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EDITOR'S PICK

TOPICAL

ALERT

## Lawsuit says state is failing to meet Indian Ed for All requirements

Holly Michels

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**I**n a lawsuit filed Thursday, the ACLU of Montana and the Native American Rights Fund claim the state is failing to teach public school students constitutionally required curriculum about the history and culture of Indigenous people in Montana.

The class action lawsuit was filed in Cascade County District Court on behalf of five Indian nations and 18 individual plaintiffs. The tribes include the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Fort Belknap Indian Community, Northern Cheyenne Tribe, Little Shell Tribe and Confederated Salish and Kootenai Tribes of the Flathead Reservation. The individual plaintiffs include parents and students in schools around the state.

The lawsuit claims the state agencies responsible for implementing the Indian Education for All (IEFA) program have failed to ensure comprehensive compliance statewide.

Those agencies include the Office of Public Instruction (OPI) and Superintendent of Public Instruction Elsie Arntzen; and the Montana Board of Public Education (BPE) and board Chair Darlene Schottle.

The lawsuit claims OPI does not require uniform reporting by school districts about what they're teaching to meet the Indian Education for All requirements or monitor how districts use funding appropriated by the Legislature for programs. It also claims

OPI and the Board of Public Education don't monitor if Indian education is even being taught.

There's also no reporting or monitoring of how districts work in consultation with tribes on what's taught, the lawsuit claims.

Amber Lamb, one of the plaintiffs, said in a press release Thursday the IEFA program should benefit the health of her community.

“We want the children in our public schools to grow together with as much effort put towards understanding one another as possible,” said Lamb, who is from 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.”

On Thursday, OPI said they were aware of the lawsuit but it was agency practice to not comment on pending litigation. BPE said it had not received the lawsuit and could not comment until it had.

The lawsuit says some schools have used IEFA funding for things that may be harmful to students, like an elementary school in Glendive purchasing a book titled “Squanto and the Miracle of Thanksgiving,” a book described as depicting “the actual hero of the Thanksgiving was neither white nor Indian, but God.”

The state's 1972 Constitution requires all public school students learn about Natives in Montana, saying “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.”

In 1999, the Legislature passed the Indian Education for All Act, which required “every educational agency and all educational personnel will work cooperatively with Montana tribes or those tribes that are in close proximity” when providing instruction

related to the history and contemporary contribution of Native Americans.

Following a lawsuit, the state Supreme Court found the Legislature must make annual appropriations to fund Indian Education for All provisions.

"Despite over a decade of dedicated annual state appropriations, the Indian Education Provisions' goals and requirements remain largely unmet in many Montana public schools," the lawsuit states. "In those schools, the cultural heritage and integrity of American Indians is not being preserved, and Indian and non-Indian Montanans are not learning about American Indian heritage in a culturally responsive manner."

The lawsuit seeks for the court to declare the state is in violation of IEFA provisions and order compliance and monitoring, as well as consultation with tribes.

While OPI's website has a link to information about education content standards and the social studies standard includes Indian education, the lawsuit claims there's no compliance work done to ensure those standards are met.

The lawsuit also claims BPE does not include compliance as a part of its accreditation standards.

When it came to consultation with tribes, the lawsuit claims to the best of the plaintiffs' knowledge, "no Montana public school district or school, including the schools on the Fort Peck Indian Reservation, has sought the help or input of the Fort Peck Tribes Education Department in the development of any course instruction, including specific information related to the cultural heritage or contemporary contributions of American Indians."

A report commissioned by OPI in 2015 found that "the levels of IEFA implementation in districts participating in this evaluation ranged from low to high," according to author Shawn deAnne Bachtler, an independent consultant. "... Districts with low implementation appeared to be influenced by a range of factors both within and beyond district control. The evaluation also found that teacher and student support for IEFA is not universal."

The same report said that previous accountability for school districts' use of IEFA funds was "previously low" and "sometimes used for expenditures unrelated to IEFA." OPI put into place a budget code specific to the program, according to the report.

The report also found that there were not clear expectations for how to implement IEFA, and that the state's "tradition of strong local control" left much up to school districts.

While "proactive" districts performed well, the report noted "in other districts, however, this lack of definition has frustrated educators."

"One commented, 'We don't know if we are doing it right...if we are meeting the requirement,'" according to the report.

"Indeed, interpretations of fulfilling the law ranged broadly from participation in a single annual event to ongoing integration across all curricula," the report continued. "This absence of definition from the state level shifts interpretation to the districts, and few appear to have established firm criteria for meeting IEFA expectations."

When it came to accountability, the report found that those who participated in an evaluation said districts were not highly accountable for IEFA.

"One person described this saying, 'If you don't meet your constitutional obligation (as a district), no one calls you out on it. In your yearly report, you can check that you have done it (IEFA), but there's no follow up...there's no teeth to this mandate.'"

The report did note, however, that peer expectations and accountability among educators was strong.

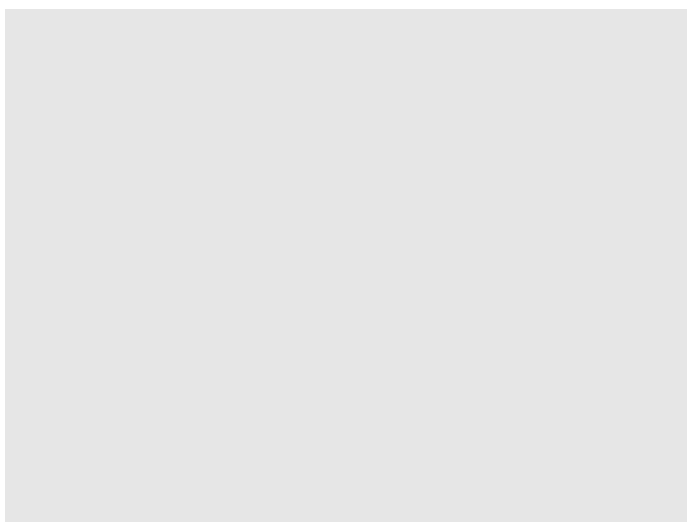
The lawsuit claims OPI did not implement recommendations made in the report to strengthen oversight and accountability.

About half of the \$6.7 million in statewide funding for IEFA in the 2019 and 2020 fiscal years is unaccounted for, according to the lawsuit, pointing to examples like districts not providing any details on how any of their funding was spent or in one

district using money to pay part of librarians' salaries without explaining why it was appropriate to use IEFA funding.

In the case of the book about Thanksgiving purchased using IEFA money, the description on Amazon reads: "In 1608, English traders came to Massachusetts and captured a 12-year old Indian, Squanto, and sold him into slavery. He was raised by Christians and taught faith in God. Ten years later he was sent home to America. Upon arrival, he learned an epidemic had wiped out his entire village. But God had plans for Squanto. God delivered a Thanksgiving miracle: an English-speaking Indian living in the exact place where the Pilgrims land in a strange new world."

The lawsuit says the district "expressly reported this book as an IEFA-related purchase."



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