

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT

LOUISE MARTINEZ, individually
and as next friend of her minor children
AN. MARTINEZ, AA. MARTINEZ,
AR. MARTINEZ, and AD. MARTINEZ, et al.,

Plaintiffs,

v.

No. 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,
XAVIER NEZ, et al.,

Plaintiffs,

v.

No. D-101-CV-2014-02224

THE STATE OF NEW MEXICO, et al.,

Defendants.

**YAZZIE PLAINTIFFS' NOTICE OF ADDITIONAL EXHIBITS CONCERNING THE
CONTINUATION OF REMOTE LEARNING THIS AND NEXT YEAR AND
THE INADEQUACY OF THE STATE'S FUNDING FOR INTERNET CONNECTIONS
AND ITS IDENTIFICATION OF STUDENTS NEEDING INTERNET CONNECTIONS**

Yazzie Plaintiffs hereby notify the Court of additional exhibits for the hearing on April 30, 2021 concerning "*Yazzie* Plaintiffs' Expedited Motion for Further Relief Concerning Defendants' Failure to Provide Essential Technology to At-risk Public School Students." These exhibits are attached to this Notice.

1. Exhibit 15 is a letter and health directive from the Navajo Nation explaining that

as a result of the continued health risks of the pandemic, all Navajo students will continue to learn remotely for the remainder of the current school year and for the 2021-2022 school year.

2. Exhibits 16-20 are declarations from *Yazzie* Plaintiff school districts stating the percentage of students in these districts who are learning remotely during the current school year and their estimates of the percentage who will continue to learn remotely in the 2021-2022 school year.

3. Exhibit 21 is a March-April 2020 survey by the NM Public Education Department of the percentage and number of students in each school district in the state who lacked internet connection and/or a computer device and who could not participate in remote learning.

4. Exhibit 22 is a declaration by the Peñasco Independent School District (a focus district in this case) that the PED's reliance on the NM Broadband Map is erroneous because that map shows hypothetical, not actual, access to the internet for students in New Mexico school districts. The declaration shows that large numbers of students claimed by PED to have internet access in fact do not have this access.

5. Exhibit 23 are the State's answers to a number of post-judgment interrogatories in this case admitting that since this Court's decisions in 2018 the State had not supplied funding to ensure access to the internet and necessary computers for all students in New Mexico public schools.

Respectfully submitted,

/s/ DANIEL YOHALEM
Daniel Yohalem
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Melissa@nmpovertylaw.org

Attorneys for *Yazzie* Plaintiffs

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CERTIFICATE OF SERVICE

I hereby certify that on April 29, 2021, a true copy of this Notice was e-filed and served through the Court's e-filing system upon counsel of record.

/s/ Daniel Yohalem
Daniel Yohalem

THE NAVAJO NATION



JONATHAN NEZ | **PRESIDENT**

MYRON LIZER | **VICE PRESIDENT**

April 14, 2021

Dear School Leader and Governing School Board President,

Public Health Emergency Order 2021-008 reinstates a shelter-in-place order given the new variants of COVID-19 identified on the Navajo Nation. This Order is indefinite. The Nation continues to remain in a Major Disaster Declaration for the COVID-19 pandemic.

As has been widely reported, the Navajo Nation has been severely impacted by COVID-19. The most recent Navajo Nation situation report records over 30,269 infections and over 1,262 deaths. We continue to watch COVID-19 cases closely, particularly now that the Navajo Nation has documented cases of the highly contagious S UK and California variants. The Nation is seeing early indications of a worrisome trend and our public health experts are trying to prevent a third surge of COVID-19 on the Navajo Nation. Due to this increase in cases, the Nation is returning to a stay-at-home directive.

In the last few weeks, COVID-19 outbreaks are on the rise at schools within the Navajo Nation. These outbreaks and infections are preventable and manageable when schools provide virtual and on-line learning only.

The Nation is adamant that you respect the sovereignty of the Navajo Nation and our decision to protect the health and welfare of Navajo Nation citizens, abide by Public Health Emergency Order 2021-008, and provide virtual and on-line learning only. Ahéheé’.

Sincerely,

Handwritten signature of Jonathan Nez in black ink.

Jonathan Nez, *President*
THE NAVAJO NATION

Handwritten signature of Myron Lizer in black ink.

Myron Lizer, *Vice President*
THE NAVAJO NATION

cc: OPVP File

**PUBLIC HEALTH ORDER
NAVAJO DEPARTMENT OF HEALTH
NAVAJO OFFICE OF ENVIRONMENTAL HEALTH & PROTECTION PROGRAM**

April 9, 2021

**Public Health Emergency Order No. 2021-008
Re-Issuing Stay at Home (Shelter in Place) Order and Continuing Daily Curfew**

