THE IMPACT OF FEDERAL, STATE, AND LOCAL POLICY ON THE PEDAGOGY OF ELL ASSESSMENT IN NEW MEXICO PUBLIC SCHOOLS

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THE IMPACT OF FEDERAL, STATE, AND LOCAL POLICY ON THE PEDAGOGY OF ELL ASSESSMENT IN NEW MEXICO PUBLIC SCHOOLS

by

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DISSERTATION

Submitted in Partial Fulfillment of the Requirements for the Degree of

Doctor of Education
Educational Leadership

The University of New Mexico
Albuquerque, New Mexico

December, 2020
DEDICATION

In thanks to my husband, my David, for his day-to-day support throughout the entirety of my Doctoral journey. I could not have reached this goal without you.

I also thank my mother, Carol, for her unwavering belief in me, as well as my son, Bradford, for his.

Your combined love is the greatest gift of all.
I warmly acknowledge Dr. Allison Borden for her unwavering dedication to all of her students and for always being one of the first to step up and fill a need. Likewise, I offer my sincere thanks to my Chair, Dr. Viola E. Florez. Your professionalism, empathy, and patience throughout the entirety of my doctoral journey is what made my journey’s end possible. As for the rest of my Doctoral Committee members, Dr. Shawn Secatero, Dr. Tyson Marsh, and Dr. David Bower, please, know that I am truly humbled by your combined expertise. Just as, I am ever grateful for the wisdom it imparts.

Finally, to my editor, Valerie Clement, words are simply not enough to express my gratitude for your tireless commitment to the job at hand and willingness to guide me to the completion of this document.
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ABSTRACT

The impetus for this study came from the understanding that bilingualism and multilingualism are innate components of America’s immigrant and Native American cultural fabric. With issues ranging from writing ELL policy to developing English as a second language (ESL), pedagogical support, to identifying the non-static, cultural, and linguistic needs of ELLs, their intersection and impact on bilingual education in New Mexico’s public schools was the focus of this study. To ensure a nonbiased focus on that narrow intersection, a qualitative methodology with a grounded-theory genre and an emic approach to address the research question: How do cumulative state and federal policies impact teacher pedagogy of ELL assessment in New Mexico public schools?
In addressing the problem that the effects of cumulative federal, state, and local assessment policies upon teachers and their pedagogy of ELL assessment were largely unknown, this study not only explore the research question, but did so in a manner that allowed theories to be formed from the analyses of individual ESL teachers’ interpretations of and integration of cumulative ELL policies within the classroom. The theories that emerged from the findings help broaden the understanding of teachers’ sociocultural perspectives. The discussions pertaining to cumulative ELL assessment practices have application to New Mexico’s stakeholders and the required educational reforms for linguistic and cultural supports in BMEPs. Therefore, the significance of this study is its authentic snapshots of the effects cumulative ELL policies have on New Mexico ESL teachers.
TABLE OF CONTENTS

LIST OF LIST FIGURES ........................................................................................................ xii

LIST OF TABLES .................................................................................................................... xiii

CHAPTER 1 INTRODUCTION ................................................................................................. 1

Social Background .............................................................................................................. 1

Statement of the Problem ................................................................................................. 4

Purpose of the Study ......................................................................................................... 11

Significance ....................................................................................................................... 12

Conclusion ......................................................................................................................... 13

Key Terms ......................................................................................................................... 15

CHAPTER 2 LITERATURE REVIEW .................................................................................... 22

Section 1: A Historic Overview of ELL Populations in New Mexico ......................... 22

New Mexico’s ELLs and Categorizations ..................................................................... 23

Native American ELLs ................................................................................................... 24

The Puebloans ................................................................................................................. 24

The Athabaskans ............................................................................................................ 28

The Colonization Period ............................................................................................... 33

Section 2: State and Federal ELL Educational Policies .............................................. 36

Hispanic ELLs and the Spanish Period ......................................................................... 37

Mexican Period Policies ............................................................................................... 38

New Mexico and Early State ELL Educational Policies ............................................. 40

Key State Policy 1960s-Present .................................................................................... 46
CHAPTER 3 METHODOLOGY RESEARCH DESIGN

Type of Research

Genre

Approach

Rationale for the Methodology

Methodology Appropriateness

Sample

Description of Participants

Rationale for Selection

Size of Population

Criteria for Inclusion

Instrumentation
CHAPTER 4 RESEARCH FINDINGS

Research Sample: ESL Teacher Participants

Research Findings

Data Analyses Overview

Data Analyses Results by Theme

Theme 1. Underidentification of New Mexico’s English Language Learners

Theme 2. English Language Learners Require Additional First Language and Cultural Supports

Theme 3. The Two Most Beneficial Post-Degree Preparation
Programs are TESOL Endorsements and SIOP Trainings

**Theme 4.** ESL Teachers are Insufficiently Trained for Native American ELL Population Pedagogy

**Theme 5.** Participants’ Focus on ELL Levels of Language Acquisition

**Theme 6.** Cumulative Assessments can Limit Equitability and Timely Support of ELL Students

**Theme 7.** Technological Resources and Linguistic and Cultural Support Materials are Needed at all Levels of ELL Assessment

**Theme 8.** New Mexico Educational Policy Fails Accountability in Insuring Appropriate Levels of Qualified ESL Teaching Staff

**Theme 9.** Cumulative Summative Assessment Policies Can Negatively Impact Teacher Pedagogy

Summary of Research Findings

**CHAPTER 5 DISCUSSION, RECOMMENDATIONS, AND CONCLUSIONS**

Summary of Research

Researcher Reflection

Discussion of Results

Implications for Policy

Identification of ELL Students

Increases in First Language and Cultural Support

Insufficient Training of ESL and Native American Teachers
LIST OF FIGURES

FIGURE 1: 2016 AND 2018 REVISIONS OF THE LUS PROCESS MAP.........104
LIST OF TABLES

TABLE 1. ESL TEACHER PARTICIPANT DEMOGRAPHICS.......................101

TABLE 2. CURRENT/2019 WIDA ENGLISH LANGUAGE PROFICIENCY LEVELS AND CAN-DO DESCRIPTORS.........................................................112
Chapter 1

Introduction

Bilingual and multilingual education in public schools is a pedagogical challenge in New Mexico. This is not a new challenge, partially because the issues involved in increasing the successes of our population of 61% English language learners (ELLs) in bilingual multicultural educational programs (BMEPs) are manifold (Skandera & Pelayo, 2016, p. 10). Those issues range from writing ELL policy to developing English as a second language (ESL), pedagogical support, to identifying the non-static, cultural, and linguistic needs of ELLs. They resulted in New Mexico public education earning a rank of 49th in 2015 (Chalk) and 51st in the nation and the district of Columbia in 2019, according to Education Week (p.1). Exploring the intersection of these issues and their impact on bilingual education in New Mexico’s public schools was the focus of this study. To ensure a nonbiased focus on that narrow intersection, I used a qualitative methodology with a grounded-theory genre and an emic approach to address the research question: How do cumulative state and federal policies impact teacher pedagogy of ELL assessment in New Mexico public schools?

Broad Social Background

The impetus for this study came from the understanding that bilingualism and multilingualism are innate components of America’s immigrant and Native American cultural fabric. While there are possibilities for the employment of multiple perspectives when working with societal issues pertaining to BMEPs, unlike most advanced nations, Americans have yet to completely embrace, let alone expand upon, the strengths of the
diverse cultural and linguistic skills present in our public schools. Moreover, many Americans do not accept that diversity is a true societal asset nor do they understand the issues surrounding ELL policies, ESL pedagogy, and bilingual multicultural education (Tucker, 2011).

Given the majority’s lack of appreciation of that diversity, the discordance currently seen throughout America might best be described as systemic, and it has impacted our public education system. As New Mexicans, we have been trying to legislatively address these issues since the 1960s, and even before statehood, but our collective failures suggest that a different approach is required. In this study, I attempted to address these issues by employing an emic perspective developed from a cross section of teacher participants in New Mexico public schools.

The theories created from this study’s findings are intended to inform educational leadership, to assist in the creation of educational reform policy, and to do so from the vantage point of pedagogical practices. This is relevant because teachers’ pedagogical practices are as individual as the students they teach. Pedagogy is also dependent upon an individual teacher’s cumulative policy interpretation and readily available, local, professional support systems. Consequently, how well their pedagogy reflects appropriate formative and summative assessment needs of America’s ELL population is predicated in part on how those practices combine to meet the needs of such students within their particular educational arena (Téléz & Mosqueda, 2015, p. 91).

Furthermore, each state’s ELL population differs in linguistic constructs, and each state has its own assessment consortium determining ELL competency levels, as well as its own definition of English language learner (Boals et al., 2015; Linquanti & Cook,
2013; Télez & Mosqueda, 2015). Clearly, not all ELL students share the same cultural and socioeconomic backgrounds even within a single state, district, school, or classroom. An individual student’s classification for level of language proficiency (e.g., entering, emerging, developing, expanding, or bridging) may be dependent on where they are being assessed, by whom they are being assessed, and through which document(s) they are being assessed (Linquanti & Cook, 2013). Additionally, there are different levels of education policy (state and federal), which play a cumulative role in determining the rules and regulations impacting an ESL teacher’s pedagogical practices (Boals et al, 2015; Carroll & Bailey, 2015).

One resultant conundrum is: How ELL policy is created is necessarily based upon the political parties involved in its development, the arena in which it is developed, and what policy came before. For teachers of New Mexico’s ELL students, and of Native American populations in particular, there is an additional merging of local and tribal policy with state and federal policies to consider. Therefore, for teachers to interpret the combined policies and make necessary changes to their pedagogy, while at the same time ensuring the fidelity of their intent, is tricky at best.

Another “complicating factor in the policy process is that most disputes involve deeply held values/interests, large amounts of money, and, at some point, authoritative coercion” (Sabatier, 2007, p. 4). This suggests there are some strategies that may be simplified by the analyst or, in this case, by the teacher. For example;

The analyst can approach the world in an implicit, ad hoc fashion, using whatever categories and assumptions that have arisen from his or her experience—the method of common sense.
An alternative strategy is that of science. Its fundamental ontological assumption is that a smaller set of critical relationships underlies the bewildering complexity of the phenomena.

Finally, multiple perspectives encourage a comparative approach: Rather than asking if theory X produces statistically significant results, one asks whether theory X explains more than theory Y. (Sabatier, 2007, pp. 5–6)

Consequently, throughout New Mexico’s history, there have been many disputes over how to best apply ELL assessment policy within its unique and diverse populations. Those disputes continue to this day and have become the focus of the 2018 Yazzie/Martinez v. the state of New Mexico law suit.

Statement of the Problem

The problem I addressed with this research was that the effects of cumulative ELL policies upon teacher participants and their pedagogy of ELL assessment were largely unknown. Instead, as a state, we just knew that the results were not ideal. For example, the *Bilingual Multicultural Education Annual Report for the School Year 2014–2015 February 2016*, found that:

In Spanish and Native American language programs alike, the vast majority of students [were] at non- and limited-proficient levels. Proficiency in a second language is a primary goal of BMEPs, and current levels of proficiency must be dramatically increased. To do so, educators must be educated, so they can understand the implications of data; make effective, data-driven decisions pertaining to instruction; and more significantly and positively impact educational outcomes for all BMEP students. (Skandera & Pelayo, p. 5)
Still, if “current levels of proficiency” are not as intended, that indicates that research-based recommendations to further educate the educators are a pressing task. Yet, educating the educator is a collaborative process. Simply stating that teachers need to know and understand ELL policy is ineffective, and it does nothing to ensure that ELL policy is meeting its intended goal in the classroom. It would seem logical that the type of professional development, as well as how it is delivered to serve the goal of increasing ELL/BMEP student success, should be delineated collaboratively and involve all stakeholders. Indeed, perhaps to address the problem of effecting ELL assessment success, this should be the norm, rather than the application of strict theoretical mandates presented to teachers in a traditional, authoritative, top-down rule, law, or policy.

For instance, the Common Core State Standards (CCSS) and Partnership for Assessment of Readiness for College and Careers (PARCC) testing alignment had been viewed as instrumental to meet a “consistent expectation in English and math for every student regardless of where they live” (Skandera & Pelayo, 2016, pp. 5–6). Yet the same Bilingual Multicultural Education Annual Report for the School Year 2014–2015 February 2016, indicated that BMEP tests scores were lower across the board for the ELL subset of public-school students during that same time period (Skandera & Pelayo, 2016, p. 6). Similarly, in 2019, New Mexico continued that negative trend in that it ranked even lower on student achievement and chance for success, having earned “51st among the 50 states and the district of Columbia, with an overall score of 66.4 out of 100 points and a grade of D” (Education Week, 2019, p. 1).

That is not to suggest that the New Mexico the Public Education Department (PED) fails to study or to monitor these types of relationships. One such study is
conducted yearly to improve Indigenous education. It is called a Tribal Education Status Report (TESR). However, data collected through that study, and prior to this study, showed that not all eligible districts implement research into the development and/or assessment of such programs (Skandera, 2015, p. 22). Additionally, only about half of the eligible districts participating in New Mexico’s BMEPs had some form of Native language assessments or curricula supports. Only two public school districts (APS and Zuni) out of the 24 BMEPs districts included in the 2015 TESR, reported culturally based assessments. The result being that, in 2015, out of the possible 33,551 Native American public-school students served through BMEPs, the following numbers of Native American student enrollments were reported:

- APS [Albuquerque Public Schools]– 4,654 or 5.04%
- Dulce – 637 or 95.93%
- Central [Consolidated School District] – 5,820 or 89.57%
- Zuni – 1,277 or 99.22%
- Gallup [Gallup McKinley County Schools] – 9,361 or 78.87%. (Skandera, 2015, p. 22)

Whereas, in 2018, a four-year comparison study (2013-2018), demonstrated the results of those enrollment numbers as having an overall decrease of 27% in academic proficiencies for the Native populations of Jicarilla Apache, Keres, Navajo (Diné), Tiwa, Tewa, Towa, and Zuni (New Mexico Public Education Department Language and Cultural Bureau, 2018, pp.12-13). These results indicated that the whole process needed a closer look in order to identify or to ameliorate ELL issues; particularly since high-stake assessment design requires that ESL educators are both willing and able to find a balance
between “achievement outcomes (test scores and pass rates) and equity (retention and graduation rates)” (St. John, 2007, p. 71), or they may end up having to, pedagogically speaking, choose between the two. A concern that Hopkins et al., (2013) spoke to when they stated:

[R]esearch related to effective programs for English learners (Parrish et al., 2006; Williams et al., 2007) and how best to prepare educators to work with these students (e.g., Samson & Collins, 2012; Téllez & Waxman, 2006) is limited, and more exploration in these areas is needed (Goldenberg, 2008). (p. 5)

With New Mexico schools serving “the highest percentage of Hispanic students in the nation and, after Alaska, the second highest percentage of Native American students” (Linquanti & Cook, 2013, pp. 0–4), it would appear to be a place ideally situated to explore how multilevel policy does or does not support the pedagogy of ELL student assessment. The ELL populations in New Mexico present a stark contrast to the other ELL population dynamics in most American states, many which have significantly lower levels of Hispanic and Native American students. This means that the historic (white-male) viewpoint of American educational tradition, where to educate is to provide knowledge for knowledge’s sake, may not be as appropriate for New Mexico’s majority ELL populations. Furthermore, it might be important to recognize that this inappropriateness may stem from the fact that the educational scholars, such as John Dewey and John Henry Newman, were white males endorsing Eurocentric liberal ideals.

For example, Dewey (1897) wrote, “Education must be conceived as a continuing reconstruction of experience; that the process and the goal of education are one and the
same thing” (p. 7) and “that education, therefore, is a process of living and not a preparation for future living” (p. 13). Newman (1996) wrote:

Knowledge is a state or condition of mind; and since cultivation of mind is surely worth seeking for its own sake, we are thus brought once more to the conclusion, which the word “liberal” and the word “philosophy” have suggested, that there is a knowledge, which is desirable, though nothing comes of it, as being of itself a treasure, and a sufficient remuneration of years of labour. (p. 85)

In contrast, Native American peoples have a perspective of self-determination as a communal goal, instead of an individualized goal for education. In the case of New Mexico’s Ramah Navajo, they call this philosophy the “Pollen Road or the Beauty Way” (Manuelito, 2005, pp. 79–80). Native American epistemology sees education as just one of the “four foundational posts” of an educated person: Ancestral Wisdom, Ancestral Teachings, Navajo Language, and Contemporary Knowledge (Manuelito, 2005, p. 83).

In others words, New Mexico Native American peoples’ concept of the educated individual represents itself as a polar opposite to that of the white-male historic viewpoint. Plus, Native Americans value education just as highly as their non-Native counterparts. For example, on August 31, 2006, an Acoma Pueblo member, Dr. Christine Sims, testified before a congressional committee in Albuquerque, New Mexico that:

[T]hroughout all the thousands of years that our tribal communities have existed, there has always been a system of indigenous education for our children that is essentially rooted in language and culture. This indigenous form of education is what has enabled many of our tribes to survive in the face of historical events and federal education policy that have attempted at various times to tear away at the
very fabric of Native American life (Adams, 1995) …Convening today’s hearing in the context of what education can do to assist in the maintenance and survival of Native languages is therefore especially significant…(Serial No. 109-55: *Recovery and preservation of Native American Languages*, p. 27)

Still, like Dewey (1897), Newman (1996), and the Cochiti Puebloan Governor (1875), each American, and each generation of Americans, has had its own opinions about what a public-school education should look like and how it might be constructed to meet those visions. What this means is that, over the last few decades, there has been a shift away from education as a public good, with requisite inputs of support, towards a more private, increasingly neoliberal, philosophy of accountability and output. As Carroll and Bailey (2015) stated:

> Classification accuracy for these high-stakes decisions depends not only on items, cut scores, and performance standard validity, but also on models and decision rules for how sub-domains of ELPA (English language proficiency assessments) are combined, which can also vary state by state. (p. 2)

Furthermore, ESL teachers’ pedagogical “inputs” often rely heavily on the individual teacher’s ESL knowledge, their particular objectivity in interpreting what they are tasked with, and how they then apply assessment data result (Boals et al., 2015, p. 132). Hence, inputs may be more reliant upon teachers’ individualism rather than on the broader linguistic and cultural needs of ELL student populations.

For instance, Macedo (2006) wrote that as an American Hispanic student he had found it hard to conceptualize that his fluency in three languages could be judged a deficit by his instructor. Indeed, since he was not yet fluent in the English language,
Macedo was considered to be an illiterate, because illiteracy (by local policy, instructor understanding, and practice) meant the ability to speak English, to write in English, and to test in English. There was a disconnection between reality (as it was understood and applied, according to school/local policy and assessments by Macedo’s instructor) and the actuality of Macedo’s potential. This disconnect created the hostile and prejudicial climate he was obligated to navigate or disengage himself from. It was not surprising that, as an adult, Macedo argued that the legitimization of “Anglocentric values and meaning” functions to “negate the history, culture, and language practices of the majority of the linguistic-minority students” (Macedo, 2006, p. 134). Having lived that process, he realized that the power of literacy in any language, not just in English, is a coming to voice, not a subjugation of voice (Macedo, 2006). Yet, the policies enforced at the time of his entrance into American public education could just as easily have derailed his potential to flourish, had it not been for his strong self-advocacy and persistence in meeting his personal goals.

In 2014, James Luján (Assistant Superintendent for Equity and Instruction, Santa Fe Public Schools) spoke about his earliest educational experience as a 7-year-old in an Albuquerque, New Mexico school. At that time, the only language he spoke was Spanish, and he recalled how he was punished for speaking it instead of English during the school day (personal communication, June 24, 2014). He also mentioned that the internalization of the edict to never speak Spanish at school became a personal challenge, not discussed even with his brother, who later admitted to similar abuse and self-doubt. Today, because of that experience, he works to allow what he calls “Spanglish” as a transitional form of language for the students within his district facing the same sort of challenge.
Ramah Navajo Kathryn Manuelito (2005) stated that for her and “for American Indian people, self-determination through schooling has been and continues to be a double-edged sword” (p. 73). She noted, “historically, the U.S. government utilized education to obliterate American Indian languages and cultures” (p. 73). She used an example provided by another Ramah Navajo, who said:

Our parents did not know anything about the schools we went to. They never set foot inside school buildings…It didn’t matter whether students were happy, lonely, or hurt. The main thing was for students to keep the buildings clean, the floors scrubbed and the students doing their duties. It seems like we were just a number at school. (Singer, 1984, p. 89)

In other words, by attending non-community schools, displaced Native American students were intended to lose connection to their traditional cultures, their linguistic trainings, and their familial supports and mainstreamed through American educational policy.

What do these people have in common? Obviously not only their Native languages or cultures, but that they all had to mask their language and/or the culture it represented in order to achieve success within the American educational systems from which they emerged. Furthermore, their stories illustrate the claim that if “culture provides the very grounds for human communication and interaction, it is also a source of domination” (Swartz, 1997, p. 1).

**Purpose of the Study**

In this study, I explored how cumulative state and federal policies impact teacher pedagogy of ELL assessment in New Mexico public schools. In conducting this research,
I made discoveries as to how federal, state and local policies are currently impacting New Mexico’s ESL teacher participants’ pedagogy. This allowed the formation of theories from the analyses of individual ESL teachers’ interpretations and integrations of cumulative ELL policies within the classroom, thereby, broadening understanding of teachers’ sociocultural perspectives during ELL assessment practices and in their subsequent application of linguistic and cultural supports in BMEPs.

Findings from this research are intended to illuminate professional development best practices and needs within New Mexico school districts. The findings may be used to improve policy as well as identify specific ELL educational standards, linguistically appropriate assessments, and culturally sensitive curriculum. At the very least, misconceptions were identified as to what rules, regulations, and policies are currently most valuable as they relate directly to ELL pedagogical practices.

Significance

This study’s significance is that it offers a rare, real-time snapshot of the effect cumulative ELL policies are having on New Mexico ESL teachers, as well as on their ELL assessment practices in BMEPs. It is also significant in the methodology employed to accomplish that task. For example, this is not a qualitative study with a theory to be proven or disproven, nor does it utilize the current evaluation data reported through the New Mexico PED. Instead, it is a qualitative study, which uses a grounded theory genre and an emic approach.

This means that the methodology purposefully begins at the intersection of interest (state and federal policies, pedagogy, and ELL assessment) and builds outward from there. Consequently, the ESL teachers decided the variables, the places, and the
levels of importance to issues, and explained how issues are impacting their ELL assessment practices. This is significant in that “socioculturally oriented perspectives tend to place an emphasis on teaching socially powerful forms and conventions,” (Boals et al., 2015, p. 132) instead of culturally and linguistically sensitive perspectives. This offers the chance to build a better understanding of what it means to participant teachers, personally, to be educated and to educate ELL students in New Mexico’s classrooms. This is especially important since Native American and Hispanic ELL populations comprise 61% (206,993) of the 338,665 total student population attending New Mexico public schools (Skandera & Pelayo, 2016, p. 10). As Macedo (2006) stated,

> Without the reappropriation of their culture, the valorization of their lived experiences, the vacuous promise made to students by “English only” (Freire, 1985, p. 116) supporters that the English language will guarantee them “full participation first in their school and later in American society” (Freire, 1985, p. 116) can hardly be a reality. (p. 135)

**Conclusion**

In conclusion, the impetus for this study stems from the fact that bilingualism and multilingualism are innate components of America’s immigrant and Native American cultural fabric. New Mexico is constitutionally held to support bilingualism, Spanish and English. The cumulative effects of policy, ELL assessment practices, and pedagogical are of utmost importance to supporting ELL student success. This is particularly so given the Wilhelmina Yazzie and Louise Martinez consolidated court case against the State of New Mexico of 2018 has ruled to ensure that constitutional mandate (Evans, 2019, p.1). The New Mexico Public Education Department’s subsequent “motion to dismiss the
Yazzie/Martinez suit,” has been denied by District Judge Matthew Wilson and he
determined that there continues to be a need for court monitoring (Lyman, 2020, p. 1).

In Chapter 2, I place the issues outlined above into historic perspective because
there are a multitude of studies that examine assessment data and how the data are
interpreted at the federal, state, district, and pedagogical levels. I also examine how
cumulative policy can positively or negatively affect an ELL student’s ability to progress
through America’s public schools in an equitable manner (Miciak et al., 2014; Solórzano,
2008; Soto & Tuinhof De Moed, 2011; Swartz, 1997; Téllez & Mosqueda, 2015). I do so
by focusing on New Mexico, where ELLs have been assessed using standardized tests
even before statehood, and federally since the mid-1970s.
Key Terms

**academic program:** a program relating to core subject coursework implemented within an educational institution (Clark, F., 2014, p. 13).

**ACCESS:** Assessing Comprehensive and Communication in English State-to-State for English Language Learners (ELL). ACCESS for ELL 2.0 is a secure large-scale English language proficiency assessment administered to kindergarten through 12th grade students who have been identified as ELLs (WIDA, 2018, p. 1).

**AMAO:** Annual Measurable Achievement Objective

**American Indian student:** a student who is enrolled as a member of a federally recognized tribe, nation, or pueblo that is also enrolled in a school system (Clark, F., 2014, p. 13).

**AMOs:** Annual Measurable Objectives

**AYP:** Adequate Yearly Progress

**BMEPs:** Bilingual Multicultural Education Programs

**capacity building:** a plan that includes the identification of risk factors that may create obstacles and hold up progress so that the people in charge of a program, organization, or project may recognize solutions that will allow them to achieve measurable and sustainable alternatives that will also strengthen skills, competencies abilities of the people to become self-sufficient (Clark, F., 2014, p. 13).

**CC:** Common Core

**CCSS:** Common Core State Standards
**CKLA:** This is a comprehensive Preschool–Grade 5 program for teaching skills in reading, writing, listening, and speaking, Core Knowledge Language Arts® (CKLA™) also builds students’ knowledge and vocabulary in literature, history, geography, and science (Core Knowledge Language Arts, 2018, p. 1).

**culturally based:** means the practice of school and community actions that include Native language, cultural competence within academic content and is in context to the learning goals for students defined by the community (tribal government) (Clark, F., 2014, p. 13).

**culturally relevant:** School and community practices are aligned in the area of Native language, cultural competence, and academic content (new knowledge through an association with prior knowledge used as a means of improving learning and recall, to accomplish joint meaningful activities) (Clark, F., 2014, p. 13).

**deliverable:** any measurable, tangible, verifiable outcome, result, or item that must be produced to complete a project or part of a project (Clark, F., 2014, p. 13).

**ELL:** English Language Learner

**ELP:** English Language Proficiency

**emic:** An emic approach inserts an inductive, insider perspective, as “emic constructs are accounts, descriptions, and analyses expressed in terms of the conceptual schemes and categories regarded as meaningful and appropriate by the active members of the culture whose beliefs and behaviors are being studied” (Lett, 1990, p. 130).
EOC: End Of Course assessments

ESEA: Elementary and Secondary Education Act of 1965

evaluation: appraising or judging persons, organizations, or things in relation to stated objectives, standards, or criteria to also include methods of observation through defined objectives or subjective procedures used to obtain and organize information for appraisal in relation to stated objectives, standards or criteria (Clark, F., 2014, p. 13).

grounded theory genre: a category of qualitative research requiring the researcher “to move beyond description and to generate or discover a theory, a unified theoretical explanation”’ (Creswell, 2013, p. 84), and having a goal of ensuring that the study’s literary data comes directly from a specific field.

heritage language: means a language other than English that is inherited from a family, tribe, community or country of origin (Clark, F., 2014, p. 13; NM PED, 2014, p. 112). In this study, the term Heritage is meant to be encompassed by the title Hispanic.

high-stakes testing: Popham (2002) defines these tests as “any test for which students’ performances have meaningful impact either on those students or on the educators who taught them” (p. 1).

Hispanic: generalized term applied to persons in this study “coming originally from an area where Spanish is spoken and especially from Latin America; also: of or relating to Hispanic people” (Merriam-Webster).
Indigenous: Native or tribal groups of the Americas that maintain a cultural identity separate from the surrounding dominant cultures (Clark, F., 2014, p. 13). See Native American.

Istation: customized guidance and insight into proven educational approaches, best practices, and more, specialists with real-world instructional experience and technical support help schools drive adoption, boost implementation, and optimize usage (Istation, 2018, p. 1).

IXL: an immersive K-12 learning experience that provides comprehensive, standards-aligned content for math, language arts, science, and social studies (IXL Learning, 2018, p. 1).

Mexican: individuals from the country of Mexico.

Native American: the term applied to all of New Mexico’s Indigenous peoples, for the purposes of this study.

Native American language: any of the recognized eight (8) Native American languages spoken by New Mexico tribes and pueblos: Jicarilla Apache, Mescalero Apache, Navajo (Dine), Keres, Tewa, Tiwa, Towa, and Zuni (Clark, F., 2014, p. 13).

Native language: language a person acquires first in life or identifies with as a member of an ethnic group (Clark, F., 2014, p. 13).

Native language maintenance program: the continuation, preservation, and further development of all aspects of a Native language (Clark, F., 2014, p. 13).
Native language revitalization program: a program that encourages the use and continuation, instruction, and further development of all aspects of the Native language to ensure its survival (Clark, F., 2014, p. 13).

NCLB: No Child Left Behind act of 2001

PARCC: Partnership for Assessment of Readiness for College and Careers

RTTT: Race To The Top

SBA: Smarter Balanced Assessment

SIOP: The Society for Industrial and Organizational Psychology. The “key goal of the Society is to assist educators in offering curriculum that includes a look at the science and practice behind industrial and organizational psychology. To that end, SIOP offers the various modules that are aimed at providing the platform needed for classroom instruction” (Society for Industrial and Organizational Psychology, 2018, p. 1).

Spanish: people of Spanish descent; people from the country of Spain.

sustainability: the capacity to carry on and establish long-term maintenance and management of resources. American Indians have tenure to the land (environmental/ecosystem management), tribal law, self-determination, sovereignty, social (tribal language revitalization, maintenance, cultural competency), and concepts of stewardship for generations to come (Clark, F., 2014, p. 13).

TESOL: Teachers of English to Speakers of Other Languages, TESOL's original name, was founded in 1966. This history was written by James Alatis, TESOL's first executive director (TESOL International, 2018, p. 1).
TESR: Tribal Education Status Report

Tribal Department of Education: a department or division within the tribal organizational structure delegated with the function of planning and coordinating all educational programs of the tribe, nation, or pueblo (Clark, F., 2014, p. 13).

WIDA: World-Class Instructional Design and Assessment

The One Hundred Fourteenth Congress of the United States of America:

Every Student Succeeds Act (ESSA)

Title I: Improving Basic Programs Operated by State and Local Educational Agencies

Title II: High Quality Teachers, Principals and Other School Leaders

Title III: Language Instruction for English Learners and Immigrant Students

Title IV: Safe and Healthy Students

Title V: Empowering Parents and Expanding Opportunity through Innovation

Title VI: Innovation and Flexibility; Civil Rights Act of 1964; May 25 Memorandum, 1970

Title VII: Indian, Native Hawaiian and Alaska Native Education; Bilingual Education Act, 1968

Title VIII: Impact Aid

Title IX: Education for Homeless and Other Laws

Title X: Tribe, Nation or Pueblo - an Indian tribe, pueblo or nation which is federally recognized by the U.S. Government and the State of New Mexico and consisting of: Acoma Pueblo, Cochiti Pueblo, Isleta Pueblo, Jemez Pueblo, Nambe Pueblo, Laguna Pueblo, Pojoaque Pueblo, Picuris Pueblo, Sandia Pueblo,

(Clark, F., 2014, p. 13)
Chapter 2

Literature Review

In this study I posed the question: How do cumulative state and federal policies impact teacher pedagogy of ELL assessment in New Mexico public schools? To address this question, I analyzed teacher practices in three intersecting paradigms: New Mexico’s ELL cultural and linguistic dynamics; cumulative educational policy; and teacher pedagogical knowledge, understandings, and interpretations. Given these three paradigms, the literature review is split into three sections. Section 1 identifies New Mexico’s ELL populations, their history within the state, their linguistics, and some basic cultural information. Section 2 provides information on cumulative ELL policy. This section begins with the Spanish colonization period (1590s) and concludes with a multileveled analysis of federal educational policy history (1960–2016). Section 3 contains background for New Mexico’s pedagogical practices prior to statehood and the transition into analyses of current American pedagogy. The analyses include some comparisons of national and international best practices.

Section 1: A Historic Overview of ELL Populations in New Mexico

This section of the literature review covers distinct historical aspects of the Native American and Hispanic populations in New Mexico. These historical aspects are presented in five subsections. The first subsection covers the specific categorizations provided to ELLs by the New Mexico Public Education Department (NMPED) and some basic statistics pertaining to Native American and Hispanic populations in New Mexico. The second subsection offers a historic overview of New Mexico’s Native American populations. The third subsection explores the Puebloan groups, including information on
their linguistics and cultures. The fourth discusses the Athabaskan groups in a similar fashion. The fifth subsection addresses some basic history for Native American peoples beginning during the Spanish colonization period and the introduction of Hispanics into the territory.

**New Mexico’s ELLs and Categorizations**

In order to categorize relevant ELL populations within the state of New Mexico, it is helpful to take a look at who is currently being served under that designation through the NMPED. To that end, a 2013 report by the Council of Chief State Schools Officers (CCSSO) indicated that:

New Mexico classrooms serve the highest percentage of Hispanic students in the nation and, after Alaska, the second highest percentage of Native American students. In addition to Spanish, there are eight different indigenous languages spoken in New Mexico, some of which are oral languages only. (Linquanti & Cook, 2013, pp. 0–4)

Statistically speaking, the overall combination of Hispanic and Native American students currently represents 61% of New Mexico’s public-school student population (Skandera & Pelayo, 2016, p. 10). Of those, Hispanic students are the largest ELL group and represent 77% of those who participate in bilingual multilingual education programs (Skandera & Pelayo, 2016, p. 10). New Mexico’s Native American students account for the rest of the 61% total population at 35,467 students, or 10% of state BMEP students (Skandera & Pelayo, 2016, p.10; National Center for Educational Statistics, 2011, p. 2). Of that 10%, there are eight different indigenous languages, both oral and spoken.
This being the case, ELL teachers must provide supports that meet those unique linguistic and cultural constructs. This leads to some distinct questions pertaining to this research. Are there eight completely different types of pedagogical supports required for the Native American population? Are some of the Native American linguistics and cultures similar enough to be grouped together? How are oral languages being supported through assessment practices? Are there unique cultures and linguistics within the Hispanic ELL population due to immigration cycles? If so, what are they?

Without a doubt, those questions will need to be answered if New Mexico’s ELL students are to be recognized, valued, and culturally celebrated (Linquanti & Cook, 2013, pp. 0–4). In the next section, I provide some answers to those questions in order to lay a foundation on which to build the study’s findings. This process began by identifying the Native American and Hispanic ELL populations in the state. This was done because individual cultures and linguistics must be known so that they can be compared and contrasted. It also ensured the illumination of the scope of pedagogical requirements participants are currently being tasked with through cumulative assessment policy, rules, and by law.

