

NM center on law and poverty

Alleviating Poverty Will Improve Education In New Mexico

A report by the NM Center on Law and Poverty

January 2014

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924 Park Ave SW Suite C • Albuquerque NM • 87102
www.nmpovertylaw.org Phone: 505-255-2840 Fax: 505-255-2778

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From reading popular accounts and national reports about New Mexico's education system, it is easy to conclude that New Mexico has some of the worst schools in the country. Indeed, newspapers have recently reported that New Mexican student's rank 49th or 50th nationally on educational achievement tests – indicating that our children are worse at reading and math than almost all other children in the country.¹ We also read that New Mexico's high school graduation rates are extraordinarily low.² These and other statistics have led many to believe that there is something terribly wrong with our schools and teachers.

But a closer look reveals that rather than having bad schools and teachers, our schools and teachers have the extremely difficult challenge of educating a very large number of children who live in poverty. There is a large body of evidence showing that poverty directly impacts success in school. It is not coincidental that New Mexico ranks at the bottom of states both in terms of educational outcomes and in terms of the number of children living in poverty.³

In order to improve the educational outcomes in our schools, we must come to terms with the dynamics between poverty and learning. While New Mexico has demonstrated a commitment to equitably funding its schools, and while our teachers, according to both qualitative and quantitative analyses, are excellent,^{4,5} New Mexico has not addressed how our high rates of child poverty impact our education system. Hence, decades of attempts at education reform have yielded little success. Indeed, meeting the explicit needs of children living in poverty, and, at the same time, redoubling our efforts to reduce child poverty, are the best strategies for improving educational outcomes in New Mexico.

¹ Margaret Spellings, Op-Ed., *NM Must Set 2013 Education Goals*, Albuquerque Journal, Jan. 9, 2013, available at <http://www.abqjournal.com/main/2013/01/09/opinion/nm-must-set-2013-education-goals.html>

² Hailey Heinz, *Report Puts Graduation Rate at Bottom*, Albuquerque Journal, June 7, 2013, available at <http://www.abqjournal.com/207789/news/report-puts-nm-graduation-rate-at-bottom.html>

³ Kids Count Data Center, *Children in Poverty* (2012), <http://datacenter.kidscount.org/data/acrossstates/Rankings.aspx?ind=43>. See also United States Census Bureau, *Poverty Status for 2009-2011*, http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_11_3YR_S1701&prodType=table (last visited Oct. 23, 2013).

⁴ Bruce Baker Et Al., *Is School Funding Fair? A National Report Card*, 12 (Education Law Center 2d. ed. 2012)(2010), available at http://www.schoolfundingfairness.org/National_Report_card_2012.pdf

⁵ Correlation between the increase in Board-Certified Teachers and Student Achievement rates, <http://www.nbpts.org/nbpts-2013-01-08-nbct-student-achievement> (2013).

I. **A closer look at the data: our nation's education system is failing poor students and poor states.**

Though there has been much debate over the past decade about the need to reform K-12 education in the United States, insufficient attention has been paid to the role of poverty in generating low educational achievement. When poverty does enter the discussion, it is most often swept away with the assertion that it cannot be an “excuse” for poor test results. Leaders frequently claim that successful education is the key to bringing people out of poverty. Yet few argue that fighting poverty is a way to improve educational outcomes and attainment.

The United States *already* produces some of the best students in the world: American students attending schools in which less than 10 percent of children live in poverty place first in the world in reading.⁶ Despite recent challenges, the United States is still a worldwide leader in innovation, creative thinking, business enterprise, and academic prowess. Ivy League institutions are filled with brilliant and motivated young thinkers, and competition for entry into these schools is at an all-time high.⁷ There is no question that some sectors of our education system are doing well.

But what about everyone else? When we factor the rest of America's students into the nation's average reading performance scores, the United States plummets to 24th internationally, behind Poland, Estonia, and Liechtenstein. In math, American students rank 36th, falling behind Latvia, Vietnam, Spain and Portugal, and well below the international average.⁸ Nationally, less than half of all American students score ‘at or above proficient’ on the National Assessment of Educational Progress (“NAEP”) in either reading or math.⁹ Even worse, only 20% of low-income students score at least ‘proficient’ in 4th and 8th grade reading (see Table 1).¹⁰ On this national assessment of both reading and math proficiency, students who are not low-income are *more than twice as likely* to be proficient in reading and math as poor kids.¹¹ Whether a student lives in poverty is perhaps the most reliable predictor of success in school.¹²

⁶ Valerie Strauss, *Education and the Income Gap: Darling-Hammond*, Washington Post, April 27, 2012, at http://www.washingtonpost.com/blogs/answer-sheet/post/education-and-the-income-gap-darling-hammond/2012/04/26/gIQAhn0LkT_blog.html.

⁷ Andrew Giambrone, *Admit Rate Hits All Time Low*, Yale Daily News, Mar. 30, 2012, at <http://www.yaledailynews.com/news/2012/mar/30/like-much-of-ivy-league-yales-admit-rate-hits-all/>

⁸ OECD (Organization for Economic Cooperation and Development), PISA (Program for International Student Assessment) Snapshot of Performance in Mathematics, Reading, and Science (2012), <http://www.oecd.org/pisa/keyfindings/PISA-2012-results-snapshot-Volume-I-ENG.pdf>

⁹ National Assessment of Educational Progress (NAEP) — Institute of Education Statistics (2013), http://nationsreportcard.gov/reading_math_2013/#/what-knowledge

¹⁰ Note: In this report, unless otherwise specified, “low-income” refers to students whose family qualifies, by virtue of their income, for the federal Free and Reduced Lunch program. In order to qualify for free lunch under the federal Free and Reduced Price lunch program, a student's family income must be less than 130% of the federal poverty level. Students with family incomes between 130% and 185% of the federal poverty level qualify for reduced lunch prices, and cannot be charged more than 40 cents for a school lunch.

¹¹ NAEP – The Nation's Report Card, Focused State Results, http://nationsreportcard.gov/reading_math_2013/#/

¹² See Strauss, *supra*, note 6, for a more cogent analysis on growing inequality.