- I. Paragraphs I – IX from Public Health Emergency Order No. 2020-004 are included with this Public Health Order, addressing the various Navajo Nation (Nation) authorities related to the current COVID-19 Public Health Emergency.
- II. A Stay at Home (Shelter in Place) Order had been in effect for all residents of the Nation, requiring individuals to limit their movement within and outside of their immediate communities and to limit contact with individuals who are not in their immediate household. (Public Health Emergency Orders No. 2020-003 (March 20, 2020) and No. 2020-004 (March 29, 2020)). Under that Order, individuals could leave their place of residence only to perform “Essential Activities” which primarily include activities and tasks essential to health, safety, and welfare. That Order also advised that public gatherings in excess of five (5) people should be avoided. The Nation was under a “Safer on the Navajo Nation” Public Health Emergency Order No. 2020-014 (October 16, 2020), under which individuals were encouraged to exercise personal responsibility but were not ordered to stay home. Due to an increase in cases on and around the Navajo Nation, a Stay at Home (Shelter in Place) Order was reissued on November 13, 2020. Since that time, the Stay at Home (Shelter in Place) Order has been extended by subsequent Orders until March 15, 2021. The Nation shall be in Orange Status pursuant to Public Health Emergency Order No. 2021-005 (March 9, 2021). Individuals on the Navajo Nation played an important role in slowing the spread of COVID-19 on the Nation by exercising caution when engaging in public activities and by practicing everyday preventive actions, including wearing masks in public, practicing social (physical) distancing, disinfecting high-touch surfaces, avoiding unnecessary travel, avoiding unnecessary public gatherings, and washing hands for a minimum of 20 seconds. Individuals can continue to slow the spread on the Navajo Nation by practicing preventive measures and staying safe, staying local, and staying on the Nation.
- III. The intent and purpose of this Public Health Emergency Order No. 2021-008 is to re-issue the Stay at Home (Shelter in Place) requirements, effective immediately and continuing indefinitely. Individuals are required to stay home and refrain from unnecessary travel. The requirements of this Order may be extended or changed in a future order. These measures are intended to further ensure an effective response to the COVID-19 pandemic by restricting movement of individuals on the Nation to limit contact to prevent the spread of the virus and minimize the strain on medical response capabilities. All provisions of this Order are to be interpreted to effectuate this intent. Failure to comply

with any provision of this Order constitutes an imminent threat and menace to public health.

- IV. Daily curfew hours remain from 10:00 P.M. MDT to 5:00 A.M. MDT.
- V. The Navajo Nation remains vigilant as neighboring states are reducing restrictions rapidly and new COVID variants are present and being monitored in states surrounding the Navajo Nation. The Navajo Nation recently documented cases of COVID-19 UK variant (B.1.1.7) and California variant (B.1.429) within the Navajo Nation. According to the CDC, these variants seem to spread more easily and quickly. There are reported increases in COVID-19 UK variant cases in Utah and Colorado. An increase in the number of cases will put more strain on health care resources. As coronavirus vaccines are being made available on the Navajo Nation, all preventative precautions should continue to be adhered to after receiving the vaccine.
- VI. The safest place to be continues to be at home. According to the Centers for Disease Control and Prevention, "COVID-19 cases and deaths have been reported in all 50 states, and the situation is constantly changing especially due to emerging variants (B.1.1.7 UK, B.1.351 South Africa, P.1 Brazil). Because travel increases your chances of getting infected and spreading COVID-19, **staying home is the best way to protect yourself and others from getting sick.**"
- VII. According to the Centers for Disease Control and Prevention, "Limiting face-to-face contact with others is the best way to reduce the spread of coronavirus disease 2019 (COVID-19)" and "**the more closely you interact with others and the longer that interaction, the higher the risk of COVID-19 spread.**"
- VIII. Limited "Drive-in" gatherings up to 25 vehicles are permitted if the organizers and participants adhere to the requirements herein that include participants remaining in their vehicles for the entire event, all vehicle occupants must be from the same household, and people are not to come within six feet of participants in other vehicles. Such gatherings include parking lot gatherings for internet access, religious services, funeral services, graduations, and similar events.

THEREFORE, NOTICE IS GIVEN that, pursuant to the power and authority set forth in the NDOH enabling legislation (NNC Resolution No. CO-50-14), and in conjunction with the Navajo Nation Public Health State of Emergency Declaration (CEM Resolution No. 20-03-11):

A. All individuals on the Navajo Nation shall **Shelter in Place**, must stay at home, strictly limit movement within the Nation, and limit public contact with others. Individuals may leave their place of residence only for emergencies or to perform "**Essential Activities**," defined herein, which primarily include activities and tasks essential to health, safety, and welfare or in the event of an emergency, as described below:

1. To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their immediate family or household members (including, but not limited to, livestock and pets), such as, obtaining medical supplies or medication, or visiting a health care professional.
2. To obtain necessary services or supplies such as canned food, dry goods, produce, pet supplies, meat, and any other household consumer products, and products necessary to maintain the safety, sanitation, and essential operation of residential living. When people need to leave home to obtain such necessities, they should do so in limited numbers and should at all times adhere to **Social Distancing Standards** (such as: not shaking hands, standing several feet away from other people, avoiding crowds, etc.).
3. Individuals are still permitted to cultivate food (i.e. farming) and tend to livestock.
4. Individuals are not required to remain indoors. Outdoor activity is encouraged and individuals may leave their residence such as running or hiking.
5. Wood and coal collection and hauling are permissible and all safety precautions must be adhered to.
6. Refrain from gathering with individuals outside your household who are not yet vaccinated.
7. Limited gatherings of 10 or fewer people are permitted during non-curfew hours. All unvaccinated or vaccinated people shall wear a mask and continue safety precautions while gathering. Traditional ceremonies of 10 or fewer people are permitted with guidance from PHEO 2021-007. Limited churches and other houses of worship are permitted with requirements from PHEO 2021-007 and guidance from the Health Command Operations Center.
8. "Drive-in" gatherings can be conducted during non-curfew hours, consistent with the current Public Health Emergency Orders (as long as those Orders are in effect), where event organizers ensure the following requirements are in place:
 - a. Outdoor "drive-in" gatherings only where people from the same vehicle remain in their vehicles.
 - b. Vehicles are parked at least six (6) feet from other vehicles, in all four directions.
 - c. Organizers and participants wear masks.
 - d. Gathering is conducted in a no-contact manner and maintaining social distancing standards.
 - e. Event organizers are also required to:
 - i. Limit the number of people in a restroom to no more than five (5) people.
 - ii. Ensure that people have access to a handwashing station, sanitizer, or gloves.
 - iii. Ensure that high-touch surfaces are regularly disinfected.