Native American ELLs

New Mexico’s oldest continuous ELL populations are the Puebloans and Athabaskans Native American peoples. The Puebloans are an agrarian people who have lived in established communities for thousands of years. They are often linguistically and culturally distinct from each other. Culturally, they are divided into the “Desert Pueblos” (Lavash, 2006, p. 29) and the “River Pueblos” (Lavash, 2006, p. 29). These Puebloans were not tribes, but independent groups who were not “united by race and customs under
the same leaders” (Lavash, 2006, p. 29). On the other hand, the Athabaskans are traditionally a seminomadic people and were united by race. Today, they are known as tribes who are largely restricted to seasonal migrations within their reservation lands. They are also more linguistically similar to each other than are the Puebloans, with mainly dialectal distinctions rather than complete language differences. Both the Puebloans and Athabaskans share an intimate and irreplaceable knowledge of the state’s geology, horticulture, and astrology; have unique linguistics and cultures; and represent races of ancient peoples.

**The Puebloans**

Between the Puebloan and the Athabaskans, the Puebloan peoples are the more ancient. Their genetic tree traces back to 10,000 B.C. (Sando, 1998, pp. 21, 245). Their agricultural prowess was established as early as 3000 B.C. (Sando, 1998, p. 245), and by 2000 BC they were skillfully cultivating corn, beans, and squash (Gibson, 2001, p. 2). Meanwhile, the Puebloan’s true “golden age” is thought to be from 1150 A.D. to 1350 A.D. (Sando, 1998, p. 21). This is when they are known to have built many of the multi-storied, multi-roomed houses; various similarly complex cliff dwellings; and the wide roadways, whose promenades are still admired today in Chaco Canyon and similar areas in the New Mexico region (Gibson, 2001, p. 3). It is also when they began to display a well-established individualized culture, a formalized spiritual life, and an advanced system of government (Gibson, 2001, p. 5; Sando, 1998, pp. 21, 245). The results of this was a way of living with almost nonexistent crime and warfare; hospitality was a way of life; and the natural world in which they existed was protected instead of exploited. Because of this Golden Age the Puebloans demonstrated:
guidelines for well-ordered living...crime as we know it and fear it today was nonexistent...warfare was unknown and hospitality a way of life...They came face to face with nature, but did not exploit it...They accepted the terms of their existence in what may be considered today as a harsh environment, and lived in it for thousands of years until the Europeans arrived, bringing in their wake the pollution and rampant misuse of the land that we see today. (Sando, 1998, pp. 24–25)

Today, these peoples are called the Rio Grande Puebloans, a designation stemming from schemes (earliest to latest) known as the Pecos Classification, Mesa Verde, and Chaco Canyon, as well as the Spanish term Los Pueblos (Gibson, 2001, p. 5; Plog, 2008, p. 9). Anthropologically, they are divided into eastern and western divisions. They are described as being “nations within nations” (Sando, 1998, p. 7). They encompass 19 different pueblos and share “a common traditional native religion, although rituals and observances may vary; a similar lifestyle and philosophy; and a common economy based on the same geographical region” (Sando, 1998, p. 8).

Conversely, Puebloan languages vary significantly as they can be divided into three distinct linguistic groups: Tanoan, Keresan, and Zuni (Sando, 1998, p. 8). Of the three, Tanoan is the most diverse and is related to the Aztec Indigenous from Mexico (Lavash, 2006, p. 36). Tanoan contains three dialects, the Tiwa, Tewa, and Towa, each of which are thought to have developed somewhat independently throughout New Mexico. One school of thought is that how they developed was dependent upon the relatedness of pueblo membership and their material cultures, and out of political necessity (Sando, 1998, p. 17). Another thought was that the diversity might have been due to the fact that
the Tanoans were the first to arrive in the Southwest, and, given the sheer expanse of geography involved in settlement, their languages were subsequently individualized by both where they came from and where they ended up (Sando, 1998, p. 28).

For example, the Tiwa settled along “the Rio Grande Valley all the way from the region of modern Albuquerque down into Mexico near the Sierra Madres” (Lavash, 2006, p. 42). The Tewa Tanoan settled between the “Northern and Southern Tiwa” (Lavash, 2006, p. 42) peoples in an area north of Santa Fe, NM. They are descendants of the Püye region located on the “Pajarito plateau” (Lavash, 2006, p. 43). The Towa speaking Jemez Pueblo located “50 miles west” (Lavash, 2006, p. 46) of Santa Fe is all that remains of their original pueblo site in the “Pecos National Monument located about 30 miles (48 km.) southeast of Santa Fe” (Lavash, 2006, p. 46). Therefore, given the distances involved and the individual population origins, the second hypothesis seems to present the best argument for Tanoan linguistic diversity.

But whatever the reason for their language development over time, today, the Taos, Picuris, Sandia, and Isleta Pueblos speak two versions of the Tiwa dialect. The Picuris and Taos Pueblos speak a northern version, and the Isleta and Sandia Pueblos speak a southern version. Meanwhile, the San Juan, Santa Clara, San Ildefonso, Nambe, Tesuque, and Pojoaque Pueblos speak Tewa. Finally, only the Jemez Puebloans, located along the Jemez River in New Mexico, speak the Towa dialect.

In contrast, the Keresan linguistic group arrived later to New Mexico than the Tanoan. They built their homes on high ground for easy defense, rather than in valleys preferred by the Tanoan (Lavash, 2006, p. 30). Their language was more inclusive, with only two regional dialectical distinctions known as Eastern and Western. These Keresan
dialects are spoken by seven pueblos. Two of these are the Acoma and Laguna Pueblos, and they belong to the Western dialectal group (Lavash, 2006, pp. 30–32). The rest, the Cochiti, Santa Ana, Santo Domingo, San Felipe, and Zia Pueblos belong to the Eastern dialectal group (Lavash, 2006, pp. 32–36). In total, the Keres groups are considered to be the most multilingual of the Puebloans, with their dialectical difference presenting similarly to America’s Northern and Southern populations (Sando, 1998, pp. 8–9).

The last Puebloan linguistic group in this study are the Zuñi. They were the first Puebloan contact group along Francisco Vasquez de Coronado’s 1540 route of entry into the territory. Their cultural wealth (displays of turquoise and other such ornamentation) is thought to be what initially drew the interest of the Spanish colonizers (Sando, 1998, pp. x, 48). They are currently the “largest Pueblo group” in New Mexico, and, similarly to the Tanoan dialect Towa, only the Zunis speak the language Zuñi (Sando, 1998, pp. 7–8). Their language comes from “the Zuñian linguistic family, which may be distantly related to Tanoan” (Lavash, 2006, p. 48). Geographically, the Zunis are located at the far north western border of New Mexico on what is known today as the area of “paved NM 53, about 40 miles (64 km.) south of Gallup” (Lavash, 2006, p. 48).

The Athabaskans

The second Native American population included in this study are the Athabaskans, Families which consist of Navajo and Apache tribal groups. Thought to have arrived to the area sometime around 1400 A.D. (Sando, 1998, p. 246), they both shared the same initial migratory routes into the territory (The Apache, p. 6; The Navajo, p. 5). However, some scholars hypothesize that, genetically, the two “were once one undifferentiated group of hunter-gatherers living amongst a larger collection of
Athabascan-speaking people from Canada” (The Navajo, p. 6). While others claim that the each of these Athabaskans were subgroups of the “Ute people” (The Navajo, p. 6), who entered as “small bands at different times” (Lavash, 2006, p. 49).

The Navajo migrations were originally an accommodation for their hunting and gathering practices. Although, eventually, the Navajo picked up agricultural practices from their pueblo neighbors, as well as the herding of livestock from the Spanish colonizers, and became more of a semi-nomadic people. Due to that lifestyle, the Navajos preferred a type of dwelling called a hooghan (anglicized as “hogan”; Manuelito, 2005, p. 79). Hooghans are traditional buildings built of adobe mud. They are generally rounded (male), hexagonal or octagonal (female) in shape, one storied, dirt floored, and incorporated a single doorway opening to the east, to welcome the sun (Lavash, 2006, pp. 50–51; The Navajo, p. 14). Therefore, the hooghan’s configuration is both practical and spiritual in nature.

Culturally, the Navajo have very specific spiritual and religious practices. For example, most Navajo believe in the creation story of the First Man and First Woman, along with the four individuals (White Body, Blue Body, Yellow Body, and Black Body) who instruct human purpose (The Navajo, p. 7) They believe in the “spiritual song of ‘Hozhooji,’” also known as “The Blessingway,” which described Coyote’s building of the first hooghan through the instruction of “the Beaver People, for First Man, First Woman, and Talking God” (The Navajo, p. 14). Most fear and respect the practice of witchcraft, despite exposure to modern practices, such as offered through typical medical practitioners. Their “Legend of the Night Chant” is used to offset disease through ritual chants and medicine man or shaman ceremonial processes (The Navajo, p. 8).
Unlike other Americans, the Navajo are a matrilineal people and inheritance passes from female to female (*The Navajo*, p. 12). Their children are said to be “born to” their “mother’s clan” and are said to be “born for” their “father’s clan” (*The Navajo*, p. 13). Another type of inheritance important to today’s Navajo are craft skills because many Navajo make their living from their silverwork, turquoise jewelry, and colorful textiles. Therefore, techniques pass within extended family groups and from generation to generation where they can be used to either earn a living or to help supplement other seasonal trades.

Those who survived the Long Walk of 1863 to 1866, which required them to traverse a distance between approximately 250 to 450 miles to the Bosque Redondo, are represented within the state of New Mexico by the Alamo, Ramah, and Tóhajiiléé groups (Skandera, 2015, p. 24). Most of them now live on the main Navajo reservation, bordered by their four sacred mountains: “Dook’o’osliid, Dibé Ntsaa, Sisnaajíni, and Tsoodzil” (*The Navajo*, p. 24). The reservation encompasses some 17 million acres rather than the original 3.5 million acres granted during the Treaty of 1868.

Linguistically, the Navajo speak a language known as Diné. Diné is “Southern Athabaskan language” known alternatively as “Diné bizaad,” or “Na-Dené” (*The Navajo*, p. 4). The Diné language differs from the Athabaskan Apache and Ute linguistics by distinct dialectical and “intra-tribal colloquialisms” (*The Navajo*, p. 4).

Like the Navajo, the Apache are a matrilineal people. Unlike the Navajo, individual Apache bands developed their own spiritual belief systems. Those beliefs “syncretized” as “a reflection of the subgroups’ different environments on the plains, deserts, and mountains” and connected them to the natural world (*The Apache*, p. 8).
Their beliefs involve shaman, a relationship to *diyi’* (an invisible force connecting them to the universe), community established ethical codes, along with sets of ritual, ceremonies, and practices (*The Apache*, p. 9).

Part of the cultural diversity demonstrated by the Apache bands is due to their traditional participation in far-ranging buffalo hunts. Some bands even traveled as far as Chihuahua, Mexico, from modern day Utah and Colorado territories (*The Apache*, pp. 8, 13). This lifestyle required very limited farming practices. Instead, they participated in seasonal collections of natural foodstuffs along their nomadic routes, and they supplemented those gatherings through raiding excursions (*The Apache*, p. 13).

Today, there are three Apache groups remaining in New Mexico: the Jicarilla, the Mescalero, and the Fort Sill. The Jicarilla Apache have a reservation in the North Central area of New Mexico. The Mescalero have a reservation in the South-Central area of New Mexico. While, the Fort Sill Apache reservation is located near Deming, New Mexico. Linguistically, these three Apache groups speak either a Western or an Eastern dialect (Native Languages of the Americas, 1998–2016; Plog, 2008, p. 16). Those dialects, not unlike the French, Italian, and Spanish languages, have many similarities (Native Languages of the Americas, 1998–2016). Those distinctions relate to the construction of and the inflection of wording (Native Languages of the Americas, 1998–2016).

Further complicating their dialectal differences are the commonalities and understandings of specific geographical locations necessary for proper communication to occur, even amongst like people. Cultural anthropologist Keith H. Basso (1988) explained Western Apache in this way:
Western Apache conceptions of language and thought are cast in pervasively visual terms. Every occasion of “speaking” (yati’) provides tangible evidence of “thinking” (natsikees), and thinking, which Apaches describe as an intermittent and variably intense activity, occurs in the form of “pictures” (be’ elzaahị) that persons “see” (yo’ ịị) in their “minds” (biini’). Speaking consists of depicting one’s pictures for other people, who are thus invited to picture these depictions and respond to them with depictions of pictures of their own…A person who speaks too much—someone who describes too busily, who supplies too many details, who repeats and qualifies too many times—presumes without warrant on the right of hearers to build freely and creatively on the speaker’s own depictions…[Therefore] nothing is considered more basic to the effective telling of a Western Apache “story” or “narrative” (nagodi’ é) than identifying the geographic locations at which the events in the story unfold. For unless Apache listeners are able to picture a physical setting for narrated events…the events themselves will be difficult to imagine. (pp. 108–110)

Perhaps this is why the Mescalero Apache is one of the smallest groups taught in New Mexico public schools today. Clearly, their needs, as described by Basso (1988), for “Apache listeners” to connect to standardized curriculum, create commonalities and clear understandings of specific geographical locations, remains to be discovered, let alone met.

Indeed, Chairman McKeon (2006) reported that there were only “10 middle aged or older adults who speak Mescalero Apache” (Recovery and Preservation, 2006, p. 2), and, more recently, Grebe et al. (2013) reported that there are;
• 1,500 older adults who speak Tewa (Severely Endangered)
• 1,600 middle aged and older adults who speak Tiwa (Definitely Endangered)
• 4,580 adults of mixed ages speaking Keresan (Definitely Endangered)
• 3,000 adults of mixed ages speaking Towa (Vulnerable)
• 9,686 adults and children who speak Zuni (Vulnerable). (p. 9)

The result is that in the two New Mexico public school districts (Tularosa and Ruidoso) known to enroll Mescalero Apache students, there are no organized BMEPs in place.

In summary, these were the Native American peoples present at the time of Spanish colonization (1598–1610): Puebloans and Athabaskans (Ebright et al., 2014, p. 1). These are the Native American people who still occupy New Mexico state lands. Together, they present unique pedagogical, curricular, and assessment challenges that relate directly to long-standing cultural traditions and linguistic peculiarities, the greatest of which is the need to preserve their languages to whatever level of preservation is still available to their communities given the levels of loss already experienced within their societies.

The Colonization Period

As stated previously, the period of Spanish colonization is often placed between 1598 and 1610. In actuality, the year of 1598 is simply the date during which Governor Juan de Oñate first claimed a “formal possession of New Mexico at a point on the Rio Grande below El Paso del Norte” (Sando, 1998, p. 248). This claim, no doubt, was instigated in large part by the memory of riches previously found in Mexico and a wish
by the Spaniards to lay claim for any similar riches to be found within the new territory (Sando, 1998, p. 248).

Needless to say, the consequences were straightforward. The land was mapped, or in the case of pueblo villages, sometimes remapped, according to Spanish law. This meant distribution or a redistribution of some 17,350 acres, or four-square leagues, to each pueblo. This substantial decrease from the Puebloans’ former, broader, territories meant that Puebloan stories (forming the basis of their religions, cultures, and histories) simply could not continue to be passed along in traditional fashion (Ebright et al., 2014, pp. 7, 11). The ultimate consequence was that these Native American peoples ended up suffering a cumulative loss of cultural memory at the same time that they were being forced to accept the other impacts of being colonized.

During that same general time period, the Spaniards brought with them large numbers of Hispanic individuals, livestock, and horses (The Apache, n.d.). This influx was most disruptive to the roaming peoples of the Navajos and Apache because their existence relied on migrations of local animals, gathering of natural foodstuffs, and seasonal settlements. Their aggressive pushback to the changes in their territory quickly had them being judged by the Spaniards as “wandering” savages (Sando, 1998, p. 88) and as “marginal, drifting people” (Manuelito, 2005, p. 74). However, both the Puebloans and the Athabaskans fought the changes and Spanish interferences using whatever methods they could because many of those obligatory mandates were seen as direct insults into Native lives. The tension created between the American peoples and the Spaniards eventually led to the Pueblo Revolt of 1680, followed by twelve years as a “free confederate” during which the Native Americans had an opportunity to undo some of the
cultural damage done to them (Ebright et al., 2014, p. 94). Then, in 1692, the territory was re-conquered, yet again, as a Spanish colony.

While, to some, that may not seem significant as a chain of events, it was significant to the culture and linguistics of modern-day Puebloans, mostly because during that 12-year stretch, and even afterwards, the Puebloan children’s educational needs were left largely in the communities’ hands. In fact, in most cases, traditional education through the use of “songs, chants, prayers, migration stories, shell arrangements, drawings on hides, drawings on wood and stone” (Ebright et al, 2014, pp.1–2) was returned to the pueblos, as were some of their former relationships with the land and universe around them. Moreover, to this day, their populations are largely schooled either on their lands or through designated institutions, which serve their needs independently from other ELL populations within the state. This was of particular importance to the retention of Native American linguistic and cultural norms because the growth of public education within the Spanish communities at that time was ramping up and pressure was being applied to local peoples to attend public schools (Lavish, 2006, p. 178).

On that subject, Ramah Navajo Kathryn Manuelito (2005) pointed out:

For American Indian people, self-determination through schooling has been and continues to be a double-edged sword. Historically, the U.S. government utilized education to obliterate American Indian languages and cultures. In 1975, the passage of the Indian Self-Determination and Educational Assistance Act ushered in a new federal policy era. Yet many Indian people distrust the implications and intent of this legislation (Snyder-Joy, 1994). This is due to the federal government’s vacillating treatment in creating and administering federal Indian
policies for more than two centuries. And, like other federal policies, the Self-Determination Act can be annulled at any time by Congressional action...At the same time...Many Indian people believe that formal education, properly applied, can advance and help them maintain their identities...many Indian people have considered formal education to be a primary force in the survival of their languages and cultures and the protector of their rights. (p. 73)

In conclusion, the Spanish Colonization period set the stage for what was to come at the hands of non-Native, European peoples, as far as New Mexico’s educational policies and pedagogical practices were concerned. It might even be that at the particular point of significant public education growth within the Spanish communities, there can also be found the original disconnect between what the educational needs for New Mexico Native American populations are in actuality and what their perceived needs are from outsider perspectives (Lavish, 2006, p. 178). Fortunately, the theories created from the emic approach utilized in this research study should help clarify such key timelines regarding ELL assessment issues.

**Section 2: State and Federal ELL Educational Policies**

Section 2 provides information on cumulative ELL policy. This section begins in the Spanish colonization period (1590s) and concludes with a multileveled analysis of federal educational policy history (1960s–2016). These categories have been broken down into specific subsections for ease of understanding. The first subsection provides basic information on New Mexico’s Hispanic populations during the Spanish period and information on early educational policies. The second subsection presents the educational policies during the Mexican period. The third subsection covers the early New Mexico
territory and state period. The last subsection covers American Federal Policy, beginning in the 1960s and continuing in a timeline fashion to present each major period of ELL educational reform policy to date.

Hispanic ELLs and the Spanish Period

The first large group of Hispanic people entered New Spain/New Mexico territory during the Spanish colonization period (1598–1610). During that period, the Spanish settlers quickly discovered that the process of educating local populations was a good way to impress the distant Spanish nobility of their homeland. Missionary service took off for God and King. While the majority of that focus was on the Hispanic working class, it did include, to a lesser extent, the education of the upper class of local Spanish society and Native American populations through “Franciscan missionary assignments to [7] pueblos” (Sando, 1998, p. 248).

By 1788, the first schools had been well established within Latino homes under the auspice of the Catholic Church and The Teachers Guild. In the early 1800s, education had advanced enough that a series of examinations, or high-stakes assessments, were added to the territorial curriculum (Vera, 2010, p. 512). According to Vera (2010):

As part of the demonstration, students presented samples of their writing exercises, recited parts of their textbooks and responded to a number of questions asked by the teacher (or anyone form the audience) on the different school subjects: reading, writing, arithmetic and religion-and sometimes geometry, geography and sacred history as well. Although there was a jury, the whole display was well rehearsed in advance; only the best students were selected for
examination and the questions asked were mostly preordained in the schoolbooks. (p. 512)

Competition quickly built between those giving the exam and between different areas of the territory. By 1805, public schooling had become so competitive that it had to be relocated into local town halls, simply to accommodate the increasing number of students (Vera, 2010, p. 516). Merit rewards became common practice, publicity was used to attract the best of the newest students, and the tests were touted by local officials as clear demonstration that they had successfully managed to turn the “poorest of the poor…into useful beings” within their communities (Vera, 2010, pp. 514, 516).

Eventually, even amongst the Hispanic population, this competitive mindset led to a narrowing of student inclusion within the processes of public education. Poverty had become the main barrier for equality in Hispanic education.

**Mexican Period Policies**

Hispanic and Native American ELL educational inequality became particularly evident after independence was won from Spain. For example, during Mexican rule (1821–1848), “emulation became the main incentive for students to learn,” rather than a need to meet communal goals and individual strengths (Vera, 2010, p. 522). By 1824, many Hispanics within the local communities began to find educational costs prohibitive and the Catholic Church tithing a major barrier (Moreno, 2004, p. 14). Over the next ten years:

The dwindling effect of public schooling…hindered the population’s trust and devotion in the collection of public funds. Private tutoring and private schooling
continued to be the leading forms of education in New Mexico affordable only to the elite populations of the territory. (Moreno, 2004, p. 14)

Meanwhile, to many within the Mexican government, the communal ownership of pueblo land was the reason for the Puebloans’ “backwardness” and “uncivilized” state (Ebright et al., 2014, p. 41) and not their educational system’s across-the-board exclusionary processes. This biased viewpoint led to several attempts being made to blur the boundaries created through the establishment of territorial leagues under Spanish law during the Mexican period (Linquanti & Cook, 2013, pp. 0–4).

For example, in 1821, the Mexican Declaration of Independence reaffirmed that “Indians [were] citizens of Mexico on an equal basis with non-Indians” (Sando, 1998, p. 245). As equal citizens, this meant that Spanish law protecting Native American land boundaries could be challenged. As that occurred, and even when law ruled in favor of Native American populations, “encroaching Hispanos often flatly refused to leave pueblo land, invoking the time-honored privilege accorded all Spanish citizens to obey but not comply with orders (obedezco pero no cumplo) (Ebright et al., 2015, p. 43). Not surprisingly, that attitude resulted in significant unrest between the local Hispanic and the Puebloan people. The results were that some pueblos, like Pecos, ended up losing “tens of thousands of acres” of territory, despite winning the legal argument (Ebright et al., 2015, pp. 43, 324).

In summary, during the Mexican period of control, many members of smaller Native American communities ended up losing or selling off pueblo lands. Those individuals were either assimilated into other pueblo communities or mainstreamed into Mexican society. Either way, they lost the linguistic and cultural connections to their
original communities. It also resulted in Native American children joining the ranks of
disenfranchised Spanish or Mexican public students.

New Mexico and Early State ELL Educational Policies

In May 1846, Americans entered New Mexico on a journey to first Las Vegas and
then onto Santa Fe, where “on August 18 General Kearney and his troops took
possession…without a battle” (Cox, 2013, pp. 28-29). He established, on behalf of the
United States, the Kearney Code and that code of law governed the “New Mexico
Territory until 1912 when New Mexico’s bid for statehood was granted by the
government of the United States” (Cox, 2013, pp. 31-32). Originally, when the territory
became American, Americans did not see either Spaniards or Mexicans as being
significantly different from the other non-Whites occupying the territories and applied
their prejudices equally to all. In fact, in 1848, Senator John C. Calhoun of South
Carolina reported to Congress:

[T]he United States should not annex all or large parts of Mexican territory; to do
so, he claimed, meant admitting Mexicans into the United States, something that
would precipitate a collapse of the racial order: [W]e have never dreamt of
incorporating into our Union any but the Caucasian race—the free white race. To
incorporate Mexico would be the first instance of the kind of incorporating an
Indian race; for more than half the Mexicans are Indians, and the other is
composed chiefly of mixed tribes. I protest against such a union as that! Ours,
sirs, is the Government of a white race. The greatest misfortunes of Spanish
America are to be traced to the fatal error of placing these colored races on a
Spanish American ethnic identity equality with the white race. That error
destroyed the social arrangement which formed the basis of society. (Nieto-Phillips, 2000, pp. 97–98)

Hence, in 1890, territorial schools were placed under the centralized control of a Territorial Board of Education and a newly appointed superintendent. That superintendent was tasked with a plan to assimilate “Spanish-speaking children” into a standardized curriculum in order to push a “pro-statehood agenda” (Moreno, 2004, pp. 12–13). An argument for and against the support of bilingualism quickly formed between distinct Anglo/Hispanic population lines. Hispanics argued for inclusion based on what they saw as bilingualism’s positive impact on economic competiveness (Moreno, 2004, p. 18). Anglos argued for non-inclusion and for English language attainment as a condition of New Mexican statehood (Moreno, 2004, p. 18).

Consequently, in 1910, when New Mexican delegates began to draft their constitution, Article XII Section 8 was drafted. It stated that teachers could speak Spanish in order to teach ELL English, but not that they had to (Moreno, 2004, p. 22). So, while the “Convention of 1910 eased the pressures imposed on government officials to protect Spanish Speakers from discrimination” and the “English-only method” of instruction was readily accepted (Moreno, 2004, pp. 22, 28), the 1911 “Constitutional provisions stipulate[d] that New Mexico must maintain a bilingual citizenry” (New Mexico Public Education Department, 2013–2014, p. ix). Furthermore, that philosophy debate did not immediately change when the land went from being a United States territory to that of statehood on January 6, 1912.

The causal factors for the legislative tensions were impacted by the 1912 hiring of two New Mexico Department of Education school supervisors, one Hispanic and one
English, to “supervise rural schools” (New Mexico Public Education Department, 2013–2014, p. ix). Then in 1915, a mandate was introduced to the state senate by Senator Sena for an adoption of a consistent implementation of “bilingual education in Spanish/English in all schools who [had] 50% or more Hispanic students” (New Mexico Public Education Department, 2013–2014, p. ix). What followed was a back-and-forth bilingual debate due to innate societal pressures, early statehood changes in culture, and educational philosophy surrounding linguistic supports.

It is uncertain whether those debates were driven, in part, by the fact that most early state educators were still being recruited from local clergymen and from teachers who had served in the first Mexican, then the more recent territory, schools. What is certain is that the colonizer attitude towards minority students remained strong and that a deficit viewpoint of local ELL student populations remained until at least 1916. Then, in 1916, the well-respected psychologist Lewis Terman wrote in his book *The Measurement of Intelligence* that a “low average intelligence” was very commonly exhibited by Spanish, Native American, and Mexican students, and, therefore, they posed a “eugenic” problem because of their propensity for prolific overbreeding (Bachelor, 2010, p. 29).

The first strong attempt to improve the pedagogical situation within state schools was made in 1919 by Governor Larrazolo who passed a bill that read:

The duty of teachers in said schools [is] to teach, in addition to the required studies in the English language, Spanish reading to Spanish speaking pupils and to such English speaking pupils as may be desired to learn Spanish reading. In addition thereto, the said teachers shall teach all Spanish speaking pupils to
translate their English reading lessons into the Spanish language. (Getz, 1997, p. 31)

Unfortunately, codification of such progressive laws was not well supported. Subsequent Boards of Education dismissed those pedagogical issues and attempts at acts of inclusion, and they “were wiped out of education policy” (Moreno, 2004, p. 33). This was a condition that was reflected by the same type of linguistic and cultural discrimination elsewhere in America.

For example, in Nebraska, a 1919 statute claimed that “no person, individually or as a teacher, shall, in any way, in any private denominational, parochial, or public school teach any subject to any person in any language other than the English language” (New Mexico Public Education Department, 2013–2014, p. ix). The sentiment behind that declaration was so well supported in American society, in general, that it took the U.S. Supreme Court until 1923 to overturn it in *Meyer v. Nebraska* as a clear violation of the “Fourteenth Amendment to the U.S. Constitution” (New Mexico Public Education Department, 2013–2014, p. ix).

Fortunately for the Puebloans, they remained somewhat separated from the fray over linguistics, unless they were amongst those sent off pueblo or state reservations to boarding schools. This is because they had the All Indian Pueblo Council Constitution offering them some protection against changes to state and local policies and laws, which would have otherwise impacted them even more harshly than New Mexico’s Hispanics. The All Indian Pueblo Council Constitution, which had been in place since approximately 1400 to 1500 AD, included in its preamble the right to:

*[P]reserve and protect our common interests;*
Article IV; e: To promote or conduct educational, health, publicity or other campaigns introduced by member-pueblos;

Article IV; j: To do whatever else may be necessary or desirable to promote the general welfare of any or all member-pueblos. (Sando, 1998, p. 266, 1965 adoption)

Similarly, the Navajo Nation had negotiated educational protections into their 1868 Navajo Treaty. They clearly understood that they would be at a legal and cultural disadvantage if they were not educated. Hence, they included within the treaty specific educational protections, such as the assurance that the Navajo child would be supported in a 1/30 ratio of teacher to student within the classroom (Acrey, 1979). This meant that, the Native American populations in New Mexico had legal recourse that differed from the Hispanic populations, as it had, at least in theory, the potential to prevent changes in educational supports offered Indigenous students. Still, both New Mexico’s Native American and Hispanic populations were facing an uphill battle for linguistic and cultural sensitivity within the public domain of education and policy, even if each of their battles was different from the other.

Finally, in the 1930s, Loyd Spencer Tireman, a professor of elementary education, began to turn that page of negativity by advocating for “community-based education” (Bachelor, 2010, p. 8). Tireman had found through his New Mexico curricular experimentations that education was advantageous in forming good citizenship skills and educational capacity within local Native American and Hispanic populations. Tireman’s findings and his philosophical viewpoint helped many Caucasians recognize that local
and Native American peoples had cultures worth preserving. This was important, for as Bachelor (1991) reported:

In 1930, …when a typical Hispanic child entered public school in rural New Mexico, he was entering an often incomprehensible and threatening world…facing the young Hispanic student in public school was an inappropriateness of teaching methods in general use in elementary classrooms in New Mexico. Teacher-centered procedures and externally imposed standards of achievement widely used in the East and Midwest and brought to New Mexico by educators trained there had little relevance and less success among Spanish-speaking rural youngsters. Children who grew up learning by doing were frustrated and defeated by classroom methods that emphasized docility and assumed familiarity with the printed word and abstract principles…students were often held back a grade…average daily attendance was low as children regularity avoided the confusing rigors of the classroom and parents saw little point in forcing them to attend. (pp. 31–33)

Indeed, the “common nativist and assimilation sentiments of the time” were a direct counterpoint to Tireman’s best practices and continued to be more the norm than not within the state through the next decade (Bachelor, 1991, p. 29).

In 1940, Concha Ortiz y Pino de Kleven also fought the status quo and somehow managed to pass a bill requiring all Hispanic children to be taught Spanish in grades 5–8 (Moreno, 2004, p. 37). For her efforts, Ortiz y Pino de Kleven was promptly persecuted. Surprisingly, according to Moreno (2004), the worst offenders were people of her own culture, the Hispanics (p. 37). The Hispanics claimed that Ortiz y Pino de Kleven was
“trying to keep the Spanish people from learning English” (Alexander, 1982, p. 2). They feared that Hispanic students would somehow be deprived of opportunities to advance in American society if they were not properly assimilated through the more typical Anglo-centric schooling. Luckily for that portion of New Mexico’s ELL population, Ortiz y Pino de Kleven’s persistence eventually led to the insertion of mandatory bilingual education on April 16, 1941 and then the passing of Senate Bill 3 in 1943 (Alexander, 1982). Both actions supported, in concrete ways, the specific needs of the Hispanic students attending New Mexico public schools.

**Key State Policy 1960s–Present**

Due to the history involved, by the 1960s and 1970s, New Mexico began to lead the way nationally in the advancement of bilingual and multilingual policies. For example, in 1968, the New Mexico State Board of Education (SBE) approved a policy on bilingual multicultural education (New Mexico Public Education Department, 2013–2014, p. ix). In 1969, the New Mexico Senate passed Senate Bill 270, which was the very first bill to be advanced into law protecting linguistics and cultures of bilingual public-school students (New Mexico Public Education Department, 2013–2014, p. ix). In 1973, New Mexico stepped up again to pass Senate Bill 421 that funded state bilingual multicultural education law (New Mexico Public Education Department, 2013–2014, p. ix). In 1975, New Mexico became the first state in the nation to approve the teaching of English as a Second Language within public schools (New Mexico Public Education Department, 2013–2014, p. ix). In 1990, the State Department of Education (SDE) established Pueblo language endorsements, and, in 2002, the NM State Legislature passed Native American language and culture certification for teachers (New Mexico
Finally, in 2006, the Committee on Education and the Workforce field hearing for H.R. 4766 was held at the Indian Pueblo Cultural Center in Albuquerque, New Mexico. In that hearing, Ryan Wilson, President of the National Indian Education Association, offered the following statement:

For Native people in the United States, our cultural beliefs, traditions, social structures, heritage, and governance systems depend on our Native languages. We conduct our ceremonies, prayers, stories, songs, and dances in our Native languages just as we have done since the beginning of time. Our languages connect us to our ancestors, our traditional ways of life, and our histories. For us, the survival of our cultures and identities is inextricably linked to the survival of our languages. If our languages die, then it is inevitable that our culture will die next. (Recovery and Preservation, 2006)

His testimony, and other similar testimonies, led to the December 14, 2006 passing of H.R. 4766: the Esther Martinez Native American Languages Preservation Act (Public Law 109–394, 2006). This law amended the Native American Act of 1990 and 1992 as well as the Native American Programs Act of 1974 to “provide for the revitalization of Native American languages through Native American language immersion programs; and for other purposes” (Recovery and Preservation, 2006, p. 1).

In summary, even though a progressive educational trend has continued over time, still missing from much of that dialogue is the impact of current legislative supports for the state’s Native American populations. Do current cumulative policies equate to more being offered within the public schools in the form of recognized, successful, pedagogical supports? Will Native language immersion programming remain strictly
within the realm of Native American territorial schools? Should they? If not, how can the sacred be protected? Are there other questions needing to be addressed as Native Americans become ever more likely to engage in educational opportunities outside of pueblo or tribal lands in New Mexico?

**Federal Policy 1960s–1970s**

In the 1960s, public attention was hinged strongly upon our sense of national pride. Russia’s launch of Sputnik was fresh in the minds of most Americans. Worries had arisen about our ability to keep up technologically and academically with other industrialized nations. Then, in 1964, the First International Mathematics Study (FIMS) was conducted and we finished second to last internationally (Barker, 2007). Conversations in Washington shifted to a stronger focus on national poverty issues, their impact on public education, and factors impeding national success.

Unfortunately or fortunately, as one’s perspective might be, the federal government at that time had little power over individual states’ education policies. While the federal government could make leadership initiatives, putting them into action required considerable buy-in from local governments, district school boards, and their schools. That need for buy-in was due to the fact that education was originally a responsibility reserved by the state and not mentioned in the Constitution, and the changes that were being discussed required all of those entities to participate for their success.

It was in this context that the Civil Rights Act, Title VI was passed by Congress, stating: “No person shall, on the grounds of race, color, or national origin, be denied the benefits of, or be subjected to discrimination under any program or activity receiving
federal financing assistance” (U.S. Department of Education, Office of Civil Rights, 1999, p. 28). President Lyndon Johnson signed the Elementary and Secondary Education Act (ESEA) of 1965 into law. As an intervention measure it was significant in that the ESEA was intended to raise our nation’s economic and social capital both nationally and internationally. It provided within its laws specific, monetarily backed interventions, to help ensure disadvantaged public-school students that they would have adequate educational resources, fair treatment, and an overall increase in social justice.