The achievement gap between children living in poverty and their non low-income peers on the NAEP's 4th and 8th grade reading and math tests ranges from 28 to 34 percentage points. (See Table I).¹³

| | % of low-income students proficient and above | % of non low-income students proficient and above | Achievement gap (in percentage points) |
|-------------------------------|---|---|--|
| 4 th grade reading | 20 % | 51 % | -31 |
| 8 th grade reading | 20 % | 48 % | -28 |
| 4 th grade math | 25 % | 59 % | -34 |
| 8 th grade math | 20 % | 49 % | -29 |

In New Mexico, the problem is especially serious. In 2013, only 22% of all New Mexico 4th graders—regardless of income—were proficient or above on the NAEP reading test, the lowest percentage in the country (tied with Mississippi).¹⁴ Of those New Mexico 4th graders that tested below proficient, 48% scored in the lowest category –“below basic”—meaning that these students had the furthest distance to cover in order to meet basic, minimum proficiency standards.¹⁵ New Mexico had the highest percentage of students in this category of any state in the country. In math, only 31% of all New Mexico 4th grade students—regardless of income—tested proficient or above on the NAEP in 2013.¹⁶ This rank places New Mexico ahead of only Alabama, Louisiana, and Mississippi.

Among all 8th graders in New Mexico, just 22% were proficient or above in reading in 2013, ranked only above Mississippi's 20%.¹⁷ And on the 8th grade math test, just 23% of New Mexico's children tested as proficient or above, again placing it ahead of only three states: Alabama, Louisiana, and Mississippi.¹⁸ All of the worst performers nationally share one central characteristic with New Mexico: they all have high rates of child poverty.¹⁹

The achievement gap between poor and non-poor students is growing. Among children born in 2001, the achievement gap between high and low-income families is 30 to 40 percent larger than among those children born 25 years earlier.²⁰

¹³ See NAEP, *supra*, note 11, http://nationsreportcard.gov/reading_math_2013/#/

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ http://factfinder2.census.gov/faces/nav/jsf/pages/guided_search.xhtml (then choose 1. Start (“People”); 2. Poverty (“Poverty”); 3. Geographies (“All states within the U.S.”); 4. Race/Ethnic Groups “SKIP”; 5. Search Results (“Poverty Status in the Past 12 Months of Families”) (then compare percentage of “Poverty Status for Families”).

²⁰ Sean F. Reardon, *The Widening Academic Achievement Gap Between the Rich and the Poor: New Evidence and Possible Explanations*, Whither Opportunity? Rising Inequality Schools, and Children's Life Chances

91, 91 (Sage Foundation, 2011).

II. New Mexico has an extremely high rate of children living in poverty, and they are far less likely to succeed in school than non low-income children.

New Mexico has one of the highest rates of child poverty in the country: 31% of New Mexico’s children live at or below the federal poverty level,²¹ which in 2013, was \$23,550 a year for a family of four.²² This places New Mexico’s child poverty rate far above the national child poverty rate average of 23%, and ranks New Mexico 49th in the country (ahead of only Mississippi). A full 67% of New Mexican school children are designated as low-income, meaning they are eligible for free or reduced lunch, the second highest rate in the country (again ahead of only Mississippi), and far above the national average of 48%.²³ The connection between child poverty and poor academic performance, and the growing achievement gap between students based upon their economic class, are of particular concern to New Mexico.

According to national standardized tests, the achievement gap in New Mexico between low-income and non low-income children ranges from 21 to 28 percentage points in 4th and 8th grade reading and math. (See Table 2 below)²⁴

| | % of low-income students | % of non-low-income students | Achievement gap |
|-------------------------------|--------------------------|------------------------------|-----------------|
| 4 th grade reading | 15 % | 39 % | -24 |
| 8 th grade reading | 16 % | 37 % | -21 |
| 4 th grade math | 24 % | 51 % | -28 |
| 8 th grade math | 16 % | 39 % | -23 |

The achievement gap is also evident when local testing measures are used. As shown in Table 3 below, the most recent results of New Mexico’s Standards Based Assessment (SBA) show that only 38% of low-income 4th graders are able to read at grade level, compared to 46% of 4th graders overall. For 8th graders, the SBA results show 53% of low-income students able to read at grade level, compared to 60% of 8th graders overall. Low-income New Mexico students also underperform in math, with 38% of low-income 4th graders testing proficient (compared to 45% of all 4th graders) and 35% of low-income 8th graders testing proficient (compared to 42% of all

²¹ Kids Count Data Center, graph of children in poverty from 2007-2011, <http://datacenter.kidscount.org/data/tables/43-children-in-poverty?loc=33&loct=2#detailed/2/33/false/867,133,38,35,18/any/321,322> (2013).

²² Families USA, The Voice for Health Care Consumers, 2013 federal poverty guidelines, <http://www.familiesusa.org/resources/tools-for-advocates/guides/federal-poverty-guidelines.html> (last visited Oct. 16, 2013).

²³ Education Data Express, *supra* note 21, eddataexpress.ed.gov/state-report.cfm?state=NM (Find “Students” → open “Percentage of Students by Special Population”) (showing New Mexico also contains higher percentages of students with limited English proficiency [15.4% vs. 9.5% nationally] and with disabilities [13.7% vs. 13.2% nationwide]).

²⁴ NAEP – The Nation’s Report Card, Focused State Results, http://nationsreportcard.gov/reading_math_2013/#/

8th graders.)²⁵

| Grade | Reading at grade level | | Math proficient at grade level | |
|-----------------|------------------------|--------------|--------------------------------|--------------|
| | Low-income | All students | Low-income | All students |
| 4 th | 38 | 46 | 38 | 45 |
| 8 th | 53 | 60 | 35 | 42 |

Source: New Mexico Public Education Department (Proficiencies State, District and School by Grade 2013)

In addition to doing worse on these tests, low-income New Mexican students also graduate from high school at lower rates than non low-income students. The graduation rate for low-income students in New Mexico is 64.8%, one of the lowest in the country. According to the U.S. Department of Education, New Mexico's overall graduation rate of 70% is also one of the lowest in the country.²⁶ New Mexico also has the highest rate of school age children (16 – 19 year olds) not in school – 9% - of any state in the country (The national average is 5%).²⁷

State-based assessments, however, actually underestimate the size of the achievement gap between low-income and non low-income students. Currently, the state Public Education Department (PED) only reports achievement data for low-income students, but does not report it for non low-income students—i.e. those that *do not* qualify for free and reduced lunch. As a result, one must compare low-income student performance to an “all students” average; because low-income students are included in this average, an accurate comparison between low-income student performance and non low-income student performance is not possible using publically reported student performance data of state based assessments.

III. Poor educational outcomes create additional costs to society since they undermine the chances that low-income children can improve their lives.

The poor educational performance of New Mexico's low-income students directly threatens their future economic security and creates significant costs for the state as a whole. For example, the median income of persons age 18 thru 67 in the United States who had not completed high school was roughly \$25,000 in 2009. By comparison, the median income of persons age 18 thru 67 who completed their education with at least a high school credential, including a General Educational Development (GED) certificate, was \$43,000. Over a person's

²⁵ New Mexico Public Education Department's Assessment and Accountability Data, Statistics and Data (2013), <http://www.ped.state.nm.us/assessmentaccountability/AcademicGrowth/NMSBA.html> (follow “Proficiencies State, District and School, by Grade 2013” hyperlink).

