



Legal Review

NATIVE AMERICAN RIGHTS FUND

Stars Align for American Indian/Alaska Native Education: “Educational Tribal Sovereignty” on the Horizon

Recent developments mark a historical shift in Indian education law and policy by taking the first step in accomplishing “educational tribal sovereignty.” The Native American Rights Fund (NARF), other Indian organizations and tribes have been advocating for systemic changes to American Indian/Alaska Native (AI/AN) education. Changes that would increase involvement of tribal governments, educators, parents, and elders in what AI/AN students are taught, how they are taught, who teaches them, and where they learn. Tribal control of these core issues can amount to educational tribal sovereignty.

Motivated by the voices of tribal leaders, educators and students, the Obama Administration signed an Executive Order to support Native American education and released a report summarizing a series of Department of Education tribal consultations – the first of their kind in history. In addition, both Houses of Congress have introduced the Native Culture, Language, and Access for Success in Schools Act (Native CLASS Act), a pro-tribal sovereignty bill that amends the Elementary and Secondary Education Act. Also, federal appropriations for tribal education departments and agencies (TEDs/TEAs) were appropriated in the FY 2012 budget. These actions represent a historical shift in federal education law and policy that recognizes and begins to support educational tribal sovereignty.

NARF represents the Tribal Education Departments National Assembly (TEDNA). TEDNA is a national advocacy organization for tribal education departments and agencies (TEDs/TEAs) that works to strengthen the legal rights of tribes to control the formal education of tribal members. NARF started TEDNA in 2003

with a group of tribal education department directors from Indian tribes across the Country. Since its inception, NARF has hosted National meetings with TEDNA to 1) identify obstacles impeding educational tribal sovereignty, 2) develop policy initiatives to address such obstacles, and 3) advocate and provide ▶



Young Indian graduates waiting for their recognition.

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technical assistance on such policy initiatives.

With this experience, NARF and TEDNA were prepared when the U.S. Department of Education approached TEDNA for policy recommendations in early 2008. NARF and TEDNA began working with the National Indian Education Association and the National Congress of American Indians to educate the Department of Education, Congress, and the White House about critical policy changes. Perhaps most importantly, the need to increase the role of tribal governments and TEDs/TEAs in AI/AN education.

The past three years of TEDNA and NARF's work has been to advocate for many of the policy goals accomplished by the Executive Order and the Native CLASS Act. NARF and TEDNA's advocacy strategy artfully merged the larger policy goal of increasing tribal sovereignty in education with technical recommendations about how to do so. NARF's technical expertise in the area of Indian law significantly contributed to this movement as it is one of the only law firms in the Country working in AI/AN education law and policy. The following article is an update on NARF's work in AI/AN education law and policy that includes discussion of the reauthorization of the Elementary and Secondary Education Act, the Indian Education Executive Order, and the Department of Education Report summarizing tribal consultations from the past two years.

**Tribal Education Departments/Agencies
Federal Funding**

After over 20 years of work, NARF and TEDNA secured federal funding for TEDs/TEAs in the Labor, Health, and Human Services Fiscal Year 2012 Appropriations Bill for the first time in history. The funding will go to the Department of Education to be distributed to TEDs/TEAs to participate in a pilot project that allows TEDs/TEAs to operate federal education programs in schools (public and Bureau of Indian education) located on Indian reservations.

The Elementary and Secondary Education Act

In 2008 Congress and the Administration began work on the reauthorization of the

Elementary and Secondary Education Act (ESEA). TEDNA's ESEA recommendations were submitted to the Obama Administration and Congress and meetings began immediately to discuss their incorporation into the reauthorization. Quinton Roman Nose, member of the Cheyenne-Arapaho Tribes, TEDNA founding father and longtime President, explained that this was the first time in history meetings were held in the White House on TEDs/TEAs. Possibly this was also the first time themes such as tribal control over education and how to incorporate such control into the fabric of education law and policy was held at such a high level of the federal government.

TEDNA's ESEA recommendations encompassed all titles of the ESEA and generally, recommended ways to increase the role of tribal governments, TEDs/TEAs, Indian parents and elders into programs authorized in each title. The ESEA is the largest federal education bill and is the most important federal law that applies to AI/AN students. The current version of the ESEA, the No Child Left Behind Act has 10 Titles with multiple programs. Some are general programs, like the Title I Improving Basic Programs, and some are specific to AI/AN students, like the Title VII Indian Education Act programs. AI/AN students, whether they attend Bureau of Indian Education (BIE) or state public schools, are served by all of the ESEA programs. Unfortunately, ESEA programs are not working for AI/AN students and the statistics prove it.