Specifically, Title I of Public Law (PL), 81–874 states:

Local education agencies. —The local education agency (LEA) develops and implements approved projects to fulfill the intent of Title I. It identifies the educationally deprived children in areas where there are high concentrations of children from low-income families, determines their special needs, designs projects to carry out the purposes of the legislation with regard to such children, and submits applications to the: appropriate State education agency for grants to fund proposed projects. (Finch, 1969, pp. 3–4)

Thereby, ESEA represented a great leap forward into an equalization of educational opportunities through avenues other than the 1944 G.I. Bill.

What ESEA did not do was tie those equalization measures to any kind of student assessments. In fact, when it mentions “standardized data” in the document, that collection of data was referenced only as a method through which states could provide proof that federal funding was being spent on “actual instruction and services” instead of construction projects and/or equipment purchases (Finch, 1969, p. 1). Finally, even though the ESEA laws were improving equality of education, they still did not deal
directly with equity in education. It is not surprising that, during that same time period, social activism was rampant. What might be surprising is how productive that activism was. For example, in 1965, the Higher Education Act (HEA) was initiated. This innovative policy helped move public school students from high school into postsecondary schools with the help of grants and loans. Released from significant financial constraints, for the first time in our nation’s history, students from lower socioeconomic backgrounds could gain social and economic status, and they could do so with much greater ease. Consequently, our nation began to see a growing middle class as more opportunities opened up through public education.

The next milestone for disadvantaged students was met in 1966, when both the Head Start Act (HEA) and the Child Nutrition Act (CNA) were passed. These two initiatives worked together to provided wrap-around and entitlement services. They helped support the whole child, as did the 1968 Bilingual Education Act, which recognized the educational challenges of ELL students.

Still, individual states varied in whether they utilized the services of those initiatives, and if so, how well they did. Additionally, the laws required some fidelity for them to be effective at increasing student opportunities. With segregation still the norm in many places, those schools and neighborhoods were usually the ones that, despite concerted efforts by many to eliminate such discrimination, ended up underserved by the newer social policies. So, while our nation was making progress towards social justice and equity, those two acts alone could not level the playing field in many cases.

Some groups were better organized than others in their fight for equality and equity. The special education population was one voice that was making an impact. In
1970, under President Nixon’s administration, a clear plan for redressing inequalities within the special education population was made, and Public Law 91-230 was passed to help bring that plan about. That law also worked to ensure a greater level of efficiency in the form of administrative support (Martin et al., 1970). This meant that special education students had more timely interventions, as well as the legal right to be addressed, which, although not directly pertinent to this study, did serve to introduce the concept of equity (provision of needed supports) and distinguish it from equality (equal supports despite need). This added clarity and set the stage for the 1974 Lau v. Nichols suit, under the Civil Rights Act. The suit’s success determined that “merely providing students with the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education” (New Mexico Public Education Department, 2014, p. 2).

Eventually, policy discussions were held using the equity lens, and, over the next few years, equity in education produced some very positive results. For example, two such results were the 1975 enactment of the Individuals with Disabilities Education Act (IDEA) and the Free and Appropriate Public Education (FAPE) act. These two acts are, to this day, a big part of federal funding at the state and local levels. They are strongly relied upon to meet the needs of students who would otherwise be a huge financial expense for their individual school districts. So, while by no means perfect, the 1960s through the early 1970s was a productive time period for educational policy and improvements, social justice, and equity.

However, this progress was short lived. There were arguments against such measures. In particular, the majority of support for the “unprecedented expansion of the
federal role in education” (McAndrews, 2013, p. 357) came from the liberals of the time. Minnesota Republican Representative Albert Quie (1968), President Richard Nixon (1972), and President Gerald Ford (1976) all attempted to cut the strings that were tied to federal funds by proposing various forms of block grants (McAndrews, 2013, p. 358). Yet despite their collective efforts, Democratic President Jimmy Carter (1979) increased the federal Department of Education expenditures even more (McAndrews, 2013, p. 357).

**Federal Policy Late 1970s–1990s**

At the end of the 1990s, and in great part due to Republican President Ronald Regan’s administration (1981–1989), our nation’s collective ideology of what was acceptable under the heading of social justice began to change. ESEA had become a massive program. Its value to school districts serving low-income students was in the billions of dollars (Stonehill & Groves, 1983, p. 65). By the early 1980s immigration, desegregation, and improved social programing had created a larger middle class. As a whole public opinion regarding prior implementations of school equity measures began to drop, right along with opinions regarding other such social initiatives (Ravitch, 2013). Title I Evaluation and Reporting System (TIERS) were created to define state and local monitoring responsibilities under the 1981 Education Consolidation and Improvement Act (ECIA) (Stonehill & Groves, 1983, p. 65).

That drop in public opinion was not helped by the 1983 publication of *A Nation at Risk* (Gardner), which clearly shifted the nation’s focus even further from the inputs envisioned from the early ESEA equity initiatives to the more recent outputs of accountability and achievement requirements (Fuhrman & Elmore, 2004; Gardner, 1983).
Politically, there appeared to be a conscious movement to halt the social progress we had made as a nation and to decrease the majority’s quality of life in exchange for monetary gains at the highest levels of society. In fact, Paul Volker, the Federal Reserve Board Chairman in 1979, had declared our current way of life “obsolete” and worthy of attack through recession (Parenti, 1999). The World Bank and International Monetary Fund were placing an emphasis strictly on economic growth and individual property rights at the expense of the former gains in social welfare (Hursh & Martina, 2003).

Those same entities and some of their backers saw the improvements to public schools and to society in general as a huge a draw on public funds. Their philosophy was “what is private is necessarily good and what is public is necessarily bad” (Apple, 2000, p. 59). People with great economic and social capital, such as Ronald Reagan, Margaret Thatcher and her Secretary of Education, Kenneth Baker, interpreted that philosophy as “too much democracy” and strong social networks within public schools as the cause of “declining economy and culture” (Apple, 2000, p. 58).

On the other side of the fence, there were those who were critical of the changes to the ESEA. The notion that Section 151 of the 1974 Education Amendments would actually be able to produce comparable statewide and nationwide data was hotly contested (Barnes & Ginsburg, 1979; Jaeger, 1979; Linn, 1979). That is why, in 1983, Stonehill and Groves wrote:

[I]t appears platitudinous to hail the cause of local utility without advancing the cause of the accompanying technical rigor in obtaining correct information on which decisions will be made. Lacking this, evaluative data
is likely to be used in much the same manner as a drunk uses a light post, for support rather than for illumination. (p. 71)

Apparently, Stonehill and Groves saw the allocation of resources being tied to the policy of data collection to be an imperfect method for outlining this vital information (1983, p. 71). Instead, they advocated for locally supportable initiatives within program reforms, within the mechanics of assessment implementation and development, and in the “dissemination of computer-based score conversion systems” (Stonehill & Groves, 1983, p. 72).

The debate between top-heavy policy changes and local control continued over the next decade. In 1995, Pechman and Turnbull offered further insight into those same early initiatives and found that the leading-edge state and district attempts at linking Chapter I changes to reform efforts through implementation of standards and new assessments was a slow and unstable process (p. 1). They also found that achievement of expectations varied “in depth, breadth, and the amount of information they provide about curriculum and pedagogy” (Pechman & Turnbull, 1995, p. 1).

It was under those contested ideological beliefs that President Clinton’s administration passed the Improving America’s Schools Act (IASA) of 1994. The burgeoning concern was that there was not enough accountability being tied to the funds, which all the previously enacted policies had called for. The result was that, in the IASA, funding was directly tied to high-stakes testing for the first time under Title 1 requirements (Domaleski & Perie, 2013). States were required to use academic standards, determine whether or not students were meeting them, and then initiate corrective actions if they were to receive Title 1 funds (Kafer, 2004).
Simultaneously, reductions in public education funding were enacted at the federal level. Public school districts throughout the country, especially those that served the neediest of our nation’s students, felt that loss of funding. The federal government now had some control and was better able to regulate public monies at state and local levels. This was made clear when entities, desperate to continue meeting the needs of their students, began to accept the monetarily backed assessment roles that they were being asked to facilitate.

To put this national paradigm shift into perspective, graduation rates had reached 74% for the first time in our nation’s history, up from the 1940s rate of 50%, due in great part to the social policies of the 1960s–1970s (Ravitch, 2013, p. 75). The ESEA document had grown from its initial 38 pages to more than 600 pages with descriptions for over 60 programs (Kafer, 2004), some of which were significant in their wording and intent. For example, under IASA, Title VII; Part A; Section 7102 an outline of equity-minded bilingual, education improvements stated:

(14) [T]he use of a child or youth's Native language and culture in classroom instruction can—(A) promote self-esteem and contribute to academic achievement and learning English by limited English proficient children and youth; (B) benefit English-proficient children and youth who also participate in such programs; and (C) develop our Nation's national language resources, thus promoting our Nation's competitiveness in the global economy. (One Hundred Fourteenth Congress of the United States of America, 2015, p. 995)

Still, in 2000, Apple (2000) wrote that it appeared as if we had “entered a period of reaction in education” (p. 57), a reaction which required the belief that our public
schools were failures. Hence, educational policy moved even further in the conservative
direction despite claims being made by Apple and others who could also see that the most
recent cultural, racial, and gender struggles were coinciding with political willingness to
form “class alliances and class power” (Apple, 2000, p. 57). What that meant for public
education was that if students could not meet the more rigorous standards, assessments,
and evaluations, then they were once again in danger of being left behind their peers.

**Federal Accountability Era**

In 2001, the Bush administration reauthorized ESEA and named it the No Child
Left Behind Act (NCLB). The revisions made to the document were a part of an overall
bipartisan school reform effort meant to help our nation’s neediest students and to
prevent them from being left behind, as the title implies. For the most part, the extensive
changes that NCLB brought about were initially applauded by many for their increased
focus on the achievement of underserved students (Hall, 2013). Many agreed with
President Bush and his viewpoint that lack of schoolhouse accountability was a form of
“soft bigotry of low expectations” (Kafer, 2004, p. 4). Supporters of NCLB also believed
that if schools could be held accountable through funding pressures, then they might be
much more likely to take the initiatives needed to make adequate yearly progress (AYP),
and accountability measures were exceedingly strict due to those thought processes.

The results stemming from the NCLB initiatives were dramatic. Schools were
named failures, finger pointing ensued, teaching staff was turned over, and some schools
even closed their doors. The strict timelines mandated by NCLB, in a top-down Big
Brother manner, became off-putting to many previous supporters. One of the most
egregious of those policies was the insistence on across-the-board school improvements
without proper funding. States began to complain about the added draw on their scarce resources and that AYP requirements were proving to be too hard to enforce.

In 2010, the Obama administration took exception to parts of NCLB and set forth to fine-tune the document into the Blueprint for Reform. As suggested by the name, the document, as a whole, outlined NCLB reform measures. Specifically, the Blueprint addressed failing schools in a much clearer and more supportive fashion. Districts with identified failing schools could map out a plan of intervention and then reserve the funding they needed to get the job done. In other words, the districts could “build their capacity to improve low-performing schools” (Duncan, 2010, p. 12) ahead of the more disrupting intervention models of turnaround grants.

The needs of children most often left behind, the English language learners and other diverse learners, were thought to have been addressed under Priority 3 of Obama’s Blueprint for Change through what he called “equity and opportunity for all students,” as it appeared to be a continued commitment towards improving ELL programing (Obama & Biden, 2008, p. 5). Indeed, Obama spoke to maintaining and strengthening “formula grant programs for Native American students, homeless students, migrant students, and neglected and delinquent students” (Duncan, 2010, p. 19), while still providing for the disabled. This was particularly important for supporting legislation such as the Esther Martinez Native American Languages Preservation Act of 2006, which was intended:

To amend the Native American Programs Act of 1974 to provide for the revitalization of Native American languages through Native American language immersion programs; and for other purposes...to ensure the survival and continuation of Native American languages...ensure that a Native American
language is the dominant medium of instruction in the Native American
est…provide an average of at least 500 hours of instruction through the use of 1
or more Native American languages for at least 15 students for whom a Native
American language survival school is their principle place of
instruction…develop instructional courses and materials for learning Native
American languages and for instruction through the use of Native American
languages. (Public Law 109–394, 2006)

Without an ability to finance such endeavors, such legislative mandates are
unsupportable, even if prefaced by the well-intended claim that “every child in America
deserves a world-class education” (Obama, 2008, p. 1).

This leads to the question: If Obama truly believed service to the underserved
students and districts to be a “moral imperative,” then how could our nation not jump on
board to help move us forward, especially those of us in educational leadership positions
and in elected office? In his 2009 essay, Au offered an answer to that question and
pointed out that although Obama called for increased hope, many of his policy changes
had not come to fruition. Au (2009) questioned whether claims of progressiveness in the
reshaping of public policy from the oppressive regime of NCLB legislation were just a
smoke screen. He asked, where are improvements towards “more equitable, socially just,
and culturally responsive institutions for all students?” (Au, 2009, p. 317). Finally,
obviously disappointed at the lack of promised progress, Au suggested that “we do not
need to (nor should we) wait for Barack Obama’s” or anyone else’s permission to begin
Similarly, Hall (2013) was not happy with recent changes to NCLB and claims that NCLB’s passage represented not only “a ground breaking step in educational policy, but also a major piece of civil rights legislation” (p. 1). To her, former Secretary of Education Arne Duncan’s changes to the criterion for accountability, especially the enactment of the state waiver, were a reversal of the good that came before. Hall questioned whether states are capable of making the hard choices to “preserve a focus on underserved students, while also mitigating the most widely acknowledged problems with NCLB” (2013, p. 1). Hall offered her own list of priority questions, to be asked of each state wishing to obtain a waiver. She concluded that whereas accountability measures cannot “raise achievement or close gaps,” they are critical to prevent “backsliding” through waivers (Hall, 2013, p. 1). Lastly, she pointed out that data must be obtained from “national, state, and local” levels to be valuable to the continuing conversations in educational leadership and student success (Hall, 2013, p. 9). Of particular concern to Hall are the subgroups of students that will be lost in the shuffle without that level of detail and consistency.

Dolmaleski and Perie (2013) offer insight into this situation as they explored “the degree to which system designs may promote improved academic achievement for low-performing students” (p. 7) given the constraints of the Blueprint’s initiatives, the varying academic settings, and the evaluative targets for different subgroups. They found that there appeared to be a problem with the concept of ‘meaningful growth expectations,’ as it was not always easy to determine what amount of time was truly reasonable given different educational growth rates within populations (Dolmalski & Perie, 2013). Additionally, since the study was an exploration of “four prominent state accountability
initiatives...consolidate[d] subgroups, achievement gaps, growth, and mechanisms for combining measures” (Dolmaleski & Perie, 2013, p. 2), standards for rigor were not always transferable and at times even posed a threat to another priority, equity. They concluded that if those populations could not be separated, and they ended up in some sort of composite group, the leveling that would entail might serve to mask true performance, as in the case of ELL populations.

This brings us back to Swartz’s (1997) claim that if “culture provides the very grounds for human communication and interaction; it is also a source of domination” (p. 1). It would appear as if there has been some great work by very diverse groups of people over the years, all with the intent to improve educational policy for increased social justice and equity, within the state of New Mexico and at the national level. It is also clear that some initiatives have indeed gone awry of their original intent, as can be determined from the 2016 reauthorization of ESEA as the Every Student Succeeds Act (ESSA).

In conclusion, the disconnection between stated policies and the politics found at those turning points do not appear to be insurmountable. If the disconnections can be recognized and acknowledged for what they are, then steps can be taken to guard against them. New Mexico, as a leading bilingual state, might even be able to lead the way to a transitional “shift from deficit-[based] to strength-based views of others” (Mercado, 2006) in regards to student cultural norms and Native language skills. However, decisions must be made on how to implement the most current federal ESEA reauthorization, ESSA. While the how of that process may still elude many stakeholders, efforts towards discovery may allow for transformations within public education policy and a leveling of
current equity issues for those most affected within the state of New Mexico. For as far as we have come, we have not arrived there, at that place where all are recognized, legitimized, and with habitus intact.

Section 3: Teacher Pedagogy and ELL Assessment

Teacher pedagogy is the last of the three intersecting components I addressed in this study. This section provides a background of New Mexico’s pedagogical practices. The section begins by offering some background information on pedagogical practices in place prior to statehood, as those past practices impacted educational policy decisions made at the point of statehood. The section then transitions into analyses of current American pedagogy. Those analyses include some comparisons of national and international best practices. Finally, some background information on current state pedagogy, with an emphasis on ELL assessment, is provided.

Pedagogy and Pre-Statehood Pedagogical Practices

The term pedagogy comes from the Greek agogos means “leader”, a paidagogos was a slave who led boys to school and back, but also taught them manners and tutored them after school (Merriam-Webster, n.d.). In time, pedagogue came to mean simply “teacher” (Merriam-Webster, n.d.). Today, pedagogy is viewed as being much more inclusive and is defined as “the principles, practice, or profession of teaching” (Merriam-Webster, n.d.). The concept of education being for males and for specific socioeconomic classes of people is, relatively speaking, a modern one. Hence, pedagogy and pedagogical practices have changed throughout time. Pedagogy has also changed through interpretation. This holds true in the state of New Mexico. While these changes can be attributed to many different things, for the most part, changes to the
meaning of pedagogical practices appear to be due to the arena in which the practice was
occurring and the habitus of the population involved in its policy and interpretation.
Unfortunately, these paradigm shifts have proven to be the key drivers in the overall
scope of what is being taught, rather than working to ensure that the needs of New
Mexico ELL populations are being served appropriately.

Pre-Colonization

Historically, and for thousands of years prior to Spanish colonization, New
Mexico’s teachers were members of Native American students’ communities. A Native
American person’s education began at birth and continued throughout their lifetime. The
events and crossroads driving that educational process were personally unique because
each individual was unique, and so pedagogical practices were unique. The concept of
education, as well as the overall intent of a Native American person’s education, was to
impart stories of their culture and of their community’s history, and to provide
individuals their guidelines for “well-ordered living” (Sando, 1998, p. 25). Education was
also a way, not unlike today’s interests in imparting the concepts of citizenship, to ensure
the student’s proper participation in the “tribal code” of the community they were meant
to participate in (Sando, 1998, p. 25).

For the most part, this type of education was accomplished through ceremony,
oral instruction, and personalized learning tasks assigned through tribal leadership.
Education was therefore goal-oriented, with the goals being tied an individual’s
demonstrated strengths as they related to social constructs and desired outcomes.
Generally speaking, all learning fell under the auspice of spiritual leadership, as headed
by the cacique or recognized tribal leader, and there was a component of humbleness imbued into the learner by their teachers and for their role in society (Sando, 1998, p. 25).

**1528–1821 Spanish Colonization Period**

In contrast, during the early Spanish colonization period, teacher pedagogy consisted of an intentional, formalized, processes of “Christianization” (Vera, 2010, p. 513). Education was intended to build the Christian ranks, not meet an individual’s personal growth. Not surprisingly, the first Spanish teachers were Franciscan monks. Their curriculum, assessments, and policies came from Spain under the auspice of the Catholic Church (Vera, 2010, p. 513).

Initially, educational instruction took place within Hispanic homes, as well as in Hispanic and Puebloan churches (Sando, 1998; Vera, 2010). The monks’ pedagogical focus was on the building of Godliness, Spain’s citizenry, and New Spain’s importance to the homeland (Sando, 1998; Vera, 2010).

The result was that, over the years following colonization by the Spaniards, the Franciscan monks took on ever more schooling of the local Hispanic and Native American populations. This continued to the point that there were not enough monks to cover growing elementary school populations in cities. So, in 1610, some privatization of the teacher profession began to occur. Non-Monk teachers learned their trade and earned their licenses through what was known as The Teachers Guild. The Teachers Guild was an organization stationed in Mexico City, operated by the Mexico City Council since 1601, and charged with enforcement of educational regulations (Vera, 2010, p. 513). Its main function was to license teachers and provide new schools where they, the Spaniards, deemed appropriate (Vera, 2010, p. 513).
The philosophical differences between the Hispanic and Native American populations as well as the missionaries’ insistence in the growth of Christianization began to lead to considerable conflict. Eventually, the assumption that the Spanish minority could force assimilation and dictate religion and spiritual beliefs on the Native American majority escalated the tensions between the two groups. Those escalations became physically violent. Deaths increased on both sides and as Ebright et al. (2014) report:

[N]umerous cases of severe punishment of Indians by the missionaries were brought up in various investigations that took place in New Mexico between 1620 and 1680. Many charges were proven, and the governors complained that this was the major cause of the growing unrest. (p. 61)

The severity of the punishments inflicted by the colonizers on the Native American populations bred a retaliatory mindset against the missionary teachers, and:

During his first year as governor [1675], de Trevino accused forty-seven Pueblo people of “sorcery.” The men were charged with bewitching Fray Andres Duran, guardian of San Ildefonso Pueblo, and three other persons. The men were brought to Santa Fe for trial, bound, and subjected to taunts and abuse by the Spaniards. They were also accused of killing seven friars and three Spaniards. They were found guilty, and four of them were condemned to die by hanging. (Sando, 2014, p. 63)

Finally, the Native American population attempted the expulsion of 32 Spanish religious missionaries from the pueblo villages (Sando, 1998, p. 65). Most refused to leave, and, fed up, the pueblos revolted on August 10, 1680 and successfully removed the remaining missionaries from their pueblos (Sando, 1998, p. 65).
Over the next 12 years, the churches were destroyed, left to the elements to deteriorate (Sando, 1998, p. 68), and the pueblo people went back to their former spiritual and cultural practices. However, this reprieve was only temporary because on September 14, 1692, Spain reacquired the territory of New Mexico, after which, many of the Spaniards’ former practices continued just as they had prior to the Pueblo Revolt. However, one practice did change: the education of Native American populations. Missionaries were no longer being forcefully placed within pueblos for the purposes of enforcing Christianity. Instead, the Spanish encouraged the development of off-pueblo boarding and public day schools. The philosophy was that through the separation of Native American youth from their families and communities, the former educational goal could be met: Native American assimilation into Christianity and Spanish society.

**1821–1846 Mexican Period**

After Mexican independence, republican values led to a ridding from society the more formalized entities such as The Teachers Guild (Vera, 2010, p. 520). New charitable organizations brought on the advent of private schools and the need for teachers. These new teachers earned the right to teach through the publicity created from their public works, rather than through licensure (Vera, 2010, p. 520). As certifications replaced The Teachers Guild examinations for licensure, a divide was created in the quality of pedagogical practices being offered to the upper and lower classes in society (Vera, 2010, p. 518). In general, Hispanic students fell within the lower socioeconomic ranks of society, so they represented the population of students who, with the exception of Native American student populations, were the main losers in these systemic changes. For example, Vera (2010) stated:
In the pactist language of vassalage the wealthy have received a favor from God (not knowing poverty), but must reciprocate through their donation to the school, which thus becomes not solely for the benefit of the school or for the students, but a “service” to God….the reports praised the merit of teachers far more highly than that of children; and whatever merit there was, it was always played down with the rhetoric of retribution to the higher providers and protectors of education. (p. 518)

In other words, publicly, teacher pedagogical ranking relied on student ranking. As such, pedagogical qualifications and “the terms of the relationship between state and society regarding education gained new forms [and] had changed from a ‘logic of reciprocity’ to a ‘logic of citizenship’” (Vera, 2010, p. 512). This was the beginning of the dynamics still seen today, which have resulted in “funding disparities and the inequitable distribution of teachers” amongst the most challenging of students (Adamson & Darling-Hammond, 2012, p. 1).

**Modern Pedagogy**

In 2000, Darling-Hammond stated:

While some evidence suggests that better qualified teachers may make a difference for student learning at the classroom, school, and district levels, there has been little inquiry into the effects on achievement that may be associated with large-scale policies and institutional practices that affect the overall level of teachers’ knowledge and skills in a state or region. (p. 2)

She then examined data from a 50-state survey of policies to discover how teacher preparedness through various qualifications and cumulative policies impacted student

So, while not strictly focused on the issues of N.M. ELL-specific pedagogy, her study is relevant to this research because it responds to an escalation of policymaker debate over school reform and teacher quality related to learning outcomes, thereby offering an inquiry into the effects on student achievement. Her study also showed that achievement “may be associated with large-scale policies and institutional practices that affect the overall level of teachers’ knowledge and skills in a state or region and hence influences teacher affectivity (Darling-Hammond, 2000, p. 2).

This contributed to a large-scale study of policies, in 2009, with a particular emphasis on professional development and how professional learning improves teachers’ practices (Darling-Hammond, Wei, Andree, Richardson, & Orphanos, 2009, pp. 5–6). The data showed that there were significant differences in the intensity and amount of time for professional development that U.S. teachers received compared to other nations. The study concluded, among other things, that American teachers receive considerably less professional development and spend considerably more time instructing students than their international counterparts. At the same time, there was an across-the-board belief that American teachers can improve their practice by spending even more time teaching (Darling-Hammond et al., 2009, p. 6). In reality, what proved to be lacking was
much needed time spent on professional development and pedagogical collaboration, not on teaching.

Additionally, it would seem that not only do U.S. teachers receive less professional development (PD), but also that what PD they do receive is of much shorter duration. Indeed, of the teachers studied, only 23% reported that they had more than four days’ worth of PD, only 36% took university courses, only 22% had the opportunity to observe instructional staff at other schools, and only approximately “sixty eight percent participated in teacher induction programs during their first year of teaching” (Darling-Hammond et al., 2009, p. 5). Plus, 23% of U.S. teachers reported that their top priority for professional development is in the content they teach, whether it is ELL specific or otherwise (Darling-Hammond et al., 2009, p. 6). Lastly, if appropriate professional development is lacking or absent, it only follows that there is considerably less chance for collaboration and pedagogical reflection on best practices.

Compounding the difficulties involved in obtaining appropriate professional development and securing available participation time, Darling-Hammond et al. (2009) pointed out that American teachers must also pay for most of their own professional development (p. 6). This is a significant difference. Most Organization for Economic Co-operation and Development (OECD) nations provide their teachers with professional development, as a matter of course, at institutional and at local or national expense (Darling-Hammond et al., 2009, p. 6). How can American teachers hope to compete professionally? Their education and qualifications are being compared through student standardized assessment data with teachers practicing in countries whose overall pedagogical cohesion is superior in many ways. It quickly becomes obvious when
reading such accounts that American teachers are at a disadvantage and so are the students they teach, whether they are ELL or not (Tucker, 2011).

For example, educators in Japan are afforded the kind of regard many American educators just dream about these days (Tucker, 2011). In Finland, teacher quality and respect are at a level on par with other professional careers. This was accomplished by simply recognizing that to “serve all students equally well regardless of family background…would require a teaching force with a high level of knowledge and skill” (Tucker, 2011, p. 56) and that that required professional acknowledgement. In Shanghai, Finland, Singapore, Japan, and even in our neighboring country of Canada (who has a similar immigrant population) they have all been more successful than the U.S. in educating the most disadvantaged students and in supporting their educational staff. Meanwhile, U.S. educators are currently where Singapore instructors were back in the late 1970s, with extremely low morale and high attrition rates (Tucker, 2011, p. 117).

Perhaps, we, as a nation and as a state, should begin by emulating the philosophy that it is necessary to create funding systems that most strongly support those students who have been traditionally the hardest to educate: our ELL populations (Tucker, 2011, p. 205). After all, other OECD nations have never bought into the U.S. fallacy that their “schools are fine; it’s the children who need help” (Darling, 1997, p. 18). Instead, other OECD nations have managed to look at the entire educational picture and integrate best practices that support all teachers more than adequately. Indeed, on that subject, Gideonse (1993) wrote quite eloquently:

As long as school systems are permitted to hire under-prepared teachers through the mechanism of emergency certificates and their equivalent, teacher preparation
institutions and the faculty in them will have reduced incentives to maintain standards by preventing the advancement of the marginally qualified to licensure.

All the hype in the world about raised standards and performance-based licensure is meaningless absent a real incentive working on school districts to recruit the qualified through salary and improved conditions of practice, rather than being allowed to redefine the available as qualified. (p. 404)

Following that train of thought, in 2005, Boyd et al. investigated how “best to attract, prepare, and retain teachers, particularly for high poverty urban schools” (p. 21). However, despite the similarities of high ELL populations in New York City (NYC) and in New Mexico, their study left more questions than answers. While it told “something about the relative effectiveness” of the various pathways into teaching in NYC, it did not “incorporate the differential retention of these teachers” (Boyd et al., 2005, p. 21). The study also did not “reflect the average quality of teachers that we might expect to get if we filled teaching positions with teachers from certain pathways relative to other pathways” (Boyd et al., 2005, p. 21).

Therefore, the best method to retain quality staff might be to follow Tucker’s (2011) advice, based on internationally best practices, and to encourage recruitment of “teachers from the higher ranges” of ability, who have been trained in “high-quality, high-status universities; support them well once they are hired; offer them decent pay and work environments; and, not least, trust them to do the right thing” (p. 208). As Canada discovered, during their nation’s similar struggles with the building and retention of quality educational staff, rather than “teacher bashing,” a “show of trust in the competence and professionalism of the teaching force was an essential ingredient in
repairing the rupture that had developed between the profession and their government” (Tucker, 2011, p. 159). We could do likewise.

This brings about the question, most pertinent to this study: How does teacher pedagogy directly affect ELL achievement? For a closer look at the link between teacher quality and student achievement, it might be best to begin as this research did with the 2000 review by Darling-Hammond of the Education Policy Analysis Archives. It offers a wealth of data with its “1993–94 SASS database linked to surveys of some 65,000 teachers (52,000 public and 13,000 private), 13,000 school principals (9,500 public and 3,500 private), and 5,600 schools districts” (Darling-Hammond, 2000, p. 21).

Darling-Hammond’s (2000) findings showed that, despite considering “student characteristics such as poverty, non-English language status, and minority status… every additional dollar spent on more highly qualified teachers netted greater increases in student achievement than did less instructionally focused uses of school resources” (p. 9). For example, the Darling-Hammond study reported:

Of the teacher qualification variables, the strongest relationship was found for scores on the state licensing examination, a test that measures both basic skills and teaching knowledge. The effects were so strong, and the variations in teacher expertise so great, that after controlling for socioeconomic status, the large disparities in achievement between black and white students were almost entirely accounted for by the differences of their teachers. (2000, p. 9)

Of those trainings, Kathryn Manuelito (2005) spoke directly to initial training effectiveness when reporting that:
Even as more Native people become teachers, Native epistemologies also continue to be absent from teacher preparation programs. Many tribal colleges recycle assimilationist education practices and goals. In a survey conducted by the Native Educators Research Project of Arizona State University, only 26 percent of 238 Native participants in 27 Native teacher education programs felt prepared to teach their tribal languages and cultures (Manuelito, 2003). The number of teacher education programs throughout the United States who are prepared to teach tribal languages and cultures is probably much less than those in tribal colleges. (p. 84)

If this is so, then teachers are underprepared, from the beginning of their practices, to meet the pedagogical needs of their students.

In conclusion, a review of the Rockoff’s (2004) study found that there were “statistically significant positive effects on reading test scores” due to teacher experience and that “one standard deviation increase in teacher quality raises test scores by approximately 0.1 standard deviations in reading and math on nationally standardized distributions of achievement” (p. 3). Given that report, the poor and even static nature of student learning in New Mexico, and in the United States in general, has less to do with most any other factor than the quality of the front-line teaching staff’s pedagogical skills and practices. As Darling-Hammond (1997) states: “America’s schools are among the most unequal in the industrialized world in terms of both inputs and outcomes” (p. 9). “To survive and prosper, our society must finally renounce its obstinate commitment to educational inequality and embrace full and ambitious opportunities to learn for all of our
children” (Darling-Hammond, 1997, p. 19). This is worrisome because more and more highly qualified New Mexico teachers are leaving the state, or the profession. As a result:

[W]hile the number of districts remained consistent [BMEPs], the number of schools participating in BMEPs decreased by seven percent. According to districts, this is largely due to the lack of highly qualified teachers in bilingual endorsements. (Skandera & Pelayo 2016, p. 9)

Unfortunately, the situation of inequality is not likely to resolved given these dynamics in New Mexico without considerable effort. Instead, the inequalities are more likely to be resolved if the systemic issues behind the disparities are addressed according to the injunction of relief outlined by Judge Singleton in 2018 (Yazzie/Martinez v. the State of New Mexico et al.).

Summary of the Literature Review

In summation, this literature review provided a background for the three intersecting paradigms I investigated in this study: New Mexico’s ELL population dynamics, cumulative state and federal policies, and teacher assessment pedagogy. It is at the intersection of these three paradigms that the data for this research were drawn. Without sufficient background information, the study’s findings would have lacked context. In addition, this literature review served as an outline for what was known of each of the paradigms and what was left to be discovered through this study.

For example, the first section of this literature review covered New Mexico’s ELL populations. Therefore, the coverage began from a historical perspective. After all, there is history that is relevant to the Native American people making up part of the current ELL population being served in New Mexico. Information on their cultural and linguistic
dynamics enabled me to draw parallels between what their needs are and what is currently being offered as assessment pedagogy. That section also included some of the historical shifts in the Hispanic ELL populations being served by New Mexico’s public education, thereby providing a foundation for what remains unknown, which is how well ELL students’ linguistic and cultural needs are being appropriately met through cumulative policies and pedagogical assessment practices.

The second section outlined a timeline of philosophical shifts in educational practices. It did this by first disseminating information on the educational policies in place, within Native American populations, prior to New Mexico statehood. It then introduced some of the educational history stemming from the Spanish colonization period. At the same time, some parallels between education in the Mexican and American periods were made, not because the policies in place during those times trumps those in place today, but for illumination of historic impact on current policies. To this day, there appears to be an overlapping of philosophical thought reflected in cumulative educational policy, the roots of which seem to stem from early Spanish colonization laws.

The third section covered teacher pedagogy. It began by broadly outlining New Mexico’s Native American populations’ conceptualization of education, as it existed prior to colonization. Next, Spanish period educational practices were discussed. That process included some basic background information on the original teachers and the philosophies behind their pedagogical practices. Similarly, the Mexican period was covered.

In conclusion, from this literature review, I was able to make necessary connections between New Mexico’s historical pedagogical issues, pedagogical practices,
and this study’s findings, especially since I utilized a qualitative methodology, a grounded theory genre, and an emic approach to data collection.
Chapter 3

Methodology Research Design

For this research I posed the question: How do cumulative state and federal policies impact teacher pedagogy of ELL assessment in New Mexico public schools? In conducting this research, my goal was to illuminate the intersection of teacher pedagogy, ELL assessment policies, and New Mexico’s ELL cultural and linguistic demands. I designed the study with the understanding that I might find that there are only minor similarities in the participants’ ELL assessment practices. There was a chance that each participant’s pedagogical understandings and ELL population dynamics might be so different from other participants that commonalities would not emerge. On the other hand, there could be more similarities than expected. I was certain, however, that little was known about the impact these three intersecting paradigms have on ESL teacher practices. Therefore, I used qualitative methodology, grounded theory genre, and an emic approach to provide opportunities for new discoveries.