²⁶ Education Data Express – New Mexico elementary and secondary data (last visited Dec. 5, 2013), <http://eddataexpress.ed.gov/state-tables-report.cfm> (select 1. “All states”; 2. Display (Vertical); 3. Open “state figures and facts” (students → student characteristics → Low Income); Open “achievement data” (graduation rate data → Regulatory Adjusted Cohort Graduation Rates: 2011-12 → Low Income); 4. “Display Method” [data elements by category]) (showing New Mexico's graduation rates among the economically disadvantaged (SY 2011-12)).

²⁷ Kids Count Data Center, Teens ages 16 to 19 not in school and not high school graduates for 2011, (2013), <http://datacenter.kidscount.org/data/acrossstates/Rankings.aspx?ind=73>

working life, this difference would translate into a loss of approximately \$630,000 in income for a person who did not complete high school compared to a person with a high school credential.²⁸ People that fail to graduate from high school are also less likely to be employed, are in worse health than adults who are not dropouts, regardless of income, and are more likely to be incarcerated.²⁹

High levels of child poverty also create significant costs to society as a whole. Research demonstrates that low-income children are at a greater risk of being poor once they are adults.³⁰ In this way, high levels of child poverty directly contribute to a cycle of poverty that makes it more difficult for low-income children to lift themselves and future generations out of poverty. The cycle of poverty is costly, as Americans are estimated to pay nearly \$200 billion a year in lost economic productivity and increased spending on healthcare and criminal justice to compensate for the negative impact of poverty on the education and economic futures of low-income students.³¹

IV. Poverty is the most significant cause of poor school performance.

Education research has consistently shown that child poverty is the most significant barrier to a child's success in school, including completion of secondary education, greater even than minority status or whether a student's parents graduated from high school.³² National research indicates that 40% of the variation in average reading scores and 46% of the variation in average math scores across the country are directly determined by whether a student lives in poverty.³³ While some variances in test scores correlate with race, ethnicity, and cultural background, the gap on test scores between rich and poor is almost twice as large as the gap on test scores between black and white children.³⁴ *This makes child poverty the most significant determinant of whether a student will succeed in school.*

The link between child poverty and poor academic performance is forged by the fact that low-income students face additional barriers and challenges in their home, economic, and social life that make succeeding in school more difficult.³⁵ Child poverty is associated with substandard housing, homelessness, food insecurity, as well as the social challenges of living in unsafe neighborhoods.

²⁸ Cecilia E. Rouse, *The State of the American Child: The Impact of Federal Policies on Children*, Council of Economic Advisers Testimony before the Subcommittee on Children and Families Committee on Health, Education, Labor and Pensions United States Senate July 29, 4-5, available at <http://www.whitehouse.gov/files/documents/20100729-rouse-testimony2.pdf>

²⁹ Pleis J.R. et. al., *Summary health statistics for U.S. adults: National Health Interview Survey, 2009*. National Center for Health Statistics, Vital Health Stat 10, 249 (2010), available at http://www.cdc.gov/nchs/data/series/sr_10/sr10_249.pdf

³⁰ National Center for Children in Poverty, *Ten Important Questions About Child Poverty and Family Economic Hardship* (2012), <http://www.nccp.org/faq.html#question7>

³¹ Rouse, *supra*, note 28.

³² PL Engle and MM Black., *The Effect of Poverty on Child Development and Educational Outcomes*, Ann. N. Y. Acad. Sci., 1136(1): 243-256 (2008).

³³ Reardon, Sean F., Op-Ed., *No Rich Child Left Behind*, N.Y. Times, April 28, 2013, available at <http://opinionator.blogs.nytimes.com/2013/04/27/no-rich-child-left-behind/>

³⁴ *Id.*

³⁵ See Engle and Black, *supra*, note 32.

In addition to these economic and social barriers, growing up in poverty also has a negative impact on the emotional and cognitive development of children making it more difficult for them to succeed in the classroom.³⁶ The American Psychological Association (APA) outlines that children living in poverty are more likely to suffer developmental delays as well as social-emotional problems due to the “chronic stress” associated with growing up in poverty—this fundamentally compromises their ability to concentrate, learn, process information and thus succeed in an academic setting.³⁷

While the gap in achievement between higher and lower income students is expanding, the gap between blacks and whites, and Hispanics and non-Hispanic whites, has been slowly narrowing over the past two decades.³⁸ And, overall, tests scores for all children regardless of race or income have gradually risen over the years.³⁹ Thus, the achievement gap between poor and rich students cannot be explained by a growing gap between races and ethnicities or a general decline in test scores overall. Moreover, children from rich and poor families score very differently on school readiness tests in kindergarten, showing that the opportunities available to higher income children when they are young sets the trend for the achievement gap.⁴⁰

V. The negative impact of poverty on educational performance is intensified in New Mexico because of the high concentration of poverty in our schools.

One reason why all of New Mexico’s children do worse in school than children across the country, and why New Mexico’s poor children do worse in school than low-income students nationally, is the concentration of poverty in New Mexico. Ongoing research that dates back to the 1960s⁴¹ has shown that the concentration of poverty within a school has a negative impact on student performance, above and beyond the impacts of poverty alone.⁴² High poverty schools (*i.e. schools in which 75% of students are eligible for free or reduced lunch*)⁴³ integrate a body of students that are largely impacted by similar social, psychological, and economic challenges

³⁶ *Id.*

³⁷ Effects of Poverty, Hunger, and Homelessness on Children and Youth (American Psychological Association 2013), <http://www.apa.org/pi/families/poverty.aspx?item=2>

³⁸ Reardon, *supra*, note 33.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ James S. Coleman et al., *Equality of Educational Opportunity*, National Center for Educational Statistics (1966).

⁴² PISA 2009 Results: Executive Summary, 8, OECD (2010), available at <http://www.oecd.org/pisa/pisaproducts/46619703.pdf>

(“In Japan, Czech Republic, Germany, Belgium and Israel and partner countries Trinidad and Tobago and Liechtenstein, performance gap between two students with similar socio-economic backgrounds, one of whom attends a school with an average socio-economic background and the other attends a school with an advantaged socio-economic background is equivalent to more than 50 score points, on average, or more than a year’s worth of education.”)