Nationwide, AI/AN students perform lower on standardized tests than any other student group. The national AI/AN high school dropout rate is over 65%, which is higher than any other group. The high dropout rate is linked to unemployment, drug and alcohol abuse, teen pregnancies, and other social issues. Previous reauthorizations of the ESEA have tried to address these matters, but the problems have persisted. Indian educators knew this, and knew that a new approach was called for – one that firmly recognizes and supports the role of tribal governments as sovereigns in addressing these problems.

Currently, the ESEA authorizes billions of dollars to state education agencies (SEAs) and

local education agencies (LEAs) for education and excludes tribes from eligibility for this funding, and as a result, from the implementation of programs supported by the funding. All of the ESEA programs could do more to help AI/AN students by recognizing a role, or by enhancing the role or roles, including in public school education, of tribal governments as sovereign nations. Tribal governments are a major untapped resource in education that can help improve AI/AN student performance, and this ESEA reauthorization needs to change that.

Through the now well-established federal policies of Indian self-determination, tribal self-governance, and economic development, tribes have vastly increased their governance, managerial and technical capacities and resources. Tribes operate their own health clinics, provide social services, and manage a variety of natural resources. It is time to include education among the vital services provided and resources managed by tribes.

The Obama Administration became particularly interested in one of TEDNA's ESEA recommendations, a pilot project for TEAs/TEDs. The pilot project takes dramatic steps toward accomplishing educational tribal sovereignty by authorizing tribes to be eligible to receive federal education funding and operate such programs in both public and federal schools located on Indian reservations. (Tribes have been operating federal programs in other areas since the 1970s, but currently aren't eligible for federal education funding.) TEDNA provided the Department of Education with technical assistance in developing this project and met with the Department several times to ensure the project moved forward. We were successful. The Department included the pilot project in the Obama Administration's recommendations for the ESEA reauthorization.

Even with the Obama Administration's support, critical AI/AN provisions were not included in the ESEA reauthorization bill introduced in the Senate Committee on Health, Education, Labor, and Pensions (HELP Committee). In October, the HELP Committee passed out of Committee the reauthorization of the Elementary and Secondary Education Act of



Young Indian graduate receiving an eagle feather.

2011 (ESEA Act of 2011). The ESEA Act of 2011 does not include adequate support for AI/AN students and tribal governments, nor does it further the federal policy of Indian self-determination. The Act fails to include critical provisions Indian Country requested and in fact, only cuts funding available to support AI/AN students. The ESEA Act of 2011 waits for the consideration of the full Senate, which is unlikely to occur in this Congressional session.

The Native Culture, Language, and Access for Success in Schools Act

In preparation for the ESEA reauthorization, in June of 2011 the Senate Committee on Indian Affairs introduced the Native Culture, Language, and Access for Success in Schools Act (Native ▶

CLASS Act). The Act amends the current version of the ESEA, the No Child Left Behind Act in very meaningful ways that will support AI/AN students. The Act was passed out of Committee in October. Most recently the Act was introduced in the U.S. House of Representatives, Committee on Education and the Workforce. The Act is the most pro-tribal sovereignty education bill ever introduced in Congress. It includes many of the provisions Indian Country requested be included in the ESEA, but which, the ESEA Act of 2011 failed to do.

NARF and TEDNA were heavily involved in the development of this Act. TEDNA drafted much of the legislative language in the Native CLASS Act. It worked closely with various congressional offices to answer questions necessary to gain the offices' support. It also coordinated congressional briefings on TEDs/TEAs during which the work of TEDs/TEAs was explained by TED/TEA directors. NARF also coordinated visits with Congressional members of its membership to discuss the importance of the Native CLASS Act.

The Native CLASS Act's key areas are language and culture based education, tribal control of education, support for Native American teachers, juvenile justice, and many other key provisions. The Act amends the No Child Left Behind Act by making tribes eligible for and to operate federal education grants and programs and by adding new programs to support AI/AN students. Indian Country had requested that the Act be included in the ESEA Act of 2011 but the HELP Committee declined to do so. As a result, the Native CLASS Act has proceeded through the legislative process independently from the ESEA reauthorization; a positive strategy considering the political hang ups delaying the ESEA reauthorization.