I used an inductive approach to analyzing New Mexico ELL teacher pedagogy. This approach provides novel insights into a phenomenon about which little is commonly known (Roberts, 2010, p. 143). The theories formed from this study’s findings should help broaden current understanding of teachers’ sociocultural perspectives during their assessment practices and in their subsequent application of linguistic and cultural supports. This is because the theories were developed from a strictly emic viewpoint, gathered from a cross-representation of ESL teacher participants involved in BMEPs within the state of New Mexico, rather than from outside data collections and findings from other research projects on similar topics. Indeed, I have purposefully presented both
the diversity and similarity of thought processes being applied through the ESL teacher assessment pedagogy of New Mexico Hispanic and Native American ELL populations.

**Type of Research**

This was a qualitative study. I chose qualitative methodology over other quantitative and mixed methods research because it best fits the goal of this study and the query of the research question. In a qualitative study, there are no known variables; the study participants introduce variables to the researcher. The participants then provide the data supporting the variables proposed. In other words, a qualitative study is a study that begins from the insider perspective and builds outward. For example, Creswell (2014) defines qualitative study as:

> An approach for exploring and understanding the meaning individuals or groups ascribe to a social or human problem. The process of research involves emerging questions and procedures, data typically collected in the participant’s setting, data analysis inductively building from particulars to general themes, and the researcher making interpretations of the meaning of the data. (p. 4)

This means, by Creswell’s definition, it is the study’s participants who drive understanding. What they choose to communicate provides both meaning and illumination. The researcher lets the data gathered from the interviews, observations, and participant collaborations define the theories. Consequently, theories develop throughout the study because there are no prior theories being proven or disproven. These processes work together to allow chance discoveries and to build insight. Because the data come directly out of the specific arena being researched, they are inclusive of habitus through the provision of participant voice. However, in this qualitative study, three large
paradigms intersect, so the methodology chosen involved a narrowing of focus from what might otherwise exist within broader parameters of other qualitative studies, particularly as the data had to be capable of providing a high level of understanding for the desired development of theory. Luckily, a qualitative study’s focus can be narrowed. In this case, narrowing was accomplished through the employment of additional levels of processes. For instance, a sublevel of “genre” was added to the data collection, while increased voice was added through the use of an emic research approach. Therefore, these additional levels were included because they enhanced the specificity desired from the resultant data.

**Genre**

Roberts (2010) describes qualitative research as “an umbrella term that refers to several research genres that share similar characteristics” (p. 143) and suggests that the researcher focus on one genre per study. The genre chosen determines how data collection proceeds and under what lens the findings are considered, meaning that only one genre can be a best fit for the study’s goal. The best fit for this study, grounded theory, was a genre that came directly from studies involved in the discipline of sociology (Creswell, 2013, p. 11). After all, grounded theory was initially developed by Barney Glaser and Anselm Strauss in 1967 with the goal of ensuring that a study’s data would be directly drawn from a specific field (Creswell, 2013, p. 84). Appreciated for the theory’s ability to meet that goal, in 2005, Clarke added a “postmodern” twist to grounded theory analyses (Creswell, 2013, p. 84). This helped move the genre from its former, strictly “sociological mode” to allow the additional inclusion of “situational,
social world/arenas, and positional cartographic maps for collecting, and analyzing qualitative data” (Creswell, 2013, p. 84).

Still not completely satisfied, Corbin and Strauss (2007) proposed that improvements be made to grounded theory’s overall design through the inclusion of diagrammatical propositions (Creswell, 2013, p. 85). Creswell (2013) agreed and argued that the intent of the grounded theory genre was to encourage the researcher “to move beyond description and to generate or discover a theory, a ‘unified theoretical explanation’” (p. 83). This final addition, when added to the overall parameters of the grounded theory genre, proved to be the perfect fit for supporting the goal and purpose of this research.

**Approach**

Having settled on a qualitative method and a grounded theory genre, it quickly became apparent that the emic approach complemented both the chosen methodology and the genre. The inclusion of an emic approach added a level of specificity not already provided by either the type of study or the chosen genre. An emic approach inserted an inductive, insider perspective and an increase in objectively. This helped with the development of theories, as “emic constructs are accounts, descriptions, and analyses expressed in terms of the conceptual schemes and categories regarded as meaningful and appropriate by the active members of the culture whose beliefs and behaviors are being studied” (Lett, 1990, p. 130).

In addition, an emic approach helped to diminish researcher bias. Bias is the subconscious or conscious “values, dispositions, attitudes, and perceptions that a researcher brings from his or her social background to the object of inquiry” (Swartz,
1997, p. 272). Bias must be guarded against because bias impacts validity. A lowering of validity can result in an overall “lack of a reflexive perspective” (Swartz, 1997, p. 272). Therefore, biases, or projections of known relationships, would devalue the whole purpose of using an emic approach for its ability to provide inductive analyses, which are purposeful in nature, not subjective (Creswell, 2014, p. 186).

**Rationale for the Methodology**

The rationale for this study’s selection of methodology was supported by the method’s capacity to illuminate the ELL assessment pedagogy of New Mexico’s ESL teachers (Roberts, 2010, p. 163). The overall method supports the intent of capturing with purposeful objectivity each ESL teacher participant’s interpretations of cumulative, formative, and summative ELL assessment policies within their classrooms. Furthermore, as indicated previously, taken together, the combination of the qualitative method, grounded theory genre, and emic approach ensured that any understandings emerging from this study were based solely on how the participants experienced the phenomenon, particularly as the “systematic methodological strategies that researchers could adopt for *developing* theories from research grounded in qualitative data rather than *deducing* testable hypotheses from existing theories” (Charmaz, 2014, p. 6) was to occur. In this case, “systematic methodological strategies” (Charmaz, 2014, p. 6; Glaser, 1978; Glaser & Strauss, 1967; Strauss, 1987) included:

- Simultaneous involvement in data collection and analysis
- Constructing analytical codes and categories from data, not from preconceived logically deduced hypotheses
Using the constant comparison method, which involves making comparisons during each stage of the analysis

Advancing theory development during each step of data collection and analysis

Memo-writing to elaborate categories, specify their properties, define relationships between categories, and identify gaps

Sampling aimed toward theory construction (theoretical sampling), not for population representativeness. (Charmaz, 2014, pp. 7–8)

Together, these six strategies provided the level of objectivity desired for this particular qualitative study. They were critical to the development of objective theories and as drivers in process.

**Methodology Appropriateness**

In research, in general, and in qualitative studies, in particular, it is important to keep in mind that “not everything that can be counted counts, and not everything that counts can be counted” (Cameron, 1967, p. 13). Data gathered must also be appropriate to the study. Since the intent in this case was to illuminate, increase understanding, and provide the participants’ voices, the data gathered were appropriate. The insiders’ perspective desired from this study was achieved through the intentional gathering of “rich detail [and] meaningful social and historical contexts” (Suter, 2011, p. 344). Indeed, what took place between me, as the researcher, and the study’s participants provided a collaborative mindset for this study. Furthermore, planned interactions embed opportunities for participants to preview interview questions, review findings, and check
the accuracy of descriptions (Miles et al., 2014, pp. 57–58). Through its built-in checks and balances, this study’s methodology demonstrated to the participants an intentional diminishing of unintentional harm (Miles et al., 2014, pp. 57, 61).

**Sample**

This study took place within the state of New Mexico. The ESL teacher participants chosen for this study were practitioners from public schools engaged in Native American (Navajo, Jicarilla Apache, Western Keresan, Tiwa, Tewa, Towa, and Zuni) or Heritage (Hispanic) bilingual multicultural education programs (BMEPs). The specific population of interest was New Mexico ESL teachers practicing ELL assessment pedagogy in state public schools. Because my intention for this research study was to include at least one, but not more than two, participants from each of the populations listed above, the total number of possible participants was set at 16.

At the outset, whether or not this goal was achievable had yet to be determined. For instance, as of 2016, the Mescalero Apache were not reported to be involved in New Mexico’s BMEPs (Skandera & Pelayo, 2016, p. 12). However, currently, there are Mescalero Apaches being taught in the Tularosa and Ruidoso public school districts, some of who are or may be being assessed by ESL teachers. This means the total number of possible ESL teacher participants could have increased for this 2018 study. The same scenario would have occurred if the Eastern Keresan were to be represented by that same, targeted, group of participants.

On the other hand, it was also possible that during this study the number of available ESL teacher participants might be lowered. For example, there may have been fewer research participants if one or more of the districts of interest to this study refused
to take part in the research, as certain languages are only assessed in a limited number of districts throughout New Mexico. Hence, it was fair to conclude that the number of study participants would ultimately represent ESL teachers of Native American and Heritage populations available and willing to participate in this research during the spring 2018.

Description of Participants

A preference was given to ESL teacher participants who had at least one year of demonstrated ELL pedagogical assessment experience. However, as the population of interest was very specific, differing levels of ESL teacher experience in ELL assessment was accepted. For example, at the upper range of ELL assessment experience, a participant’s involvement included both ELL assessment development for a specific ELL population as well as active involvement in the norming of assessments for ELL student populations. At the lower range, a participant might only have had experience in the use of pre-developed instruments for both formative and summative assessment purposes.

The inclusion of such a diverse range of ESL teacher assessment experience was supported by current research. In 2014–2015, ELL teachers in Albuquerque reported having used assessments that came directly from the Navajo Nation (Skandera, 2015, p. 23). Other Albuquerque teachers utilized grade level and “department developed Native American values rubric(s)” (Skandera, 2015, p. 23). Conversely, in the Walatowa High Charter, evaluations were the same as those used by other public schools (WIDA ELL ACCESS) for Hispanic ELL populations, rather than a more specific form of Native American assessment (Skandera, 2015, p. 23). Meanwhile, in Zuni, the Zuni Smarter Balanced Assessment (Skandera, 2015, p. 23) was used throughout all grade levels and included both pre- and post-testing. Therefore, in this research study, any involvement
beyond basic Native American or Hispanic language related assessments was viewed as an additional illumination of pedagogical practice, not as a requirement.

**Rationale for Selection**

The rationale I used for this study’s parameters of selection was that, by having chosen only ESL teachers of Native American or Hispanic ELLs, it would mandate the inclusion of only the individuals who could speak at an experienced level on the pedagogy of New Mexico public school assessment practices. After all, only they could offer emic viewpoints on how cumulative New Mexico state and federal policies are impacting their practices. Only they could offer the level of desired insight on how they are personally interpreting cumulative state and federal policy tasks. Only they could answer questions specifically related to the intrinsic value of their ESL and BMEP related trainings. Only they truly knew what ELL student linguistic and cultural support issues they are faced with in their own classrooms.

**Size of Population**

The number of Native American and Hispanic Language students attending New Mexico’s public schools is increasing. In the Tribal Education Status Report (TESR) of 2015, there were 191,132 students enrolled in public schools, out of which there was an enrollment of 33,551 Native Americans or 17.55% (Skandera, 2015, p. 16). Meanwhile, the number of highly qualified ESL teachers available for New Mexico’s BMEPs is decreasing (Skandera & Pelayo, 2016, p. 9). In fact, during the 2015 to 2016 school year, New Mexico faced a decrease in ESL teachers from 61% to 56% (Skandera & Pelayo, 2016, p. 9). That means that the population of interest had also decreased. Hopefully, those numbers have not adversely impacted the intent of this study’s research and it was
still possible to have a full representative cross section of ESL teachers who are currently involved in assessment pedagogy for New Mexico’s Native American and Hispanic populations.

To this end, the population of ESL teachers was chosen through a process known as “quota sampling” (Mack et al., 2005, p. 5). For this study, quota sampling was defined as a purposive sampling dependent upon the particular characteristics required for participation in this study’s research (Mack et al., 2005, p. 5). The samples were based solely on the number of districts involved in ELL assessments and the number of teachers willing to volunteer their engagement in this study. Once there was at least one, but not more than two, teacher participants for each Native American population of interest, as well as a representative of state Hispanic populations, the quota was considered to have been met (Mack et al., 2005, p. 5).

Criteria for Inclusion

To be included in this study, ESL teacher participants were currently working at one of the districts in New Mexico currently assessing ELL students in their Native American or Hispanic languages. Hispanic ESL teacher participants were recruited from New Mexico school districts that may or may not have involved Native American BMEPs. An ESL teacher might have been chosen for this study, even if they were involved in assessing more than one Native American or Hispanic language group. All participants were asked to sign a participant consent form. All participants were audio recorded during their classroom observations, follow-up interviews, or interviews. Lastly, all ESL teacher participants had prior approval from their district Superintendent, or qualified district administration, and the research protocol, along with related research
documents (UNM Consent to Research, Recruitment Form, etc.), received UNM IRB approval.

**Instrumentation**

In this qualitative study, I—as the researcher—was the “key instrument” (Creswell, 2014, p. 185). By acting as the key instrument, I was reliant upon data gathered directly from observations in ESL teachers’ classrooms and participant-chosen interview locations. In addition, there were five other documents I used in this study. Those documents included a recruitment flyer (Appendix A), a recruitment email (Appendix B), an email for site permission (Appendix C), a researcher-developed observation protocol (Appendix D), as well as a list of open-ended interview questions (Appendix E). Their function was to support the intent of this research study and the commitments outlined within the UNM IRB approved protocol and the UNM Consent to Participate in Research form.

**UNM IRB Protocol and the Consent to Participate in Research Form**

The UNM IRB protocol was a detailed descriptor of the proposed research study. It included the background rationale for the study. It included the overall objectives for the study as well as the study’s design; maximum number of participants; when, how, and where the participants would be recruited and screened; the informed consent process; data collection procedures; the study’s timeline; locations; potential risks involved; how participant privacy would be guarded; and how problems or complaints would be dealt with. In addition, the UNM IRB protocol described the management of study data, data analyses, and the procedure followed for potential participant withdrawal.
The UNM Consent to Participate in Research form was used to describe the scope of the study. It included the purpose of the study, what the participant could expect to do when joining the research, the risks involved, the benefits, the confidentiality of their information, and their right to withdraw from the study. The consent form was reviewed by this research study’s dissertation committee and chair. It was then presented to the institutional review board (IRB) affiliated with the University of New Mexico (UNM), Albuquerque.

As the study was approved by both the dissertation committee and the IRB, then the participant consent form became the formal request for participant involvement. The Certificate of Consent was written in the first person. It offered a few brief statements pertaining to the research, and it included a section for the formal written consent.

**Recruitment Flyer, Recruitment Email, and Email-Site Permission**

The recruitment flyer described the research in a very basic format. It did not include any details that were not necessary to capture the interest of potential ESL teacher participants involved in the pedagogy of ELL assessment within New Mexico public schools (Appendix A). Rather, it stated the title of the study, who could be included in the study, who could not participate, what would be asked of them, compensation, and Primary Investigator contact information. It was disseminated, as needed, to ESL teachers in New Mexico state districts primarily through the help of the district Superintendent directly, or the Superintendent’s office staff as approved by the Superintendent. The recruitment email worked in tandem with the recruitment flyer, to ensure that the targeted population was informed of the research involvement possibilities (Appendix B). Lastly, the emailed site permission instrument ensured that the school site’s principal had been
included in the overall district permission processes. It also ensured that sites’ principals had been offered a chance to discuss the implications of this research study, that their questions had been answered, and that any concerns they might have had had been addressed (Appendix C).

**Observation Protocol**

The observation of a classroom enabled me to collect data directly from the ESL teacher’s pedagogy during formative and summative ELL assessment(s). The intent behind the development of this study’s observation protocol was to help guide the focus during the classroom observations (Appendix D). As an instrument, it used prompts only. It was meant as an observational reminder to look for who was being assessed, what was being assessed, how they were being assessed, and why they were being assessed. Creswell (2014) defines an observation protocol as “a form used by a qualitative researcher for recording and writing down information while observing” (p. 245). He also mentions that most qualitative researchers “do not tend to use or rely on questionnaires or instruments developed by other researchers” (Creswell, 2014, p. 185), and that was the case with this instrument.

For example, during classroom observations, participant ESL teachers were interacting with their ELL students. Those interactions and the processes taking place were often occurring in a rapid fashion. At times, the interactions were occurring in languages other than English. By having a predetermined protocol for how to deal effectively with such situations, data collection was focused on the key elements of this study. Nuances, not picked up through visual and written notes, were captured. Increasing detail during data collections added to the overall illumination of assessment interactions.
Even more importantly, if the details of oral language assessment nuances were able to be captured by context, it allowed for participant post-observation clarifications to be made.

In conclusion, during classroom observations there were multiple clues as to who was being assessed, how they were being assessed, and what was being assessed. Observation protocols, such as these, helped to capture clues. Therefore, the use of this observation protocol was justified in this study because it helped to lessen ambiguity and it allowed for clarification during ESL teacher participants’ review of transcribed notes and recordings.

*Interview Question Set*

I completed a half hour, one-on-one, follow-up interview with each participant. Those interviews allowed for the triangulation of data between the completed research, the observations, and the “indirect information filtered through” the voice of the study participants during the follow-up interviews (Creswell, 2014, p. 191). There was a pre-interview list of questions provided to each teacher participant (Appendix E). That list, while not exhaustive, served this study’s purpose of helping to clarify, in advance, some of what would take place during the follow-up interview. It did not dictate the flow of the conversation. Instead, it served the goal of prompting participants to illuminate and elaborate upon their answers to the research questions and to build better understanding between us. As a list, it helped to ensure that there was clarity between what was observed, what was thought to have occurred, and what was actually occurring from an emic viewpoint.

The interview questions, the follow-up interview, and resultant conversations, served this study as the major collaborative period between the participant and me.
During the half-hour interview, every participant had ample opportunity to speak directly to the impact of each of the three paradigms (cumulative policies impact, ESL pedagogy, and ELL assessments) covered in this study. Consequently, additional conversations or collaborations were driven by what occurred during follow-up interviews and further meetings, if any, were arranged to the satisfaction of the interviewee after having time to reflect on the transcript produced from those meetings. All of this resulted in data collection taking place between the months of March 2018 and June 2018. Transcript collaborations and revisions were completed by the end of July 2018.

**Data Collection Procedures**

To begin the process of data collection, a maximum of eight public school sites were purposefully chosen from districts documented by the New Mexico PED as involved in New Mexico BMEPs or from districts currently known be involved in Native American or Heritage ELL assessments by the population of interest (Creswell, 2014, p. 189). Next, each selected district’s superintendent was approached via phone and email. If possible, a one-on-one meeting was set up to allow for an introduction of the proposed research. During that meeting, district superintendents were asked for a letter of support to conduct research. They were also asked for their help in the identification of qualified district ESL teachers for study participation and in the eventual distribution of recruitment fliers. If a district’s superintendent was unwilling to meet, district participation was solicited via phone and email communications. If a district’s superintendent was unwilling to approve this research study, another district participating in the public schooling of the same Native American or Hispanic linguistic and culture of interest was chosen. Once approval had been granted, one to two ESL teacher
participants were identified using the criteria previously outlined. Those selected were offered the participant consent form for their consideration. If it was acceptable, the selection process continued until each Native American and Hispanic ELL population was represented by an ESL teacher. Alternatively, the enlistment of participants continued to the point that the maximum number of 16 ESL teacher participants that could be enlisted had been reached. Once the districts and the participants had been recruited, each district and its participant(s) were provided with a unique identifier to protect their identities.

Data collection took place in the spring semester of the 2018 school year. Observations took place in the ESL teacher’s classroom and during a period of time in which ELL assessments were being conducted. The observations, when they occurred, were conducted in a passive nature over a period of one hour. Observations were then preceded by half-hour, follow-up interviews. Both meetings were scheduled to best meet the participant’s needs and comfort level. For example, participants’ academic schedules were discussed and accommodations were made for local religious observations, feast schedules, and cultural restrictions and observances.

Data were collected in the form of audio recordings and written notes. This method was used for the classroom observations and the follow-up interviews. Data from interviews and observations were transcribed using an alias identifier within a 48-hour window. Any unintentional site locators or human identifiers were immediately deleted upon review of those transcriptions. Those transcriptions were shared with the teacher participant for review. If a transcription required clarification, an additional meeting was scheduled. Otherwise, analyses took place and common codes were developed. Codes
were then placed into themes. Themes were expanded upon each time a data collection cycle was completed. Once a level of saturation had been reached, those findings were developed to form theories. Ultimately, the findings were utilized to define recommendations and next steps.

To complete this process, two or more meetings with the participants were sometimes required. The first meeting involved the signing of the research study’s consent form and some brainstorming activities surrounding the timing for data collection. The second meeting was scheduled for the classroom observation and (if possible) the follow-up interview. Third meetings were only needed if there was a time conflict for the completion of the follow-up interview on the day of the classroom observation. After that, any additional meetings served the needs pertaining to transcription review issues.

In each case, meetings were held to optimize the comfort level of the participant and, other than the classroom observation, were held at a location chosen by the participant. If a meeting was set to take place at an ancillary location, and if agreed upon beforehand, I paid the ESL teacher participant for reasonable expenses (e.g. gas, meal, parking, etc.). Finally, “participants [were] not paid for participating in this study. In return for [their] time and the inconvenience of participating in this study,” they were (UNM IRB #10317, 2017) provided an Amazon gift certificate worth 20 dollars as a thank you.
Data Analysis

How Data Were Reported and Displayed

Data from this study were gathered in the form of written transcripts, utilizing alias identifiers, from the classroom observations and follow-up interviews. The transcripts were completed within a 48-hour window. Analyses were made after each data collection. Participants were asked to help in clarification of data collected during Native American or Hispanic oral assessments at the review meetings, or to provide a written overview of what specific assessments that took place. Similarities were coded for and themes were discovered and identified. Once data findings reached a point of saturation, theories were developed. Quality was ensured through a triangulation of participant observations, interviews, participant review of transcript data, and ELL assessment documents.

Throughout each of these steps, some charting of data took place to add organization and clarity or to better illuminate what was being found. For example, a table was created to help display data collections and to ensure that there was added ease in cross-referencing the ELL population being served to the assessments being used. Other charts or diagrams were also created to organize thought processes during transcript coding and theme development.

In conclusion, prior to data collection, how data were to be reported and displayed were ambiguous at best because this was a qualitative study. Final decisions for how data were ultimately reported and displayed were constructed from each step in the data collection process. At all times, the identity of participants was protected through the assignment of unique identifiers for both them and their school site locations. Those
assignments were also dependent upon the permission parameters prescribed by the
dissertation committee and chair, University of New Mexico’s IRB, district
superintendents, and the ESL teacher participants.

Limitations

**Researcher Bias**

The first limitation of this study is researcher bias, which can cause
misinterpretations, rendering findings in studies subjective or even invalid (Charmaz,
2014, pp. 338–339). However, as discussed in Chapter 2, this study was designed to work
against such biases by deliberately seeking a methodological route to decrease or to help
avoid misinterpretations and to increase study validity and objectivity (Creswell, 2014;
Lett, 1990; Swartz, 1997). This study not only employed a qualitative methodology, but
also used a grounded theory genre, employing a lens to encourage a “move beyond
description, [to] generate or discover a theory, and to provide a ‘unified theoretical
explanation’” (Creswell, 2013, p. 83). This study’s emic approach inserted an inductive,
insider perspective, and helped to increase objectivity during the development of the
study’s themes. All of this moved the findings away from subconscious or conscious
“values, dispositions, attitudes, and perceptions,” which might have been inserted through
“social background to the object of inquiry” or an unintentional “lack of a reflexive
perspective” (Swartz, 1997, p. 272).

The address of researcher bias was important to this study for several reasons:
I am a multiracial (Caucasian/Iroquois) female born and raised in the late 1950s and early
1960s on the East Coast of the United States, a time period of rampant racism and social
unrest. My interest in this topic bloomed after a career change from the field of Medical
Laboratory Science in 2008 to that of Secondary Science Educator within a New Mexican Title I school. For, it was then that I understood that even after all the social policies fought for during the 1960s, inequity still appeared to be present within the American public education system. I wanted to understand why.

Yet, as I began my Doctoral journey, it was clear to me that my own voice must first be removed. My own lived experiences had no true relevance to the process of gaining an intimate understanding of New Mexico’s unique peoples, history, and cumulative educational policies. Therefore, my own experiences or potential biases needed to be placed where they belonged, in the New England arena, within a different Native American culture, and within a different generation’s struggles.

**Sample Size**

This study’s small sample size was also a limitation, but a deliberate one. By setting a 16 ESL participant maximum, recruitment of participants represented an intentional move towards “theory construction” from within a specific subset of participants, rather than upon a more generalized, representative, cross sampling of all New Mexico school districts (Charmaz, 2014, pp. 7–8). The hypothesis was that theory construction would be well supported by a smaller sample size due to the inclusion of a process known as quota sampling (Mack et al., 2005, p. 5), particularly since quota sampling, in this case, was solely reliant upon the recruitment of one to two ESL teacher participants representing the subset of interest: Native American and Hispanic populations from the Navajo, Jicarilla Apache, Western Keresan, Tiwa, Tewa, Towa, Zuni and Heritage/Hispanic populations. In addition, this study’s smaller sample size recognizes that qualitative studies in general are a nod towards the philosophy that “not
everything that can be counted counts, and not everything that counts can be counted” (Cameron, 1967, p. 13). Lastly, a small sample size recognizes that validation strategies, such as triangulation of findings, member checking via researcher and participant transcript review, and “the use of rich, thick descriptions to convey” findings, can still accomplish the goals of building validity and reliability (Creswell, 2014, pp. 201–202).

**Two-Step Methodology**

The last limitation was unintentional. That is because I designed this study’s methodology around a two-step process of data collection, and that process had to be revisited after experiencing recruitment issues throughout the fall of 2017. Upon review, I determined that the inclusion of an hour-long classroom observation, unwittingly, had imposed a serious impediment upon participant recruitment. To proceed with recruitment, it became necessary to offer participants a choice of whether they wished to participate in both an observation and an interview or to participate just in the interview. Only then did recruitment proceed, and ultimately a total of eleven participants were contracted in the spring of 2018.

**Summary of Research Methods**

In summation, the methodologies I chose for this study met the overall goals to illuminate, to create better understandings, and to explore the intersection of teacher pedagogy, ELL assessment policies, and New Mexico’s ELL cultural and linguistic demands. Because, by following that design, the impact of those three intersecting paradigms on ESL teacher practices were able to be transmitted from the teacher’s perspective. That process, in turn, helped to produced inductive analyses of New Mexico ELL teacher pedagogy and to provide novel insights into a phenomenon about which
little was commonly known (Roberts, 2010, p. 143). The theories formed from those findings should help broaden the understanding of teachers’ sociocultural perspectives, both during their assessment practices and in their subsequent application of linguistic and cultural supports. This means, that this research study purposefully presented both the diversity and similarity of thought processes being applied through ESL teacher assessment pedagogy, within New Mexico Native American and Hispanic ELL populations, throughout its application of a qualitative methodology, grounded theory genre, and its emic approach.
Chapter 4
Research Findings

Using qualitative methodology, grounded theory, and an emic approach (Roberts, 2010), I explored the question: How do cumulative state and federal policies impact teacher pedagogy of ELL assessment in New Mexico public schools? The main, and first, objective of this research was to present novel insights as offered by ESL teachers in their own voice. The second was to help illuminate state and local professional development (PD) best practices for future policy considerations. The last was to allow discoveries to be made and theories to be formed in order to broaden current understandings of ESL teachers’ sociocultural perspectives regarding their assessment practices of ELL, bilingual, and BMEP students in New Mexico public schools. Those objectives have been met and are reported below as study findings.

To that end, this chapter has been divided into three sections. Section 1 serves as an introduction of the research sample (11 ESL teacher participants) along with key demographics. Those demographics are outlined in Table 1. They include degree attainment, ELL population descriptors, grades taught, school type, certifications and endorsements, professional development information, and years of experience. Section 2 outlines the findings under the headings Data Analyses Overview and Data Analyses Results by Theme. Each discovered theme was based upon data analyses derived from ESL teacher participants’ audio transcripts and subsequent collaborations between me, as the research, and study participants, from March 2018 through July 2018. Resultant analyses revealed commonalities as well as unique insights. Those analyses allowed a focus on participants’ responses and viewpoints on the impact of federal, state, and local
policies on the assessment practices used with ELL populations. Finally, Section 3 of this chapter provides a summary of those study findings.

**Research Sample: ESL Teacher Participants**

The sample population for this study was New Mexico ESL public school teachers, grades K-8. In total, 11 participants were recruited. Each participant was selected through the process of quota sampling. The desired quota was considered to have been met when at least one, but not more than two, ESL teacher participants for each Native American population of interest was represented: Apache (not designated/Jicarilla or Mescalero), Western Keresan (Laguna and Acoma), Zuni, Tiwa, Towa, Tewa, Navajo, and Heritage (Tiwa/Castilian, Northern New Mexico, Mestizo, Hispanic/Mexican). In addition, all participants worked in one of New Mexico’s public- school ELL, bilingual, or multilingual assessment programs in the spring of the 2018 school year.

The demographics of the participants are presented in Table 1. Eleven participants had an average of 13 years of ELL assessment experience. Eight participants had a Master of Arts degree in teaching. Two held administrative licenses. Most had at least a TESOL, a bilingual, or both types of professional endorsements. Three participants had direct involvement in administering district bilingual or multilingual education programing. Two participants worked as ESL teachers for Native American populations under alternative teacher licenses, where licensing was obtained through the state of New Mexico’s Public Education Department and the relevant pueblo’s governor.

Linguistically and culturally, four participants were Native Americans and fluent in the languages they were hired to teach. One Native American had familial involvement in the creation of their pueblo’s dictionary. Two Native Americans reported having used
a pueblo language dictionary for the purpose of helping Native American students visualize the syntax of their oral languages. Three participants were fluent Spanish speakers. Two of those were from local areas. One participant traced their family back to colonial days in Northern New Mexico. Three more participants identified as Caucasian, and, in one form or another, they had experienced a non-English, internationally-based, immersion program. One participant declined to state his ethnicity and culture.

In conclusion, study participants represent more than just a quota for the proposed inclusion of languages linguistics and cultures; they also represent five New Mexico public-school districts and nine public schools. Of those data collection sites, one was located in a New Mexico land grant area and two were located in rural, Puebloan, public charter schools. The rest of the school sites were located in, and representative of, a cross section of rural, suburban, and urban public-school sites in New Mexico school districts.
Table 1

ESL Teacher Participant Demographics

<table>
<thead>
<tr>
<th>Participant</th>
<th>Degree (B, M &amp;/or Admin.)</th>
<th>ELL Student Population</th>
<th>Grades Taught</th>
<th>School Type</th>
<th>Certifications &amp; Endorsements</th>
<th>Professional Development</th>
<th>Years of Practice</th>
</tr>
</thead>
<tbody>
<tr>
<td>P1</td>
<td>B Native American</td>
<td>4 Rural</td>
<td>TESOL/Bilingual</td>
<td>NA</td>
<td>20-30 years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>P2</td>
<td>M NA and Heritage</td>
<td>K Rural</td>
<td>TESOL</td>
<td>SIOP/NA</td>
<td>10-20 years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>P3</td>
<td>M NA and Heritage</td>
<td>6 Rural</td>
<td>TESOL/National Boards</td>
<td>SIOP</td>
<td>0-10 years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>P4</td>
<td>M &amp; Admin. L. Heritage</td>
<td>5 Suburban</td>
<td>Bilingual</td>
<td>NA/La Cosecha NMABE</td>
<td>10-20 years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>P5</td>
<td>M &amp; Admin. L. NA and Heritage</td>
<td>K-5 Rural</td>
<td>BMEP Director</td>
<td>La Cosecha NACS/WIDA</td>
<td>20-30 years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>P6</td>
<td>Other Native American</td>
<td>K-5 Suburban</td>
<td>Governor's &amp; State T. Cert.</td>
<td>NA</td>
<td>0-10 years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>P7</td>
<td>M Heritage &amp; NA</td>
<td>4 Suburban</td>
<td>TESOL</td>
<td>SIOP/WIDA NMTEACH</td>
<td>10-20 years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>P8</td>
<td>Other Native American</td>
<td>K-8 Rural</td>
<td>Governor &amp; State T. Cert.</td>
<td>NA</td>
<td>0-10 years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>P9</td>
<td>M Native American</td>
<td>K-5 Rural</td>
<td>Bilingual Director</td>
<td>WIDA/Bilingual, NA</td>
<td>0-10 years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>P10</td>
<td>M Native American</td>
<td>K Rural</td>
<td>TESOL</td>
<td>NA/Bilingual WIDA</td>
<td>10-20 years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>P11</td>
<td>M Heritage and NA</td>
<td>3 Urban</td>
<td>Bilingual/TESOL</td>
<td>Bilingual/SIOP GLAD</td>
<td>10-20 years</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note. B = Bachelor’s, M = Master’s, Admin. L. = Administrative License, Other = Governor & New Mexico State Teacher Certification, NA = Native American, GLAD = Guided Language Acquisition Instruction, La Cosecha = Dual Language best practices, NACS = National Association of Chicano Studies, NMABE = New Mexico Association for Bilingual Education, NMTEACH = Educator Effectiveness system, SIOP = Sheltered Instruction Observation Protocol, TESOL = Teaching English to Speakers of Other Languages, WIDA = World-Class Instructional Design and Assessment
Research Findings

Data Analyses Overview

In-depth interviews were the primary method for data collection. The audio-recorded conversations were transcribed, and data were validated via participant/researcher reviews of the transcripts. Editing and revisions of the transcripts were made collaboratively over a period of four months in the spring of 2018. Triangulation of analyses was accomplished through comparisons of participant data from the same district, through classroom observations (when contracted), and through various informal classroom visits. The themes are introduced in order of discovery. Each theme was based upon data analyses of the audio transcripts. Each level of analysis revealed commonalities as well as unique insights.

Data Analyses Results by Theme

Theme 1. Under-Identification of New Mexico’s English Language Learners.

Transcription data clearly showed that approximately 15% of New Mexico’s at-risk Hispanic and Native American ELL students are not being identified through PED policies and practices. Such identification is important because, as a whole, both groups are often linguistically and culturally distinct from each other, independent, and lacking in unity “by race and customs” (Lavish, 2006, p. 29). This is why it has been legislatively recognized that their differences require more specificity, rather than less, during identification processes. Without such specificity, Title VI of the Civil Rights Act of 1964 and subsequent federal and state mandates (New Mexico Public Education Department, 2016b, p. 5) cannot be met.
In recognition of that challenge, the New Mexico Language and Cultural Bureau (LCB), has incorporated an English Learner Toolkit for use by state education agency and local education agency (SEA and LEA) stakeholders. Designed by the Office of English Language Acquisition (OELA) in collaboration with New Mexico’s local, district-level, bilingual, and Title III directors (New Mexico Public Education Department, 2016b, pp. 4–6), the Language Usage Survey’s (LUS) intended purposes and intended uses are to:

1. Work with school officials to identify potential members of that class of students protected under federal law who are entitled to, and may benefit from, specialized instruction for English language development and language support services that help ensure full access to the academic curriculum;

2. Identify who should be assessed using the ELP [English Language Proficiency] screener (W-APT or WIDA Screener) to determine EL status; and

3. Better understand students’ language environments and use (New Mexico Public Education Department, 2016b, p. 6).

To meet those goals, those same entities revised the 2016 NMPED Language Usage Survey (LUS) Guidance Handbook (Appendix F) and its related process map in March 2018. This revised process map is presented in Figure 1. It includes the addition of six steps, which have been outlined in green, with a white background, and written in grey. The purpose of the revision is to identify ELL students and to better process needed supports.
Figure 1

2016 and 2018 Revisions of the LUS Process Map

*LOTE means Language Other Than English.
**IFEPP means Initially Fluent English Proficient.
***See W-APT and WIDA Screener Tables in the link:
http://ped.state.nm.us/ped/bilingual/docs/ServingELs/Memo-EL%20Identification_ULP%20placement_exit%20criteria%204-24-17.pdf
****RFEF means Reclassified Fluent English Proficient.


