Legal Review

NATIVE AMERICAN RIGHTS FUND

AN EDUCATIONAL PROMISE MADE

Montana's Indian Education for All moves from aspiration to accountability — and could become a national standard.

There is an injury that happens in a classroom when a Native American child cannot find their people in the story being taught. The absence can take different forms: sometimes the removal is complete, but sometimes it is filled with a stereotype, an error, or a story that suggests Tribal Nations are relics of the past. The effects are the same. For Native students, it signals that their families, governments, languages, and cultures do not count. Meanwhile, non-Native students are denied the knowledge needed to understand their community and place they call home.



Plaintiffs' representatives and their legal counsel at court, April 2023.

The people of Montana recognized this harm and promised something better. In 1972, after Native people traveled to Helena and spoke at the state's Constitutional Convention, delegates placed an extraordinary commitment in Article X: the state would recognize the "distinct and unique cultural heritage" of American Indians and commit its educational goals to preserving their cultural integrity. The provision passed by a near-unanimous vote. Montana became — and remains — the only state with an explicit constitutional guarantee of education about Native peoples and Tribal Nations.

In 1999, the Montana legislature translated that constitutional language into the Indian Education for All Act. The law's name is important: this education is not an elective or a unit reserved for schools near reservations. It is for every Montanan public-school student. It calls for culturally responsive learning about the histories and contemporary contributions of Native Americans and Tribal Nations, particularly those in Montana. It also directs state educational agencies and personnel to collaborate with Tribal governments and agencies. Properly carried out, Indian Education for All does more than add content. It changes whose knowledge is regarded as foundational.

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A LAW WITHOUT A RELIABLE SYSTEM

However, enacting a law does not ensure change. For Montana's Indian Education for All, implementation varied widely. Some teachers and districts embraced the mandate, developed partnerships, and used strong materials. Elsewhere, instruction was sporadic, inaccurate, confined to a single month, or missing altogether. Families reported having to correct classroom misinformation and press schools to address subjects such as boarding schools and forced assimilation. Cammie DuPuis-Pablo (Confederated Salish and Kootenai Tribes - Qlispé and Ksanka) described her frustration at repeatedly correcting what her children were taught.

The problem was not simply a shortage of good intentions or classroom resources. It was structural. The state distributed dedicated funding, but meaningful oversight lagged. In 2019 and 2020, only about 10 percent of districts reported Indian Education for All expenditures that matched the funding they received. Some money supported portions of librarian salaries or books unrelated to Native culture or history. Since 2007, lawmakers had appropriated roughly $3.5 million annually, yet the system did not consistently require evidence that the money produced the education that the law demanded.

That inconsistent approach carried a human cost. Native children could pass through school without seeing themselves represented accurately or with dignity. Their classmates could graduate without understanding the sovereign nations that are their neighbors. Teachers who wanted to do better were left in systems that did not always provide training, collaboration, or clear expectations. A constitutional commitment had become a matter of geography and chance.

DEMANDING ACCOUNTABILITY

In 2021, 18 students and their guardians, 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 Montana's education agencies. The Crow Tribe joined the lawsuit in 2022. The case, now known as *DuPuis-Pablo v. Montana Office of Public Instruction*, was brought by Native and non-Native plaintiffs who were represented by the Native American Rights Fund, ACLU of Montana, and ACLU. The central claim of the case was straightforward: Montana had undertaken binding constitutional and statutory duties. State agencies failed to implement and enforce them.

"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 NARF Staff Attorney Melody McCoy at the time of the filing.