The No Child Left Behind Act authorizes billions of dollars annually to SEAs and LEAs, but hardly any funding to TEDs/TEAs and tribal governments for education. The enormous missed opportunity to invest in TEDs/TEAs and tribes, for the sake of AI/AN students must be seized. The Native CLASS Act does this. It aligns federal law with what is already happening and with what needs to happen. The Act carefully allocates new funding and authorizations

between already high capacity TEDs/TEAs and developing capacity TEDs/TEAs. This sound structure supports TEDs/TEAs of all abilities and tribes of all sizes in their efforts to contribute at appropriate levels to AI/AN student success.

The Act allows for some shifts of funding at the Secretary of Education's discretion, to tribes and TEDs/TEAs in limited instances. Such shifts do not divert any funding from students served. In this sense, the Act puts education funding on a par with many other pots of federal money that tribes and states share such as Temporary Assistance to Needy Families or environmental resources management funding. As in these areas, adding tribes as eligible grantees will improve programs and service delivery at the local level. Conversely, continuing to leave out tribes will likely maintain the status quo, including AI/AN students' persistent high dropout rates and low academic performance.

Additionally, the Act has new funding authorizations for AI/AN students. The new money will increase local control of education by bringing tribal governments, tribal communities, and Indian parents into the schools. It will increase communication and collaboration among tribes, LEAs, and SEAs. It will empower TEDs/TEAs to take the lead in developing culturally relevant curriculum, teacher training, and tribal education goals and policies. The result will be education systems with rigorous academic standards and tribal language and culture supported and directed by the community.

The Act includes TEDNA's TEA pilot project described above. Indian Tribes have been requesting statutory authorization for this type of project for decades but have been thus far unsuccessful. The Native CLASS Act's inclusion of the TEA pilot project is a historical step in accomplishing educational tribal sovereignty.

The Act also includes an amendment to the Family Education Rights and Privacy Act (FERPA) clarifying that TEDs/TEAs are among the education agencies, authorities, and officials to which protected student records and information can be released without the advance consent of parents or students. This amendment will empower TEDs/TEAs to collect, coordinate, and analyze data on AI/AN students

that is generated by various and sometimes multiple sources, including federal education programs, public school systems, states, and BIE-funded schools. For AI/AN students, this never has happened before; right now we can only imagine accurate and current tribe-wide, statewide, or nationwide data-based reports on AI/AN students. This amendment will allow TEDs/TEAs, other agencies and legislatures of all governments to make data-driven decisions regarding AI/AN students as they implement education law and policy.

In July of 2011 the Senate Committee on Indian Affairs held a hearing on the Native CLASS Act and invited NARF to testify. Amy Bowers, NARF staff attorney, testified on behalf of NARF on the importance of the Native CLASS Act. She stressed the importance of supporting educational tribal sovereignty in federal law as a means to increase graduation rates and test scores of AI/AN students. In October, the Senate Committee on Indian Affairs passed the Native CLASS Act out of Committee. The Act waits for full consideration by the Senate and to be passed out of the House Committee on Education and the Workforce.

Indian Education Executive Order

On December 2, 2011 President Obama signed the Executive Order, Improving American Indian and Alaska Native Educational Opportunities and Strengthening Tribal Colleges and Universities. The Executive Order states it is the policy of the Obama Administration to support activities that improve educational outcomes for AI/AN students and to provide an opportunity to learn native languages and histories, and improve educational opportunities at tribal colleges and universities.

NARF and TEDNA worked on the policies supported in the Executive Order since the Department first contacted NARF in 2008. Indeed, the Executive Order's support for capacity building for TEDs/TEAs and increased partnerships with TEDs/TEAs is a direct result of TEDNA and NARF's persistent advocacy. In addition, its support for culture and language based education is an answer to TEDNA's mem-

berships constant requests to the Department.

The Executive Order establishes a White House Initiative (Initiative) on AI/AN education that will work to expand opportunities for AI/AN students to learn Native languages, cultures, and histories, and receive complete and competitive educations preparing them for college and careers. The Initiative will be overseen by an executive director who will serve as a senior-level, Department of Education official, who will also be the Secretary of Education's senior policy advisor on federal policies affecting AI/AN education.

The mission and functions of the Initiative are to coordinate development and implementation of federal education policy across federal agencies on AI/AN students, report on such policies, further tribal sovereignty by building the capacity of TEDs/TEAs and tribal colleges and universities, support partnerships with TEDs/TEAs, and public and private sectors, develop data resources on AI/AN students, and create a network to share best practices of AI/AN education. The Initiative will also support Native language immersion programs, education reform, increase the number of excellent teachers and leaders serving AI/AN students, reduce the AI/AN dropout rate, and support AI/AN students obtaining vocational and college degrees.