B. Daily Curfew Hours: A daily 10:00 P.M MDT to 5:00 A.M. MDT curfew applies to all individuals across the Nation.

C. All Businesses must comply with the requirements of Public Health Emergency Order No. 2021-005 Declaring “Orange Status” for Businesses (March 10, 2021).

NOTICE IS FURTHER GIVEN that this Order shall not abrogate any disease-reporting requirements (consistent with HIPAA privacy standards).

NOTICE IS FURTHER GIVEN that it is greatly advised that the public take the following preventive precautions:

1. All persons, especially high risk and unvaccinated individuals, on the Navajo Nation are ordered to stay home and leave home only when absolutely necessary for their health, safety, or welfare or as described herein.

2. Avoid close contact with people who are sick.

3. Wash your hands often with soap and water for at least 20 seconds, especially after blowing your nose, coughing, or sneezing, or having been in a public place. If soap and water are not available, use a hand sanitizer that contains at least 60% alcohol.

4. To the extent possible, avoid touching high-touch surfaces in public places – elevator buttons, door handles, handrails, handshaking with people, etc. Use a tissue or your sleeve to cover your hands or finger if you must touch something.

5. Wear a mask and avoid touching your face, nose, eyes, etc.

6. Clean and disinfect your home to remove germs: practice routine cleaning of frequently touched surfaces (for example: tables, doorknobs, light switches, handles, desks, toilets, faucets, sinks, and cell phones).

7. Avoid unnecessary public gatherings.

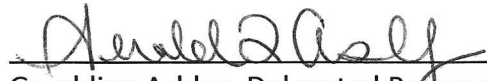
8. Avoid all non-essential travel.

9. Get an influenza (flu) vaccination as soon as possible and when safe to do so, and in accordance with the above requirements.

10. All persons are highly encouraged to get any COVID-19 vaccination as soon as possible and when safe to do so, and in accordance with the above requirements.

NOTICE IS FURTHER GIVEN that this Order shall take effect on Friday, April 9, 2021 and shall remain in effect until otherwise rescinded or modified by a subsequent Order.

ADDITIONAL ADVISORIES AND ORDERS WILL FOLLOW AS CONDITIONS WARRANT. SO ORDERED THIS 9th DAY OF APRIL, 2021.



Geraldine Ashley, Delegated Program Supervisor III
Navajo Office of Environmental Health &
Protection Program
Navajo Department of Health



Dr. Jill Jim, Executive Director
Navajo Department of Health
Health Command Operations Center

Definitions

Drive-In: means attending a gathering without leaving one's car.

Emergency: a serious, unexpected, or dangerous situation requiring immediate action, including a medical condition that requires immediate treatment.

Essential Activities: (1) activities or tasks essential to the health and safety of one's household (including livestock and pets), such as obtaining critical medical supplies or medication, banking, or visiting a health care professional for an imminent health need, or participating in a Traditional Navajo ceremony or prayer; (2) obtaining necessary services or supplies (such as canned food, dry goods, produce, pet supplies, meat, and any other household consumer products, and products necessary to maintain the safety, sanitation, and essential operation of a residence); (3) engaging in daytime outdoor activity such as walking, hiking, or running (From Public Health Emergency Order No. 2020-003, March 20, 2020); (4) Voting (From Public Health Emergency Order No. 2020-009, May 14, 2020); (5) Cultivate food (i.e. farming) and tend to livestock (From Public Health Emergency Order No. 2020-015 (June 16, 2020)); (6) Working for an essential business or in an essential government function, or providing essential infrastructure services; (7) Wood collection and hauling (From Public Health Emergency Order No. 2020-024 (September 29, 2020)); (8) Hunting with a permit from the Navajo Nation Department of Fish and Wildlife (From Public Health Emergency Order No. 2020-026 (October 22, 2020)); (9) Churches and other houses of worship are essential and must operate within Navajo Health Command Operations Center guidelines.

Essential Businesses: Healthcare Operation, Essential Governmental Functions, Essential Infrastructure (e.g., courts of law, medical providers for urgent care, public utilities, banks and other financial institutions, and critical school operations such as nutrition programs) (From Public Health Emergency Order No. 2020-002, March 19, 2020 and expanded through Public Health Emergency Order No. 2020-003, March 20, 2020 to include food cultivation (including farming and livestock), banks and other financial institutions, grocery stores, food banks, convenience stores, hardware stores and other establishments engaged in the retail sale of groceries and non-grocery products necessary to maintaining the safety, sanitation and essential operation of residences, among other things).

Essential Employees: Those employees identified by Essential Businesses or off-reservation employers as necessary to the continued operation of those Essential Businesses or off-reservation employers.

Essential Governmental Functions: means all services needed to ensure the continuing operation of the government agencies and provide for the health, safety and welfare of the public. (From Public Health Emergency Order No. 2020-002, March 19, 2020).

Essential infrastructure: Public works construction, construction of housing, water, sewer, gas, electrical, roads and highways, public transportation, solid waste collection and removal, internet, and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services). (From Public Health Emergency Order No. 2020-003, March 20, 2020).

Fully vaccinated: two weeks after completion of any COVID-19 vaccination (both doses of Pfizer or Moderna vaccines or single dose of Johnson and Johnson Janssen vaccine)

Gathering: means any grouping together of individuals in a single connected location. (From Public Health Emergency Order dated March 18, 2020).

High-risk individuals: individuals who are 65 years and older; individuals who have cancer; chronic kidney disease; chronic lung disease such as chronic obstructive pulmonary disease, asthma; Dementia; Down Syndrome; HIV; Liver Disease; serious heart conditions, such as heart failure, coronary artery disease, or cardiomyopathies; Sickle cell disease; Type 2 diabetes mellitus; individuals who are immunocompromised (weakened immune system) from solid organ transplant; individual who have a body mass index of 30 or higher; Individuals who are pregnant; Individuals who smoke; and Other individuals determined to be high risk by a licensed healthcare provider.

