

# Native American Rights Fund

## Indigenous Peoples' Rights

<https://www.narf.org/cases/montana-indian-education-for-all/>

## Campaign and Advocacy

The people of Montana committed to Indian Education for All. Unfortunately, state education officials have not followed through.

Status: Active

*[Public school students, guardians of students, and tribal governments filed suit against Montanas education agencies for failing to teach children in public schools about American Indian tribes as required by the Montana constitution and statutes.](#)*

*The Native American Rights Fund (NARF), American Civil Liberties Union-Montana (ACLU-MT), and American Civil Liberties Union (ACLU) proudly represent the individual plaintiffs and the Assiniboine and Sioux Tribes of the Fort Peck Reservation, Confederated Salish and Kootenai Tribes of the Flathead Reservation, Fort Belknap Indian Community, Little Shell Tribe of Chippewa Indians of Montana, and Northern Cheyenne Tribe.*

Montana is home to eight federally-recognized American Indian tribes and about 78,000 American Indian individuals. For decades, many individuals and political leaders working independently and together have made huge strides in creating unique legal requirements and securing dedicated state funding to improve education by teaching all Montana public school students American Indian and non-Indian about American Indians. It began in 1972, when American Indian people from across the state traveled to Helena to testify at the Montana Constitutional Convention about the need to improve public school education for and about Indians in Montana. Over several months, the Montana legislators revising the State Constitution heard about this issue.

Among the first to testify were two teenage students from the Fort Peck Indian Reservation, Mavis Joyce Scott Hernandez and Diana Lynne Leuppe. Their words made an impression on Bozeman Delegate Dorothy Eck. A month later, Eck referenced their testimony when she proposed adding a mandate for Montana public schools to teach all public school students about the unique heritage and cultures of American Indians in the state. Other legislators recalled how then SPI Supervisor of Indian Education Earl J. Barlow (Blackfeet) had made a similar plea at an earlier Montana Constitutional Convention meeting.

In discussing the importance of a complete education for all Montanans, a few legislators expressed embarrassment at how their own public school education had taught them so little about the historic and present tribal communities in the state. With a near unanimous vote, Ecks proposed amendment became part of the state Constitution. Montana became the first and as of 2021 the only state to constitutionally mandate the teaching of Indian education in public schools. [Article X, Section 1, Educational goals and duties, of the Montana Constitution](#) states: The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.

Unfortunately, in the 25 years that followed, the state education agencies, boards and officials did not implement the constitutional mandate, or did not implement it very well. That ultimately lead tribal leaders, Indian educators, parents, students and activists to lobby the Montana Legislature for assistance in having the state make good on the constitutional promise to teach Indian education in public schools. In 1999, the legislature enacted [the Indian Education for All Act \(IEFA\)](#), which requires state agencies and officials to implement the constitutional mandate. Notably, IEFA requires educational agencies and personnel to collaborate with Montana tribes to implement IEFA.

In spite of this major legislative victory, IEFA implementation remained minimal. Advocates of the law recognized that state funding for IEFA was an issue, and that the judicial branch of government was needed to address this. When a lawsuit was brought challenging state funding for public school education generally, funding for IEFA specifically was included in that lawsuit. As a result of the Montana Supreme Court holding in 2005 that the state public school funding system generally was unconstitutional, the legislature increased funding, including for IEFA. In 2007, the Legislature began dedicating annual funding for IEFA implementation which has continued to this day.

However, despite over a decade of over \$3.5 million of dedicated funding annually, IEFA implementation remained inconsistent and deficient statewide. Some schools taught Indian education, yet most did not. A few schools worked with tribes but most did not. Most importantly, the state agencies and officials charged with implementing IEFA did not fulfill their responsibilities to ensure compliance with the law. They did not require schools to report on whether and how they spend IEFA funding, nor whether the schools cooperated with tribes.

According to state agency records, at present, almost half of the dedicated funding for IEFA is unaccounted for on an annual basis. Yet the state agencies continue to distribute the funding to schools year after year. In 2021, at the request of Montana tribes and parents, NARF, the ACLU, and ACLU-Montana are representing them in a lawsuit against the States educational leadership over IEFA failures.

The State of Montana has had nearly 50 years to figure this out, says NARF [Staff Attorney Melody McCoy](#), who has worked in the area of Indian education for over 30 years. One would think that would be enough time, but here we are having to go to court again to get it right.