Importantly, the Executive Order creates an interagency working group that will include representatives from Departments of Justice, Agriculture, Labor, Health and Human Services, Energy, Environmental Protection Agency, and the White House Domestic Policy Council. Each agency in the working group is required to develop and implement a two-part, 4 year plan for the agency's efforts to advance the mission and functions of the Executive Order.

The Executive Order institutionalizes much of the policy work NARF and TEDNA have done with this Administration. It demonstrates the Administration's commitment to support AI/AN students.

Department of Education Report on Tribal Consultations

Also in December, the U.S. Department of Education released Tribal Leaders Speak: ►

The State of Indian Education, 2010. The report summarizes six consultations with tribal leaders and educators in Indian country completed by the Department of Education. These consultations were the first ever held by the Department of Education. Similarly, the report is the first of its kind. It

includes the main points from the consultations, including quotes from tribal leaders and educators provided at the consultations. Below are the major themes and points that emerged from the consultations organized by challenges and solutions identified by the participants.

Main Points from Department of Education Tribal Consultations

CHALLENGES

- Failure to fulfill historic trust responsibility
- Lack of tribal input and inappropriate standards, assessments, and curricula
- Disconnect between federal, state, and local governments on AI/AN student needs and programs
- Lack of educational authority at the highest level of government
- Lack of federal, state, and local accountability to tribal governments and AI/AN students
- Insufficient funding for education
- Lack of direct funding to tribes
- Lack of tribal grant-writing capacity
- Subpar facilities and transportation because lack of funding
- Instructional materials and access to technology severely inadequate
- Lack of parental support services and training
- Lack of access to early learning programs
- High dropout rates perpetuating cycle of limited opportunity

SOLUTIONS

- Increase tribal control over education
- Increase regular government-to-government consultation
- Recruit and retain highly effective teachers and leaders
- Support AI/AN students as future leaders and teachers
- Collect and analyze AI/AN student data
- Need for comprehensive student support to address impact of poverty
- Need for seamless cradle-to-career pipeline

Tribal leaders and educators expressed “outrage at what they described as the failure of the federal government to fulfill the moral obligation of the highest responsibility and trust to tribes by failing to educate AI/AN students.” The Department’s Report acknowledges what tribal leaders and individuals have known for generations: the education system, despite policy reforms, is not serving AI/AN students. Tribal leaders identified increased tribal control, or at minimum tribal consultation regarding the use of, the funding sources, systems, and other resources in education will help AI/AN students succeed.

NARF and TEDNA relied on its extensive network of tribal leaders, education department directors, and educators to ensure it was represented at each consultation. NARF prepared

written and oral statements for each consultation. Many of its comments were included in the report.

Conclusion

These policy developments are monumental steps in the direction of accomplishing educational tribal sovereignty. Certainly, the Report on Tribal Consultations is an arrow in the quiver of AI/AN education advocates to use as evidence to support our efforts. NARF and TEDNA intend to ensure that tribes gain the legal control over education that they deserve as sovereign governments and that they must have for AI/AN student success, and to finally achieve educational tribal sovereignty. 🌟

CASE UPDATES

Important Victory for the Klamath Tribes in the Klamath Basin Water Rights Adjudication



“These rulings emphasize the need for Basin water interests to work together to find ways to share the water, share the pain of drought, and share the bounty of our waterways. The Tribes are committed to restoring fisheries and water bodies in the Basin, and we believe that agricultural and other water dependent communities can be restored at the same time. That is what the KBRA can do.” — (Klamath Tribal Vice-Chairman Don Gentry)

The culture and way of life of many indigenous peoples are inextricably tied to their aboriginal habitat. For those Tribes that still maintain traditional ties to the natural world, suitable habitat is required in order to exercise their treaty-protected hunting, fishing, gathering, and trapping rights. The Klamath Tribes of Oregon hold reserved Indian water rights in the Klamath River Basin to support their treaty hunting, fishing, gathering and trapping rights with a time immemorial priority date.