Unfortunately, as can be seen in each of the six revised sections (identified by their green borders), there appears to be a focus on the steps that should be employed after the initial LUS has been filled out. Whereas, the findings of Q1 Theme 1 suggest
that the disconnect resides at LUS step one, which had not been revisited. For example,
P2 stated:

I have only two officially identified ELLs, but I have a wide range…Hmm, I think on average, I might say that as I am a TESOL teacher, I have—now that is unidentified because that is one of my issues with how they identify TESOL children—I probably have a good 60%.

Similarly, P3 noted:

Well, it is funny because it depends on which ELL population that you are talking about. The one that is recognized by the district, or the one that I know to exist. We don’t have all students, like my Navajo students, included. I have quite a few Navajo students and they are not receiving any type of services.

   I have many, many, students in my class that I believe are true ELLs. They come from a different language than English, when they come to us. Therefore, that makes them an English language learner. I don’t understand why we don’t recognize that. It’s, it’s sad. It is sad.

When prompted to explain the cause within the identification process, P3 continued:

I am a sixth-grade teacher and that [lack of identification] is just not okay. The only way that we identify ELLs is based off of their home language survey [LUS]. I feel that they don’t give enough information out. And, so, our home language surveys are not well done.

   I have seen the PEDs. They have ones that the districts can pull from. I have seen different language surveys. Ours is just a, is there another language
spoken in the home, yes or no? What is it? That is how they are identified. So, I feel as if a lot of parents don’t know that this is so important!

When P3 was again prompted to explain why the LUS completion was “so important,” P3 commented that it was a “one shot deal.” Begging the question, is that information being communicated to its users? And if so, how are the users supported during its completion?

A review of the New Mexico Public Education Department’s LUS, showed that the LUS document is offered in three distinct formats (LUS, Appendix F). Written in English, Spanish, and Navajo, each document also appears to offer reasonable prompts for self-identification. However, it was also found that there is a glaring lack of evidence within those forms on how parents and guardians of various linguistic and cultural backgrounds, such as those coming from oral-only languages, are supported in their completion of the LUS. If, as P3 suggested, “a lot of parents” do not comprehend the importance of those forms as a “once in an educational career” opportunity (New Mexico Public Education Department, 2016b, p. 5), perhaps that is where revisions should be focused. Specifically, since, under Title VI of the Civil Rights Act of 1964 and subsequent federal and state mandates, all districts in New Mexico must screen, identify, and provide services to ELLs (New Mexico Public Education Department, 2016b, p. 5).

There are missed chances for identification, whether due to parental misunderstandings and a need for additional supports or due to simple parental choice to not identify. This theme presents a complex issue, an issue that has significant bearing on the recent State of New Mexico County of Santa Fe First Judicial District court case between Louise Martinez, et al., Plaintiffs and Wilhelmina Yazzie, et al., Plaintiffs, v.
The State of New Mexico, et al., Defendants. This case has raised “a challenge as to the adequacy of the education being provided public school students who are Native American” and “English language learners” (Yazzie/Martinez, 2018, p. 5), and if those persons have not been identified, then their needs cannot be met. For example, at a local level, one such consequence would be a deficiency in ESL staffing due to a deficit in district funding caused by an underreporting of ELL units within the funding formula calculations. Likewise, federal funding would be similarly reduced, meaning that at each level of educational policy (federal, state, and local) the error in identification compromises and compounds the overall impact. For instance, consider P4’s classroom dynamics:

The population I teach is an ELL population. I have 28 identified ELL students. Most of my students are Hispanic, some Native Americans. Some students are just in my class because they have been identified as individuals struggling with their English. Some are [Native], others are from other Native American groups, from other states, areas.

When I asked what was meant by the description “individuals struggling with their English,” P4 explained that they were students who had not been formally identified as ELLs. When I asked about the comment “other Native American groups,” P4 elaborated a bit more:

Population wise, first, if we are talking about ethnicity and their background, we are around several pueblos. You would think that it would be a higher number, but it is not a high number of Native American kids in my classroom. Most of
them are ELL, when they do come through here though, whichever population you do get.

At this specific school, they have disseminated all of the kids that are ELL into classrooms with TESOL teachers, which makes it a difficult layout, dynamic, for a class. They are all: “When you have ELL for bilingualism, it does not matter what it is, right?”

I would have to say that, in my classroom, probably 50% are actually native to Mexico, in my class.

Likewise, Native American P6 commented:

The population I teach is mostly, well, they are Native American. They are from the surrounding [Native] villages, the pueblo. But we also have Natives from other tribes or communities, from neighboring tribes, that also take [Native language] here.

In each case, P2, P3, P4, and P6, along with this study’s other participants, have linguistically and culturally under-identified ELL students on their class rosters. It follows, then, that participant assessments of those students are and have been reliant upon each of those individuals’ training and pedagogical expertise. Participant capacity to surpass inherent challenges to class resources and their willingness to meet student educational need is dependent on each individual’s support network, discretionary fund access, and overall professionalism.

Yet, if this study’s ESL teacher participants data are added to the actual number of ELL students qualified for enrollment in state multicultural, bilingual, and Title III programs, then that number would be somewhere between 13% to 15% higher than currently
reported through state data, and the majority of both Hispanic and Native American students would rest at approximately 75%.

In summary, the NMPED Language Usage Survey Guidance Handbook offers specific, effective “suggestions for communicating with parents [and] guardians” (2016a, p. 20). Perhaps, as P3 suggested, the focus could switch to communicating the importance of the initial completion of the LUS as part of that process. Those conversations, once initiated, at the very least, would help inform the next steps, such as how to best meet mandates by Judge Sarah M. Singleton’s ruling (of 7/20/2018) that by April 15, 2019 to “address the shortcomings of the current system” (Yazzie/Martinez v. the State of New Mexico et al., 2018, p. 74). Lastly, feedback from district and community conversations would support the defendants in the case with their task of taking “immediate steps to ensure that New Mexico schools have the resources necessary to give at-risk students the opportunity to obtain a uniform and sufficient education,” and the defendants would do so by creating an accountability “scheme” that measures program accountability and that offers assurance of the spending of public funds (Yazzie/Martinez v. the State of New Mexico et al., 2018, pp. 74–75).

**Theme 2. English Language Learners Require Additional First Language and Cultural Supports.** The majority of this study’s participants (73%) communicated that their ELL students are in need of increased first language and cultural supports within their classrooms. Unfortunately, this finding is historical in nature and pernicious as an issue. New Mexican educational policy has long acknowledged the importance of first language acquisition and cultural supports (Ebright et al., 2014; Getz, 1997; Sando, 1998) mostly because New Mexico ELL populations have remained quintessentially the same
over time (Lavash, 2006; Linquanti & Cook, 2013; Sando, 1998; Skandera & Pelayo, 2016). Still, over that same time, there have been multiple shifts in educational philosophies, political ideologies, and community input as to how those supports should be implemented/applied within New Mexico public schools.

For example, in 2009, the New Mexico PED, in collaboration with the WIDA Consortium, reiterated that New Mexico ELL populations bring to their classrooms “linguistic structures and cultures that are unique and diverse from those whose families speak only English in the home” (pp. 0–4). As a group, they looked at that population’s issues and proposed a redesign of the New Mexico English Language Development Standards, because, given those “attributes,” they recognized that state teachers must be able “to recognize, value, and celebrate the cultural diversities” of ELL students if they were to “provide opportunities for achieving at high linguistic and academic levels” (New Mexico Public Education Department, 2009, pp. 0–4).

That being said, the entire discussion between those involved in that redesign, over the intervening years, is outside of the scope of this study. However, in this study I address the intersections between current cumulative policy and ESL teacher pedagogy. As such, this study’s findings show that, at the very least, its ESL teacher participants “recognize, value, and celebrate the cultural diversities” of ELL students. In fact, in celebration of student culture, P4 shared:

[T]hey [Hispanic ELL students] need to know who they are, where they came from. They need to know their roots. I try to bring in that culture, their roots. I sometimes do this through music and dance. Like the dance you saw at the end of
the class period. They did not know what that, the dance, was about. Now, they are having fun and they are interested.

Furthermore, two Native American participants, P8 and P10, spoke at some length about similar experiences. P8 explained:

It is just so hard for me to teach kids that are not really knowing about, anything about language because the Pueblo peoples speak the English. Anyway, everywhere, any which way, was English. From the start even, that is how we all learn.

But we learn our language when we are small, from the parents, fluently. Everybody in the pueblo back in the 50s, 60s, it was all fluently back then. But now [sigh], it is a big learning thing what we do.

I want to make them understand Native, what we are all about. That is what comes first because they don’t really know about anything what came first.

Participant P10 concurred. In P10’s opinion, the importance of teaching and celebrating “what came first” walks hand-in-hand with a student’s capacity to acquire home language and culture. In P10’s class, Native students are not given the choice whether or not to complete all of their lessons in their home language. In P10’s class, when student X does not understand directions on how to wash their hands after using the restroom, the directive is demonstrated to match directive to meaning, oral statement to task. In P10’s class the process is repeated until a struggling student can connect action to words. In other words, in P10’s classroom the processes applied to language acquisition are philosophically opposed to the premise applied within New Mexico’s English Language Development (ELD) standards.
Let me explain. In general, New Mexican ESL teachers are tasked with basing their pedagogy of language acquisition assessments upon the philosophies contained within the ELD and World-Class Instructional Design and Assessment (WIDA) best practices (see Table 2).

**Table 2**

*Current/2019 WIDA English Language Proficiency Levels and Can-Do Descriptors*

<table>
<thead>
<tr>
<th>Level 1</th>
<th>Level 2</th>
<th>Level 3</th>
<th>Level 4</th>
<th>Level 5</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Listen</strong></td>
<td><strong>Speak</strong></td>
<td><strong>Read</strong></td>
<td><strong>Write</strong></td>
<td></td>
</tr>
<tr>
<td>Point to stated pictures, words, and phrases.</td>
<td>Name objects, people, pictures</td>
<td>Match icons and symbols to words, phrases or environmental print.</td>
<td>Label objects, pictures, and diagrams.</td>
<td></td>
</tr>
<tr>
<td>Follow one-step oral directions</td>
<td>Answer wh- questions</td>
<td>Identify concepts about print and text features.</td>
<td>Draw in response to oral directions.</td>
<td></td>
</tr>
<tr>
<td>Match oral statements to objects, figures, or illustrations.</td>
<td>Describe pictures, events, objects, people</td>
<td>Select language patterns associated with facts.</td>
<td>Produce icons, symbols, words, phrases to convey messages.</td>
<td></td>
</tr>
<tr>
<td><strong>What Can English Language Learners be Expected to Do at Level _____?</strong></td>
<td><strong>Can Do Descriptors for the Levels of English Language Proficiency</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>WIDA's English Language Proficiency Standards</strong></td>
<td><strong>Level 1</strong></td>
<td><strong>Level 2</strong></td>
<td><strong>Level 3</strong></td>
<td><strong>Level 4</strong></td>
</tr>
<tr>
<td><strong>Point to stated pictures, words, and phrases.</strong></td>
<td><strong>Sort pictures, objects, according to oral instructions.</strong></td>
<td><strong>Locate, select, order information from oral descriptions.</strong></td>
<td><strong>Compare and contrast functions, relationships from oral information.</strong></td>
<td><strong>Draw conclusions from oral information.</strong></td>
</tr>
<tr>
<td><strong>Follow one-step oral directions.</strong></td>
<td><strong>Follow two-step oral directions.</strong></td>
<td><strong>Follow multi-step oral directions.</strong></td>
<td><strong>Analyze and apply oral information.</strong></td>
<td><strong>Construct models based on oral discourse.</strong></td>
</tr>
<tr>
<td><strong>Match information from oral descriptions to objects, illustrations.</strong></td>
<td><strong>Describe processes, procedures.</strong></td>
<td><strong>Categorize or sequence oral information using pictures, objects.</strong></td>
<td><strong>Identify cause and effect from oral discourse.</strong></td>
<td><strong>Make connections from oral discourse.</strong></td>
</tr>
</tbody>
</table>
| **Note.** As presented in this table, there are five levels of can-do descriptors for English language learners. They are cross-referenced to their related receptive skills (listening, reading) and productive skills (speaking, writing). Yet, they are all based upon English language attainment rather than on home language first attainment.
Within WIDA, there is the assumption that ELL “students enter the classroom with the inherent ability to process in their home languages whether or not they receive instruction in those languages (Spanish, Native American, and others)” (World-Class Instructional Design and Assessment, 2018, pp. 4–5). Native American participant P10’s assumption is that they do not. Instead, P10 deliberately applies a two-step methodology. First, WIDA processes are used to teach ELL students their home language. Second, only after students have been given the time and opportunity to master their home language and culture are the WIDA descriptors applied to English language acquisition.

However, P10 only was able to initiate those steps to support her students because the allowances for professional discretion were provided to her by her school and through district and Puebloan Governor policy. As P10 explained:

[I make] sure that there is fun stuff, like the Butterfly Unit, that we do…[while] the different math ensures that I can incorporate things that are relevant to them. That’s what gets them to understand the words that they are hearing in language and that they are able to use it. I mean, that’s how we learned. We weren’t always in school. We weren’t given flash cards, with, well this means table, or, you know, things like that. It was, you were out there doing it. Hearing the language at the same time.

Same thing with the Butterfly Dance. They are making their own little dance skirts that the boys will wear. So, as they are doing that, they are hearing the language, the [Native] language, because they are hearing the colors. They are hearing the dance words. They are hearing the song words.
Reflecting on P10’s responses, led me to question, do similar scenarios between ESL teachers’ best practices and increased language and cultural supports exist? If so, what are they? Do the data support their application? Certainly. Research of pedagogical best practice in the Manuelito (2005) study found:

Many Indian people believe that formal education, properly applied, can advance and help them maintain their identities…many Indian people have considered formal education to be a primary force in the survival of their languages and cultures and the protector of their rights. (p. 73)

Native American participant P6 wholly agreed, stating:

I think that it [oral teaching] is an ongoing practice of our Native language and culture because they go hand-in-hand with each other. So, in terms of schooling, in American schooling, you are able to grasp what you need from there and apply it to what you teach out of your Native language and culture in the classroom.

It is important. It is important for our children to be able to learn their language and their culture and the values that are held within that space. It begins in the home and it is supported in the school.

Similarly, in Recovery and Preservation, Dr. Christine P. Sims (2006) commented:

[L]anguage is at the heart of our survival. It’s the heart of our sociocultural systems. It’s the heart of our systems of jurisprudence in governments that we had from time immemorial. Language is the means by which we pass on to our children the things essential for their socialization into the lives of our communities. It’s the link by which we pass on values and beliefs. (p. 23)
Of course, it is open for debate whether or not one should agree with P10, P6, Kathryn Manuelito (2005), and, Dr. Christine P. Sims (Recovery and Preservation, 2006), particularly if it involves a rule change to New Mexico’s BMEP and approval by stakeholders. Meanwhile, the need for increased professional discretion is not open for debate, especially given the comments made by P3, a Caucasian, and a National Board-Certified teacher who stated:

They [administrators] are not in the classroom and they are not asking us. They are not seeking our expertise. It is like the buck stops with us in our tiny self-contained classroom. Let me help you, help the kids.

[W]e need something in there for them [ELL students], to help them keep their language. Something for their own culture. Just to kind of help them to wrap their minds around their cultures, their languages.

This is a conclusion that is even more important when you consider how to stop scenarios that are still occurring in New Mexico, like an 8-year-old autistic child can be told by school officials that she could not learn her native language “because it would confuse her” (Jennings, 2020, p. 13). As the mother explained to Governor Grisham, “This has been going on for years and years and centuries with our culture. … I want her to learn who she is, where she came from, and her identity and growing up and being proud of who she is” and not that embracing her first language and culture is a burden to be avoided (Jennings, 2020, p. 13).

Consequently, what remains unresolved by this study’s findings are all the forms in which effective supports for home language acquisition and increased cultural connections can take. This is perhaps why, to quote Wilhelmina Yazzie of the
Yazzie/Martinez v. the State of New Mexico lawsuit, “progress isn’t going to be easy” because “there’s so many aspects to what we need to change from early childhood education to cultural and language relevance in all our public schools” (Mullan, 2019a, pp. A6–7). Perhaps this is also why court ordered resolutions have yet to be met.

**Theme 3. The Two Most Beneficial Post-Degree Preparation Programs are TESOL Endorsements and SIOP Trainings.** This theme is illuminating for several reasons. First, recall that, in 2000, Darling-Hammond found that there had “been little inquiry into the effects on achievement…associated with large-scale policies and institutional practices that affect the overall level of teachers’ knowledge and skills in a state or region” (p. 2). Yet in 2009, Darling-Hammond et al. discovered that American teachers’ “top priority for professional development was in the content they teach because it was the most effective to their practice, whether it was ELL specific or otherwise” (p. 6). In 2017, an *International Journal of Bilingual Education and Bilingualism* study showed “empirical evidence” that “quality PD” increased ESL teachers’ capacity “to produce higher gains in ELLs in English academic oral language proficiency and pre-literacy skills,” thereby helping to offset “initial disadvantages” (Tong et al., 2017, pp. 309–310). In 2018, Judge Singleton declared that one “impediment to recruiting and retaining teachers in schools with high at-risk populations” is in “maintaining a sufficient number of TESOL (Teachers of English to Speakers of Other Languages)-endorsed teachers” (Yazzie/Martinez v. the State of New Mexico et al., pp. 35–36). Yet, also in 2018, this study’s ESL teacher participants were discovered to have placed great value in *both* their TESOL endorsements and in SIOP trainings. For
those reasons, issues of TESOL-endorsed and effectively trained staff insufficiencies are troubling.

So, what is the disconnect? Generally speaking, most New Mexican educational professionals are offered multiple avenues and opportunities to earn TESOL endorsements or to participate in SIOP trainings (New Mexico Public Education Department, 2019). Many New Mexico ESL teachers can and do begin their educational careers having already earned TESOL endorsements or having participated in SIOP trainings. The few exceptions to such collegiate opportunities appear to involve individuals seeking licensing in early childhood, elementary, special education, and deaf and hard of hearing (New Mexico Public Education Department, 2019, p. 2). And although why those specialties are exceptions was unclear, research indicates that even those individuals have other avenues through which TESOL endorsements and SIOP trainings can be added to “existing license(s)” (New Mexico Public Education Department, 2019, p. 2).

To help illustrate what is happening and why, participants in this study were divided according to the avenues for their TESOL and SIOP training. For example, P1, P2, and P3 all reported having earned their TESOL endorsements in tandem with their educational degrees, whereas elementary teacher P7 earned a TESOL endorsement through mandatory district programing. Even then the cost for TESOL endorsement was covered by the district, professional time provided for completion, and P7 was rewarded thereafter with a yearly stipend. The result was, as P7 said, “a no-brainer,” explaining:

Our classes were small groups of teachers that got together and did everything electronically. Or, we had a booklet that we followed, videos that we had to watch
and do the work together through Easter. Then, if we had enough credits, we took the test. That is what a few of us did and how I got my TESOL.

I started using that instantly when I started working in [deletion]. I started teaching in 1999.

Moreover, having discovered the mandated TESOL endorsement to be quite valuable, P7 then chose to enroll in and pay for SIOP training during a master’s program. As P7 explained:

Managing a class and understanding the whole student is extremely important to me. That went hand-in-hand with the ELLs, for I would say an effective teacher.

In my master’s program… At the time, I had a teacher from Highlands that was from Belize. She taught me the SIOP model. Sheltered English. That is where my understanding of sheltered English came from. I absolutely loved those classes.

Not all individuals like P7 can afford to pay for either TESOL or SIOP trainings regardless of their opinion on its value to their professional practices. This is a conclusion that should not be discounted, particularly since effectivity is a state-mandated goal.

Based on international best practices for quality staff retention, Tucker (2011) advised that we should recruit “teachers from the higher ranges” (p. 208) of ability who have been trained in “high-quality, high-status universities; support them well once they are hired; offer them decent pay and work environments; and last, not least, trust them to do the right thing” (p. 208). In 2000, Darling-Hammond found a strikingly positive correlation between the training teachers receive consistently and their effectiveness in the classroom (pp. 5–6).
So, where do we stand now? In 2019, *Yazzie/Martinez v. the state of New Mexico et al.* court case, it was found that New Mexico has some of the lowest teacher wages in America (p. 35). Additionally, significant testimony indicated that there is simply “inadequate fund[ing] to adequately train teachers” across the state (*Yazzie/Martinez v. the State of New Mexico et al.*, 2018, p. 36). Some districts are so underfunded that they cannot compete for staffing resources they need even if there were sufficient numbers of effectively trained teachers (*Yazzie/Martinez v. the State of New Mexico et al.*, 2019, p. 35).

To conclude, this study’s participants represent a cross sample of ESL teachers throughout the state, their determinations of what is meaningful and effective to pedagogical supports for New Mexico state ELL populations is relevant to the issues being faced at this time and to the current relief determinations mandated by the late Judge Singleton. Those participants found both TESOL endorsements and SIOP trainings to be valuable pedagogical supports. Currently, not all New Mexico educational degrees include a TESOL-endorsement component or offer SIOP trainings. Finally, even if issues of access to those two forms of professional development trainings are addressed, there still remains additional issues of how we ensure that school districts can provide appropriate levels of compensation and real incentives for the recruitment and retention of qualified TESOL-endorsed teachers willing to commit to at-risk students in districts of high need (*Yazzie/Martinez v. the State of New Mexico et al.*, 2018, p. 35).

**Theme 4. ESL Teachers are Insufficiently Trained for Native American ELL Population Pedagogy.** The majority of the ESL teacher participants (82%), both Native American and non-Native, found that their pedagogical training for Native American
student populations was insufficient. Those participants related those insufficiencies to deficiencies in the state’s teacher degree programing, whereas, Judge Singleton (2018) found those deficiencies to be due to New Mexico PED’s failure to track or sufficiently oversee “the training given to teachers who teach ELL students” (pp. 31–32). Regardless of where the fault lies, whether within the curriculum of teacher training programs or within the New Mexico PED training program oversight, the result is that state ESL teachers of Native American students are left underprepared.

To better understand those dynamics, in New Mexico, ESL teachers are trained via three general pathways: Native American tribal programs, tribal outreach programming, and collegiate programing. Breaking those pathways down a bit further, in New Mexico there are currently four entities that provide educational degrees through Native American tribal programing: Diné College Shiprock, Navajo Technical University, Southwestern Indian Polytechnic Institute, and the Institute of American Indian Arts. Most in-state Tribal outreach programming is provided through the Native American Leadership in Education (NALE) Cohort and:

The purpose of the NALE cohort is to enable UNM COE, TEELP and the Educational Leadership Program to address specific needs within tribal and broader Native American educational leadership in New Mexico. NALE demonstrates UNM’s commitment to Indian education in tribal, rural and urban communities. Intentional curriculum and program development addresses the unique needs of communities in the P-20 pipeline while increasing the number of Native American leaders across the education spectrum in New Mexico, nationally, and internationally. (2019, p. 1)
To a lesser degree, other Tribal outreach programs originate from local Native communities in collaboration with the districts’ administrations (e.g. Navajo Nation and Gallup). Lastly, at this time, there are reportedly “27 colleges and universities with teacher degree programs in New Mexico” and “six not-for-profit teacher programs are accredited by the NCATE, TEAC, or CAEP” (Teacher Certification Degrees, 2019, p. 1).

With that information, it is illuminating to discover that none of this study’s participants had been trained through a Native American tribal program. Only two Native American participants reported earning educational certificates through tribal outreach programs. Only three participants, one Hispanic and two Caucasians, reported having participated in some form of short-term local Native American professional development programming. Instead, the majority of this study’s participants earned degrees from one or more New Mexico state college programs. Nationally speaking, Tribal college training has been shown to have a greater capacity to provide pedagogical supports to teachers of Native American ELL students than traditional collegiate programming (Manuelito, 2015).

That being the case, why are New Mexican ESL teachers of Native American students not availing themselves of the very programs that can provide the best training? Are they aware of the differences between various state programs, and how they may or may not positively impact their pedagogy? Is there an issue for non-Native involvement in Native American specific pedagogy? If so, which Native populations allow non-Native degree programming involvement? Because even within the best programs nationally, there are still issues.
So many questions remain. Yet, those questions bring us back to this study’s findings and the voice of frontline staff. For example, a Native American and district-level bilingual director, P9, offered some clarification of current pedagogical training. P9 earned a master’s degree through the University of New Mexico’s Educational Leadership Program. P9’s claim was that during that program there was very little “geared” directly towards her “teaching [of] Native American students.” In fact, P9 attributed her own increased preparedness to being able to teach an ELL population of Native American students derived from within her own pueblo, stating:

These are my people. I understand [their learning needs] because I went through the same things when I was growing up in school. I understand where they [Native students] are coming from…when they are struggling with two languages…to go to a native population elsewhere, I think that I would have wanted more professional development, or maybe a shadowing that type of…those types of…a…that tribe, that culture. Because all cultures are different.

Expanding upon that thought process a bit further, P9 explained what culturally specific training looked like to her. She did this by offering a description of her first job as an educator. According to her, even though the job was within a neighboring district’s school, teaching a different pueblo’s students and “being Native oneself was insufficient” to appropriately prepare her to meet of her student’s needs. This was an opinion that was then triangulated to a previous conversation with Native American P6, who commented:

In looking at years of practice, I think it [training] is an ongoing practice of our Native language and culture because they go hand-in-hand with each other. So, in terms of schooling, in the American schooling, you are able to grasp what you
need from there and apply it to what you teach out of your own Native language and culture in the classroom.

What is unique in New Mexico is that, if you are a fluent speaker, and you have the support of the governor, or the tribe, then they help you to become certified to teach in a school setting, to teach [that] language from kindergarten up to 12th grade.

I was able to get the support from a governor to be able to work with the students here in a school setting. It is important. It is super important for our children to be able to learn their language and their culture and the values that are held within that space. It begins at home and it is supported in the school.

It [American professional development opportunities] comes through the district. In the pueblo, no. We do not have that readily available to any of us. But it is much needed within the school. I think that it is needed to not only help to support the [Native] language, but other Keresan, Navajo, Apache, and the different dialects that are spoken.

And, I think that we can do better as a tribal people, and then within the public- school system, to be able to foster that [kind of] professional development because, right now, it is almost not happening.

Well, we are given basic, you know, K-5 elementary level professional development, in terms of generalized [American professional development], but none that is specifically directed to or focuses on [Native] language.
It would seem then that P6 is suggesting that the concept of added specificity within teacher training programming, whatever the source, is at least a part of the answer to improved training for teachers of Native American students.

To summarize this theme’s finding so far, Native American ESL teacher participants found that they benefited, or would benefit, from increased levels of specificity within their pedagogical training programs. In Native American degree programs and professional development programs they would like to see more coordination between whatever language and culture will be taught, along with an interconnectivity between the methodologies offered through American professional development programming.

But does that mean that all Native American pedagogical training should begin within and branch out from the communities themselves? If so, what might appropriate supports look like for Native Americans teaching students from other nations or non-Natives teaching Native American students? What entity or entities within the local, state, and federal government are capable of such coordinated efforts? It is not clear. What is clear, is that this study’s Native American participants involved in Native American student pedagogy are feeling underprepared and its non-Native participants are feeling even less so.

On that topic, Hispanic P1 described his ELL pedagogical training for Native American students in this fashion:

Twenty-five years of experience at this school has really been my training [chuckle]. But it is very tricky working with our Native American population because there’re some aspects that are more touchy to touch on in regards to their
home life and in regards to their traditions. And we need to be careful of what we bring into the classroom.

That’s where I think that our teachers here, our Native Americans that work at the school, are my best source of information and help with that.

But, I, I don’t feel like I was quite ready to come into a classroom made up of mainly Native American students. I mean, 99% of our students are Native American. And, I guess, if I could go back in time, my training should have been 99% on how [self-conscious laugh] to work with Native Americans.

I will be honest with you. We haven’t had a lot of training in our district or by the pueblos to help us better to meet the needs of their students. We do have, on occasion, some visitors. Maybe, mainly, interested parties. The governors come and visit the schools, but they talk to the students. They are not here to train us. And, our district, I do not think that they are willing to. I just don’t know if we have had that before. I think that that is probably a need for a school like ours.

A similar experience was described by Caucasian P4:

I have my master’s in Bilingual Education. I also prepared by taking a class on how to teach Native American students. That class taught me a lot, what things I should avoid. For example, snakes. There cannot be any snakes included in lessons for Native American students, or owls.

Like I said, I grew up believing in the wise old owl. They do not think of owls in that way. They consider them to be bad spirits. I remember a lesson that had them coloring in a picture. The picture had owls in it. The students called me over and told me that they could not color the owl. They do not want anything to
do with owl work. They do not want to think about them. There are superstitions about interacting with them. The training was offered by a Native American from one of the pueblos.

Ultimately, only one participant stood out for pedagogical preparedness, P10. Similar to other study participants, P10 earned an education degree from UNM. However, unlike other participants, P10 began her career as a teacher within her own Native American community. From the outset, a TESOL endorsement and the implementation of that program’s embedded best practices were required. In addition, P10 was involved in twice-yearly collaborations with the Head Start program around full-immersion Native American pedagogy. Those collaborations included a “rooting out” of individualized lesson plans, which was accomplished through the application of what P10 described as a seven-domain Photovoice project (Castleden et al., 2008, pp. 66, 1393–1405).

For those who are unfamiliar with Photovoice programming:

Photovoice builds on Freire’s methods of empowerment education [Freire, 2014, p. 192] with one main element being the acquisition of knowledge that the participants collectively produce by reflecting on and discussing community issues. (Budig et al., 2018, p. 1)

The Photovoice programming was developed by two research partners, Caroline Wang and Mary Ann Burris. The program’s “end goals [were] 1) to enable people to record and reflect their community’s strengths and concerns, 2) to promote critical dialogue and knowledge about important issues through small group discussions of photographs, and 3) to reach policy makers” (Burris, 1997, pp. 369–387).
Therefore, by intent and design, the application of Photovoice processes helped significantly to empower P10 as an ESL teacher by enabling her to better support her and her community’s linguistically vulnerable Native American population. It did this by helping them to “recognize” pedagogical “expertise” which, could not have been “fully realized from the outside” through more traditional programming (Castleden et al., 2008, pp. 1-2).

Perhaps most importantly, unlike what was experienced by this study’s other participants, P10’s training and professional collaborations were truly supportive of the curriculum produced and the related lessons and student assessments which came out of those processes. In contrast, P10’s assessments were based solely upon that which P10’s pueblo found to be most relevant to their own traditions, language, and culture, rather than upon what P10 described as the usual “standards, benchmarks, AYP [Adequate Yearly Progress] …all that stuff.”

Hence, there was no single answer discovered within this theme’s findings on how best to improve upon the Native American pedagogical trainings within the state of New Mexico. Instead, this study’s findings indicate that adopting a combination approach, similar to what is already in place but with an eye towards the specificity experienced by P10’s education programming model, can be recommended. That is to say, perhaps by increasing all local Native communities’ commitment to collaborations, by adding specificity into current Native American pedagogical trainings, New Mexican ESL teachers might receive results similar in nature to those shown to support P10 and P10’s ELL population. Particularly if, the new Early Childhood Education and Care
Department (ECECD) for the State of New Mexico saw fit to build into its early childhood programs similar transitions, over time.

After all, the NALE’s Early Warning Systems (EWS) are meant to provide funding matches for after- and in-school language supports to districts in need. The EWS are meant to provide teacher support initiatives and to develop and implement program models. Program models could then be geared directly towards “culturally responsive American Indian Education Training Program (AIETP) intended to increase the number and train effective and qualified teachers…who are members of New Mexico’s 22 tribes, pueblos and urban American Indian (AI) population” (New Mexico Public Education Department, 2019, pp. 3–4). As the late Judge Singleton stated, “which source is chosen” first, last, or during the process of interventions ensuring appropriate teacher training “is not as important as the end result—a system that adequately educates at-risk children” (Yazzie/Martinez v. the State of New Mexico et al., 2018, p. 58).

**Theme 5. Participants’ Focus on ELL Levels of Language Acquisition.** In total, I observed five teacher participants, three formally and two informally. In each case, participants chose to share assessments based upon language acquisition within their subjects. Specifically, all assessments observed fell under one or more of what Reyhner et al. (1999) describe as the “five levels of language acquisition” (p. 19); that is because in each observation “units called phonemes (sound units), morphemes (units of meaning), syntax (word order), usage rules (how words are used), and interpretive rules (how to tell what words mean)” were being tested (Reyhner et al., 1999, p. 19).

Just as notable to this study, I saw during those observations different complexities of language acquisition supported through pedagogy. Those supports
included not only the processes of “repeating, imitating, and practicing” highlighted, but also “the subconscious processes of making sense of language input, in purposeful communication”, so that they influenced “oral language development in both first and second language situations” (McCarty, 1988, pp. 71, 74–75). Similarly, the Improving America's Schools Act (IASA), Title VII; Part A; Section 7102 equity-minded bilingual education best practices were also highlighted, including:

(14) [T]he use of a child or youth's Native language and culture in classroom instruction can—(A) promote self-esteem and contribute to academic achievement and learning English by limited English proficient children and youth; (B) benefit English-proficient children and youth who also participate in such programs; and (C) develop our Nation's national language resources, thus promoting our Nation's competitiveness in the global economy. (United States, 1995, p. 995)

Finally, various subsets of those best practices and philosophies were particularly well expressed within the observations of P1, P2, P3, and P9’s classrooms.

To wit, in the P1 observation, a tool called the Swivl was introduced to demonstrate the capturing of “the subconscious processes of making sense of language input in purposeful communication,” such as those which “most influence oral language development in both first and second language situations” within the ELL classroom (McCarty, 1988, pp. 71, 74–75). For, unlike more traditional methods used to capture the nuances of language acquisition (projects, papers, tests, etc.) and used “to describe the increasing quality and quantity of students’ language processing” skills, the Swivl
imbued P1 with the capacity to capture subconscious processes through video and audio recordings.

For those unfamiliar with Swivl, it is a technologically advanced robot that “swivels your iPad or iPhone intelligently” to focus in on a wearable monitor (Valdeck & Adams, 2016, p. 1). In doing so, it creates an interface between the device’s recorder, a computer, and the individual wearing the monitor. That interface is thereby captured to be reviewed, reflected upon, and used for improving pedagogy.