Religious services: Related to spirituality, traditional beliefs, or religion.

Social Distancing Requirements: Physical distancing by limiting contact of people within 6 feet from each other. (From Public Health Emergency Order No. 2020-002, March 19, 2020).

Social Distancing Standards: Physical distancing by not shaking hands, standing several feet away from other people, avoiding crowds, etc.) (From Public Health Emergency Order No. 2020-003, March 20, 2020).

Unvaccinated individuals: people who have not received a covid-19 vaccination. As vaccines are currently unavailable for children, this includes children under 16.

YAZZIE EXHIBIT 16

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT

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

Plaintiffs,

vs.

No. 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,
XAVIER NEZ, *et al.*,

Plaintiffs,

vs.

No. D-101-CV-2014-02224

THE STATE OF NEW MEXICO, *et al.*,

Defendants.

THIRD DECLARATION OF GALLUP SUPERINTENDENT MIKE HYATT

Declarant, Mike Hyatt, deposes and states as follows:

1. My name is Mike Hyatt and I reside in McKinley County, New Mexico. I am the Superintendent of Gallup McKinley County Schools (“Gallup Schools”), a Plaintiff district in this lawsuit.
2. I am over 18 years of age and am competent to make this Declaration.
3. For the remainder of this 2020-2021 school year the Gallup Schools is conducting its educational program for all students with some students attending in person and others attending remotely, on-line. The remote, on-line students constitute about 80 percent of our total student

population.

4. Based on my information from parents and teachers, I anticipate that a significant percent of Gallup Schools students will continue to choose to participate in remote on-line education during the next school year (2021-2022).
5. In the Gallup Schools the majority of our Native American students are currently on-line learners.

I declare under penalty of perjury under the law of New Mexico that the foregoing is true and correct to the best of my information and belief.

04/12/2021

/s/ MIKE HYATT

Mike Hyatt

Superintendent of Gallup McKinley County Schools

YAZZIE EXHIBIT 17

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT

LOUISE MARTINEZ, individually
and as next friend of her minor children
AN. MARTINEZ, AA. MARTINEZ,
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THE STATE OF NEW MEXICO, *et al.*,

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No. D-101-CV-2014-02224

THE STATE OF NEW MEXICO, *et al.*,

Defendants.

DECLARATION OF MORIARTY SUPERINTENDENT TERESA SALAZAR

Declarant, Teresa Salazar, deposes and states as follows:

1. My name is Teresa Salazar and I reside in Torrance County, New Mexico. I am the Superintendent of the Moriarty-Edgewood School District (“MESD”), a Plaintiff district in this lawsuit.
2. I am over 18 years of age and am competent to make this Declaration.
3. For the remainder of this 2020-2021 school year MESD is conducting its educational program for all students with some students attending in person and others attending remotely, on-line. The remote, on-line students constitute about 20 percent of our total student

population.

4. Based on my information from parents and teachers, I anticipate that about 5 percent of MESD's students will continue to be learning remotely on-line during the next school year (2021-2022). Many of these children come from low-income families.

I declare under penalty of perjury under the law of New Mexico that the foregoing is true and correct to the best of my information and belief.

04/13/2021

/s/ TERESA SALAZAR

Teresa Salazar

Superintendent of Moriarty-Edgewood School District

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

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

Plaintiffs,

v.

No. 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,
XAVIER NEZ, et al.,**

Plaintiffs,

v.

No. D-101-CV-2014-02224

THE STATE OF NEW MEXICO, et al.,

Defendants.

DECLARATION OF CUBA SUPERINTENDENT KAREN SANCHEZ-GRIEGO

Declarant, Karen Sanchez-Griego, deposes and states as follows:

1. My name is Karen Sanchez-Griego and I reside in Sandoval County, New Mexico. I am the Superintendent of the Cuba Independent School District (“Cuba”), a Plaintiff district in this lawsuit.
2. I am over 18 years of age and am competent to make this Declaration.
3. For the remainder of this 2020-2021 school year Cuba is conducting its educational program for all students with some students attending in person and others attending remotely, on-line. The remote, on-line students constitute about 40 percent of our total student

population.

4. Based on my information from parents and teachers, I anticipate that 40 percent of Cuba's students will continue to be learning remotely on-line during the next school year (2021-2022).

Many of these children come from Native American families.

I declare under penalty of perjury under the law of New Mexico that the foregoing is true and correct to the best of my information and belief.

04/14/2021

/s/ KAREN SANCHEZ-GRIEGO

Karen Sanchez-Griego

Superintendent of Cuba Independent School District

YAZZIE EXHIBIT 19

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT

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

Plaintiffs,

v.

No. D-101-CV-2014-00793

THE STATE OF NEW MEXICO, *et al.*,

Defendants.

Consolidated with

WILHELMINA YAZZIE, individually
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v.

No. D-101-CV-2014-02224

THE STATE OF NEW MEXICO, *et al.*,

Defendants.

DECLARATION OF RIO RANCHO SUPERINTENDENT V. SUE CLEVELAND

Declarant, V. Sue Cleveland, deposes and states as follows:

1. My name is V. Sue Cleveland and I reside in Sandoval County, New Mexico. I am the Superintendent of the Rio Rancho School District (“Rio Rancho”), a Plaintiff district in this lawsuit.
2. I am over 18 years of age and am competent to make this Declaration.
3. For the remainder of this 2020-2021 school year Rio Rancho is conducting its educational program for all students with some students attending in person and others attending remotely, on-line. The remote, on-line students constitute about 40 percent of our total student

population.