After more than 35 years of litigation the Klamath Tribes’ time-immemorial water rights to support their treaty-reserved hunting, fishing, trapping, and gathering rights on the former Klamath Reservation have finally been quantified in the Klamath Basin Adjudication (KBA), for six of the Tribes’ eight claimed water sources – the Williamson River, the Sycan River,

Headwaters of the Wood River, Oregon

the Sprague River, the Wood River, the Klamath Marsh, and some 140 seeps and springs throughout the former Reservation. The journey began in 1975 with the filing of the Adair litigation, a federal court case which declared the existence of the Tribes’ water rights but deferred quantification of those rights to the KBA. On December 1, 2011, the Oregon Office of Administrative Hearings issued Proposed Orders (POs) in the six cases quantifying the Tribal water rights claims in the amounts claimed by the Tribes and the United States, Bureau of Indian Affairs, as trustee for the Tribes (Claimants). The POs were a resounding victory for the Claimants, as they adopted, across-the-board, the flow amounts or water levels in each case sought by the Tribes, ►

and confirmed, once again, that the Tribal water rights are the most senior in the Basin. Rulings quantifying the Tribes’ rights in the remaining two water sources, the Klamath River and Upper Klamath Lake, are expected in April 2012.

The POs were issued by Senior Administrative Law Judge Joe L. Allen. Judge Allen ruled that the amounts of water claimed by the Claimants are the amounts necessary to establish and maintain a healthy and productive habitat for treaty species that will enable the Tribes to exercise their treaty protected hunting, fishing, trapping, and gathering rights. Significantly, Judge Allen ruled that the Tribal water right claims may extend to off-reservation water sources where necessary to support the Tribes’ on-reservation treaty harvest rights. Judge Allen reasoned that the Tribes’ off-reservation claims are necessary “to protect spawning and other critical habitat necessary for the exercise of [the Tribes’] treaty rights.” Judge Allen also confirmed that the waters of the eight-mile portion of the former Klamath Reservation boundary described in the Klamath Tribes’ 1864 Treaty as running “up” the Wood River extends into the stream, such that this portion of the Wood River is located within the boundaries of the former Reservation.

Those contesting the Tribal water rights claims put forth an array of arguments as to why the claims should fail and one-by-one Judge Allen dismissed them all, declaring that the Contestants failed to rebut Claimants’ evidence. For instance, Judge Allen held that equitable considerations or the impact that the rulings may have upon junior water users are not applicable in determining reserved water rights. Judge Allen noted that unlike the Oneida Indian Nation in the City of Sherrill v. Oneida Indian Nation land case, the Klamath Tribes never



Bud Ullman, Klamath Water Adjudication Project attorney; Perry Chocktoot, Jr., Director of the Klamath Tribes Culture and Heritage Department; Walter Echo-Hawk, NARF attorney (Ret.); and Sue Noe, Klamath Water Adjudication Project attorney on the Sprague River, Oregon.

relinquished or abandoned their treaty rights. Accordingly the circumstances that allowed for the balancing of equitable considerations in Sherrill were unsuitable here.

Under Oregon’s general stream adjudication process, the POs are not final rulings, but rather they are Judge Allen’s proposals to the Oregon Water Resources Department’s Adjudicator. In about a year from now the Adjudicator will issue a Final Order that will define not only the water rights of the Tribes, but the rights of all water claimants in the KBA. Upon its issuance the water rights decreed in the Final Order become enforceable. Next, the Klamath Tribes will face a sequence of challenges in Klamath County Circuit Court and possibly subsequent appeals courts. Nevertheless, Judge Allen’s rulings in the POs mark a very significant victory for the Claimants, one that puts the Tribes and the BIA in the best position possible for the next stages of the Adjudication. 🌟

National Indian Law Library

Justice Through Knowledge!

The National Indian Law Library (NILL) is the only law library in the United States devoted to Indian law. The library serves both NARF and members of the public. Since it was started as a NARF project in 1972, NILL has collected nearly 9,000 resource materials that relate to federal Indian and tribal law. The Library's holdings include the largest collection of tribal codes, ordinances, and constitutions; legal pleadings from major Indian cases; and often hard to find reports and historical legal information. In addition to making its catalog and extensive collection available to the public, NILL provides reference and research assistance relating to Indian law and tribal law and its professional staff answers over 2,000 questions each year. In addition, the Library has created and maintains a huge web site that provides access to thousands of full-text sources to help the researcher.



The National Indian Law Library is currently undergoing a new push to increase the tribal law content available at NILL and online through its Tribal Law Gateway. NILL's Access to Tribal Law Project (ATLP) currently has over 230 tribes participating by providing tribal codes, constitutions and other tribal legal materials for NILL's collection. In an effort to foster increased communications between tribes and the library, NILL recently surveyed over ninety tribal judges, tribal leaders, law librarians, students, tribal members and other practitioners of Indian Law on the importance of having access to tribal law materials. The last few months also saw the creation of the Access to Tribal Law Project Support Committee, composed of leaders in Indian law from across the

nation. The Support Committee oversees the Project's goal of providing reliable access to current tribal law, assists in recruiting new tribes to join the ATLP and encourages participating tribes to provide updates.