For example, in P1’s case, the Swivl was helping to capture student-student, teacher-student, and small group conversations in real time. By doing so, the Swivl provided a whole new meaning to the vernacular checks for understanding during assessment processes. Indeed, the Swivl had switched the day-to-day dynamics within P1’s ELL classroom from what could be described as a “1-way Lecture/Textbook” process to a “2-Way Dialogue” between what was captured and the interventions produced (Reyhner et al., 1999, p. xv). At the same time, the Swivl helped provide P1 with assessment data exempt from outside subjectivity or manipulation and devoid of the usual “technofixes” criticisms (Valiquette, 1998, p. 111). In other words, by using the Swivl, P1 was not only formatively assessing the whole class, but also capturing language acquisition issues within small group dynamics. As P1 explained:

When I am working with the kids [99% Native American] we always—and I have an assistant who works with me sometimes and she is kind of doing the same thing as me—we have our targeted students that are having trouble. And they’re usually our language learners or our special-ed. students that are in our regular-ed. classroom. They’re the ones that we focus on. Although we do formative
assessments with everybody, they are the ones that we pay attention to…And those are the ones we want to target, to go around and ask a lot of questions of. And to do it in a non-, you know, we are not picking on them. It is the tricky part. We want to make it comfortable when we are asking them questions.

So, you’ll see me, or her, walk around and talk to all students. But we will spend a little bit more time with them, the students who we feel have more of a need. And, it always comes down to language in every subject. So, they are usually the same students who are targeted more throughout the day.

In the lesson you were watching, it [social studies/terminology] was a semi-new concept. So, the questions were a little bit more open-ended. I was just trying to get a feel for what the students knew and what they were understanding from the lesson. But, overall, the oral asking of questions, during a whole group lesson, is a lot different than when you are sitting down with students one-to-one or in a small group. The small group is where the magic happens. The large group is where we can get the general idea where the majority of the students are.

The device that we are talking about, that you saw in the classroom—it gives the teacher the opportunity to also just hang the microphone onto a student, so that we can get insight as to what kids are talking about when the student walks away. And that is pretty powerful for a teacher—for a teacher to go and review after the fact and to see how they taught, to see what they could have changed, how they could have used better materials, or a better type of language to teach a lesson. But also, to see and hear what students are doing in a small group, in a
different way, where kids are more prone to be themselves, like when a teacher walks away.

We are able to watch that video and listen to what they are talking about. It is amazing, you know, that as teachers we think that we do a great job at teaching, and hopefully we do most of the time. But it is interesting to hear the kids talk because sometimes we find out that they didn’t quite grasp the concept. That gives us another type of assessment we wouldn’t have had without a device like that.

In other words, for P1, pedagogical reflections on assessments and subsequent interventions have been transformed because “the subconscious processes of making sense of language input, in purposeful communication,” such as those which “most influence oral language development in both first and second language situations”, are captured (McCarty, 1988, pp. 71, 74–75).

Comparatively speaking, the P2 observation had some of the same pedagogical nuances of assessment best practices, but without the added advantage of the Swivl. This is important because, in the P2 observation, P2 was trying to remediate students’ known lack of understanding pertaining to the synonyms “longer-than” and “shorter-than.” P2 had previously assigned students’ hand-painted penguin posters. Her intention was that each student produce a penguin having slightly different bodily dimensions with the same general body components: a two-part torso of black and white, two yellow stick-like feet, and yellow squiggly head feathers. In that way, students could be tasked with comparing and contrasting each other’s work using the desired terminology.
The assessment began with all student posters laid out on the classroom floor. The students then divided the posters into a size-scaled row, “longer-than” to “shorter-than,” for display. The ensuing conversations were the captured assessments. As P2 explained:

Well, I was assessing the majority of them, but really looking at my low-level students because they tend to not use complete sentences when they are speaking. They use “bigger,” “littler,” “small”—and I was really trying to get them to use the vocabulary words “longer-than,” “shorter-than.” And so, I was really looking at my [name deletion] and [name deletion] because those are my really low-level ones. The ones I am struggling with right now.

The week before [that] assessment I had been doing a mid-module assessment for Eureka Math, and one of the requirements was: Are they [students] using the correct vocabulary? They could order things from longer to shorter, sort of. But they were saying “bigger” and “little.” “That one is big.” “That one is little” They weren’t using “longer-than” and “shorter-than.”

Their vocabulary is very limited. When I say “big,” they say, “Okay, big.” But they don’t know “majestic.” They don’t know “grand.” They don’t know “large.” They don’t have synonyms for it. They have a hard time with those synonyms.

The result of the assessment was that the two synonyms were practiced by all students, thereby enabling P2 to determine how to best help still-struggling students with the “processes of making sense of language” as she engaged them in additional “purposeful” communications (McCarty, 1988, pp. 71, 74–75).
Next, P3 provided an opportunity to observe an assessment based upon language acquisition via individual student choice. Within that assessment, it was clear that P3, a National Board-Certified, TESOL endorsed, SIOP trained ESL teacher, intentionally included several of the equity-minded bilingual education best practices listed earlier. For instance, the use of student culture via presentations on religion and religious beliefs elegantly promoted individual student “self-esteem,” which, in turn, helped to contribute to “academic achievement and learning English by limited English proficient” students. Meanwhile, the assessment also intentionally benefited the class’s “English-proficient” students (United States, 1995, p. 995). For example, during P3’s follow-up interview, she stated:

Every student was being assessed. What I was actually assessing was more their speaking and their reading abilities. They had already done, a—we focus on reading, writing, listening, and speaking, which are the four language domains. I do it with all of my students because everybody benefits. I have never seen people not benefit from it.

They had already worked on their writing...We were practicing how we were going to read it [for student presentations]. We were also trying to learn how to speak, in different formats, in different situations. Speaking during a presentation versus speaking to your teacher, speaking in different situations.

I was assessing the language domains for the most part...So, if I am doing something in history, and they have to demonstrate their knowledge, but I am assessing it through writing, they might not be able to do what they could have
done orally. I try to find different ways to, to where they are not being punished for their lack of language. That is basically what I do.

Lastly, by lack of language, P3 clarified that she was referring to English language acquisition and not to students’ home languages. Remember, P3’s goal was to support individual student “self-esteem,” and to help contribute to the “academic achievement and learning English by limited English proficient” students.

Home language acquisition assessments were observed in the P9 observation. During the P9 observation, P9 was assessing ELL students whose home language was an oral-only language. The pedagogical philosophy at play was similar in every aspect except the assessment intent was to test non-written home language skills prior to the introduction of a second, written, language. As such, even though the P9 observation was informal, the observation served to help illuminate a different set of language acquisition assessment best practices. As P9 explained:

I created an assessment because they [the state of New Mexico] wanted data right then and there. I created an assessment using their sight words…per grade level. With the sight words, I could translate into [Native language], so I had about 25 to 30 sight words per grade, and I assessed them on that. But that is also just vocabulary. So, then I started having them give me sentences using those sight words.

I am not just teaching sight words in my class. We are teaching the culture.

I created an assessment using sight words, but I don’t teach to sight words. We teach whatever is going on in the village that week. We reinforce that. We teach
them about what dances we do… and why. Why each season… we do certain
things each season. What’s relevant… what’s relevant to it. I don’t know
how… how [else] am I supposed to assess that? I don’t know.

[Because] it is for our community only. No words… When some
Governors go into office, they push for not writing the language… at all.
Sometimes my students will be like, “How do I sound it out?” When I write it,
they seem… when I write the… the phonemic spelling of it… then they can get it.
But I try not to do that. We have a lot of strong “No’s” for written. Not even a
dictionary. That’s what we struggle with “as well”… when teaching the language.
In a way you could say it might benefit us… but, in a way, if it gets out
there… then they are going to say, that’s why we don’t want to write it.

Therein lies the conundrum. Local assessment limitations for language acquisition within
the state of New Mexico, out of necessity, work to disallow complete alignment with
national standardized testing protocols in order to protect what is sacred. This means that
some funding policies, which are strictly tied to standardized testing data, cannot then
support all of New Mexico’s ELL populations equitably.

Finally, it is apparent that how language is assessed may best be determined by
how students learn, and cumulative federal, state, and local funding of assessment
policies do not currently reflect that fact. So, who gets to decide how to best capture those
processes within policy… the teacher, the community, or the state? Clearly, the recent
reauthorization through 2024 of the ESSA (2017) and the Esther Martinez Act (2019)
were nods of recognition to the vagaries of assessment policies necessary to ensure that
the shear diversity of ELL student language acquisition needs will be supported (Bryan,
2019, p. A12). Plus, the Esther Martinez Native American Languages Act of 2006 funds such language support initiatives (Public Law 109–394, 2006). So much so that, in December 2019, a New Mexican legislative delegation (including Congressman Ben Ray Luján, Congresswoman Deb Haaland, Congresswoman Xochitl Torres Small, Senator Tom Udall, and Senator Martin Heinrich) were quoted as having “praised the passage” of the Act’s reauthorization due to its capacity to “expand eligibility for those programs to smaller-sized Tribal language programs” (Haaland, 2019, p. 1). And, as Jaramillo and Johnson (2020) pointed out, true “transformation” will require engagement in “out-of-the-box thinking” such as the creation of “district and charter school equity councils”, not status quo (p. B3). That is because “school equity councils” would allow the very “type of opportunity community members have been waiting for as a first step to provide input into the creation of culturally and linguistically relevant education” for generations (Jaramillo & Johnson, 2020, p. B3).

Theme 6. Cumulative Assessments can Limit Equitability and Timely Support of ELL Students. This study’s participants agree that the types of assessments currently in use have limited capacity to equitably assess New Mexico’s ELL students in a timely fashion. Participants credited equality issues to the disconnect between standardized testing protocols and their impact on New Mexico’s ELL student populations. Participants attributed timeliness issues to data dissemination policies for recurring high-stake tests. In this section, each of those issues will be considered in turn.

First, given the importance of this theme’s issues to this study’s essential question, it is important to offer a reminder of what has been discovered or illuminated so far. For example, we now know that New Mexican ELL populations are under identified.
We know that identified ELLs are insufficiently supported (Yazzie/Martinez v. the state of New Mexico et al., 2018). We know that, as a state, New Mexico is legally required to “direct more resources to public schools” and that those resources must be earmarked “for culturally relevant curriculum and more support for students learning English as a second language” (Mullan, 2019a, p. A1). We know that, as Principal Jack Lain so eloquently points out, our state goal is not for “a maintenance program set up for Spanish speakers to transition to English,” but to provide for multiple “dual-language school[s]” that strive “to create biliteracy” (Mullan, 2019a, pp. A1, A4). We know that, in 2019, Governor Grisham initiated measures to reduce our state’s heavy reliance on PARCC testing as the main assessment protocol. Finally, we know that there are both short-term and long-term plans under The Platform for Action to ensure that the state will, “Develop and implement a plan so that all curriculum and materials across the state are culturally and linguistically relevant” (Yazzie Proposed Remedies, 2018, p. 11).

At the same time, a recent article on at-risk children reminds us that “more than 3,000 findings of fact in the Yazzie/Martinez court case puts in relief the obstacles policymakers must contend with as they seek to reform a system centuries in the making” (Jennings, 2020, p. 15). For example, the PARCC test is tied to Federal funding via the ESSA. It cannot simply be eliminated without some form of approved replacement for the assessment data it produces. Not surprisingly, in the 2019–2020 school year, the PARCC test was not replaced by the new administration; instead, it was modified by the New Mexico Public Education Department in order to have a less adverse impact on the state teachers and students implementing it. That means that, until there is an agreement between the state of New Mexico and the federal government, for an alternative
summative assessment there will continue to be an inherent disconnect. So how do we move forward?

To address the problem, P1 suggested that, perhaps,

[W]e put too much money into a couple of tests per year when we have so much other good information that the teachers see on a daily basis.

We need to find a better way to balance out our testing…to track where our students are and how they are doing…against other students and how other states are doing compared to ours. How are our students doing in our district?

How is our district doing compared to the rest of the state?

[W]hen you are comparing kids with a low-income level or who are very rural, I am not sure that it’s quite the same as if you were in a, assessing the students that are in a, from a more affluent part of the state, or who have much more educated parents in the household, or that can afford those things that our students can’t…That’s where our kids suffer here.

Recent research agrees. In 2019, the Program for International Student Assessment found that “U.S. achievement hasn’t progressed over the past decade and, for low-performing students, was the same as 30 years ago” (Barshay, 2019, p. 3). And, within that “long-term stagnation, there [was] an important change to note…inequality is growing” (Barshay, 2019, p. 3). Speaking to that finding, the associate commissioner of the National Center for Statistics, Peggy Carr, found:

[a] widening achievement gap between high- and low-performing students…[That] the inequality story [was] a nuanced one…with students at
wealthier schools posting much higher test scores than students at schools with large numbers of disadvantaged students. (Barshay, 2019, pp. 3–4)

In response, Barshay explained that, to understand what that situation looks like, you could:

Imagine five schools, each with 10 students. Students in the first school come from the poorest families and students in the fifth school come from the wealthiest. The other three schools lie between the two extremes. If you calculate the average test score for the 10 students in each school, you would see that the average test score for each rise with wealth. In the U.S., 93 points separate the average score in the poorest schools from the wealthiest. That’s about three grade levels — the difference between 10th grade achievement and 7th grade achievement. (2019, p. 1)

Similarly, P5 argues that embracing assessment policies unilaterally across all New Mexico school districts is inherently unfair to the needs of the individual communities involved because of their socioeconomic diversity. Because, from P5’s viewpoint, shoving high-stakes tests, such as PARCC and ACCESS, down the throats of districts despite the fact that those tests have repeatedly been shown to fail in their capacity to present “an accurate gauge of where [their] kids really are” is inequitable at best. New Mexico should not be allowed to utilize any specific test simply to fulfill a “quota.” Instead, in P5’s opinion, tests should be chosen with an eye towards the address of, or the meeting of, “the needs of our students.”

Piggybacking on those sentiments, P3, described high-stakes testing as “ridiculous.” P3 recommended:
We need to do pre- and post-testing to find out how much people have learned [because]…honestly, you do not know what level they [students] are at coming into the test. You can’t! How can you gauge when you are comparing apples to oranges, from one year to the next, from one teacher to another? I just don’t think that it is fair. I don’t. I don’t like it.

To truly know what they know, we should be testing them in their original language. Then they would have to provide comprehensible input, which would include exchanging ideas from one language to another. That would mean taking concrete things from one place and moving it over to another. You would have to be at a certain level to be able to do that. We just assume.

I would love to take a whole bunch of people and just speak Swahili to them. Tell them that their pay, on that day, is based upon on how well they do in whatever assignments or on whatever task I give them. However, it is going to be in a whole other language. One that they are not comfortable with, that they don’t know. They are going to be paid based upon how they do. That is how I feel that it is with our kids. I don’t think that it is fair at all. At all. I don’t like it. To assess them in English is unfair. You are not finding out how much knowledge they have. You are not really asking, what do they know? You are saying, “How can you tell me this in English?”

I think that the kids would soar. Like our Spanish-speakers, who really have the test in Spanish, or somebody there to dual-speak. Someone who allows them to say, “Okay, I need help. What is this word in English?” Some kind of help.
Of course, they are not going to pass these tests. Even the kids who have spoken English from day one can’t pass these tests. I would like to see if [the] district office could pass some of these tests. Kids feel like crap after they take these tests. They just feel terrible. It is not good for kids, to put [them] through that.

At the beginning of the year we could say, “Okay, we are going to take these tests and see what you know. Then at the end of the year, no big deal, we are just going to see what all you’ve learned. Just do your best.” And not tie all kinds of strings to the test.

But what does that mean? What are the “kinds of strings” being “tied” to high-stakes tests? Backtracking for clarification and to address this issue from an additional equity-based perspective, it can be agreed that 93 points of separation due to differing socioeconomic factors within public schools is significant by any measure. Yet, in December 2019, Dillion Mullan of the Santa Fe New Mexican reported that “some legislators overseeing state finances are growing weary of” the “court mandate to direct more school resources toward English-language learners, Native Americans, poor children and special-education students” (p. A8). In March 2020, Mullan reported that New Mexico “moves to dismiss education lawsuit…citing the two most recent legislative sessions” contributions of “hundreds of millions…earmarked for the state K–12 system” (p. A1). Yet, wouldn’t doing so serve as a dismissal of Judge Singleton’s 2018 ruling to meet New Mexico’s constitutional mandate? Wouldn’t doing so ignore the 2019 50th anniversary of the 1969 Kennedy Report which sought to “acknowledge that the classroom was a tool of assimilation for indigenous children for much of this country’s
history” (Jennings, 2020, p. 15)? Just as by doing so clearly would disregard Rep. Derrick Lente’s, D-Sandia Pueblo, opinion that:

We’ve thrown money at the problem to hope that it goes away, and yes, school districts have more money now than when the ruling came out, but I don’t think anyone buys that there has been substantial change.

The lawsuit stands for everything Hispanic kids and Native kids have been complaining about for decades and finally gave us some verification that yes, the system is not equal. To dismiss the lawsuit now sends the message that we’ve done everything that we can. We have not. (Mullan, 2020, pp. A1 & A5)

Indeed, this study’s findings and the voices of study participants, such as Hispanic P7, surely help illustrate the importance of continuing to meet that lawsuits intent. In fact, during the follow-up interview, P7 asked that the state of New Mexico consider the equitability of the state’s assessment system. P7 suggested:

If you think of a student who is an ELL, something [could] be presented, be orally assessed—a written assessment, a listening assessment, any pieces of the four modalities.

The high-stakes models of the assessments, like PARCC and WIDA, [do] not give them anything. It does not even give a true assessment model for me to be an effective teacher. Because it is just going to say that they failed.

Worse yet, as Native American P9 points out, to continue as we are now would constitute “a slap in the face for our children” because high-stakes tests have no relevance, no connection to our many state cultures, or “where our kids come from” and
offer “no understanding of what our children have to go through.” And finally, on the
topic of limited capacity to equitably assess, Caucasian P11’s opinion was:

Well, if you are talking about assessments that I am creating, then I obviously feel
as if there is more of a connection for the children using them. Talking about the
district or state assessments, then I feel like they are not fair. I just think that when
you’re, when you’re in the classroom, there are too many rules about these high-
stakes tests.

Because the technology is different from a lot of the things that we do in
class, I feel like that’s a challenge. I know that I have students who are say very,
very good in math, but they are native Spanish speakers and they are not... All the
assessments, whether it is MAPS, or PARCC, or whatever, they score like those
students, like they can’t do math at all! That has nothing to do with that at all. It is
the fact that they, the instructions and the problems on the academic vocabulary
[are] so far above the level that they are in English right now. It does not do a
very good job of showing what they know. That is truly degrading.

I have kids who are great little readers in Spanish. They are coming along
in English, but their scores on the test are never going to show what they actually
know about reading or math because they’re still building those foundational
skills in English. Especially because research says that kids need six to ten years
to learn a second language. In tests like PARCC, even third graders, if they have
been here since kindergarten, have to test only in English. That’s only giving
them four years, which is under the minimum number of years that they say that it
should take to learn a new language. I mean, with such young kids I feel like not
being able to help them, at all, in their understanding of what the directions are.

I feel like when we are talking about assessments, assessing them in both
languages so that you have an idea about, like in reading, what their fluency and
competency skills are in their Native language, is important. So that when you are
looking at the English, you are not just looking at them from a deficit model; you
are looking at them from the strengths that they bring as well.

Yeah. I feel that they [high-stakes tests] are not appropriate… I feel like,
especially in our population in New Mexico where there are so many students
who are living in poverty, who have, are living with multiple traumas, who are
speaking multiple languages, who have multiple cultures, that there are so many
things about these tests that are wrong. When students have all those other things
going on, it’s not really testing about what they know.

Looking at practice exams, for past exams, for things like PARCC and
MAPS, I think that the tests are not developmentally appropriate all the time. I
feel that they are not, definitely not, an appropriate way to teach, or assess English
language learners or special ed. students…I mean, any assessment may have some
value if it is being used just to kind of look at numbers or data.

But, what does “not developmentally appropriate all the time” mean for those
considering possible educational reform measures? How does a suggestion that PARCC
and MAPS are inappropriate assessments for state ELL students mesh with a goal
towards the minimization of assessment change and the overall footprint within New
Mexico (New Mexico Public Education Department, 2019, p. 7)? Unfortunately, it was unclear given P11’s comments.

So, to sum up the findings couched within this theme so far, study participants indicate that New Mexico assessments lack the capacity to assess equitably. Furthermore, P11 added that pedagogical “value” is being lost due to the turnaround time between certain types of testing and access to the tests’ data. The 2019 recommendations from the New Mexico Task Force for Student Success argue that, perhaps, “end-of-year, statewide, summative assessment is a small part of the larger balanced system” and that there are interim and formative assessments meant to inform short-term pedagogical steps (New Mexico Public Education Department, 2019, p. 6).

Discussing that topic, P1 pointed out:

The assessments that we use here, we get pretty quickly because we are on the computer and we are assessing monthly, as per the district assessments. And those also get turned into—my understanding is that they get turned into the state three times a year, and so those are computer based. The main ones we use are the Istation. We need an Istation math.

It is the first year we are using those [Istation assessments], so we’re on a learning curve this year with them. Then there are the PARCC scores. That one is kind of frustrating. There is a state assessment in ELA [English Language Acquisition] and in math. And then, in my grade level, the fourth-grade level, students also take the state standards-based assessment in science. The frustrating thing about that, the thing that I was trying to get to is that we don’t always get them [scores] until the next year. It would be really nice to get them a little bit
quicker or, at least, before the end of that same school year. That would be really nice.

But it is what it is right now. I guess we have to work with what we have. But that’s where if they could get it to us earlier, I think that that would help us plan better for the next year. If we get it in September, it’s a little bit too late, almost, for that first semester to really dig in and work with the data.

Sometimes, we get them in the summer. We can get on the computer, as teachers, on our summer break. We can get some access to some overall grades. But the ones that are drilled down, and we are looking at student-to-student and year-to-year, we usually don’t get that report until during the school year. So, that is obviously in September. Usually later in September. And if we had that data a little bit earlier, we could plan prior to that child even coming into the school year. That would be a big head start for our student population, or any students anywhere in the state. Not just at our school. It would have more impact on what we are doing at a teacher level with the students if we got those in a timelier fashion.

Confirming this point, P2 commented:

Most of the ones [tests] I used, I can get the data immediately. It’s Istation, Lexia, Eureka Math, because I am the one giving it, I get the data immediately. Then, of course, I make little lessons to improve understanding or I call small groups right away and I work on those skills.

I always used to argue about assessments, but without them I would not be really aware…I base my students’ English and math skills on my assessments.
We do use one that the state says is mandatory. It is called the KOT (Kindergarten Observation Tool). I do not know if you are familiar with it? We give it at the beginning of the year. It is a kindergarten observation tool. It is a lot like the assessment that pre-K does. And, so, there are several domains at the beginning of the year, and they give me so long to gather data. I dislike this test. It has no value to me, whatsoever! And, it takes, the data is immediate, but it’s not appropriate for kindergarten. Kindergarten is trying to make us about early learning social skills and the schools are trying to make us academic. We are kind of the bridge in between.

So, they have us using several tools that I just don’t agree with. And the KOT is one that I don’t agree with, which is looking at: can I jump, hop, skip? And kindergarten is looking at: do they know their letters; do they know their letters’ sounds? So, it is a hard gap to bridge when we are trying to push our kids so quickly. Kindergarten is not social anymore. It’s more academic. I go for the more social, but we are pushed to be assessed.

Kindergarten used to be: let’s learn how to play with our friends. Let’s learn how to talk to each other. Let’s problem solve. Let’s play this game and learn how to take turns in conversations. Now it’s those things, plus you have to get an 80% in AR reading. You have to get; you have to be a tier-one kid in reading to be considered proficient. It is more letter grade appropriate. They have to follow all the standards, which have been bumped up quite a bit in the last few years. But they are losing the childhood. They are losing the ability to play with
each other well. They are losing the ability to problem solve, to have good conversations, to make friends. Those kinds of skills.

See, I really am torn between two places because the kids will do whatever you ask them at this age. They will stand on their head. They will read. They will do all of these wonderful things. But they do not know how to talk to each other and they will fight. They don’t know how to share. They, uh, I am of two minds. I would like to take a step back and go back to the social skills and group settings, because when they get older, it seems as if we have more discipline problems with that. [Sad laugh.] We hold more kids back in kindergarten. I usually hold back three or four kids a year based on assessments that are reading and math.

Caucasian P2’s perspective was:

We have several assessments that we have been using. We use the CKLA [Core Knowledge Language Arts] common core assessments, which I like. They are very project oriented and vocabulary oriented. I also use Eureka math, which I like.

Then, of course, for our ELLs we have the ACCESS test. I don’t get that, for kindergarten, until January, February. And then, the first-grade teachers will get that information…I think, not until the following year. So, in May.

Therein lies the crux of the issue. According to this study’s participants, all assessments are not equal. There are often delays in receiving test results. Plus, it is not clear how the sheer diversity of mandated testing is applicable to either their pedagogical practice or to student learning. In fact, the October 2019 New Mexico Student Taskforce
Report determined that “the role and timing of assessments in relation to standards and instruction throughout” need to be revisited, stating:

We defined and described the assessment types and uses presented here in order to ensure that members had a shared understanding of assessment. While many of the conversations came back to close-to-the-classroom and in-the-moment instruction (i.e., formative assessment), it was necessary to focus the Task Force on the role of the State (and how the State can support districts) in providing relevant assessment information and communicating those results in meaningful ways. To address the charge of the Task Force, the members primarily focused on the role and uses of summative assessments—specifically, the state summative assessment for accountability—and interim assessments to support progress towards meeting requirements described by the standards, which are measured through the state summative assessments.

Statewide summative assessments are, generally, by design, backward-looking so that such assessments are unable to provide instructionally useful information for the students taking the test. On the other hand, well-aligned and well-constructed assessments can provide information to help evaluate programs and monitor academic progress over time. Therefore, summative assessments can provide information useful for improving the education of next year’s students. Thus, the Task Force spent some time discussing the role and timing and utility of both summative and interim assessments in the educational system. Recommendations for the summative and interim assessments are provided in the
This study’s participants would likely agree. For example, the statement that “such assessments are unable to provide instructionally useful information for the students taking the test” appears to negate their applicability to the goal of supporting student advancement. And as P3 commented:

The access to the results of these assessments is laughable. We use these tests to help us drive our instruction, but we don’t get our results until about November of the following year. We don’t ever—I have never seen any child’s ACCESS results, if I don’t go out and find them, if I don’t look for them in their cumulative folders. This isn’t something that is really shared, this information. And we need to know when they come into us, who are our ELL students? We do get a list. But we don’t know what tier they are in. We have no idea what is going on with them and how they did on their ACCESS test. Yet, their ACCESS test is done on a computer.

We don’t have access to it and that is terrible… I don’t find out until November how they scored. How can I rectify what I am doing, right now in real time, if I don’t get it for months, and months, and months on end?

Then when I do get it, a lot of the data are really general and just provide results on a grade level. I have to go in and specifically see, so where are my kids? Where is [my] class compared to the other teachers’? I want that information out there!
This point is important, but is this an issue only in P3’s district? Is information on ACCESS testing absent throughout all New Mexico public school districts, some districts, or just a few? Do New Mexico ESL teachers, in general, receive professional development on how to decipher ACCESS data? If so, which districts include the data and provide professional development geared towards its application to pedagogy in a timely fashion?

Uncertainty prompted the next question, “Do you receive training on how to proceed with the data… once you have the data?” P3 responded:

Well, we do, do data breakdowns. Basically, they say, “Okay, everybody’s going to be responsible for breaking down their data. How many kids did you have proficient? How many did you have that moved?” But when you have new kids every year, how do you really know how you are doing because you are comparing apples to oranges? What if you had a great group the year before? What if they had three National Boards teachers before? There are so many things that are just kind of up in the air. What if they came to me with no multiplication skills? Is that known from the PARCC? No. It just shows that they did not meet expectations under my guidance. There should be a pre and a post. That is my belief.

I like to see how my kids do. I am not scared of testing at all. I want to see. I like it. I want to see what my kids know. But testing is very, very stressful for them and it is just… I don’t know. Plus, they don’t get anything out of it. It is like, okay now we’re testing, and then we wait five months before we tell them how they did. There is not really a breakdown that says, you know how to, you need to
really work on your introductions. There is NO feedback! Instead, it is, here are the clusters. This is what you did not score well on. What parent knows how to decipher that information? It is high-stakes testing with nothing being accomplished, no feedback.

Even though we have moved to computers, we get our results less quickly now, which is bizarre. When we used to do them, we would come back in August and have our results. Now, it is November! We moved to computer-based testing. I don’t understand it. I don’t…Especially if they are true ELLs.

Does that mean that all results are distributed less quickly now that they are digitized, or just the results for P3’s district? According to the recommendations from the New Mexico State Assessment System’s Task Force, the plan is to “continue to implement online testing and support paper backups only as necessary with sufficient comparability to the online platforms” with a caveat that “the PED must address infrastructure concerns throughout the state, with a particular focus on Indian, rural, and elementary education settings” (Center for Assessment, 2019, pp. 7–9). This indicates that their priority has been, in large part, the need for “smooth transition” from paper copies to online testing (Center for Assessment, 2019, pp. 7–9). That being the case, do their determinations represent transitional change or comprehensive reform? Should the Yazzie/Martinez plaintiffs accept spokeswoman Nora Meyers Sackett’s claim that “New Mexico has complied with the spirit of the court’s order” (Mullan, 2020, p. A5)? Is it sufficient that the Task Force suggests the adoption of their recommendations when their document posts the simultaneous disclaimer that “the Task Force did not discuss specific methodologies to calculate students’ growth” (Center for Assessment, 2019, p. 7)?
According to this study’s participants, specific methodologies are a large part of the needed recommendations. ESL teacher P4 relayed the following concerns:

So, I know that we are talking about the results of the high-stakes tests, like the ACCESS test. We don’t get those results until the following school year. The same with PARCC. We don’t [get] them until the following school year.

And so, my thing with that is, if everything is computerized, I am sure that the turnaround can be faster. And I think that it would be beneficial if it were faster because that way we could use those scores to say, “Okay, this is where the child is right now. What can I do until the end of the year, in this specific area, to help this individual?”

If those scores were received in a timely manner, it would give teachers a chance to focus on areas of need while they are still in that grade. This will allow students to be better prepared for the following grade, not to mention grades further down the line.

According to P7, there are some issues with multiple tests and the methodologies used to calculate students’ growth:

ACCESS is given and PARCC. We did start a new short cycle assessment which is Previ. It is supposed to be like the PARCC, which does not give us any feedback. It does not tie things down to many levels. It’s very hard to use. The format is like the PARCC. The format of the testing is like the PARCC. The feedback that you can get back does not help us at all.

What we have learned about the Previ Learn is that each test is completely different and so you are not comparing apples to apples when you want to look at
growth. For example, if you are wanting to look at growth to see what you want to teach to be more effective, it’s not helping. That means that although we do have access to the results, we don’t have help to disseminate the information.

The PARCC, we don’t get that until the summer. Right? So, that doesn’t help us one bit. The ACCESS, they take a long time. I have not seen it. Usually, it takes a long time. Imagine, I am worried as we get towards the end of the year and I have not had results for the kids that I have had tested this year. I don’t know if they have improved, if they have exited yet…It [the uncertainty] just keeps on going.

That isn’t what we experience with PARCC and WIDA, for the ELL students. WIDA doesn’t come back until the end of May, and PARCC testing will not even come back until after the summer. We won’t even know. We are wondering, “How did my kids do? Did all that work pay off this year? All that wording?” We don’t know until we come back in the fall of the following school [year]. By then, have we had enough time to tweak our lesson plans? No. Probably not.

Finally, on the topic of assessment equity and timeliness of data dissemination, it can be summarized that similar perspectives were presented throughout all participant transcripts. So, even though parallels can be drawn between this 2018 study’s findings, the conclusions of how to build multicultural and equitable foundations for assessment through the Yazzie/Martinez Transform Education NM Platform for Action in December of 2018 and the coinciding recommendations offered by the New Mexico State Assessment System’s 2019 Task Force, they are by no means in lockstep with their
visions of how to move forward. In fact, as a state, we are still lacking a comprehensive consensus on how best to meet a goal of culturally responsive (New Mexico Public Education Department, 2019) assessments or on how best to meet “linguistic and academic needs of Native American, Hispanic, [and] English language learners” (Yazzie Proposed Remedies, 2018, p. 1). And given the differences between Phase 1 and Phase 2 offered by the state’s 2019 Task Force Report and the Yazzie/Martinez plaintiffs’ 2018 short-term plan and long-term plan, it might be concluded that there remains ample support to the claim that “now is not the time to turn back” on the court-ordered “watchdog” holding the “state’s feet to the fire” (McKinney et al., 2020, p. A11).

**Theme 7. Technological Resources and Linguistic and Cultural Support**

**Materials are Needed at all Levels of ELL Assessment.** This study’s participants reported that increases in technological resources and linguistic and cultural support materials are needed at all levels of ELL assessment. Research indicated that those insufficiencies are directly related to allowances for district requirement waivers due to systemic educational “funding constraints,” which resulted in a steady decrease in instructional materials over a ten-year period from 2009 to 2019 (Singleton, 2018, p. 19). Court evidence indicated that those insufficiencies are not about the “adequacy of facilities” or a “case about pencils, desks, or chairs,” but due to an overall lack of “consideration of inputs on instrumentalities such as instructional materials and computer access” (Yazzie/Martinez v. the State of New Mexico et al., 2018, p. 26). As of 2018, the levels of instrumental materials in New Mexico were incapable of addressing the “most critical input—the quality of teaching” (Yazzie/Martinez v. the State of New Mexico et al., 2018, p. 26).
On that topic, P5 suggested:

What needs to happen is that they [legislators] need to go to the people in the trenches and find out what the needs are, instead of assuming what those needs are. I know that a lot of—especially for Northern New Mexico and a lot of Southwest states—a lot of, a lot of, hmmm, how would I put it? It is just crazy, but its, its, we just need to empower people. That is what we need.

But if that is true, the questions are:

1. Who, exactly, needs to be empowered to allow the situation of “critical input” towards the “quality of teaching” to be addressed (Yazzie/Martinez v. the State of New Mexico et al., 2018, p. 26)?
2. Should that proposed empowerment only be provided to state teachers or should support staff be included?
3. Once “who” is determined, at what level or in what form(s) might empowerment be provided?

From P5’s statement, the suggested level of empowerment for people is unclear. However, as this theme’s findings unfolded, other participants helped to clarify what empowerment might look like. For instance, from P10’s viewpoint, empowerment of people would include the input of New Mexico ESL teachers on how to apply bilingual grant money:

I know that we get money through our bilingual grant…The money that is given through that pot, how we spend it, is restricted. There are a lot of restrictions where we can’t buy what we really want to buy, like bringing in a community member to be here for the month, or whatever, to do either storytelling, traditional
storytelling, or to teach our older grades how to do the traditional embroidery. That money cannot be spent that way…We don’t need paper. We don’t need markers. We don’t need that. We need different materials, like leather, to buy those things and to come in and have the kids make drums, or rattles, or…things like that. We need people, bodies.

But again, which people are needed? People as an instrumental resource in education are already recognized. It is already assumed that people are innately tied to any public education funding system, no matter whether that involvement is within brick-and-mortar schooling or through some form of distant learning program. The difference between P10’s request and the norm appears to be that P10’s opinion is premised upon a desire for culturally relevant individuals rather than systemic decreases in professionally relevant staffing.