4. Based on my information from parents and staff, I anticipate that 30-40 percent of Rio Rancho's students will continue to be learning remotely on-line during the next school year (2021-2022). Many of these children come from low-income families.

I declare under penalty of perjury under the law of New Mexico that the foregoing is true and correct to the best of my information and belief.

04/16/2021

/s/ V. SUE CLEVELAND

V. Sue Cleveland

Superintendent of Rio Rancho School District

YAZZIE EXHIBIT 20

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT

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

Plaintiffs,

v.

No. 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,
XAVIER NEZ, *et al.*,

Plaintiffs,

v.

No. D-101-CV-2014-02224

THE STATE OF NEW MEXICO, *et al.*,

Defendants.

DECLARATION OF SANTA FE SUPERINTENDENT VERONICA C. GARCIA

Declarant, Veronica C. Garcia, deposes and states as follows:

1. My name is Veronica C. Garcia and I reside in Bernalillo County, New Mexico. I am the Superintendent of Santa Fe Public School District (“Santa Fe”), a Plaintiff district in this lawsuit.
2. I am over 18 years of age and am competent to make this Declaration.
3. For the remainder of this 2020-2021 school year Santa Fe is conducting its educational program for all students with some students attending in person and others attending remotely, on-line. The remote, on-line students constitute about 30-40 percent of our total student

population.

4. Based on my information from staff, I anticipate that possibly 10-20 percent of Santa Fe Public School students will continue to be learning remotely on-line during the next school year (2021-2022). Many of these children come from low-income families.

I declare under penalty of perjury under the law of New Mexico that the foregoing is true and correct to the best of my information and belief.

04/15/2021

/s/ VERONICA C. GARCIA
Veronica Garcia
Superintendent of Santa Fe Public Schools

YAZZIE EXHIBIT 21
**Excerpt Defendants' Responses to Plaintiffs' Post-
Judgment Discovery, Bates No. #4402**

	F	G	H	I	J	K	L	M	N
1	District / School Name	What percentage of your students do not have internet service at home?	What is the actual number for that?	What is your total enrollment?	If mobile hotspots could be provided for the families represented by those students above, would you be able to tag the students and identify whether their home address would likely, to the best of your knowledge, be able to get a 4G signal, so that a mobile hotspot would work for them?	What percentage of your students would not currently have access to end-user devices (such as a district-issued Chromebook or their own device including smartphone) to use at home for online learning, unless it was newly provided by the district/school?	If funding became available for Mobile Hotspots , and you had some families that could benefit from that, how many would you ask for?	If funding became available for end-user devices (such as Chromebooks) , and you had some students that could benefit from that, how many would you ask for?	For the answer above, if possible, specify how many would be tablets (likely K-3) and laptops (Chromebooks, PCs, Macs).
2	Alamogordo Public Schools	15	700	5700	Yes	25	500	1500	1500 chromebooks, we do
3	Albuquerque Public Schools	12	9600	80000	Yes	70	7000	24000	All Chromebooks
4	Animas Public schools/SWREC	10	15	160	Yes	10	15	15	15
5	Artesia Public Schools	50	1600	3833	No	50	50	50	all laptops
6	Aztec Municipal Schools	10	241	2786	Yes	25	245	250	250 pc
7	Belen Consolidated Schools	16	612	3000	Yes	30	250	500	All laptops (we can provide
8	Bernalillo Public Schools	75	2000	3000	No	75	2000	2500	2500 chromebooks
9	Bloomfield Schools	20	552	2758	Yes	40	552	1103	All Chromebooks
10	Capitan Municipal Schools	20	102	511	Yes	1	102	1	We have a on to one polic
11	Carrizozo Municipal Schools	70	45	145	Yes	50	75	75	we have tablets, need chr
12	Central Consolidated Schools	80	4940	6174	No	80	2000	2000	2000
13	Chama Valley Independent School	75	350	430	No	40	8	400	Tablets
14	Cimarron	94	430	450	No	1	1	1	1
15	Clayton	9	47	443	Yes	3	40	15	Chromebooks
16	Cloudcroft Municipal Schools	10	43	430	Yes	20	30	50	25 ipads 25 chromebooks
17	Cloudcroft Municipal Schools	80	356	446	No	90	10	50	50 Chromebooks
18	Clovis Municipal Schools	30	2475	8250	Yes	1	8250	8250	0
19	Cobre by JS	22	276	1255	No	50	627	627	
20	Corona by JS	22	14	63	No	50	32	32	
21	Cuba by JS	22	120	546	No	50	273	273	
22	Deming Public Schools	37	37	2035	Yes	65	1000	3000	30% / 70%
23	Des Moines by JS	22	20	89	No	50	45	45	
24	Dexter Consolidated Schools	22	140	838	Yes	47	150	100	100 Chromebooks
25	Dora Consolidated Schools	33	75	230	Yes	45	50	120	120
26	Dulce Independent School District	31	186	600	Yes	1	120	100	100
27	Elida Municipal Schools	7	11	170	Yes	8	11	40	
28	Espanola Public Schools	50	1900	3800	No	50	2144	2144	1020
29	Estancia Municipal Schools	86	529	615	No	1	3	1	0
30	Eunice by JS	22	198	901	No	50	450	450	
31	Farmington Schools	20	2300	11600	Yes	1	1500	1	
32	Floyd by JS	22	51	233	No	50	450	450	
33	Fort Sumner by JS	22	70	320	No	50	160	160	
34	Gadsden ISD	25	3500	14000	Yes	20	2000	6000	Chromebooks
35	Gallup McKinley County Schools	71	7463	10576	Yes	76	7509	8096	3060 Ipad Tablets / 5036
36	Grants Cibola County Schools	70	2457	3510	Yes	60	2457	1299	1299
37	Hagerman	10	40	400	Yes	30	40	100	100 chrome books
38	Hatch Valley Public Schools	30	250	1236	Yes	1	200	500	All chromebooks
39	Hobbs Municipal Schools	20	1200	10572	Yes	20	1200	1200	All Chromebooks
40	Hondo Valley Public Schools	50	72	145	Yes	30	50	50	50 Chromebooks
41	House by JS	22	14	63	No	50	32	32	
42	House Municipal Schools	10	6	58	No	17	1	10	Chromebooks