⁴³ The Condition of Education, *Concentration of Public School Students Eligible for Free or Reduced-Price Lunch* (2013), http://nces.ed.gov/programs/coe/indicator_clb.asp (defines a low-poverty school as a public school where less than 25% of students are eligible for the program and a high poverty school is defined as a school where more than 75% of the students are eligible).

associated with poor living conditions.⁴⁴ The collection of these challenges, combined with poor-functioning facilities and overcrowded classes, magnify the difficulty of academic learning in an environment that is too often characterized by a greater degree of at-risk factors, such as negative peer influence, less experienced teachers, higher dropout rates, weaker educational outcomes, less parental involvement, lack of quality afterschool and extracurricular programs, an unsafe environment, and diminished life opportunities.⁴⁵ The overall effect of this adverse learning environment, in addition to poverty itself, serves as a “double handicap” for all low-income students. School systems are often incapable of correcting this double handicap through their own internal efforts.⁴⁶

By contrast, evidence has shown that low-income students perform well, on average, in schools where a majority of students are middle class.⁴⁷ Non low-income schools often contain experienced teachers, positive peer influences, tougher academic competition, and access to more developed social networks.⁴⁸ Low-income students attending non low-income schools are motivated and challenged to meet higher standards of learning, and are often able to do so through positive peer influences and quality teachers.⁴⁹

A full two-thirds of New Mexico’s students are low-income (i.e. eligible for free or reduced lunch); the national average is 48%.⁵⁰ Even worse, a higher percentage of children in New Mexico live in extreme poverty (14%) than any other state in the nation besides Mississippi and Louisiana.⁵¹ And, 21% of New Mexico’s children live in concentrated poverty.⁵²

There are few areas in the state where poverty is not pervasive. In fact, only three counties in New Mexico have poverty rates of less than 15% of their total population, and most have more

⁴⁴ J. I. Hochschild, *Social Class in Public Schools*, *Journal of Social Issues*, 59, 821–840 (2003), available at <http://scholar.harvard.edu/jlhochschild/publications/social-class-public-schools>. (“These problems include poor health and nutrition, greater family instability, more frequent moves, less safe communities, fewer books and educational resources in the home, a greater likelihood of having parents or other caretakers who have little formal education and/or speak little English, and anxieties about racial or ethnic discrimination.”)

⁴⁵ John Powell, *Segregation and Educational Inadequacy in Twin Cities Public Schools*, 17 *Hamline J. Pub. L. & Policy* 337, 339 (1996); Richard D. Kahlenberg, *Socioeconomic School Integration*, 85 *N.C. L. Rev.* 1545, 1549 (2007).

⁴⁶ Richard Kahlenberg, *All Together Now: Creating Middle-Class Schools through Public School Choice*, 25, Washington D.C. (Brooking Institute, 2003).

⁴⁷ *Id.*; see also Kennedy, Mary M. et al. “Poverty, Achievement and the Distribution of Compensatory Education Services: An Interim Report from the National Assessment of Chapter 1,” Office of Educational Research and Improvement, 30, Washington D.C. (1986).

⁴⁸ Gary Orfield & Chungmei Lee, *Why Segregation Matters: Poverty and Educational Inequality*, Civil Rights Project of Harvard University (2005), at <http://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/why-segregation-matters-poverty-and-educational-inequality/orfield-why-segregation-matters-2005.pdf>

⁴⁹ Kahlenberg, Richard D., *From All Walks of Life: New Hope for School Integration*, 3, *American Educator* (2013) <http://www.aft.org/pdfs/americaneducator/winter1213/Kahlenberg.pdf>

⁵⁰ Education Express Data, *supra*, note 21.

⁵¹ Kids Count Data Center, *Children in Extreme Poverty by state* (2013), <http://datacenter.kidscount.org/data/acrossstates/Rankings.aspx?ind=45> (defining extreme poverty as the share of children under age 18 who live in families with incomes less than 50 percent of the federal poverty level).

⁵² Kids Count Data Center, *Children Living in Concentrated Poverty by state* (2013), <http://datacenter.kidscount.org/data/tables/6795-children-living-in-areas-of-concentrated-poverty?loc=1&loct=2#detailed/2/10-19,2,20-29,3,30-39,4,40-49,5,50-52,6-9/false/1074,880,111/any/13891,13892> (defining concentrated poverty as students living in census tract areas with poverty rates of 30% or more)

than 20% poverty rates.⁵³ Of the 89 school districts in the state, only eight have less than half of their students who qualify for free or reduced lunch. Conversely, 28 of 89 public school districts have student populations in which over 75% of students qualify for free or reduced lunch.⁵⁴ This means that 31% of our school districts are school districts of concentrated poverty. In two districts in the state, Gadsden and Hatch, more than 95% of the students qualify for free or reduced lunch.⁵⁵

This widespread, and in places, blanket poverty, means that there are few public school teachers and public school districts who do not face the additional negative effects of concentrated poverty. Given the correlation between poverty, especially concentrated poverty and low academic achievement, New Mexico students have a greater risk of academic failure than most students across the country well before they enter the school doors.

VI. State education policies and funding do not meet the needs of low-income students and do not address the negative impacts of child poverty on education.

In 2008, the American Institutes for Research (AIR) published “An Independent Comprehensive Study of the New Mexico Public School Funding Formula,” which concluded that “state support for public schools should increase by 14.5 percent (or \$334.7 million in 2007-08) to achieve sufficiency in New Mexico.”⁵⁶ That conclusion was the result of a “16 month effort by the AIR to determine the cost of a sufficient education for all public school students in New Mexico,” which started with a careful analysis of what a “sufficient” education is.⁵⁷ Since then, the budget for public schools has actually decreased, meaning that our schools are more underfunded now than they were in 2007.

New Mexico’s Public School Funding Formula does not provide adequate funding to meet the needs of low income students. New Mexico uses a funding formula to distribute public school funding to school districts. A major objective of the state’s current formula is to achieve equitable funding between school districts and state charter schools.

To achieve this, the state’s formula provides each district and charter school a certain base amount of funding for all students—and, recognizing that some districts face additional costs

⁵³ US Census, Small Area Income and Poverty Estimates, Estimates for New Mexico Counties (2013) <http://www.census.gov/did/www/saipe/data/interactive/#> (select year 2011; select state “New Mexico”). See also percent in poverty by total population (2011) http://www.census.gov/did/www/saipe/data/schools/maps/sd_maps/NM_Saipe2009_SDprofile.pdf (mapping a larger frame of poverty in New Mexico by county).

