and organizations involved in the education of tribal students for staggered terms so that the terms of the at-large members and of one-half of each of the tribal representatives end on December 31, 2009 and the terms of the remaining members end on December 31, 2011. Thereafter, appointments shall be for terms of four years. The terms of existing members shall expire on the effective date of this 2007 act.
- C. A majority of the members of the Indian education advisory council constitutes a quorum. The advisory council shall elect a chair from its membership.
- D. On a semiannual basis, representatives from all New Mexico tribes, members of the commission, the office of the governor, the Indian affairs department, the legislature, the secretary, the assistant secretary and the Indian education advisory council shall meet to assist in evaluating, consolidating and coordinating all activities relating to the education of tribal students.
- E. Members of the Indian education advisory council may receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act [[10-8-1](#) NMSA 1978].

22-23A-7. Report.

- A. The Indian education division in collaboration with the education division of the federal bureau of Indian affairs and other entities that serve tribal students shall submit an annual statewide tribal education status report no later than November 15 to all New Mexico tribes. The division shall submit the report whether or not entities outside state government collaborate as requested.
- B. A school district with tribal lands located within its boundaries shall provide a district-wide tribal education status report to all New Mexico tribes represented within the school district boundaries.
- C. The status reports shall be written in a brief format and shall include the following information, through which public school performance is measured and reported to the tribes and disseminated at the semiannual government-to-government meetings held pursuant to Section [22-23A-5](#) NMSA 1978:
- (1) student achievement as measured by a statewide test approved by the department, with results disaggregated by ethnicity;
 - (2) school safety;
 - (3) the dropout rate;
 - (4) attendance;
 - (5) parent and community involvement;
 - (6) educational programs targeting American Indian students;
 - (7) financial reports;
 - (8) current status of federal Indian education policies and procedures;

- (9) school district initiatives to decrease the number of student dropouts and increase attendance;
- (10) public school use of variable school calendars; and
- (11) school district consultations with district Indian education committees, school-site parent advisory councils and tribal, municipal and Indian organizations; and
- (12) indigenous research and evaluation measures and results for effective curricula for tribal students.

22-23A-8. Fund created.

- A. The “Indian education fund” is created in the state treasury. The fund consists of appropriations, gifts, grants and donations and income from investment of the fund. Money in the fund shall not revert. The fund shall be administered by the department, and money in the fund is appropriated to the department to distribute awards to support the Indian Education Act [[22-23A-1](#) NMSA 1978].
- B. The department shall ensure that funds appropriated from the Indian education fund shall be used for the purposes stated in the Indian Education Act and shall not be used to correct for previous reductions of program services.
- C. The department shall develop procedures and rules for the award of money from the fund. Disbursement of the fund shall be made by warrant of the department of finance and administration pursuant to vouchers signed by the secretary of public education.