Tribal Nations' participation in the lawsuit underscored a principle at the heart of the law: Tribes are not merely subjects to be described. They are sovereign partners whose knowledge and authority are essential to getting the education right. In 2021, Confederated Salish and Kootenai Tribes Chairwoman Shelly Fyant described the situation:

> **"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."**

ENFORCEMENT BEHIND THE PROMISE

After several years of case proceedings and negotiations, a court preliminarily approved a landmark settlement in the case in August 2026. The agreement, entered into by the Montana Office of Public Instruction, will integrate Indian Education for All into the system by which Montana evaluates schools. The settlement calls on districts to provide evidence of instruction, appropriate expenditures, and cooperation with Tribes. It would require the state to follow up with schools showing deficiencies, conduct annual reviews of a subset of schools, strengthen reporting, publish information about noncompliance, and make funding reductions possible when districts misuse dedicated money. The settlement also formalizes Tribal consultation and expands Tribal representation in education rulemaking. A related 2025 agreement with the Montana Board of Public Education strengthened the other side of the system: accreditation, content standards, educator preparation, and regular engagement with the Montana Advisory Council for Indian Education.

"This settlement is a long overdue step toward honoring the promise that Montana made to its students in 1972, that every child learns about the histories and cultures of our Tribal Nations," said Michael Dolson, Council Chairman of the Confederated Salish and Kootenai Tribes. "Indian Education for All builds the understanding and respect that all of our communities need. This settlement means accountability for implementing that commitment, with real reporting, real curriculum developed with Tribes, and real consequences when schools fail to deliver."

Accountability builds a bridge between rights and reality. A child cannot learn from a constitutional clause alone. The clause must become a trained teacher, an accurate text, a sustained lesson, a relationship with a Tribal knowledge keeper, and a school leader who knows implementation will be examined. Councilwoman Roxanne Gourneau of the Fort Peck Tribal Executive Board captured the change, "For too long, Tribes were expected to trust that things would improve without having a seat at the table. This settlement recognizes that Tribal Nations are essential partners in educating Montana's students."

TOWARDS A GOLD STANDARD

Montana offers a valuable example for other states. They had a legal guarantee for instruction for Native and non-Native students alike as well as dedicated funding. With this settlement, the state is moving forward with integration across grades and subjects, educator preparation, authentic Tribal consultation, public reporting, and consequences for noncompliance. Together, these pieces form a system that states could replicate across the country.

Montana's own work is not finished. If Montana follows through, Indian Education for All can become what its name has always claimed: an education that belongs to everyone, grounded in truth, strengthened by Tribal sovereignty, and capable of making every child more fully at home in the history and future of the place they share. The settlement is an essential part of that process. As NARF Staff Attorney Mark Carter explains, "This agreement helps prevent classrooms where Native history is missing, misunderstood, or treated as optional. It makes clear that Indian Education for All is not a suggestion — it's the law that was created by the people of Montana."

Ultimately, the settlement's promise will be measured over years: in the quality of the evidence schools submit, the rigor of state follow-up, the candor of public reporting, the continuity of funding, and whether Tribal consultation influences decision-making. It will be measured most clearly in classrooms — by whether students encounter accurate, locally grounded teaching as a normal part of their education. NARF is proud to be there with Montana families and Tribal Nations as they hold the state accountable to the promises that were made.

CASE UPDATES

TRIBAL SUPREME COURT PROJECT CELEBRATES 25 YEARS

In September 2026, the Native American Rights Fund (NARF) and the National Congress of American Indians (NCAI) celebrated the 25th anniversary of the Tribal Supreme Court Project (TSCP), established in 2001 to advance Tribal Nations' interests before the U.S. Supreme Court.

The celebration included a reception at the National Museum of the American Indian on September 17 and a legal colloquium on September 18 focused on Supreme Court Indian law jurisprudence, significant victories, and future priorities.



NARF Staff Attorney Melody McCoy recognizing Riyaz Kanji, Esq. for his involvement with the success of the project.

Speakers highlighted the Project's role in coordinating national legal advocacy in significant cases, including *McGirt v. Oklahoma* (2020) and *Haaland v. Brackeen* (2023). "What's been accomplished over twenty-five years is truly remarkable, "said Governor Stephen Lewis (Gila River Indian Community), during the reception's opening remarks. "The project has helped Tribal Nations navigate some of the most important legal questions of our time."

"Being together at the National Museum of the American Indian reminds us what this work is about — supporting Tribal Nations, Tribal sovereignty, and Native people," said NARF Executive Director John Echohawk at the reception via a video address. "Despite our successes, the work is not finished. Tribal Nations continue to face difficult cases. Our job is to be ready, to stand together, and to make sure the Supreme Court hears from Indian Country with unity, clarity, and strength."