Fortunately, given the need, community support is not a new premise. The Indian Education Act’s (2003) expectations include “culturally” relevant education policy that would be “produced through the cooperation of the schools and the tribal communities” (Singleton, 2018, p. 28). It is just a matter of compliance that the “goal has not been realized in most of the districts with significant Native American populations” within New Mexico (Yazzie-Martinez v. the State of New Mexico et al., 2018, p. 28).

Indeed, P9 described the conundrum:

My biggest wish is that we had more community involvement. But we would have to have the money to pay for everybody and they would have to go through the CRC [Cluster Resource Centre] process to get a number. I would love to have parents come in and do cooking with us.
It would be nice if they could volunteer, but if they have to take off work and be here to teach our students, then, of course, I would want to compensate them. I would also like people who know the history to come in and teach our children. I would really need support with community involvement, how to pay them.

Empowerment in that case might mean building on the idea that appropriate instrumentation may need independence from preconceived labeling of tools. For instance, in addition to people, instruments might provide teachers the option to adopt linguistic specific community cultural tools. P6 explained:

I have always had the idea of developing a [Native] app that we could download onto our phones, or iPads, or computers that could only be used by the [Native] children that would include games, matching, that would be beneficial. I’d try to incorporate multimedia, film, movies, reading, just everything. Hands on. A lot of hands on activity. I think that if we were able to develop something that would match where our young people are today with technology, it would help to maintain our language. We could develop an app or something that could be readily accessible to them.

On the other hand, empowerment might just mean a return to pervious levels of individual choice. One study participant commented that prior to the mid 2000’s, staff often had departmental funds as well as enough leeway to choose how to spend those funds yearly on their classrooms (Personal conversation, September, 2019). In this case, P6 would be able to choose a linguistical specific tool, or perhaps even create one,
whereas P4 would be capable of researching and then adopting a more generalized translation tool, such as the one described below:

With my ELLs, I think one thing that would be helpful to them is to have someone say the words in English. I know, with some of them, they just have to constantly hear the English language because they just don’t know how to pronounce words. I think that if they had access to something that would read everything to them, so that they could hear it, at least hear it once, then we could kind of go from there. They would have an idea, “Okay. This is what this word is supposed to sound like. This is what this word is.”

I am not saying, give them a crutch; just give them another tool, to help them at the beginning. Then we can take it away when they can do it on their own.

It would be good if there was something that they could access at home. Something that, that they could take home with them. Because I know that some of the families of my students, they speak nothing but Spanish. That’s it. So, it is up to the child, when they get home, to say, “This is what I need to do.” And, a lot of times, it just doesn’t translate. It just doesn’t work out.

I think that if there were something that the child could take home, a device, or something that could say, “Remember in class this is what we did. This is how we did it.”

Something that does not require Internet, preferably, because I know that not everyone has access to the Internet. Something like that.
Piggybacking on the concept of technology as a self-empowerment tool, P1 pointed out that:

[T]here are items out there that would help. And, of course, the computer-based learning is so good now-a-days. The learning software that is out there…if we could get computers that were adequate enough and money to subscribe to these teaching tools—like the other parts of Istation that we don’t currently subscribe to—that are individualized learning.

We are almost at a point where, in my opinion, in education, where we need to change roles, as teachers, to—especially with certain populations that need more practice and more relearning of topics from prior years—be on an individualized basis. As a person, that is hard to do with 23 kids, 24 kids, but the computer does it seamlessly. The computer doesn’t get mad. The computer is patient and it does things over and over again, in a fun way, for kids to learn. If we can tag-team with the computer and an adult, in that child’s learning, I think that it is much more productive than just a teacher trying to meet all of their needs.

Even though P1 makes a valid point, can it be said that if a district, or in this case a teacher, sees significant benefits to the application of instrumentation, then it is a viable course of action? Certainly, the ability to choose instrumentation would be welcomed by many. However, there is a lot more to the issue than that. Federal, state, and local policy must be supportable through documentation, not just assurances that the monies provided have been well spent. In other words, accountability involves balance. For example, P1
suggested an increase in ELL student interactions with computers. He supported this recommendation by pointing out that:

There is software out there: IEXCEL, which is a paid software that you can buy, the Istation that I just mentioned, and there are several others—I am just not thinking of them right now—that are really good, that are standards-based, that have libraries of topics for students to choose from and they can go at their own pace. It attracts them. It can report back to a parent or a teacher on how students are doing. I think that computers are going to play more of a role in a school like ours, if we could ever get the funding. Which, I don’t think will probably ever happen in my time as a teacher. I hope that it happens afterwards. Maybe we will get lucky…The one negative on us here is that our Internet does not support that…We were able to get the hardware, but our infrastructure just does not allow us to run the main app[s] on our Internet.

So, it’s kind of odd to say, but a teacher actually has to run out to her car and get it set up with her Internet—Internet that she has in her car, [Internet] [t]hat she pays for. And then we bring it back into the building to use. Then, if we need to upload video or to send it to somebody, we need to run back out to the car again, upload from that car that has Internet, from that teacher’s personal car, and then we can use it at that point. You know, that technology is continuously changing, and, without the money, we are not going to change with it.

And therein lies the rub. Even if the “most critical input—the quality of teaching” can be significantly supported by supplying specific instruments, there are still
appropriations concerns given New Mexico state and federal funding streams (Yazzie/Martinez v. the State of New Mexico et al., 2018, p. 26).

For instance, in November 2019, the New Mexico Legislative Finance Committee reviewed programming for funding, oversight, and coordination of New Mexico’s broadband within their report #19-05. During that process, they acknowledged: “access to reliable high-speed internet is a necessity for full participation in society” (New Mexico Legislative Finance Committee, 2019, p. 4). The problem was that the term “broadband” had multiple connotations: wireline networks (digital subscriber lines, cable internet, and fiber-optic) and wireless networks (fixed, mobile, and satellite). This extended definition factored into what an influx of “over $300 million in federal and state broadband investment since FY15” would be able to provide to the communities of New Mexico (State of New Mexico New Mexico Legislative Finance Committee, 2019, p. 1). The New Mexico Legislative Finance Committee programming recommended that:

- No fewer than four state agencies [act to] implement different parts of the state’s broadband system.
- Concerted state-level efforts [must] help identify and fill gaps in service and funding.
- The Department of Information Technology’s Office of Broadband has not been adequately staffed or resourced for effective statewide coordination, and past efforts at coordination have not survived across administrations. (State of New Mexico New Mexico Legislative Finance Committee, 2019, p. 1)
Therefore, even if P7 is not wrong to promote a free online program called EPIC books, the difficulty might not be what he understands it to be when he stated:

The difficulty is not having enough Chromebooks. To get on and to have reading time… I need more. I have four or five of them. We pass them around. I usually use them to do EPIC. I can use them for my ELL or SPED kids to help to try and promote non-reader stuff.

At the same time, all of these kids, if they are able to get onto the computer at any time or onto any [of] the Chromebooks, they can get onto EPIC, and they have a book on their save, they can read chapters of it. They can go back into their own account. They have their own password. It is a little Avatar. They get points for doing it.

Each class has four or five [Chromebooks]. We have five in our class, but then we have a Chromebook cart that has 26 that we rotate. But I won’t see it for five to six weeks. It is a difficulty. We do have computer lab once a week. However, I have it on Fridays, so guess what? I have not had time in the computer lab for six weeks because there has been Friday stuff. Where on Fridays there are days off, testing, so the computer lab is taken. My students, which really need the computers, have not had it. That puts them at a disadvantage.

Oh, and parents. The EPIC, they can buy it if they want. It is not too much. It is like seven dollars a month. I have shared that with the parents. There are a couple who have bought it…I wish that I could pay for them all to have it. It is not a lot when you think about it, but then they also have to have six or seven dollars at home.
Nor may it be that some families do not have six or seven dollars to spend. Instead, it might be that those families must make their decision for completely different reasons, like a lack of access to the Internet.

Consequently, even though participants, such as P7, envision the adoption of technology to ensure that communities and students be brought together, that might not be possible due to outside challenges. As P10 pointed out, “the Internet we have here is [intermittent]; we have it one day and then we don’t. Just like any rural area.” This indicates that only once connectivity issues have been resolved, can suggestions for instrumentation become the focus of policy reform.

Clearly, leveraging empowerment in the case of P10 might require joint commitments, such as ones that could be “produced through the cooperation of the schools and the tribal communities” (Yazzie/Martinez v. the State of New Mexico et al., 2018, p. 28). In that case, the scenario P10 described next would be possible:

I also asked for a camera because next year I want to do community projects. Community service projects, like having my kids partner with either upper grades, to go out and maybe do an interview with the Elder Program. Ask them, what would you like? Different ways, where our school can make our community a better place to live. Whether it is setting up recycle bins for the community, or cleaning before a feast day, or after a feast day, or putting up speed limit signs. Or, things that will keep our community safe.

Microphones, so that we can do interviews with each other, before, just within the classroom. Oh man, I wish I had a microphone, so that they could
interview each other. Just have that experience, you know, of what an actual interview is and have that microphone and be able to interview somebody.

The laptop would also be used to upload and then to do a real simple slideshow.

Hmm, what do you call it? The projector. What do you call it? Those school pull down screens? Those would be nice too. Yeah. None of our classrooms have that. I mean I don’t. I have to put a white paper up. I used to put it up there [indicating a spot on the wall]. Then I put other stuff up there. Now I use a white sheet of paper. That is a big pain. Um-hmm. A lot of technology.

In contrast to the last three participants, empowerment from Caucasian ESL teacher P11’s viewpoint would bring the theme’s focus back to linguistic and cultural instrumentals in the form of bilingual materials. As P11 explained:

In not thinking so much about assessments, but in terms of an instrument, I know when I was working, teaching in English and Spanish, we did not provide adequate materials for bilingual classes here. For example, if they are asking you to do a dual-language classroom, and the outcome is supposed to be that kids come out of the classroom bilingual and biliterate, but they only give you an English set of books. They only give you an English library. They only give you the basal readers, everything, workbooks, whatever, everything is in English. And the same with math. They want the kids to be able to explain their math in both languages, but you only get the math books in English.

That was always a big problem because then the bilingual teachers spend so much time trying to find other resources. Whether it is on the Internet, or from
some of the teachers from Mexico who come and bring books from their country, it is not enough. I feel like, if the district is saying that they support having bilingual programs, then they should provide equal materials in English and in Spanish. Like with the technology programs. Istation. We have Istation reading and math. Besides the assessment, it comes with a really good program that the kids can do. Where, after they take the test, if they work on the Istation program it provides games and activities on their level.

I can see, because I have special ed., that they have letters floating around on the computer. It says, “Click on the C.” You know? Then, I have kids that are gifted. I look over and they are reading like a sixth-grade level text and answering questions about it. They have that for math as well. Where, after they take their assessment, they can do games and activities on that level. But that is not available in Spanish…only the reading part has some things available in Spanish.

In other words, P11’s comments support the claim that insufficiencies are due to an overall lack of “consideration of inputs on instrumentalities such as instructional materials and computer access” and that the levels of instrumental materials are incapable of addressing the “most critical input-the quality of teaching” (Yazzie/Martinez v. the State of New Mexico et al., 2018, p. 26).

To conclude, this study found that there is ample support for participants’ claims. There is a need for increased funding for technological resources, particularly in the form of linguistic and cultural support materials at all levels of ELL assessment. Legal funding constraints are not “a defense to providing constitutional rights” for adversely impacting the materials needs of New Mexico’s ELL students (Yazzie/Martinez v. the State of New
Lastly, empowerment of state ESL teachers so as to allow for critical inputs could positively impact their quality of teaching.

**Theme 8. New Mexico Educational Policy Fails Accountability in Insuring Appropriate Levels of Qualified ESL Teaching Staff.** Study participants indicated that New Mexico educational policy does not ensure appropriate levels of qualified ESL teaching staff. Deficiencies in educational staffing for New Mexico public schools are well known (Mullan, 2019a; Mullan, 2020; Yazzie/Martinez v. the State of New Mexico et al., 2018; Yazzie Proposed Remedies, 2019). Infrastructure is not in place to provide accountability ensuring appropriate numbers of qualified teaching staff through existing federal and state funding streams (Mullan, 2020, pp. A1 & A4). Therefore, transparency related to accountability is missing. In 2020, Senator Jacob Candelaria pointed out:

> School districts get extra dollars for at-risk services but cannot tell the Legislature how they are spent… If a district is shortchanging at-risk students in their budget, that’s a significant issue…How [can] we gauge education reform if we don’t know where the money is going? …I fear the state is getting trapped in a death spiral when it comes to the Martinez/Yazzie litigation…Plaintiffs come to the legislature and say education is being underfunded, but we can’t say exactly where and how they’re underfunded. (Mullan, 2020, pp. A1 & A4)

That is troublesome. After all, the amount of federal and state monies provided towards ESL teacher staffing is significant. Somewhere, between appropriations and intended impact, funding streams go awry.
This study’s participants help to shed light on dispersion issues. In the case of P5, he spoke directly to Bilingual education funding streams by focusing on a comparison with the Individuals with Disabilities Education Act Part B (IDEA B). He explained:

Like I said, I gave up on politics a while back, but I do think that it gets back to, if we are going to talk the talk, we need to walk the walk. If we are going to acknowledge the fact that bilingual education, whether it is Spanish, Tiwa, German, whatever it is, if we are going to toot our horn and say that New Mexico is a bilingual state, then we have to create a model bilingual system.

I think that lawmakers need to go back and look at how we are going to make these things equitable for everyone. I am saying that I don’t think that there is anything out there right now that promotes that.

I think that the only way that we are going to get to a point like that is where you do have your Enlaces, you have your different organizations, whether it be a Native American, or whatever it may be. We have to put our own agendas aside and we have to come together as a body to push for equality when it comes to all these languages and cultures that are out there.

That is the key. I mean policy is policy, but if you don’t follow it, then what good is it? I think that the state did a horrible job! And I don’t know if [it] goes past the state. That is, when there was a bilingual initiative, they didn’t do it the way they did IDEA B. IDEA B made sure that the funding was separated and said that you could only use this for special education.

Somewhere down the line the state should have come in and said bilingual money can only be used for bilingual purposes. What they didn’t do is that they
did not put that guideline on there. Districts came in—and this is what I think is
the main problem to it all—is that they took all that money and they threw it into
operational, to pay a little here, a little there. Now we are using it as a piggy bank
to help us make from one year to the next.

To pay teachers’ salaries. Yeah, we are paying teachers who are
bilingually endorsed, but with what? I think that if they had separated it and said
this is your pot; you can hire a bilingual teacher from here. But that bilingual must
be a resource teacher for the elementary school. That money is used for that
purpose, for materials, for curriculum, or whatever we need to provide a
legitimate bilingual program to our kids. But it was not done. What happens is
that the money came in and we threw it into operational and to hell with bilingual
education.

It’s minimal. It’s not like all the funding we have for all the other stuff.
But knowing the fact that we could only use that money for bilingual purposes
might keep us on the right track in providing the instruction that we need for our
kids.

Yes. I believe that it is minimal. In all the districts that I have been in, and
I have been with [deleted], I have been with [deleted]. [District name] does not
have a bilingual program because it’s predominantly Anglos, so they don’t see a
need for it. As a matter of fact, they don’t even have any funding coming through
for ELL students. There is a big injustice going on in [District name] because
there are a lot of Mexican nationals there.
I have been with [deleted]. I have been with [deleted]. I started off in [deleted] in [deleted]. But out of all the places—because I was at [deleted] my first year here—all of the schools that I have been in do the same exact thing. They get that bilingual money, throw it into operational, and then it disappears. And if we meet the needs for bilingual kids, fine, and if we don’t? It has just been an issue of using that money for survival.

It all ties back to even the funding formula and everything else. There just is not enough money to go around. Unfortunately, when we do have money for a bilingual program, districts are not held accountable to use it for that. Still, districts feeling pressured into manipulating bilingual funding streams for survival as compared to districts that manipulate funds because of a lack of accountability are two different issues altogether. The first may be helped through proper funding of our state school districts, eliminating the need to rob Peter to pay Paul. The second will require legislative policy ensuring accountability.

For example, consider the ongoing legislative debate regarding the distributions of millions of dollars from the federal Impact Aid Program. On one hand, those funds are earmarked by the federal government only to support “public schools in communities with large parcels of tribal land, national forests, military bases or other types of federal lands, which are exempt from property taxes” (Nott, 2020, p. A5). That is an important distinction because districts that fall into one or more of those categories, such as New Mexico’s Gallup-McKinley County Schools, know that there continues to be “a dire, dire need” for that funding (Nott, 2020, p. A6). They know that without the funding it will be extremely difficult “to attract and retain teachers” because to do so they will have to be
able to provide “teacher housing” (Nott, 2020, p. A7). Conversely, other districts have simply become accustomed to receiving a percentage of those funds as an integral part of their budget from New Mexico’s educational funding formula whether they should be or not (Nott, 2020, p. A7). So, who is right? Who is wrong? The debate continues, as insufficiencies cannot accurately be determined if there are not direct lines between appropriations and their intended impact goal.

One outcome of continued debate is that the discrepancies caused by funding stream issues will persist if not addressed. Indeed, lack of funding led Española’s school board to call the current “644 openings around the state” for all types of teachers (Jennings, 2020, p. 14) a “public health emergency” (Associated Press, 2020, A9) because districts cannot fill their classrooms with educators, qualified or otherwise. As participant P4 pointed out, the immediacy of that struggle is real:

Hmm. I am thinking. I am thinking in terms of my ELLs and this goes back to kind of to the beginning when we were talking. I know the policy, which says that they have to be, the instruction has to be done by a very highly qualified teacher. I completely agree. I get it. But I think we must go back to the fact that something must be done to ensure that we get more teachers that are highly qualified in that area.

Like I said, for that area! It should not be about pulling the kids out. It is about keeping them in, in their regular classrooms. It would be better to bring the program to them, where they are. I think by just providing inclusion, through providing more very qualified teachers, that would be my biggest one [policy recommendation].
I know that the teachers have to be qualified. I know that they have to have certain endorsements. What can be done to encourage teachers to get that endorsement?

What can? I don’t know what districts can do to, what can be done even federally, what can be done to bring in more teachers to service this population?

I mean, for example, there is only one of me for 28 of them [ELLs] in fifth grade. I have to, I have to question myself sometimes. You know? Am I really doing them any justice? Because I have them for about 45 minutes a day.

Participant P4’s comments are troubling. For, the question has to be asked, how is it that New Mexico, a state which built bilingualism into its constitution, has arrived at the unenviable place where the best that can be offered students requiring bilingual support is a mere “45 minutes a day?” Without an influx of qualified educators, can the “45 minutes a day” scenario be transformed to reflect true bilingual programing?

In P6’s opinion, true bilingual programing cannot be provided unless and until “appropriate action to overcome language barriers” is met through education reform (Singleton, 2018, p. 2). In fact, P6 was quite adamant in her comment:

It would be nice to have a little help! We could have more teachers or an assistant. The fourth and fifth grades might be able to have their own [Native] teacher. Their own person, so that way someone is focused on elementary, someone is focused on intermediate, and someone’s focused on high school.

At the time of the conversation, P6 described feeling overwhelmed by being tasked with overseeing all three. Plainly put, assigned tasks had surpassed P6’s capacity to meet them. And it can be deduced that the participants in this study who reported the same
professional challenges require help. Specifically, they require the help from qualified peers.

Ultimately, and in conclusion, Gideonse (1993) postulated on this topic, stating: As long as school systems are permitted to hire under-prepared teachers through the mechanism of emergency certificates and their equivalent, teacher preparation institutions and the faculty in them will have reduced incentives to maintain standards by preventing the advancement of the marginally qualified to licensure. All the hype in the world about raised standards and performance-based licensure is meaningless absent a real incentive working on school districts to recruit the qualified through salary and improved conditions of practice, rather than being allowed to redefine the available as qualified. (p. 404)

How we as a state choose to switch those same dynamics will take some significant consideration, and, according to this study’s findings, it will take collaboration. Not the least of which will entail a second or third look at our cumulative funding streams for public education staffing.

**Theme 9. Cumulative Summative Assessment Policies Can Negatively Impact Teacher Pedagogy.** Eighty percent of study participants claimed that cumulative federal and state summative assessment policies impact them the most in the classroom. This theme focuses on summative assessment impact on ESL teacher pedagogy and New Mexico’s teacher evaluation system (New Mexico Public Education Department, 2019, p. 21). At the same time, the discussion of these findings acknowledge that, between the spring and early summer of 2018 and January 1, 2019, significant changes were instituted
within the policies of both summative assessment (PARCC) and teacher evaluation. For example, in late spring of 2018, P11 reflected:

I will admit that I am not the most up-to-date on all the policies… And I don’t feel that I know 100% what goes on behind [the] scenes with policies, but I would say that the one [answer] I had written down is the evaluation system. Just because I know, for myself and for a lot of other teachers who deliberately chose to be in a school where they can work with lower income students or ELL, if you are choosing to be in a school like that because you feel like that is where you can do the most good, to then have your evaluation system completely based on tests that are inappropriate to the students you teaching is really difficult.

I would say that there are years that I scored; I forget how they? Okay. There are years where I have scored effective. There are years where I have scored ineffective. And even with all fives from my own principal and fours and fives from my visiting principal. Not missing a single day of work in three or four years and having good student surveys. Just the student PARCC scores have been enough to bring my score down.

I know for myself, especially being a teacher who is always doing the most I can for my classroom and my students and to further myself in my education and to be the most excellent teacher that I can be, that system, that assessment, is super, super hurtful! There are pieces of it that make you, as a teacher, want to leave teaching. Especially when they tie money to it, or awards to it.
The way that the public understands that system? For example, we left a school board meeting the other night talking about potentially closing our school over the next few years. One of the school board members made a comment about how he wishes all of the schools in [name deletion] could be like, and he named a certain school that is very, very white; that is very, very affluent; that has very, very educated parents; that even a school board member would feel that those tests scores were actually a measure of what was happening educationally with the schools in terms of the quality of teaching, or the quality of learning. That was happening? That they wouldn’t even think for a second about all of the other factors? About the fact that about a quarter of my students have a parent in jail? That a quarter of my students have parents with drug problems? That half of my students are just barely learning English? That I have kids who don’t have enough food to eat? That don’t have electricity on at home? That have lost multiple caregivers and are being raised by an aunt, after losing parents, after losing grandparents, and getting moved from here and there and everywhere? That’s the way I am being evaluated as an educator, on their test scores?

The year that I did score ineffective I had about 20 kids in my class. They had, for my reading test, they had me with only four students. I don’t know who the four students were. I don’t know if they were even my four students. But, like, they only had four and I had 20.

For math, they had me with 40 students, which I certainly did not have 40 students. I don’t know who the 40 students were. I don’t know if any of them
were my students. But the thing is, it doesn’t even matter because are my students ever going to score phenomenally on the test? No.

But what I think the problem is, is that once the district starts to tie money and awards, esteem and prestige into that, there are teachers who leave the profession, totally, to do something else. Whatever else. Like social work, if they really want to work with lower income populations, but don’t want [to be] judge[d] with these sets of assessments.

There are teachers, who are really good teachers, who might leave our lower income school and go teach at a higher income school, so that they can get those bonuses, or get that esteem, or get that praise from someone like [name deleted], or whatever. There are teachers who have lost a lot of faith in the systems. And with the school grades as well? I feel like. This whole school gets a D. This whole school gets an F. And it doesn’t matter how many good teachers there are, or how hard everyone is working, or how many gains the kids are making. Because they are actually making them. That to me is the worst policy.

Similarly distressed with the policies in place in 2018, particularly the impact of tying summative assessment results to teacher evaluations, P5 said:

I think that exams like that, they have taken away from the teaching culture. We don’t have the ability to just teach. My opinion, and it is strictly my opinion, and someday maybe I will write a book about it, the missing element in education—and I think that everybody knows about it, but no one chooses to address it—is common sense. Common sense is lacking. We have to do what is in the best interest of our kids. High-stakes testing, I see no value to it. What it is doing is
causing our teachers and our administrators, causing all of us to test, to teach
towards the test. We are all just a bunch of robots now.

The sad part about it is that they are trying to hold teachers accountable for
that test, and what it is doing is it is bringing teacher morale way down. I can see
it in my building. All of my highly effective teachers are usually K, first, second
[grade teachers]. But you start from third and up, now you are starting to see
minimally effective and ineffective teachers. Because they…the data that is being
attached to their evaluation, number one, it’s probably not correct. Number two,
the curriculum, and even the short cycle assessments that we use, aren’t aligned to
PARCC data, to the PARCC test.

And then it’s like you are just shooting in the dark. You don’t know what
you are hitting. One of the things I want to do…in this coming year…is that I
want to…and I think that has been done in the past, but I want to explore the fact
of… let’s align our curriculum and make sure that we are meeting…you know,
teaching the standards that we need to teach at each grade level. And then have
that discussion with the next…the next level teacher and find out what are the
needs that…that they have that maybe we are not teaching at Kinder. What do we
need to teach, so that they are ready at second [grade]? I mean for first and from
first to second [grade] And then as we get up into middle and high school. I think
that all the arrows need to be pointing in the same direction. Not some this way,
some that way. I just really think that, and that’s one of the reasons that I am
contemplating getting out of education next year, is that I just don’t see it as
getting any better. I, I don’t see it.
One of our biggest issues is, one of our teachers, and you could go in and observe her class and you would see that she is a model teacher. She is an excellent teacher. She is up there in everything that she does. She came back as minimally effective because of the way that they tied her data to her license, to her evaluation. They go in it with the mindset that when we talk about middle school, junior highs, they are talking about a middle school and they think that it is sixth, seventh, eighth [grades]. And in our district sixth graders are still back here with the elementary. And, so, they attached her results to the middle school teacher that is over there. She came back highly effective, whereas ours did not. When they say that you have a chance to challenge them, and you challenge them, they never overturn anything.

What did that do for my teacher? It brought her confidence down. It brought her morale down. I now became her cheerleader. I became her coach, and I became her mentor to keeping her focused on what it is. It was even to the point where she asked me, “Should I transfer over to first grade?” I said, “Why would you do that?” She said, “Then that way they won’t attach anything to me. They will attach Istation to me. That’s cake, but when they attach PARCC, it’s a totally different thing.”

It’s not fair to our teachers. It’s really not fair to our teachers. I think that everybody…I don’t know… I don’t have the answer to this…the solution. But I think that when we come up with these bright ideas, I think that we also need to get input from all districts, from the small districts.
Reading those two accounts, it becomes easy to see why participants made the claim that the policy of tying summative assessment results to teacher evaluations were impacting them the most. Fortunately, for both P11 and P5, some of the first educational initiatives to come out of newly elected Governor Michelle Lujan Grisham’s administration in January 2019 addressed the teacher evaluation system, A–F school grading, and the state’s heavy reliance on PARCC testing. Unfortunately, that did not mean that key aspects of the PARCC exam have been completely decoupled from state summative assessment policy so much as they have been decoupled from New Mexico’s teacher evaluation system. Summative assessments, and the application of tests like PARCC, are still works in progress because the concept of educational funding streams’ attachment to accountably and research is being conducted to look at the issue.

For example, by late 2019, New Mexico’s State Assessment System Task Force determined that there are distinct differences between summative testing intentionality within grades 3–8 and grades 9–12, some of which are still to be decided through policy (New Mexico Public Education Department, 2019, pp. 20, 27).

What was not addressed is the study participants’ concern that retention of broad categories of summative assessments like the PARCC could prove to exacerbate issues already in play (ELL assessment equity and lack of community collaborations to produce more appropriate assessment instruments). This is likely why the Task Force found that “there was little interest in trying to assess such learning targets with statewide summative assessments” (New Mexico Public Education Department, 2019, p. 20). According to P10:
For the state, the PARCC is one thing… but it would be nice for our schools to have an assessment that is actually going to be relevant to our kids. You know? That’s the number one thing that I would change. The other thing is for, in primary grades, teachers to have a different assessment.

To be teaching in the language, for me, I have to worry about—as I said earlier—that I also must make sure that these guys are ready for the next grade… where, they are going to have to know the vocabulary… the ELA, the vocabulary, and the math. If I don’t teach that, then they are going to be behind.

If we had a different kind of assessment? If the schools that had, who were focusing on their language… why do we have to be assessed using state assessments? Evaluations? You know what I mean? I don’t know if you know what I mean?

Yeah. Why can’t we have our own assessments? Why can’t the state give us that support in strengthening our languages? First. The push that says that all the kids have to be reading by third grade, or whatever, means that parents are at home stressing.

So, what are they doing? They are pushing the language [English]. Forgetting about their home language in some homes because the schools are implementing the policy that if your kids are not reading by third grade, they are not going to pass. A lot of parents have that ingrained into them. Their push, for their kid, is to do well with the English language… make that their focus and put the [Native] language onto the back burner. It should be the reverse. Research
says that if your students are strong in the home language then they will not have as many problems.

I mean, that’s how we all learned. That is the same thing that we need to do with our little ones. NOT, push that English, but push the language first and use that as your strong foundation and build upon that…with the English after.

But the state is pushing Istation, or PARCC, or all of these other assessments…where our kids have to perform at grade level.

The answer to P10’s question “Why can’t we have our own assessments?” is, for the most part, we can. But the caveat is that the onus will be on us as a state, as Native communities, as districts to produce comprehensive summative assessments that support our unique populations’ needs. Meanwhile, the task of creating replacement assessments has not been started in some Native communities. In other communities, if they have been started, they have not been completed, at least not to the level required given by the most recent (2017) reauthorization of the ESSA. In fact, only one New Mexican Native American stakeholder has collaborated to the extent that the funding guidelines require in order to produce alternative assessments for national consideration, and that is the Navajo Nation.

On positive note, P4’s following complaints have been addressed to the extent that teacher evaluation is no longer directly tied to PARCC testing:

I am going to talk about Every Student Succeeds. I think that when we talk about that, I think it is difficult if we set a bar, if we say every single kid needs to be at this level. Because, I am sorry, but if you have a kid that is two grade levels below, you can wave the magic wand, you can do everything that you know how
to do, but you are not necessarily going to get that kid where they are supposed to be.

I agree that every child needs to succeed. I also think that we have to take into consideration where they come in and say, “Okay, realistically, we can make this much progress.” Ideally, this is what we would want, but realistically? I think that when we are talking about Every Students Succeeds, we need to think about what is realistic and what is realistic for maybe the different populations. Because I know it can be different for our Native Americans versus our Mexican immigrants versus our monolinguals. So, I think that setting just one bar is not the way to go about it, as doing so impacts the classroom the most. Because when I was in the General Ed. classroom, I felt that I had to keep going.

I have to keep going. I have to push through. I had to push through. And I would have. For example, little Johnny back here, who was maybe on basic sight words, I would have to say, “I am sorry,” you know, “but we have to keep going. We have this bar that we have to hit, this bar that we have to meet.” And I would spend time thinking, “What am I doing to him? What are they telling me that I have to do? How is it affecting him? What is it causing me to do in that class?” That is when I finally would say, “No! No.”

Ahh… it is on your evaluation. Your evaluation is affected. When it comes to evaluation, I know that we all have to be evaluated. I understand. I do. But I don’t think, like I said, that it should not be hinged upon every single kid needing to meet this level, needs to meet this bar.
And, if they don’t, I would always feel that it was because I did something wrong, or...I am thinking of little Johnny over here. And I am thinking, “Okay, little Johnny, if you would have just listened more, or if you would have just worked harder...” Then I have to stop myself. Because no, no, it is not little Johnny’s fault! So, I think it all goes back to setting that bar. Setting the bar the same way for every single child, it doesn’t work.

Some of my colleagues and I have this conversation every single year. It is almost as if our bubble gets busted. You know? We sit there and we talk about everything. So, why are we doing what we do? Someone even made a comment, “Why am I even coming back if they are saying that I am not making a difference”? “Why?” She said, “I could go be a greeter at Wal-Mart…and not have to worry about it. I could go and work at Panda Express and not have to worry about it.”

My last semester at UNM, for my administrative license, I took my data class. We were talking about data and about how schools and districts use data. We were talking about the assessment data, from the PARCC and this and that, and about how we feel, how it affects us. I came to the realization, that for me right now, those are just numbers. They are not me.

In conclusion, no, those scores are not her, as this data makes abundantly clear. Nor are they about New Mexico’s ELL students, who the fictional “little Johnny” represents. Because they have not been normed or validated for all the “little Johnny’s” out there being assessed. In fact, high-stakes tests are created by individuals who are not
familiar with New Mexico ELL student populations. That truth led Judge Singleton (2018) to determine that any new schematic:

Should include a system of accountability to measure whether the programs involved and services actually provide the opportunity for a sound basic education and to assure that the local districts are spending the funds provided them in a way that efficiently and effectively meets the needs of at-risk students.

(Yazzie/Martinez v. the State of New Mexico et al., p. 75)

What remains to be addressed is how to improve upon the impact of cumulative federal and state summative assessment policies, so as to fully allow teachers’ reflection on “the principles, practice, or profession of teaching” (Merriam-Webster, 2016) when meeting “little Johnny’s” needs.

Summary of Research Findings

To summarize, this chapter presented data collected to answer the research question: How do cumulative state and federal policies impact teacher pedagogy of ELL assessment in New Mexico public schools? As a whole, this study helped meet the goal of illuminating the intersection of teacher pedagogy, ELL assessment policies, and New Mexico’s ELL culture and linguistics. During this process, I discovered that there were more similarities than differences between the participants’ voices. Yet, because this was a qualitative study, utilizing grounded theory genre, and an emic approach, themes were imbued with a level of validity that would otherwise not be provided; indicating that the methodology employed was particularly useful in providing the novel insights into a phenomenon about which little had been commonly known (Roberts, 2010, p. 143; Yazzie/Martinez v. the State of New Mexico, 2018). Finally, it is important to
acknowledge that each of the themes was created from participant ESL teachers’
sociocultural perspectives regarding their own assessment practices for their ELL,
bilingual, and BMEP student populations within their New Mexico public schools. For
those reasons, the goal of this study’s research question has been met.
Chapter 5  
Discussion, Recommendations, and Conclusions

Summary of Research

In this study I addressed the question: How do cumulative state and federal policies impact teacher pedagogy of ELL assessment in New Mexico public schools? The findings are rich in detail and powerful in voice. From them a picture begins to form of the three-way intersection between cumulative education policy, ESL teacher pedagogy, and their impact upon ELL student assessment in New Mexico public schools. While incomplete in nature due to the parameters of this dissertation, the reality described by participants still stands alone in its capacity to illuminate. Taken together with related research, the findings present a variety of interconnective themes that now have recognition, but that are not addressed.

For example, a key component of the three-way intersection was, “Who are the New Mexico ELL students being accessed?” By asking ESL teacher participants to identify their ELL populations, it was discovered that approximately 13% to 15% of New Mexican at-risk Hispanic and Native American ELL students remain unidentified by state policy. The unfortunate result is that unidentified ELL students suffer from unintentional educational disparities, as their calculated State Equalization Guarantee (SEG) unit values are neither reflective of their need nor indicative of required supplemental support or staffing. That loss continues through the entirety of their public educational journey, and there is no avenue for redress.