⁵⁴ Kids Count Data Center, percentage of students eligible for free/reduced lunch and breakfast 2009-2010 (2013), <http://datacenter.kidscount.org/data/bystate/Rankings.aspx?state=NM&loct=10&by=v&order=d&ind=6140&dtm=12811&tf=857>

⁵⁵ *Id.*

⁵⁶ Dr. Jay Chambers, et. al. *An Independent Comprehensive Study of the New Mexico Public School Funding Formula*, Executive Summary (American Institutes for Research, 2008), available at <http://www.nmschoolfunding.org/>

⁵⁷ *Id.* at 5 (determining the sufficiency of education in New Mexico by the “Marginal Cost to Achieve Sufficiency” (i.e. \$335,826,685) added to the “Total Actual Program Cost of 2006-07” (i.e. \$2,167,073,473), equaling to \$2,502,900,158).

due to their size, geographic location, and the makeup of their student population, provides additional funding to meet these needs.

In 1997, the state legislature recognized that low-income students and those for whom English is a second language (classified as “English Language Learner”) require additional education resources. To meet these needs, the legislature added an “at-risk index” to the state’s funding formula that directs additional resources to districts based upon the size of their low-income and English Language Learner student populations.⁵⁸

The current at-risk index does not work well. A 2011 study conducted by the New Mexico Legislative Finance Committee concluded that the current formula does not direct adequate resources to cover the incremental costs needed to educate at-risk students, and that other states direct more funds to their at-risk students that are living in poverty or those that are English Language Learners.⁵⁹ In 2011, New Mexico’s at-risk student index generated an additional 10% in funding for serving low-income students. Other states direct up to 50% in additional funds for students living in poverty.⁶⁰ A comparison of incremental state funding for students living in poverty for several states is provided in table 4.

| Table 4. State comparison: Additional Funding for At-Risk Students and percentage of Students Living in Poverty | | |
|--|--|---|
| State | Additional funding provided per at-risk student | School-aged children living in poverty |
| Minnesota | 50% | 15.2% |
| Georgia | 30% | 24.8% |
| Texas | 25% | 25.7% |
| Vermont | 25% | 16.7% |
| South Carolina | 25% | 26.1% |
| Missouri | 25% | 20.9% |
| Oregon | 25% | 21.6% |
| Connecticut | 25% | 12.8% |
| Maine | 25% | 17.8% |
| Louisiana | 19% | 27.3% |
| Michigan | 12% | 23.5% |
| Hawaii | 10% | 13.9% |
| New Mexico | 10% | 30.0% |
| Mississippi | 5% | 32.5% |
| Source: NM LFC, 2012 and the US population survey | | |

⁵⁸ S. 100, 43rd Leg., First Sess. (NM 1997), available at <http://www.nmlegis.gov/Sessions/97%20Regular/bills/senate/SB0100.pdf>

⁵⁹ Legislative Finance Committee’s (LFC) Program Evaluation Progress Report, issue #11-15 (Nov. 2011), available at <http://www.nmlegis.gov/lcs/lfc/lfcdocs/perfaudit/A-3-A-9%20Final%20Draft%20%20Public%20School%20Funding%20Formula%20Evaluation.pdf>

⁶⁰ LFC Program Evaluation, *supra*, note 59, at 13.

Many districts and charter schools also receive federal Title I funds.⁶¹ However, according to the New Mexico Legislative Finance Committee, the current level of state at-risk funding, even when combined with Title I funds, based upon performance measures, is still insufficient to meet the needs of low-income students.⁶²

Contemporary education reform initiatives in New Mexico do not address the negative impact that child poverty itself has on student educational success.

The current administration has proposed “Kids First, New Mexico Wins,”⁶³ which contains three central education reform initiatives: tying teacher pay to teacher evaluations and student performance (“Rewarding Effective Educators and Leaders”); an A-F grading school grading system⁶⁴ (“Real Accountability. Real Results.”); and retaining third-grade students that do not read at grade level (“Ready for Success”). None of these initiatives directly target closing the achievement gap between low-income students and their peers.

1. Tying teacher pay to performance and student test scores alone does not guarantee that students with the greatest academic needs are being taught by the state’s most qualified and experienced teachers.

Contemporary educational research has consistently shown that quality teaching is the most influential school factor affecting student academic success.⁶⁵ States, school districts and the federal government have increasingly come to recognize this and created incentives to improve quality teaching.⁶⁶ Governor Martinez’s administration is pursuing a pilot teacher evaluation program that ties teacher pay to assessments of student achievement (measured by student performance on the state’s standard’s based assessment), classroom evaluations, and state-approved local evaluation tools.⁶⁷ The federal government too, is seeking to improve teacher quality by, among other things, tying teacher compensation to student performance.⁶⁸

⁶¹ Title I (“Title One”), a provision of the Elementary and Secondary Education Act passed in 1965, is a program created by the United States Department of Education to distribute funding to school districts with a high percentage of students from low-income families. Funding is distributed first to state educational agencies (SEAs) which then allocate funds to local education agencies (LEAs) which in turn dispense funds to public schools in need. Title I also helps children from families that have migrated to the United States and youth from intervention programs who are neglected or at risk of abuse. The act appropriates money for educational purposes for the next five fiscal years until it is reauthorized. In addition, Title I appropriates money to the education system for prevention of dropouts and the improvement of schools. These appropriations are carried out for five fiscal years until reauthorization. For a school to be an eligible Title I school, at least 40% of the school’s students must be from low-income families who qualify under the United States Census’s definition of low-income, according to the US Department of Education.

⁶² LFC Program Evaluation, *supra*, note 59.

⁶³ Strategic Plan: Kids First, New Mexico Wins, NM PED (2011)
http://ped.state.nm.us/NMPED%20Strategic%20Plan%202011_2012.pdf

⁶⁴ See New Mexico’s Public Education Department, School Grading,
<http://webapp2.ped.state.nm.us/SchoolData/SchoolGrading.aspx> (containing information about the grade received by each of New Mexico’s school districts in 2012-2013).

⁶⁵ Orfield and Lee, *supra*, note 48, at 5-7.

⁶⁶ John Rosales, *Pay Based on Test Scores? What educators need to know about linking teacher pay to student achievement*, National Education Association, <http://www.nea.org/home/36780.htm>, (last visited Oct. 18, 2013).

⁶⁷ Robert Knott, *2012 Legislature; Trio of Bills Push for New Teacher; Evaluation System; Two Measures Partly Use Test Scores to Rate Educators; One Does*, Santa Fe New Mexican (2012), available at

Regardless of whether tying teacher evaluations and compensation to standardized measures of student performance will improve student performance, this policy alone will not result in the most experienced, qualified teachers serving those students with the greatest need. In fact, without compensatory measures, it will have the reverse effect, encouraging teachers to teach in environments that are most likely to result in their success and thereby higher pay, i.e. to teach in low-poverty schools where test scores are higher and therefore teachers will be found to be achieving better than high-poverty schools where test scores are lower.