The colloquium explored priorities including extending the Project's expertise to lower courts and strengthening support for appellate advocacy.

NARF and NCAI thank event sponsors for supporting the anniversary celebration. Sponsors included, Shakopee Mdewakanton Sioux Community and Mashantucket Pequot Tribal Nation, Yuhaaviatam of San Manuel Nation, Poarch Band of Creek Indians, Rincon Band of Luiseño Indians, Skadden, Gila River Indian Community, Sonosky, Akin, and the Indian Gaming Association.

The anniversary reaffirmed the Project's ongoing commitment to protecting Tribal sovereignty and ensuring Indian Country's interests are represented before the nation's highest court.

Tribal Supreme Court Project

TRIBAL SUPREME COURT PROJECT

The Tribal Supreme Court Project is part of the Tribal Sovereignty Protection Initiative and is staffed by the National Congress of American Indians (NCAI) and NARF. In 2026, the Project is commemorating 25 years of service furthering the interests of Tribal Nations and Native American people as they appear before the U.S. Supreme Court. The Project's purpose is to promote greater coordination and to improve strategy on litigation that may affect the rights of all Tribes.

We encourage Tribal Nations and their attorneys to contact us to coordinate resources, develop strategies, and prepare briefs, especially at the time of the petition for a writ of certiorari. The one case granted to-date for the Court's October 2026 Term is discussed next.

REPUBLICAN NATIONAL COMMITTEE V. MI FAMILIA VOTA (25-1017)

Plaintiffs, including Tribal Nations, sued in federal district court challenging Arizona's election integrity law as violative of, inter alia, the National Voter Registration Act. The district court enjoined the state from requiring proof of U.S. citizenship from voter-registration applicants and ruled that the NVRA prohibits the state from systemically cancelling voter registrations of non-U.S. citizens within 90 days before a federal election. A majority of a three-judge panel of the U.S. Court of Appeals for the Ninth Circuit affirmed. Rehearing *en banc* was denied.

CALL TO ACTION

NARF looks to Tribal Nations to provide crucial funding to continue our advocacy on behalf of Indian Country. It is an honor to list here the Tribes and Native organizations that have chosen to share their good fortunes with NARF and the Native clients that we serve during the 2026 fiscal year. (Sept. 2025 to Oct. 2026). To join these Tribes and organizations as contributors and partners in fighting for justice for our people and in keeping with the vision of our ancestors, contact Dallin Maybee at dmaybee@narf.org

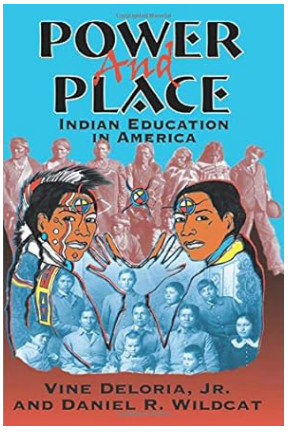
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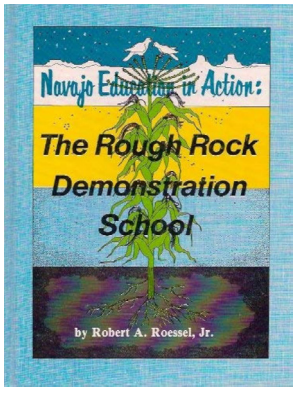
EDUCATION RESOURCES IN THE NILL COLLECTION

The National Indian Law Library (NILL) houses a wealth of unique resources covering a wide variety of Native rights issues. These are just a few of the titles in NILL's collection exploring the topic of education.