In short, Theme 1 illuminates a dysfunction in policy, with a pressing legal side. For, under Title VI of the Civil Rights Act of 1964 and subsequent federal and state
mandates, all districts in New Mexico must screen, identify, and provide services to ELLs (New Mexico Public Education Department, 2016a, p. 5). As a state, we have been ordered to “address the shortcomings of the current system,” or to proceed with “immediate steps to ensure that New Mexico schools have the resources necessary to give at-risk students the opportunity to obtain a uniform and sufficient education” (Yazzie/Martinez v. the State of New Mexico et al., 2018, pp. 74–75). Without being addressed, the policies of the New Mexico Public Education Department LUS process map will continue to focus on the steps employed after the initial New Mexico Public Education Language Usage Survey Department has been completed. This study’s findings suggest that the disconnect resides at the initial step, the completion of the survey itself (see Figure 1 and Appendix F).

Pulling from another component of the three-way intersection, Questions 2 and 6 were asked in order to identify who the participant ESL teachers were, how they were prepared to assess New Mexican ELL populations, and what qualifications were impacting their preparedness. One finding was that current New Mexico educational policy is not working to ensure appropriate levels of qualified ESL teaching staff. Yet, no matter how contemporary in nature the issue is, staffing is hard to address because accountability is held hostage to a need for appropriateness in remediation, a situation that Senator Jacob Candelaria described as follows:

School districts get extra dollars for at-risk services but cannot tell the Legislature how they are spent… If a district is shortchanging at-risk students in their budget, that’s a significant issue…How [can] we gauge education reform if we don’t know where the money is going? …I fear the state is getting trapped in a death
spiral when it comes to the Martinez/Yazzie litigation…Plaintiffs come to the legislature and say education is being underfunded, but we can’t say exactly where and how they’re underfunded. (Mullan, 2020, pp. A1, A4)

Staff qualifications require additional clarity; not only is there ambiguity in which students are to be supported (Theme 1) but also in how to best prepare ESL teachers to assess New Mexican ELL populations. Conversely, at the national level, a 2009 large-scale study of teacher qualification policies indicated that profession development programs must be seen by teachers as being significant to the subject area taught (Darling-Hammond et al., 2009, pp. 5–6). This is why many states (Connecticut, Minnesota, etc.) require subject area certification. In other words, to teach biology, a teacher must be certified in biology.

In direct contrast, New Mexico certification is generalized. In New Mexico, Public Education Department (PED) certification policy allows teachers to be placed in broad areas of expertise (science, math, ESL, etc.). Hence, specificity of qualification within subject areas is lost, and that practice spills over into hiring for bilingual, multilingual, and BMEP teachers. In 2018, Judge Singleton found that the PED doesn’t have the capacity to “track the training given to teachers who teach ELS” nor does NM Teach “have a metric to evaluate whether a teacher is effectively serving ELL students” (Yazzie/Martinez v. the State of New Mexico et al., pp. 31–32, 34).

So, in as much as New Mexico needs to amplify the title “highly qualified” when seeking to hire staff, according to this study’s participants’ viewpoint, the policies in place disallow such specificity. For that reason, participants offered the following feedback on how to better serve their highly diverse ELL populations:
• Theme 3. The Two Most Beneficial Post-Degree Preparation Programs are TESOL Endorsements and SIOP trainings.

• Theme 4. ESL Teachers are Insufficiently Trained for Native American ELL Population Pedagogy.

As can be seen, the first theme validates Chapter 3’s research and Darling-Hammond’s 2000 claim that “large-scale policies and institutional practices” can positively “affect the overall level of teachers’ knowledge and skills in a state or region” (p. 2). It also supports Judge Singleton’s declaration that one “impediment to recruiting and retaining teachers in schools with high at-risk populations” is in “maintaining a sufficient number of TESOL (Teachers of English to Speakers of Other Languages)-endorsed teachers” (2018, pp. 35–36).

The second theme, Theme 4, serves us well in addressing Native American assessment issues and related best practices. For instance, it indicates that Native American curriculum as well as the development of Native American ELL student assessments fall largely to Native ESL teachers in New Mexico, just as it does nationally (Darling-Hammond, 2000; Darling-Hammond et al., 2009; Tucker, 2011; Vera, 2010). On the other hand, participants’ preference is for increased engagement in collaborations between Native communities and state entities. They believe that reform of current policy would better serve the goal of meeting the “level of expertise outlined in Title VI of the Civil Rights Act of 1964, 42 U.S.C § 2000d” and the requirement to build “effective language assistance programs for Native American English Learners” for their specific at-risk populations, if such policy were to be determined from within their communities rather than from outside entities (Yazzie/Martinez v. the State of New Mexico et al.,
The impact now is that the state of New Mexico’s capacity to gauge, through assessment, whether or not Native American ELL students are “receiving adequate assistance” from their ESL teachers has been severely compromised (Ulloa & Jennings, 2019, p. 3).

That brings this research summary back to the last component of the three-way intersection: ELL assessment itself and the following themes’ findings.

- Theme 5. Participants’ Focus on ELL Levels of Language Acquisition.
- Theme 7. Technological Resources and Linguistic and Cultural Support Materials are Needed at all Levels of ELL Assessment.

In each of those themes, it can be seen that cumulative assessments continue to limit ESL teacher participants’ capacity to equitably assess their ELL students’ competencies. That failure to impact pedagogical practices in a positive manner has an unfortunate and notable consistency. As reported in Chapter 4, the New Mexico Student Task Force Report determined that there was a need to revisit a “principled assessment design”:

We defined and described the assessment types and uses presented here in order to ensure that members had a shared understanding of assessment. While many of the conversations came back to close-to-the-classroom and in-the-moment instruction (i.e., formative assessment), it was necessary to focus the Task Force on the role of the State (and how the State can support districts) in providing relevant assessment information and communicating those results in meaningful ways. To address the charge of the Task Force, the members primarily focused on
the role and uses of *summative* assessments—specifically, the state summative assessment for accountability—and *interim* assessments to support progress towards meeting requirements described by the standards, which are measured through the state summative assessments. (Center for Assessment, 2019, p. 51)

On the other hand, the well-aligned and well-constructed interim and summative assessments, developed by study participants, were described as capable of providing the information most desired by those participants, in that they had the capacity to help evaluate pedagogical programs, monitor academic progress over time, and to do so in a timely fashion.

For those reasons, “close-to-the-classroom and in-the-moment instruction” were exactly what was presented in the classroom observations leading to the findings of Q3 Theme 1 where all students were observed as being assessed to determine levels of language acquisition within the subjects being taught. In each case, study participants were employing the type of instructional practice their professional experience had proven to work best to identify areas of student weakness. This was mostly because those best practices allowed for both short-term and long-term pedagogical interventions.

However, that is not to say that in-the-moment instruction is always the best arbitrator of student assessment. As might have been deduced from the findings presented in Theme 7, sometimes that is not the case. Sometimes, in-the-moment instruction is adversely impacted by what is or is not available to ESL teachers as resources or materials, which is why, in that theme, study participants agreed that an increase in technological resources, particularly those capable of supporting language and culture, are needed at all levels of ELL assessment.
Unfortunately, also as discussed in Chapter 4, modern educational technology often requires broadband access. So much so that the New Mexico Legislative Finance Committee found that a part of the problem with appropriately resourcing educational materials was that programmatic funding, oversight, and coordination of New Mexico’s broadband does not meet educational equity standards, while “access to reliable high-speed internet is a necessity for full participation in society” (New Mexico Legislative Finance Committee, 2019, p. 4).

To conclude, in as much as the state of New Mexico is tasked with meeting the rulings made in the 2018 Yazzie/Martinez court case, there are coinciding strains (funding, equity, accountability, etc.) on system policies, strains which have been presented in this study. So, even as the pressure from the Yazzie/Martinez case plays a significant role in educational policy, to determine the best path forward for public education, in general, and for New Mexico ELL student populations, in particular, it is worth considering this study’s research findings. The participants have shared experienced perspectives and their voices could be a valuable contribution to educational policies moving forward.

**Researcher Reflection**

As I reflect on this study’s findings, I offer Elie Wiesel’s (1999) speech on “The Perils of Indifference”, delivered 12 April 1999, Washington, D.C.:

Indifference elicits no response. Indifference is not a response. Indifference is not a beginning; it is an end. And, therefore, indifference is always the friend of the enemy, for it benefits the aggressor—never his victim, whose pain is magnified when he or she feels forgotten. The political prisoner in his cell, the hungry
children, the homeless refugees not to respond to their plight, not to relieve their
solitude by offering them a spark of hope is to exile them from human memory.
And in denying their humanity, we betray our own. (p. 2)

Within New Mexico, that betrayal of individuals began during the initial
colonization in 1598 of Native American’s by the Spaniards, at which time an
indifference to the Puebloans and Athabaskan groups’ linguistic history and culture was
put into full play. For, the goal of the colonizers was to recreate new members within
their own belief systems and to honor their own nation’s society. To educate reflected an
agenda and largely discounted the intimate and irreplaceable knowledge already in place
(Ebright et al., 2014; Gibson, 2001; Grebe et al., 2013; Lavash, 2006; Plog, 2008; Sando,
1998).

Likewise, when New Mexico was Mexican territory, inequality was even more
pronounced as education moved away from Spain’s broader societal influences and
towards the emulation of the narrower constructs of Catholicism. During the Mexican
period, “the main incentive for students to learn” was religious in nature rather than the
former Spanish vision to meet communal goals and to highlight individual strengths
(Vera, 2010, p. 522). Therefore, the processes of absorption of, mainstreaming of, Native
Americans into Mexican society further eroded linguistic and cultural connections to
communities (Ebright et al., 2015).

Recall that in 1890, territorial schools were placed under the centralized control of
a Territorial Board of Education tasked with a plan to assimilate “Spanish-speaking
children” into a standardized curriculum in order to push a “pro-statehood agenda”
(Moreno, 2004, pp. 12–13). An argument for and against the support of bilingualism
quickly formed between distinct Anglo/Hispanic population lines. Hispanics argued for inclusion based on what they saw as bilingualism’s positive impact on economic competitiveness (Moreno, 2004, p. 18). Anglos argued for non-inclusion and for English language attainment as a condition of New Mexican statehood (Moreno, 2004, p. 18).

Here we are now and the same argument is present. Why? Are English speakers truly superior to those who are not? Is fluency in a home language other than English indelibly linked to lessor cognition? Or, can it be that, now, when we as a state have the opportunity through our new Early Childhood Department, choose to create full immersion programs in the home languages and cultures of our young and to make the commitment collectively to provide for their diversity? Would it not serve to enrich us as a whole and to support student populations who are truly bilingual/multilingual citizens of our state and nation?

In conclusion, to guard against the effects of indifference toward ELL assessment means creating a collective willingness to apply, to fund, to meet the noble intent of policy, to proceed according to rule, without offering excuse. This must be done because the further we move away from the needs of New Mexican communities, the harder intentions to meet those needs become. The individualism of the ELL student is lost if their needs are increasingly subsumed by overarching bureaucracy from the state and the nation, as a whole.

Discussion of Results

Implications for Policy

The implications for policy from this study are diverse. Arguably, the most relevant correlations were found between this study’s findings and Judge Singleton’s
rulings on the Yazzie/Martinez v. the State of New Mexico et al. Another correlation was found within the working document of the Yazzie Proposed Remedies (2018). In both cases there is a mirroring of participant voice. Triangulations are presented for consideration below, as are a few others.

**Identification of ELL Students.** As discussed in Chapter 4, participants indicated that approximately 13% to 15% of the state’s ELL students go unidentified due to a discrepancy at the first step of the PED LUS identification program (Appendix G).

The Yazzie Proposed Remedies review of policy supported that finding by reporting that in “an analysis of bilingual education” there were “uneven identification rates” of ELL students (2018, p. 4). Subsequent research has implied that for the student who is left unidentified, there is no recourse to rectify the results of that disconnect. Therefore, even with “sufficient monitoring programs of ELL students” there will continue to be a corresponding percentage of students who are unserved or underserved by our state’s public education system (Yazzie/Martinez v. the State of New Mexico et al., 2018, p. 4).

**Increases in First Language and Cultural Support.** Currently, first language and cultural support are not based on the most effective methods of support for ELL student populations. Instead, the focus is on mastering the English language and Americanized culture. Contrarily, New Mexico statutes for bilingual and multilingual ELL education tout a reliance on the use of “cultural and linguistic backgrounds of the students in a bilingual multilingual education program” to teach “students to appreciate the value and beauty of different languages and cultures” (Yazzie/Martinez v. the State of New Mexico et al., 2018, p. 20). What that means is that even though the Legislative Education Study Committee (LESC) notes that “researchers have found that culturally
relevant instruction and pedagogy increases Native student achievement results,” there is no assurance that that practice takes place (Yazzie Proposed Remedies, 2018, pp. 2–3). In fact, according to this study’s participants, the policies at play are resulting in the creation of an ELL system in which ELL students do not have competency in their home languages or in English.

**Insufficient Training of ESL and Native American Teachers.** Bilingualism and multilingualism have been an innate part of our national education system from the outset. Acknowledgement of linguistic diversity has existed, particularly in the state of New Mexico, albeit as Ovando (2003) would argue, our “changing political, social, and economic forces, rather than any consistent ideology, have shaped” our state’s “responses to language diversity” (p. 1). The result of the inconsistencies is that federal and in-state funding streams are more likely to be directly tied into misaligned training for ESL pedagogical need and preparedness, and mandated towards ELL curriculum assessment instead. In other words:

Bilingual programs are not necessarily the same as programs for English Language Learners. The federal Equal Educational Opportunities Act (EEOA) declares unlawful “the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.” (Singleton, 2018, pp. 20–21)

Consequently, the focus of many policies appears to be “to overcome barriers” and to teach the learning of English rather than addressing the barriers to educating diverse populations. For those reasons, this study’s participants found their Native American pedagogical training largely insufficient to their in-state practice. Fairly or
unfairly, the implication is that New Mexican teacher preparation programs suffer from curricular prepackaging; whereas, participants claim that their pedagogical practices would benefit greatly from increased community-based and tribal-specific collaborations.

**Support for TESOL and SIOP Training.** According to study participants, the earning of a TESOL endorsement, when paired with follow-up SIOP training, can significantly and positively impact pedagogical practices in New Mexico public schools. The importance of such training was addressed in part by the Yazzie Proposed Remedies (2018), which considered focused training in educational programming and claimed that it served to “ensure IED staff are certified teachers and administrators with experience working in schools serving Native students and have related expertise in curriculum and materials development, assessment of student learning, native language instruction, and bilingual/TESOL endorsements” (2018, p. 1). Getting even closer to the heart of the matter, on the subject of effective teacher training programming Judge Singleton determined that:

> There was much testimony that there are inadequate funds to adequately train teachers. Further, the SEG factor that deals with training—T & E index—fails to follow the statutory criteria and is inadequately funded. These factors adversely impact the ability to have effective teachers in school[s] with high-risk populations.

> Witnesses for both sides agreed on the need to spend money on programs that have been shown to meet the needs of economically disadvantaged students…[Yet,] some districts have difficulty maintaining a sufficient number of TESOL-endorsed teachers because of an inability to compete [financially] with
neighboring districts… (Yazzie/Martinez v. the State of New Mexico et al., pp. 36, 51)

Unfortunately, it is not necessarily the lack of legislative funding provisions, but “the discretionary nature of above-the-line funding streams” that appears to be the causal agent behind many districts’ difficulty in maintaining funding for TESOL-endorsed teacher stipends (Senator Mimi Stewart, personal communication, February 12, 2018).

The implications are that many New Mexican ESL teachers become TESOL endorsed either through their in-state teacher education programs or through their districts of hire. Similarly, teachers may be offered the chance to receive SIOP trainings as a part of their in-district professional development programming. The problem lies in the lack of consistency in support for such programing. There is not legislation requiring TESOL endorsement or follow-up trainings in SIOP, just as there is not legislation ensuring that once a teacher has earned those endorsements and certifications, they will receive the promised, and legislatively allocated, TESOL stipends.

**Accountability in ELL Assessments.** This study’s participants made clear that assessments which are neither normed nor validated for their ELL student populations to be an issue within their pedagogical practice of data application. Consequently, participants asked that the approach to ELL assessment be made equitable in the following ways:

1. Strengthen assessments to better align them to that which is being assessed.

2. Increase applicability of assessments to who is being assessed and adjust those assessment to how particular ELL are assessed.
3. Ensure that the results of assessments can be utilized for the sole purpose of determining the competencies intended at the outset.

It is not surprising, given such viewpoints, that the use of high-stakes PARCC test data in teacher evaluations was considered untenable to many study participants.

Perhaps, it would be useful to consider again the study by Dolmalecki and Perie (2013), which offered insight into the situation of assessment in ELL populations as they explored “the degree to which system designs may promote improved academic achievement for low-performing students” (p. 7). They found that there appeared to be a problem with the concept of “meaningful growth expectations,” as it was not always easy to determine what amount of time was truly reasonable given different educational growth rates within specific populations (Dolmaleki & Perie, 2013, p. 7). Additionally, since their study was an exploration of “four prominent state accountability initiatives…consolidate[d] subgroups, achievement gaps, growth, and mechanisms for combining measures,” it is helpful to keep in mind that the standards for rigor presented might not be transferable and might even posed a threat to another priority for New Mexico, equity (Dolmaleki & Perie, 2013, p. 2). That brings us back to the discussion in Chapter 2 in which Swartz (1997) claimed that if “culture provides the very grounds for human communication and interaction; it is also a source of domination” and that includes the standardized culture of assessment practices (p. 1).

**Implications for Educational Leaders**

As far as my recommendations for educational leaders, I would revisit the issue of inconsistent offers of TESOL training by New Mexico schools of education and local school districts, particularly given the Yazzie/Martinez v. the State of New Mexico
rulings of 2018. I would have imagined prior to this study that making TESOL training, and compensation, a contingency for licensing and district funding streams in New Mexico. At the very least, doing so might serve as an important step for educational reform. Yet, at this time, only some college programs offer degrees with TESOL endorsements. Others do not. Similarly, while some school districts recognize the benefits of TESOL training, to the point where they chose to require TESOL endorsements for hiring purposes, only some pay for TESOL training through legislative provided stipends. Others do not. For those reasons, I suggest that TESOL training certificates be supported legislatively through below the line funding streams or that they be made nondiscretionary in some fashion.

I must also address the issues posed by the dichotomy of great policies and our failure, historically, to implement them as a state or to the letter of the law. I wonder if one of the main issues in New Mexico’s effectiveness is the position of Secretary of Education itself. What I mean is, might it not be better if the position were to be a hirable one? If a Secretary of Education had to prove their expertise in front of a nonpartisan hiring board, then perhaps we could retain the individual for an extended period of time; time during which, educational reform could be made to be continuous. Reform could be based strictly upon data, and serve as a conduit for the implementation of the Yazzie Proposed Remedies. After all, has it not been said that the definition of insanity is doing the same thing, in the same way, and expecting a different outcome? Taking politics out of education would be a start.
**Recommendations for Future Research**

My recommendations for future research are based upon the implications for policy as outlined above. After all, those findings serve as a response to this study’s research question and they are predicated upon the participants’ voices as captured in the transcripts of classroom observations and interview questions (Appendix F). Lastly, my recommendations for future research are based upon the themes and the triangulation of information presented in Chapter 4. To wit, it is recommended that those who would be interested in following the threads of this research study:

- Investigate the discrepancy between the current Public Education Department’s LUS identification policy and its incapacity to identify all New Mexican ELL students.
- Explore possible collaborative education reform structures between local communities, Native American groups, the executive branch, the legislative branch, and ESL teachers in order to imbed an increased specificity within home/first language and cultural supports in New Mexican public school classrooms.
- Consider research to reform in-state teacher training programs to include the following foci:
  - mandatory TESOL endorsement,
  - funding for professional development in SIOP, and
  - mandatory inclusion of Native American and Hispanic community curricular collaboration.
• Research accountability in ELL assessment best practices:
  o revert assessments from current top-down, out-of-district policy “back to close-to-the-classroom and in-the-moment instruction” for both formative and summative purposes.

• Review how best to coordinate New Mexican broadband policy, but as an entity of educational reform for funding purposes. For example:
  o each district would receive legislative funds earmarked for broadband,
  o each district would provide funds to BMEP according to predetermined need and with PED oversight.

Concluding Remarks

This study provided answers to the research question: What is the impact of federal, state, and local education policies on the pedagogy of ELL assessments in New Mexico public schools? It addressed the problem that the effects of cumulative federal, state, and local assessment policies upon teachers and their pedagogy of ELL assessment are largely unknown. It met its purpose to not only explore the research question, but to do so in a manner that allowed theories to be formed from the analyses of individual ESL teachers’ interpretations of and integration of cumulative ELL policies within the classroom. The theories that emerged the findings helped broaden the understanding of teachers’ sociocultural perspectives. The discussions pertaining to cumulative ELL assessment practices have application to New Mexico’s stakeholders and the required educational reforms for linguistic and cultural supports in BMEPs. Therefore, the significance of this study is its authentic snapshots of the effects cumulative ELL policies have on New Mexico ESL teachers.
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Retrieved from:


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Appendix A
Recruitment Flyer

The University of New Mexico

The Impact of Federal, State, and Local Policy on the Pedagogy of ELL Assessment in New Mexico Public Schools

Seeking ESL teachers who are currently engaged in Native American or Hispanic ELL assessment processes to participate in a research study. To be considered, you must be employed in a NM public school, or public-school charter.

This study’s significance is that it will offer a rare, real-time, snapshot of the effect cumulative ELL assessment policies are having on the pedagogy of New Mexico ESL teachers.

If you decide to join the study, you will be asked to:

• Participate in a one-hour classroom observation during a Native American or Heritage student ELL assessment activity.
• Participate in a half hour follow-up interview.

You will not be paid for participating in this study. In return for your time and the inconvenience of participating in this study, you will be compensated with a $20 Amazon Gift Certificate.

This study is being conducted by the researcher, Cheryl A. Ford, Doctoral Candidate from UNM. Contact Information: Please call [ ] or email [ ] to get more information or to schedule an appointment.

Leave space for IRB Stamp
Appendix B

Recruitment Email

Subject Line: Opportunity to Participate in Research

Dear x,

I am conducting a research study about, *The Impact of Federal, State, and Local Policy on the Pedagogy of ELL Assessment in New Mexico Public Schools.*

You are receiving this email because you have been identified through your New Mexico public school district as an ESL teacher involved in a Bilingual Multilingual Education Program for Native American or Heritage language ELL assessment program.

The purpose of this research study is to explore the research question, how do cumulative state and federal policies impact teacher pedagogy of ELL assessment in New Mexico public schools?

If you agree to participate, this study will involve the researcher observing you in your ELL classroom for a period of one hour and then conducting a half hour follow-up interview with you.

There is always some minor risk of stress, inconvenience and possible loss of privacy and confidentiality associated with participating in a research study. However, the potential for a loss of confidentiality in this study minimal at most because each district and you, the participant, will be provided an identifier or alias for the purposes of reporting data.

The most direct benefit participation in this study is the satisfaction of having been offered a chance to illuminate how cumulative state and federal policy impacts ESL teacher pedagogy of Native American or Heritage ELL populations in New Mexico public schools.

You will not be paid for your participation in this study. You will be compensated for your time and inconvenience in the amount of a $20 Amazon gift certificate. In addition, if any of the scheduled meetings take place at an, agreed upon, outside public venue (Coffee Shop, Eatery, or Food Truck), the researcher will cover the costs incurred at that venue for food and drink.

You do not have to be in this study, your decision to be in any study is totally voluntary.
If you feel you understand the study and would like to participate, please contact me, so that we can set up an initial meeting to discuss the processes involved.

You can contact me, Cheryl A. Ford at:
Cell:
Email:

Thank you for your time,
Signature of sender
Cheryl A. Ford
Doctoral Student Investigator/Researcher

Principal Investigator: Dr. Viola E. Florez
Study Title: Principal Investigator/Dissertation Chair
IRB #: 10317
Appendix C

Email/Site Permission

Subject Line: Opportunity to Participate in Research

Dear Principal X,

I am conducting a research study about, *The Impact of Federal, State, and Local Policy on the Pedagogy of ELL Assessment in New Mexico Public Schools*. The purpose of this research study is to explore the research question, how do cumulative state and federal policies impact teacher pedagogy of ELL assessment in New Mexico public schools?

You are receiving this email because your Superintendent has identified your school site as one that has ESL teaching staff currently involved in a Bilingual Multilingual Education Program for Native American or Heritage language ELL assessment program.

This email, along with the attached district approval letter, encompasses my formal request for permission to proceed with ESL teacher participant recruitment at your facility. As a follow up to this email, I will also be contacting you by phone. During that call, I will be happy to discuss this research proposal, answer any questions you may have, and to address any concerns.

You can contact me, Cheryl A. Ford at:
Cell:
Email:

Thank you for your time,

*Signature of sender*
Cheryl A. Ford
Doctoral Student Investigator/Researcher

Principal Investigator: Dr. Viola E. Florez
Study Title: Principal Investigator/Dissertation Chair
IRB #: 10317
### Appendix D

**Observation Protocol**

<table>
<thead>
<tr>
<th>District code name:</th>
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</thead>
<tbody>
<tr>
<td>Observation site code name:</td>
</tr>
<tr>
<td>ESL Teacher Participant code name:</td>
</tr>
<tr>
<td>Observer: Cheryl A. Ford</td>
</tr>
<tr>
<td>Date:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>a. According to the ESL teacher, during the scheduling of the observation, who is being assessed today and why (Native American students, Hispanic Students, or a combination of Bilingual Multilingual Educational Program students)?</th>
</tr>
</thead>
<tbody>
<tr>
<td>i. How many students are involved in today’s assessment?</td>
</tr>
<tr>
<td>ii. How is the lesson introduced?</td>
</tr>
<tr>
<td>iii. How are the students being assessed?</td>
</tr>
<tr>
<td>1. Orally</td>
</tr>
<tr>
<td>2. In written form</td>
</tr>
<tr>
<td>3. By computer</td>
</tr>
<tr>
<td>4. Through a combination of methodologies</td>
</tr>
<tr>
<td>iv. How are the transitions completed?</td>
</tr>
</tbody>
</table>
v. Describe the interactions between the students and their instructor during the assessment.

1. Do those interaction appear to be positive in nature? Why or why not?

2. What is the overall atmosphere within the classroom (positive, negative, mixed, or something else)?

vi. Describe the classroom/physical space in which the assessment is taking place.

vii. How is the lesson ended?
Appendix E

Research Participant Follow-Up Questions and Cover Letter

Dear Participant Name:

This is a list of the questions that will help guide our follow-up interview. They are not exhaustive, and you are welcome to not answer any question, at any time, for any reason, and without explanation. I encourage you to add to the conversation whatever you feel is needed. Doing so will help clarify your view on the impact of state and federal policies on your pedagogy of ELL assessments in your public-school classroom.

Sincerely,
Cheryl A. Ford
Appendix F

Question List

1. How would you describe the ELL population you teach?

2. Pedagogically speaking, in what ways were you trained or prepared to teach your Native American or Hispanic students?
   a. College
   b. Certifications
   c. Professional development
   d. Years of practice

3. Who were you assessing during my observation of your classroom and why were they being assessed?

4. How well do you believe the type or types of assessments you are currently using define the skills you assess?
   a. Please describe your opinion of high stakes testing in general.
   b. Describe your access to the results of each type of assessment.
   c. How, why, or why aren’t the results of those assessments impacting your pedagogical practices?

5. What other instruments or types of instruments are you aware of that might better serve your ELL populations’ assessment needs?

6. As an ESL teacher, how could educational policy better meet your needs in the classroom?

7. Out of all the cumulative state and federal policies, which policy or policies do you feel impact you the most in the classroom?
Appendix G

New Mexico Public Education Department Language Usage Surveys

| FOR DISTRICT USE ONLY | District: | School: |

NEW MEXICO PUBLIC EDUCATION DEPARTMENT
LANGUAGE USAGE SURVEY
—for parent or guardian to complete—

The purpose of this survey is to ensure that your child receives the highest quality education and services to which he or she is entitled. The information you provide will be used only to assist the school in making program decisions. You will complete this form only once in your child’s educational career.

| Student’s Name: | Date of Birth: | Grade Level: |

Answer each question by marking either the YES or NO box.

1. Does the student use a language(s) other than English with his/her family and friends?  YES  NO

2. Do you use a language(s) other than English with the student?  YES  NO

3. Does the student understand when someone communicates with him/her in a language other than English?  YES  NO

4. Does the student read in a language(s) other than English?  YES  NO

5. Does the student write in a language(s) other than English?  YES  NO

6. Does the student interpret for you or anyone else in a language(s) other than English?  YES  NO

7. If you answered YES on one or more of questions 1-6, what language(s) other than English does the student use most frequently at home? Choose up to three.

- American Sign Language (ASL)
- Arabic
- Cantonese
- Diné
- French
- Greek
- Hmong
- Jicarilla Apache
- Italian

- Keres
- Khmer
- Korean
- Mescalero Apache
- Mandarin
- Portuguese
- Russian
- Somali
- Spanish
- Tiwa
- Tewa
- Towa
- Vietnamese
- Zuni
- Other

OTHER QUESTIONS

8. Is the student transferring from another state, district, or school? If yes, please provide location and name of school:

9. Has the student received schooling/education in a language(s) other than English? If YES, which language(s)?

10. In what language do you prefer to receive communication from the school?

11. In what language would you prefer to communicate with school staff?

12. Is there anything else we should know about how to best serve your child?

Signature of Parent or Guardian:  Date:

Translator:  Language:  Date:
El propósito de esta encuesta es asegurar que su hijo/hija reciba una educación de la más alta calidad y los servicios que tiene el derecho de recibir. La información que usted proporcionará será utilizada solamente para ayudar a la escuela a tomar decisiones programáticas. Responderá a este formulario solamente una vez en la trayectoria de educación de su hijo/hija.

<table>
<thead>
<tr>
<th>Nombre del estudiante:</th>
<th>Fecha de nacimiento:</th>
<th>Nivel/Grado:</th>
</tr>
</thead>
</table>

Responda a cada pregunta marcando la casilla bajo Sí o NO

1. ¿Usa el/a estudiante otro idioma(s) además del inglés con su familia o sus amigos?
2. ¿Usa usted otro idioma(s) además del inglés con el estudiante?
3. ¿Comprende el estudiante cuando alguien se comunica con él o ella en un idioma además del inglés?
4. ¿Lee el/a estudiante en otro idioma(s) además del inglés?
5. ¿Escribe el estudiante en otro idioma(s) además del inglés?
6. ¿Le interpreta o traduce el estudiante a usted o a alguna otra persona en otro idioma(s) además del inglés?
7. ¿Si respondió Sí a una o más de las preguntas 1-6, ¿cuál(s) idiomas además del inglés usa el estudiante con más frecuencia en casa? Escoja hasta tres:

- [ ] Árabe
- [ ] cantonés
- [ ] diné
- [ ] español
- [ ] francés
- [ ] griego
- [ ] hmong
- [ ] italiano
- [ ] jemer
- [ ] jicarilla apache
- [ ] keres
- [ ] coreano
- [ ] lengua de señas americana (ASL)
- [ ] mandarín
- [ ] mescalero apache
- [ ] portugués
- [ ] ruso
- [ ] somali
- [ ] tewa
- [ ] tiwa
- [ ] towa
- [ ] vietnamés
- [ ] zuni
- [ ] Otros

**OTRAS PREGUNTAS**

8. ¿Se traslada el estudiante de otro estado, distrito o escuela?
Si este es su caso, favor de proveer la ubicación y el nombre de la escuela:

9. ¿Ha recibido el estudiante instrucción escolar en otro(s) idioma(s) además del inglés? ¿Si la respuesta es sí, cuál idioma(s)?

10. ¿En cuál idioma prefiere recibir información de la escuela?

11. ¿En cuál idioma prefiere comunicarse con los empleados de la escuela?

12. ¿Hay algo más que deberíamos saber para servir mejor a su hijo/hija?

<table>
<thead>
<tr>
<th>Firma del padre o tutor:</th>
<th>Fecha:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Traductor/Intérprete:</th>
<th>Idioma:</th>
<th>Fecha:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Student Name)</td>
<td>Öltä’i Bizhi’ :</td>
<td>(Date of Birth)</td>
</tr>
<tr>
<td>----------------</td>
<td>----------------</td>
<td>------------------</td>
</tr>
<tr>
<td>(Grade Level)</td>
<td>Öltä’i Yóltà’i góne’ :</td>
<td></td>
</tr>
<tr>
<td>(Answer each question by marking either the yes or no box.) Na’idikid yínífta’. Binádíkidigíí bik’ehgo Aoo’ biyaa alná’ít’ish doodañ’ Nidago’ biyaa alná’ít’ish.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Öltä’i bilagáana bizaad t’éiyá choyool’i doodañ’ nánah la’ dine’ é bizaad daats’i bik’ éi doo bik’ is alch’i’ yee yádáalti’?</td>
<td>(Yes)</td>
<td>Aoo’</td>
</tr>
<tr>
<td>2. Öltä’i bilagáana bizaad dóo nánah la’ dine’ é bizaad chool’i’?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Öltä’i sh nánah la’ dine’ é bizaad bee bich’i’ yáníibí’ go yik’i’ dibítí?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Öltä’i sh bilagáana bizaad dóo nánah la’ dine’ é bizaad yóltà’ yéézhosín?</td>
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<td></td>
</tr>
<tr>
<td>5. Öltä’i sh bilagáana bizaad dóo nánah la’ dine’ é bizaad yee ‘ak’ é’ elehi yéézhosín?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Öltä’i sh bilagáana bizaad dóo nánah la’ dine’ é bizaad yee ná áta’ halne’?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Na’idikid T’aa la’i dóo hastahjí’ Aoo’ alná’iizohlgo, dii na’idikid là öltä’i hoozhbáhini hádiigíí nánah la’ dine’ é bizaad kwe’ é daasdzohígíí álaliíji’ yee yáltí’. Tód’ go biighahdi alná’iizohl.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ American Sign Language (ASL)</td>
<td>□ Keres</td>
<td>□ Spanish</td>
</tr>
<tr>
<td>□ Arabic</td>
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<td>□ Tiwa</td>
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<tr>
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<td>□ Russian</td>
<td>□ Other</td>
</tr>
<tr>
<td>□ Italian</td>
<td>□ Somali</td>
<td></td>
</tr>
<tr>
<td>□ Russian</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

8. Öltá’i’ish nánah la’ kéyah hahoodzhohdéé’ da’olta’déé’ atah niya? Háadéé’ atah niya? Öltá’ bizhi’

9. Öltá’i’ish olta’á’di bilagáana bizaad dóo nánah la’ dine’ é bizaad yee ihool’ga’? Akódzhaago, éi haadóome’ é bizaad yee ’ihool’ah ah ni’t’éé’?
| 10. | Ólta’déé’ dahane’ígií lá Dinék’éhji doodai’ bilagáana k’éhji bee hane’ nich’í’ álnjígo ninizin? |
| 11. | Ólta’dí nidaalnishííi Dinék’éhji doodai’ bilagáana k’éhji bít hayíl dahólne’go ninizin? |
| 12. | Haash yit’éego aldó’ ólta’í yá’át’éehgo bíká’ a’doonwol ólta’dí? |

**Signature of Parent or Guardian**

| Amá, Azhée, Aniséhé bízhi’: |

**Date**

| Yoolkáál: |

**Translator**

| Ata’ halne’ígií bízhi’: |

**Date**

| Yoolkáál: |

**Language**

| Saad bee ata’ hóone’ígií: |