On July 22, 2021, Montana guardians of public school students, eighteen students, and the Assiniboine and Sioux Tribes of the Fort Peck

Reservation, Confederated Salish and Kootenai Tribes of the Flathead Reservation, Fort Belknap Indian Community, Little Shell Tribe of Chippewa Indians of Montana, and Northern Cheyenne Tribe [filed a class action lawsuit](#) against the Montana Office of Public Instruction (MOPI), including Montana Superintendent of Public Instruction (SPI) Elsie Arntzen, the Montana Board of Public Education (MBPE), and Chairperson of the Montana Board of Public Education Darlene Schottle, for failing to implement IEFA. The Montana Legislature passed the Indian Education for All Act in 1999 to ensure every state citizen had the opportunity to gain a basic understanding of local history and information about Native peoples in this region, said the Confederated Salish and Kootenai Tribes Chairwoman Shelly R. Fyant. We need state education administrators to create a system of accountability to ensure every educator teaches this subject in a way that preserves American Indians cultural integrity and to ensure the money Montanans voted to invest in Indian Education for All, benefits every student. Now more than ever, this quality education is needed in our state.

NARF, ACLU, ACLU-MT represented the plaintiffs demanding the state deliver on its constitutional promise to improve Indian education in public schools. Since Montana made this promise to citizens in 1972, thousands of students who have graduated from public schools have never received the innovative education promised in their Constitution and augmented by the Indian Education for All Act, said NARF Staff Attorney Samantha Kelty. The state has an obligation to implement and manage this public mandate and must live up to its legal obligations to do so.

The class action lawsuit of *Yellow Kidney, et al., v. Montana Office of Public Instruction, et al.* aims to make state agencies accountable in fulfilling legal obligations. Montana is the first and to date only state to constitutionally require the teaching of Indian education to all students in its public schools. That is a stunning testament to the people of Montana who are not getting what they voted for and what their public money is being allocated for. If we succeed in this lawsuit, going forward, that will change and the state agencies and officials charged with implementing the law finally will have to implement the law correctly and fully, said McCoy.

Plaintiffs can envision how a properly implemented IEFA program could create immense positive change. We want the children in our Public schools to grow together with as much effort put towards understanding one another as possible, said **Amber Lamb of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation**. It is important to be educated about historical elements that built the culture we are living in today. If we want a cohesive community, it is necessary to present details and truths about the lives of Indigenous people in order to work together to be a strong community. We want our schools to be safe places where all children feel accepted and open to learning together and about each other.

Tribes, students and their parents and guardians filed the proposed class-action lawsuit so state agencies and officials will implement the constitutional and statutory mandates fully and consistently statewide. I know that MOPI uploads some videos and content for teaching IEFA, however, there seems to be a break down between providing this information and teachers having and using what they need to teach students, said lawsuit plaintiff Cammie DuPuis-Pablo (Confederated Salish and Kootenai Tribes), a parent of Montana public school students. Teachers definitely need more support at the state level. MOPI needs to make sure that teachers have what they need, that schools stay on track, and that everyone is getting the IEFA curriculum right.

The unique Montana law provisions offer substantial opportunities for public school curricula to be developed with tribal expertise and input. Our people can share place names that date back 14,000 years. Songs, languages, and stories that have survived thousands of years have been entrusted with the current cultural leaders. Tribes can help schools embrace and apply this tribal knowledge into various disciplines, including, for example, invaluable traditional practices of caretaking forests, waters, and landscapes that will improve resource management practices for future generations of all Montanans, said Confederated Salish and Kootenai Tribes Chairwoman Shelly Fyant. Many tribal educators are excited about sharing this knowledge and insight on our own terms, of course! Its a mystery as to why theres any obstruction: the offer to share remains.

This lawsuit is needed to hold the state accountable for giving school districts and educators what they need to make the positive changes promised by the law for all Montana citizens, and making sure those changes are made said McCoy.

NARF Staff Attorney Samantha Kelty agrees that lawsuit could help to realize a dream held for decades in the hearts of many people. For many decades, educators, students, and families have waited for better Indian Education in the state. This lawsuit will ensure MOPI steps up and finally puts IEFA into motion the way generations of Montana visionaries have long hoped, said Kelty.

When the state fully and properly implements the law, teachers will have greater access to curriculum developed with tribal input. In the meantime, public educators looking for resources can seek inspiration from the Indigenous science resources tribal educators at the Confederated Salish and Kootenai Tribe have created: <http://fwrconline.csktnrd.org/>.

Subscribe to the NARF newsletter and/or connect with the NARF social media accounts below to be among the first to know of actions that would support Montana parents and tribes in their fight to get the Montana agencies and officials finally to provide Indian Education for All. To learn more about NARFs work [to support Indian Education, visit our web page on tribalizing education](#).

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