National studies have shown that low-income students are often taught by teachers that are less experienced, less qualified, and less well-paid than their peers.⁶⁹ To date, the state has yet to evaluate how districts allocate their most experienced, qualified teachers, who are identified through the state's three-tiered licensure system. Further, neither existing state law nor the governor's teacher evaluation proposal provides a framework for aligning the state's most experienced, qualified teachers with students that have the greatest academic needs.

2. Proposed school grading systems do not distribute adequate statewide funding to provide education supports for at-risk students.

In 2011, the New Mexico legislature passed a bill requiring each school principal and school to be graded along an A-F scale. The system is intended to provide parents and other stakeholders with a clear assessment of individual schools.⁷⁰

Other states that have adopted similar evaluation systems have paired them with a significant increase in funding earmarked for additional student supports and interventions in schools receiving a failing grade. Florida, for instance, amended its funding formula alongside implementing an A-F grading system to provide additional funding for struggling schools.⁷¹

New Mexico, however, has yet to follow suit. When a school is identified as "failing" under the state's evaluation system, it is not provided with significant additional resources to improve

<http://www.thefreelibrary.com/2012+LEGISLATURE%3B+%3B+TRIO+OF+BILLS+PUSH+FOR+NEW+TEACHER+%3B+EVALUATION...-a0279800812>

⁶⁸ US Department of Education, *Obama Administration Releases Final Application for 2013 Race to the Top-Early Learning Challenge*, U.S. Dept. of Education (2013), at <http://www.ed.gov/news/press-releases/obama-administration-releases-final-application-2013-race-top-early-learning-cha>

⁶⁹ Kahlenberg, *supra* note 46, at 1550; see also Sam Dillon, *Districts Pay Less in Poor Schools, Report Says*, N.Y. Times (Nov. 30, 2011), at <http://www.nytimes.com/2011/12/01/education/us-education-department-finds-salary-gap-in-poor-schools.html> (suggesting that the recent Department of Education report now provides sufficient data to support the argument that inexperienced teachers normally teach at high-poverty schools).

⁷⁰ NM LESC (Legislative Education Study Committee), Memorandum, July 10, 2013, available at <http://www.nmlegis.gov/lcs/handouts/Item%203%20-%20A-F%20Schools%20Grading%20System%20Background.pdf> ("Enacted in 2011, the A-B-C-D-F Schools Rating Act created a new public school accountability system that, beginning in school year 2011-2012, was to operate in addition to, and separate from, the existing Adequate Yearly Progress (AYP) system created in state and federal law.")

⁷¹ Foundation for Florida's Future, *Florida's Education Revolution Accountability, Choice and High Expectations Create Student Success*, <http://www.foundationforfloridasfuture.org/Docs/A%20Summary%20of%20Florida%27s%20Education%20Revolution.pdf> (last visited Oct. 18, 2013).

student performance. Following passage of the state's A-F grading system, \$4.3 million in discretionary funding was allocated to support education interventions in the state's 40 lowest performing schools,⁷² an increase of only .01 percent of total state education spending.

3. Third-grade retention does not improve education performance or attainment of low-income students and it has a huge negative impact on students and school district budgets.

New Mexico law currently allows teachers and parents to hold a student back at any grade level if retention is in the best interest of the student. Policy makers continue to propose legislation that would mandate that third-graders that do not read at grade level be held back.⁷³ Under this proposal 80 percent of New Mexico third graders could be held back in the third grade each year.⁷⁴

Fifty years of research shows that retaining students in the early elementary school years does not improve student performance or educational achievement. Indeed, many education researchers have pointed to the fact that third-grade retention comes at a significant cost to both students and school districts.⁷⁵

Failing a grade in school is a major risk factor for dropping out of high school, increasing dropout odds in many education studies two- and threefold.⁷⁶ Being held back in school is one of the strongest predictors of dropout even when other risk factors such as minority status and poverty background are taken into account.⁷⁷ Retention affects life success after high school as well. Compared to similar students who had not repeated a grade, repeaters were more likely to be unemployed or not seeking work, to be living on public assistance, or to be in prison.⁷⁸ Repeating a grade also seems to increase children's adjustment problems in school, and evidence suggests that school performance deteriorates when peer groups are disrupted.⁷⁹

⁷² Capitol Report New Mexico, Susana proposes \$5.5 million in funding for A-F school grades, <http://www.capitolreportnewmexico.com/2012/01/susana-proposes-5-5-million-in-funding-the-a-f-school-grading-system/> (last visited Oct. 18, 2013).

⁷³ Capitol Report New Mexico, *Bill Ending Social Promotion in 3rd Grade Thwarted Again* (Feb. 24, 2013), <http://www.capitolreportnewmexico.com/tag/social-promotion/> (last visited Oct. 18, 2013).

⁷⁴ Capitol Report New Mexico, *Democrats Oppose 3rd-grade Retention* (Jan. 12, 2012), <http://elpasotimes.typepad.com/newmexico/2012/01/democrats-oppose-3rd-grade-retention.html> (last visited Oct. 18, 2013).

⁷⁵ Karl L. Alexander et. al., *On the Success of Failure: A Reassessment of the Effects of Retention in the Primary School Grades*, Cambridge University Press (Primary Grades, 2d. Ed. 2003), at http://assets.cambridge.org/9780521790642/excerpt/9780521790642_excerpt.pdf

⁷⁶ Shane N. Jimerson et. al., *Exploring the Assoc. Between Grade Retention and Dropout: A Longitudinal Study Examining Socio-Emotional, Behavioral, and Achievement Characteristics of Retained Students*, *The California School Psychologist*, Vol. 7, 51-62 (2002), http://www.education.ucsb.edu/jimerson/retention/CSP_RetentionDropout2002.pdf

⁷⁷ Debbie Blue & Jennifer E. Cook, *High School Dropouts: Can We Reverse the Stagnation in School Graduation*, *Study of High School Restructuring*, Vol. 1, Issue 2 (May 2004), at <http://www.edb.utexas.edu/hsns/HSNSbrief2.pdf>

⁷⁸ Martin Woodhead, *When Psychology Informs Public Policy; The Case of Early Childhood Intervention*, *American Psychologist* (June 1988), at <http://www.faculty.umb.edu/pjt/woodhead.pdf>

⁷⁹ Alexander, *supra*, note 75.

Moreover, costs are disproportionately borne by minority and low-income students as they are significantly more likely to be retained than their peers.⁸⁰

For school districts, there is a direct additional cost associated with requiring that students essentially take an extra year of schooling. In New Mexico, the cost of holding back all underperforming third graders would amount to at least \$17 million per year.⁸¹ This merely reflects the cost of providing each retained student with an additional year of instruction, but does not account for the cost of providing any additional education services aimed at providing retained students with additional education supports. In the absence of additional supports, third grade retention simply means placing a failing student back in the same environment that resulted in their retention and does not guarantee that they will be able to excel academically or meet grade level standards.