	F	G	H	I	J	K	L	M	N
43	Jal by JS	22	119	540	No	50	270	270	
44	Jemez Mountain Schools	75	179	208	Yes	100	179	208	All Chromebooks
45	Jemez Valley Public Schools	40	110	276	Yes	65	100	276	276
46	Lake Arthur Municipal Schools	5.5	5	110	Yes	20	1	20	20 Chromebooks
47	Las Cruces Public Schools	8	1700	24500	Yes	29	100	1	We have old devices that v
48	Las Vegas City Schools	30	450	1445	Yes	40	450	600	200 tablets, 400 Chromeb
49	Las Vegas West by JS	22	339	1539	No	50	769	769	
50	Logan by JS	22	80	363	No	50	181	181	
51	Lordsburg Municipal Schools	20	100	500	Yes	100	100	100	Chromebooks - 100
52	Los Alamos	5	188	3770	Yes	20	150	800	Chromebooks
53	Los Lunas Schools	10.7	904	8480	Yes	5	750	400	400 tablets
54	Loving Municipal Schools	20	125	655	Yes	40	125	260	260 Laptops
55	Lovington Municipal Schools	25	950	3800	No	30	500	1000	1000 Chromebooks
56	Magdalena Municipal School Distri	70	200	350	No	30	2	75	25, 50
57	Maxwell Municipal Schools	40	57	143	Yes	50	57	50	30 Chromebook, 20 table
58	Melrose Municipal Schools	1.5625	5	283	Yes	40	5	60	60 Chromebooks Students
59	Mesa Vista Consolidated Schools	16	32	260	Yes	10	12	30	30 K-1, and 25- 2nd and 2
60	Mora by JS	22	88	399	No	50	199	199	
61	Moriarty-Edgewood School District	20	477	2388	No	1	477	1	0
62	Mosquero Municipal Schools	2	2	85	No	1	1	30	30
63	Mountainair by JS	22	48	220	No	50	110	110	
64	Pecos	60	360	600	No	60	4	400	250
65	Penasco Independent School Distri	20	69	349	Yes	1	25	1	All students were issued c
66	Pojoaque Valley School District	30	600	2000	Yes	60	100	1300	1300 Chromebooks
67	Portales Municipal Schools	14	374	2752	No	12	30	800	800 Chromebooks
68	Quemado School District	30	50	172	Yes	40	50	50	80
69	Questa Independent Schools	15	30	250	Yes	20	30	50	Tablets K-6
70	Raton Public Schools	20	180	981	Yes	1	120	120	all tablets
71	Reserve ISD	20	24	123	Yes	1	1	1	1
72	Rio Rancho Public Schools	7	1252.3	17890	Yes	1	250	1	1 Chromebook
73	Roswell Independent School Distri	53	5459	10300	No	53	10300	10300	Chromebooks
74	Roy Municipal Schools	9	6	64	Yes	70	6	45	25 PC Laptops & 20 Chro
75	Ruidoso Municipal Schools	20	405	2029	No	35	150	400	4001
76	San Jon Municipal Schools	20	20	125	No	1	1	1	We have enough Chromet
77	Santa Fe Public Schools	10	1229	12292	Yes	1	400	1	1
78	Santa Rosa Consolidated Schools	5	30	626	Yes	30	30	120	
79	SCHOOL FOR THE BLIND by JS	22	6	28	No	50	14	14	
80	SCHOOL FOR THE DEAF ABQ b	22	30	135	No	50	67	67	
81	Silver Consolidated School District	38	966	2515	Yes	38	150	600	All Touchscreen Chromeb
82	Socorro Consolidated Schools	23	336	1460	Yes	18	450	450	-120 for tablets, 330 chro
83	Springer Municipal Schools	100	100	120	No	100	120	120	120
84	Taos by JS	22	598	2720	No	50	1360	1360	
85	Tatum Municipal Schools	6	22	362	Yes	20	4	15	10 tablets, 10 chromebook
86	Texico Municipal Schools	30	162.3	541	Yes	30	165	165	165
87	Truth or Consequences by JS	22	288	1308	No	50	654	654	
88	Tucumcari	30	300	1000	Yes	2	100	700	275 tablets 425 laptops
89	Tularosa Municipal Schools	38	335	876	No	34	50	845	214 Chrome Yoga Style T
90	Vaughn Municipal Schools District	30	15	55	Yes	10	55	55	55
92	West Las Vegas Schools	25	200	1200	Yes	5	200	125	Chromebooks
93	Zuni Public School District	60	720	1200	Yes	30	500	500	200 tablets, 300 Chromet
94	TOTALS	22.03%	65,395	296,848	<<<<<<	Note: Update formulas each time >>>>>	61,566	90,300	

YAZZIE EXHIBIT 22

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT

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

Plaintiffs,

v.

No. 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,
XAVIER NEZ, *et al.*,

Plaintiffs,

v.

No. D-101-CV-2014-02224

THE STATE OF NEW MEXICO, *et al.*,

Defendants.