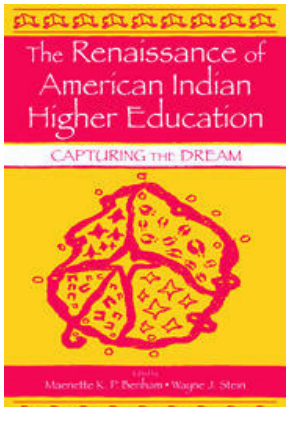
The Tribalizing Indian Education Series by NARF Staff Attorney Melody McCoy supports the development of Tribal education laws and the reform of state and national Indian education legislation. Spanning ten volumes, this series includes draft materials for Tribal laws, historical background and analysis, and supportive workshop materials. This entire series is freely available online at narf.org/resources/tribalizing-education.



Power and Place: Indian Education in America, by Vine Deloria, Jr. and Daniel R. Wildcat, is a collection of essays examining the country's education system and the perspective of Native students in it. Deloria writes, "The educational journey of modern Indian people is one spanning two distinct value systems and worldviews. It is an adventure in which the Native American sacred view must inevitably encounter the material and pragmatic focus of the larger American society. In that meeting ground lies an opportunity for the two cultures to both teach and learn from each other." This empowering book dives into both philosophical as well as practical explorations of Indian education.



Navajo Education in Action: The Rough Rock Demonstration School chronicles the first decade of what is now known as the Rough Rock Community School, a K-12 school founded in 1965 that is funded by the Bureau of Indian Education but is locally operated by the Navajo Nation. Full of history and photos, this fascinating title offers a look into the roots of a groundbreaking institution that continues to center the history, language, and culture of its students.



The Renaissance of American Indian Higher Education: Capturing the Dream, edited by Maenette K. P. Benham and Wayne J. Stein, looks at higher education and the development and progress of Tribal colleges and universities. Written by scholars and education experts, this title focuses on the successes and lessons learned by the Native American Higher Education Initiative.

The Native American Rights Fund

The Native American Rights Fund (NARF) is a Native-led, nonprofit legal organization defending and promoting the legal rights of Native American people on issues essential to our Tribal sovereignty, natural resource protections, and human rights.

Since 1970, we have provided legal advice and representation to Native American Tribal Nations, individuals, and organizations on high impact issues. Our early work was instrumental in establishing the field of Indian law. NARF—when very few would—steadfastly stood for religious freedoms and sacred places, subsistence hunting and fishing rights, as well as basic human and civil rights. We continue to take on complex, time-consuming cases that others avoid, such as government accountability, climate change, voting rights, and the education of our children. We have assisted more than 300 Tribal Nations with critical issues that go to the heart of who we are as sovereign nations.

NARF's first Board of Directors developed five priorities to guide the organization. Those priorities continue to lead NARF today:

- Preserve Tribal existence
- Protect Tribal natural resources
- Promote Native American human rights
- Hold governments accountable to Native Americans
- Develop Indian Law and educate the public about Indian rights, laws, and issues

Under the priority to **preserve Tribal existence,** NARF constructs the foundations to empower Tribes to live according to their traditions, enforce their treaty rights, ensure their independence on reservations, and protect their sovereignty.

An adequate land base and control over natural resources are central to economic self-sufficiency and self-determination. They are vital to the very existence of Tribes. Thus, much of NARF's work aims to **protect Tribal natural resources**.

In order to **promote human rights**, NARF strives to enforce and strengthen laws that protect the rights of Native Americans to exercise their civil rights, practice their traditional religion, use their languages, and enjoy their culture.

Contained within the unique trust relationship between the United States and Tribal Nations is the inherent duty for all levels of government to recognize and responsibly enforce the laws and regulations applicable to Native people. NARF will **hold governments accountable** to Native Americans.

For the continued protection of Indian rights, we must **develop Indian Law and educate the public** about Indian rights, laws, and issues. This priority includes establishing favorable court precedents, distributing information and law materials, fostering relevant legal education, and forming alliances with Indian Law practitioners and other organizations.

Requests for legal assistance should be addressed to NARF's main office at 250 Arapahoe Ave, Boulder, CO, 80302. NARF's clients are expected to pay what they can toward the costs of legal representation.

NARF Legal Review is published biannually by the Native American Rights Fund. There is no charge for subscriptions, however, contributions are appreciated.

narf.org

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