VII. Recommendations: Address child poverty to improve the educational success of New Mexico's students.

With so many of New Mexico's children living in poverty and doing poorly in school because of it, the state has a tremendous opportunity to improve educational outcomes by focusing its education reform efforts on the needs of low-income students and, more importantly, by reducing the impact that poverty has on the lives of children.

- I. Reduce the rate of child poverty and the negative impacts of poverty as a strategy for increasing education outcomes.** There is enormous potential to address the various barriers that growing up poor places in front of New Mexico's students by shifting the state's education policy focus towards reducing the overall rate of child poverty. These efforts can be conceived in two ways:

- A. Reduce the amount of child poverty.* Reducing the overall rate of poverty among children is a complicated process that involves both macro-level economic forces and the intervention of government. The state, however, has already adopted various interventions aimed at reducing poverty that have proven successful, most notably among them the state's working family tax credit that provide tax credits to low-income working families. In 2011, this tax credit invested nearly 49 million dollars into low-income households across New Mexico and has been shown to effectively assist these families to come out of poverty and better meet their basic needs.⁸²

Raising the state minimum wage, ensuring that the unemployment benefits system works to provide financial support for the uninsured, and having a child care subsidy that makes it possible for low wage workers to get affordable child care are all proven, obvious ways to address poverty, and therefore, to address the educational

⁸⁰ *Id.*

⁸¹ Susana Martinez in 2012 Governor's State of the State Speeches, On the Issues (2013), http://www.ontheissues.org/Archive/2012_State_Susana_Martinez.htm

⁸² Kwaku Sraha, *Refundable Tax Credits: Good for Low-Income Families and the Economy*, New Mexico Voices for Children, April 9, 2013, <http://www.nmvoices.org/archives/2596> (last visited 12/20/2013).

crisis in our state. Recent efforts to raise the state minimum wage in New Mexico provide some hope, and are recognized by voters as being critical to improving economic security. At the same time, New Mexico should increase eligibility and access for the child care subsidy from 100% of the federal poverty level to at least 185% in order to allow more low-income parents to work.

Other strategies that have proven to provide major steps out of poverty are asset development programs, such as Individual Development Accounts (IDA)⁸³ and Child Savings Accounts (CSA),⁸⁴ in which families and the state together invest in a low-income family or child's savings account. In addition, the state should also consider supporting community-based family development and support programs aimed at providing low-income families with the social and economic capital they must have to pull themselves out of poverty. Programs such as these aim to connect low-income families to the social capital they need to avoid backsliding economically (such as connecting families to individuals who can provide access to transportation or childcare) and to make important social and community connections to support their long-term economic growth and stability (such as counseling families in finding and keeping a job or connecting them to income-based aid programs like Medicaid or the federal-state Supplemental Nutrition Aid Program).

B. Reduce the impact that poverty has on low-income students. Students living in poverty face additional challenges when they come to school that compromise their ability to succeed including hunger, housing insecurity, unstable home lives, and reduced access to health care. By relieving the negative impact that poverty has on children, the state can reduce these barriers to student success.

The state can move in this direction by ensuring that all eligible school-aged children are enrolled in programs that address the economic security and health of their families, such as Medicaid, SNAP/food stamps and the state-federal Temporary Assistance for Needy Families program.

In addition, policy makers should begin to address schools as places that meet the whole needs of children. The state took an important first step in this direction with the passage of the Community Schools Act of 2013 by the state legislature.⁸⁵ This Act provides a framework for local school districts to begin integrating vital social and community support organizations and services into the school setting, connecting children and families with the supports they need to improve the economic stability and health of their homes.

⁸³ Corporation for Enterprise Development, Individual Development Accounts (2013), <http://cfed.org/programs/idas/> (defining Individual Development Accounts (IDAs) as matched savings accounts that help people with modest means to save towards the purchase of a lifelong asset, such as a home).

⁸⁴ *Id.*, at <http://cfed.org/programs/csa/about/> (defining CSAs as long-term asset-building accounts, established for children as early as birth and allowed to grow over their lifetime, and built by contributions from family, friends and the children themselves and augmented by savings matches and/or other incentives).

⁸⁵ H. 542, 51st Legis., First Sess. (NM 2013).

C. Increase School-Based Health Clinics in New Mexico. Many public school districts in New Mexico are located in Medically Underserved Areas (MUAs) which are defined as geographic locations which have insufficient health resources (staff and/or facilities) to meet the medical needs of the resident population.⁸⁶ Low-income students have a higher risk of health-related problems than non low-income students, and many of them do not receive adequate healthcare services. As a result, acute illnesses, such as flu, and chronic conditions, such as asthma, diabetes, and depression, are highly detrimental to the overall educational outcomes for poor students.⁸⁷

In order to alleviate such health-related consequences, New Mexico should invest in school-based health clinics for low-income students. These clinics provide students and their families with medical, mental, and behavioral health services, as well as health education, substance abuse counseling, and case management. With an emphasis on prevention, early intervention and risk reduction, school-based health clinics help students to focus on healthy lifestyles and prevention of violence and other threats.⁸⁸

2. Invest in quality early childhood education and pre-K programs and K-3 Plus.

Children from rich and poor families score very differently on school readiness tests when they enter kindergarten. Research shows that the academic gap exists because richer students enter kindergarten much better prepared to succeed in school than middle and lower class students.⁸⁹ The best way to close the gap is to develop Early Childhood Education Centers to provide cognitively stimulating education experiences and stability to low income children so that they come to kindergarten ready to learn.

Likewise, while pre-K programs have expanded over the past decade in our state, recent efforts to fully invest in pre-K have been thwarted. And, currently some pre-K money is spent on child care centers that do not employ certified educators. Pre-K money should be increased and spent on education, not on basic day care.

More money should also be invested in the K-3 Plus Program – a pilot program that New Mexico implemented several years ago, and which has proven to dramatically enhance reading skills for a relatively low dollar amount, by extending the school year for certain low income schools and implementing proven reading teaching strategies. K-3 Plus should be available to all low-income schools.

Current efforts in New Mexico to increase funding for early education recognize that investing in early education actually is an economic stimulator and money maker in the

⁸⁶ U.S. Dept. of Health and Human Services, <http://muafind.hrsa.gov/index.aspx> (last visited 12/20/2013), (Then enter State: New Mexico; Counties: All).