AFFIDAVIT OF MICHAEL NOLL, PEÑASCO INDEPENDENT SCHOOL DISTRICT

Declarant, Michael Noll, deposes and states as follows:

1. My name is Michael Noll and I reside in Taos County, New Mexico. I am the Community Schools Coordinator of the Peñasco Independent School District, a Focus District in this lawsuit.

2. I am over 18 years of age and am competent to make this Declaration.

3. One of my duties for Peñasco is to determine which students have access to sufficient instructional and technology resources and support to participate in remote

learning in the District.

4. I have carefully reviewed the NM Broadband Map (nmbbmapping.org) erroneously relied on by NM Ped. The purple on the map is 3G/4G coverage. According to the NM Broadband Map almost everywhere in Peñasco should have 3G/4G coverage, which would be sufficient for a mobile hotspot. Unfortunately, this map is not accurate.

5. Verizon provides the broadband service to the Peñasco area. It is the only mobile internet service provider in this area. Verizon has prepared a propagation study showing which homes actually have access to its internet services and the addresses that have no wireless data access (no 2G, 3G, 4G, or LTE)..

6. I have carefully reviewed this Verizon propagation study and a Google Map showing the locations of addresses that have and do not have access to Verizon's services in the Peñasco area
(- https://www.google.com/maps/d/viewer?mid=10P_4UiZP_DOZtk_2IKBQ69mhuTymq3G5&hl=en&usp=sharing).

7. Anyone who reviews these two maps will see that they are not the same. Many of the homes that the NM Broadband Map identify as having internet coverage actually sit in areas that have no coverage according to the data from Verizon's much more accurate propagation study. A propagation study measures the actual data at a particular location, whereas coverage maps portray theoretical data based on the location of towers. Coverage maps do not take into account most aspects of landscape or topography and so are often inaccurate. A propagation study is completely accurate.

8. The difference between these maps explains why the NM PED can erroneously say that most areas in Peñasco have Internet access when, in fact, they do

not.

I declare under penalty of perjury under the law of New Mexico that the foregoing is true and correct to the best of my information and belief.

April 28, 2021

/s/ MICHAEL NOLL

Michael Noll

Peñasco Independent School District

EXHIBIT 23
Defendants' Answers to Plaintiffs'
Post-Judgment
Interrogatories #136-141

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT

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

Plaintiffs,

v.

No. D-101-CV-2014-00793

THE STATE OF NEW MEXICO, *et al.*,

Defendants.

Consolidated with

WILHELMINA YAZZIE, individually
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XAVIER NEZ, *et al.*,

Plaintiffs,

v.

No. D-101-CV-2014-02224

THE STATE OF NEW MEXICO, *et al.*,

Defendants.

DEFENDANT THE STATE OF NEW MEXICO'S
ANSWERS MARTINEZ AND YAZZIE PLAINTIFFS'
JOINT FIRST POST-JUDGMENT INTERROGATORIES

Interrogatory 136: Please state separately for each school year 2018-19 to the present the amount of money appropriated by the New Mexico Legislature for high-speed broadband and wifi internet access for students, stated separately for the following locations:

- a. school district buildings,
- b. the homes of public school students, and
- c. other locations accessible to public school students (identify these locations).

Answer: Defendant objects to this interrogatory under Rule 1-033(A) NMRA which limits the number of interrogatories to a total of 50, to include discrete subparts, by one party to another party. Defendant acknowledges there are two distinct Plaintiff groups recognized by the Court, Martinez and Yazzie. Even assuming the Court construes Martinez and Yazzie plaintiffs to be separate parties, Plaintiffs have submitted 148 interrogatories jointly, which is well over 50 per

Martinez and Yazzie plaintiffs. To the extent Plaintiffs assert the individual Plaintiff districts and families are individual parties, each of whom is entitled to submit 50 interrogatories, this argument is inconsistent with a reasonable interpretation of the term “party.” Yazzie and Martinez Plaintiffs are represented by a single set of attorneys respectively and share a common arguments and goals for the litigation. Moreover, many of the interrogatories contain discrete subparts which bring the total number of interrogatories to well over 200. Defendant does not waive any supernumerary objection to Plaintiffs’ discovery requests and reserves the right to seek protection from future requests.

Without waiving this objection, Defendant states as follows:

There was no specific allocation for this, instead, it is funded through CARES, local revenue, or federal dollars.

Interrogatory 137: Please state separately for each school year 2018-19 to the present the amount of money requested by the Governor and PED to be appropriated by the New Mexico Legislature for high-speed broadband and wifi internet access for students, stated separately for the following locations:

- a. school district buildings,
- b. the homes of public school students, and
- c. other locations accessible to public school students (identify these locations).

Answer: Defendant objects to this interrogatory under Rule 1-033(A) NMRA which limits the number of interrogatories to a total of 50, to include discrete subparts, by one party to another party. Defendant acknowledges there are two distinct Plaintiff groups recognized by the Court, Martinez and Yazzie. Even assuming the Court construes Martinez and Yazzie plaintiffs to be separate parties, Plaintiffs have submitted 148 interrogatories jointly, which is well over 50 per Martinez and Yazzie plaintiffs. To the extent Plaintiffs assert the individual Plaintiff districts and families are individual parties, each of whom is entitled to submit 50 interrogatories, this argument is inconsistent with a reasonable interpretation of the term “party.” Yazzie and Martinez Plaintiffs are represented by a single set of attorneys respectively and share a common arguments and goals for the litigation. Moreover, many of the interrogatories contain discrete subparts which bring the total number of interrogatories to well over 200. Defendant does not waive any supernumerary objection to Plaintiffs’ discovery requests and reserves the right to seek protection from future requests.