⁸⁷ New Mexico Alliance for School Based Health Clinics, FAQ, <http://www.nmasbhc.org/faq.html> (last visited 12/20/2013).

⁸⁸ *Id.*

⁸⁹ Reardon, *supra*, note 33.

end. It is critical that New Mexico policy makers make this investment in our children. It will result in an investment for our state's economic success.⁹⁰

3. Adequately fund the public schools and focus education resources and reform initiatives on the needs of low-income students. Even though research indicates that students living in poverty require additional educational supports, ongoing state education reforms are not tailored to meet the unique challenges faced by low-income students. Even worse, in some instances, state education policies such as proposals to retain students in the third-grade, have a disproportionately negative impact on the academic success and educational attainment of students living in poverty. To reverse this trend, the state should:

A. Increase funding for the public schools. The state's current funding for public schools is at least 15% less than it needs to be to provide each child with a sufficient education. So, to begin with, state funding must be increased.

B. With an increased education budget, reform the state's K-12 funding formula to better direct additional resources to meet the needs of low-income students. The state's formula, which recognizes that low-income students require additional services and educational interventions in school, and directs additional funding to school districts because of it, must be adjusted. The current funding formula does not adequately weigh the impact that poverty has on students and directs less funds to support them than most other states. First, the budget must be increased so that an adjustment of the funding formula does not take funding away from schools. Then, New Mexico could use its existing framework to better meet the educational needs of low-income students by reforming the funding formula to direct additional funds to districts with high levels of student poverty.

C. Study the distribution of the state's most qualified, experienced teachers, and ensure that they are serving the most at-risk students. While the state has developed various evaluation systems to rank the performance of schools (the state A-F grading system) and teachers (the three-tiered licensure system), New Mexico does not use this information to decide where its resources should go. Education research shows that effective teachers can have a significant impact on student performance. Therefore, New Mexico should use existing evaluation systems to ensure that its most experienced, qualified teachers are directed to the most at-risk students.

The current A-F system does the opposite. For example, all but three of Albuquerque's 71 (out of 140) schools that the PED gave a D or an F are in high poverty districts. This results in teachers being discouraged from teaching in those schools because the school's grade has an impact on the teachers' individual grades. Teachers' grades should not be linked to the school's grade.

⁹⁰ Steffanie Clothier & Julie Poppe, *New Research: Early Education as Economic Investment*, National Conference of State Legislatures 2013 (last visited 12/20/2013) <http://www.ncsl.org/research/human-services/new-research-early-education-as-economic-investme.aspx>

D. Avoid punitive interventions, such as third grade retention, that disproportionately impact low-income students. The Secretary of Education continues to try to pass legislation to mandate retention of students that do not read proficiently by third grade. Research, however, demonstrates that similar efforts across the country have resulted in disproportionately more low-income and minority students being retained. Being retained for a year has been shown to dramatically increase the likelihood that a student will drop out of high school. Instead of pursuing punitive interventions such as third grade retention, the state should focus on early intervention strategies that seek to identify and remedy deficiencies in student cognitive and academic development throughout their educational careers.

- 4. Dismantle the school-to-prison pipeline:** The school-to-prison pipeline is the culmination of education and public safety policies that directly and indirectly push students out of the classroom and into the criminal justice system.⁹¹ Studies have shown that strict discipline policies are not only detrimental to students' educational success but ineffective at improving overall safety in schools.⁹² Still, states throughout the nation, including New Mexico, have authorized local school districts to crack down on student misconduct through discipline and zero-tolerance policies, where punishment rather than rehabilitation has been the overarching theme. Students have been over-punished for relatively innocuous behavior that violated school policy – e.g., burping in class⁹³, hugging another classmate⁹⁴, and crafting a gun from a Pop-tart⁹⁵.

The strict enforcement of discipline policies has led to higher pushout rates for low-income students in New Mexico.⁹⁶ Districtwide data from New Mexico public schools reveals that Native American and African American students—the highest-poverty subgroups—have disproportionate suspension and expulsion rates.⁹⁷ Thus, these low-income students are being pushed out of school, and as dropouts become 3.5 times more likely to be arrested than graduates.

In order to address this issue, districtwide data must be made readily available, as many New Mexico school districts do not disaggregate suspensions/expulsions by race or income. New Mexico needs to limit the referral of children to the criminal justice system and address discipline issues in schools through positive behavioral interventions and supports, rather than suspension and expulsion.

- 5. Accurately report the performance of low-income vs. non low-income students.** Current state data reporting methods actually mask the true size of the

⁹¹ Deborah N. Archer, *Introduction: Challenging the School-to-Prison Pipeline*, 54 N.Y.L. Sch. L. Rev. 867, 868 (2010); see also Chauncey D. Smith, *Deconstructing the Pipeline: Evaluating School-to-Prison Pipeline Equal Protection Cases Through A Structural Racism Framework*, 36 Fordham Urb. L.J. 1009, 1017 (2009).

⁹² *Id.*

⁹³ http://www.huffingtonpost.com/2011/12/01/student-arrested-for-burping_n_1124179.html

⁹⁴ http://www.educationworld.com/a_curr/student-suspended-for-hugging.shtml

⁹⁵ http://www.huffingtonpost.com/2013/06/11/pop-tart-gun_n_3419815.html

⁹⁶ Archer, *supra*, note 91.

⁹⁷ New Mexico Center on Law and Poverty, *Suspend, Expel, and Exclude: How Zero-Tolerance Discipline Policies Deny New Mexico Students Access to an Education*, report 2010 (2012).

achievement gap between low-income and non low-income students. To provide all stakeholders with a more accurate assessment of low-income student performance relative to their non low-income peers, the state should disaggregate student performance data specifically for students that do not qualify for free or reduced lunch, and report on low-income students and non low-income students, instead of reporting on low-income students and all students. Doing so would provide policy makers a more accurate picture of how low-income students perform in New Mexico and provide the data necessary to craft public policy initiatives aimed at reducing the impact of poverty on student performance and attainment.

III. The fight against poverty is the fight to improve education.

While contemporary education policy tends to emphasize the role that education can play in lifting people out of poverty, it has mostly ignored the idea that fighting poverty and the negative effects that poverty has on the development of children, is necessary in order to improve the educational performance and attainment of low-income students. Only by meeting the needs of students living in poverty can New Mexico transform and improve educational outcomes.

Policymakers, educators and community advocates must work together to address the correlation between the high number of children living in poverty in New Mexico and the low educational outcomes in our state. While accountability and performance are important metrics to evaluate school systems, they do not begin to address the real problem in New Mexico's schools: poverty. In sum, poverty and low educational outcomes are directly related. To improve the education of our children, we must fight poverty and its wide-reaching impact on our children.