Without waiving this objection, Defendant states as follows:

There was no specific allocation for this, instead, it is funded through CARES, local revenue, or federal dollars.

Interrogatory 138: Please state separately for each school year 2018-19 to the present the amount of money distributed to each Focus District by the State for high-speed broadband and wifi internet access for students, stated separately for the following locations:

- a. school district buildings,
- b. the homes of public school students, and
- c. other locations accessible to public school students (identify these locations).

Answer: Defendant objects to this interrogatory under Rule 1-033(A) NMRA which limits the number of interrogatories to a total of 50, to include discrete subparts, by one party to another party. Defendant acknowledges there are two distinct Plaintiff groups recognized by the Court, Martinez and Yazzie. Even assuming the Court construes Martinez and Yazzie plaintiffs to be separate parties, Plaintiffs have submitted 148 interrogatories jointly, which is well over 50 per Martinez and Yazzie plaintiffs. To the extent Plaintiffs assert the individual Plaintiff districts and families are individual parties, each of whom is entitled to submit 50 interrogatories, this argument is inconsistent with a reasonable interpretation of the term “party.” Yazzie and Martinez Plaintiffs are represented by a single set of attorneys respectively and share a common arguments and goals for the litigation. Moreover, many of the interrogatories contain discrete subparts which bring the total number of interrogatories to well over 200. Defendant does not waive any supernumerary objection to Plaintiffs’ discovery requests and reserves the right to seek protection from future requests.

Without waiving this objection, Defendant states as follows:

There was no specific allocation for this, instead, it is funded through CARES, local revenue, or federal dollars.

Interrogatory 139: Please state separately for each school year 2018-19 to the present the amount of money appropriated by the New Mexico Legislature for computers for students appropriate for all aspects of remote learning, stated separately for:

- a. Grades K-6, and
- b. Grades 7-12.

Answer: Defendant objects to this interrogatory under Rule 1-033(A) NMRA which limits the number of interrogatories to a total of 50, to include discrete subparts, by one party to another party. Defendant acknowledges there are two distinct Plaintiff groups recognized by the Court, Martinez and Yazzie. Even assuming the Court construes Martinez and Yazzie plaintiffs to be separate parties, Plaintiffs have submitted 148 interrogatories jointly, which is well over 50 per Martinez and Yazzie plaintiffs. To the extent Plaintiffs assert the individual Plaintiff districts and families are individual parties, each of whom is entitled to submit 50 interrogatories, this argument is inconsistent with a reasonable interpretation of the term “party.” Yazzie and Martinez Plaintiffs are represented by a single set of attorneys respectively and share a common arguments and goals for the litigation. Moreover, many of the interrogatories contain discrete subparts which bring the total number of interrogatories to well over 200. Defendant does not waive any supernumerary objection to Plaintiffs’ discovery requests and reserves the right to seek protection from future requests.

Without waiving this objection, Defendant states as follows:

There was no specific allocation for this, instead, it is funded through CARES, local revenue, or federal dollars.

Interrogatory 140: Please state separately for each school year 2018-19 to the present the amount of money requested by the Governor and PED to be appropriated by the New Mexico Legislature for computers for students appropriate for all aspects of remote learning, stated

separately for:

- a. Grades K-6, and
- b. Grades 7-12.

Answer: Defendant objects to this interrogatory under Rule 1-033(A) NMRA which limits the number of interrogatories to a total of 50, to include discrete subparts, by one party to another party. Defendant acknowledges there are two distinct Plaintiff groups recognized by the Court, Martinez and Yazzie. Even assuming the Court construes Martinez and Yazzie plaintiffs to be separate parties, Plaintiffs have submitted 148 interrogatories jointly, which is well over 50 per Martinez and Yazzie plaintiffs. To the extent Plaintiffs assert the individual Plaintiff districts and families are individual parties, each of whom is entitled to submit 50 interrogatories, this argument is inconsistent with a reasonable interpretation of the term “party.” Yazzie and Martinez Plaintiffs are represented by a single set of attorneys respectively and share a common arguments and goals for the litigation. Moreover, many of the interrogatories contain discrete subparts which bring the total number of interrogatories to well over 200. Defendant does not waive any supernumerary objection to Plaintiffs’ discovery requests and reserves the right to seek protection from future requests.

Without waiving this objection, Defendant states as follows:

There was no specific allocation for this, instead, it is funded through CARES, local revenue, or federal dollars.

Interrogatory 141: Please state separately for each school year 2018-19 to the present the amount of money distributed to each Focus District by the State for computers for students appropriate for all aspects of remote learning, stated separately for:

- a. Grades K-6, and
- b. Grades 7-12.

Answer: Defendant objects to this interrogatory under Rule 1-033(A) NMRA which limits the number of interrogatories to a total of 50, to include discrete subparts, by one party to another party. Defendant acknowledges there are two distinct Plaintiff groups recognized by the Court, Martinez and Yazzie. Even assuming the Court construes Martinez and Yazzie plaintiffs to be separate parties, Plaintiffs have submitted 148 interrogatories jointly, which is well over 50 per Martinez and Yazzie plaintiffs. To the extent Plaintiffs assert the individual Plaintiff districts and families are individual parties, each of whom is entitled to submit 50 interrogatories, this argument is inconsistent with a reasonable interpretation of the term “party.” Yazzie and Martinez Plaintiffs are represented by a single set of attorneys respectively and share a common arguments and goals for the litigation. Moreover, many of the interrogatories contain discrete subparts which bring the total number of interrogatories to well over 200. Defendant does not waive any supernumerary objection to Plaintiffs’ discovery requests and reserves the right to seek protection from future requests.

Without waiving this objection, Defendant states as follows:

There was no specific allocation for this, instead, it is funded through CARES, local revenue, or federal dollars.