NILL has recently debuted two new, helpful features on its website to assist researchers searching for tribal law materials: a sleeker, consolidated version of the library's Tribal Law Gateway (www.narf.org/nill/triballaw/index.htm) and the Access to Tribal Law Project Homepage (www.narf.org/nill/atlp.htm). The Gateway now hosts the code and constitution of each tribe in one, easy-to-use location and is updated frequently. The ATLP Homepage provides more information about tribal law access through NILL and guides tribes through the process of getting involved with the project, step-by-step. For any tribal leaders or tribal attorneys interested in learning more about Access to Tribal Law at NILL or ready to add your tribe's code and/or constitution to our growing collection, call David Selden at (303) 447-8760 ext. 106 or email at dselden@narf.org. 🌟

CALLING TRIBES TO ACTION!

It has been made abundantly clear that non-Indian philanthropy can no longer sustain NARF's work. Federal funds for specific projects have also been reduced. Our ability to provide legal advocacy in a wide variety of areas such as religious freedom, the Tribal Supreme Court Project, tribal recognition, human rights, trust responsibility, tribal water rights, Indian Child Welfare Act, and on Alaska tribal sovereignty issues has been compromised. NARF is now turning to the tribes to provide this crucial funding to continue our legal advocacy on behalf of Indian Country. It is an honor to list those Tribes and Native organizations who have chosen to share their good fortunes with the Native American Rights Fund and the thousands

of Indian clients we have served. The generosity of Tribes is crucial in NARF's struggle to ensure the future of all Native Americans.

The generosity of tribes is crucial in NARF's struggle to ensure the freedoms and rights of all Native Americans. Contributions from these tribes should be an example for every Native American Tribe and organization. We encourage other Tribes to become contributors and partners with NARF in fighting for justice for our people and in keeping the vision of our ancestors alive. We thank the following tribes and Native organizations for their generous support of NARF for our 2011 fiscal year – October 1, 2010 to September 30, 2011:

- Chickasaw Nation
- Citizen Potawatomi Nation
- Confederated Tribes of Siletz Indians
- Cow Creek Band of Umpqua Indians
- First Nations Development Institute
- Fond du Lac Band of Lake Superior Chippewa
- Fort McDowell Yavapai Nation
- Iowa Tribe of Oklahoma
- Keweenaw Bay Indian Community
- Lummi Indian Business Council
- Menominee Indian Tribe of Wisconsin
- Mescalero Apache Tribe
- Miami Tribe of Oklahoma
- Mississippi Band of Choctaw Indian
- Muckleshoot Tribe
- Nez Perce Tribe
- Pauma Band of Mission Indians
- Poarch Band of Creek Indians
- Pokagon Band of Potawatomi Indians
- Potlatch Fund
- Saginaw Chippewa Indian Tribe of Michigan
- San Manuel Band of Mission Indians
- San Pasqual Band of Mission Indians
- Seminole Tribe of Florida
- Seventh Generation Fund
- Shakopee Mdewakanton Sioux Community
- Stillaguamish Tribe of Indians
- Stockbridge-Munsee Tribe
- Sycuan Band of Kumeyaay
- Tulalip Tribes
- Wildhorse Foundation/ Umatilla Tribes
- Yavapai-Prescott Indian Tribe
- Yoche Dehe Wintun Nation

THE NATIVE AMERICAN RIGHTS FUND

Looking back at the past forty-one years of the Native American Rights Fund's (NARF) existence, it is almost impossible to comprehensively document the impact that NARF has had in Indian country. Before NARF's existence, there were not many attorneys working for Indians. Most of them were handling contingency-fee cases since few tribes could afford tribal counsel. "Indian law" was neither developed, nor defined, let alone being taught in law schools.

Today, the delivery of responsible, comprehensive legal representation to Indian tribes, organizations and individuals has been institutionalized as an integral part of America's justice system. Private practitioners, tribal attorneys, legal services offices and other non-profit organizations like NARF together are providing representation to Indians, using our country's justice and legislative systems to assure that Indian rights are upheld.

Native advocates were almost invincible during the 1970's and into the 1980's, especially in the U.S. Supreme Court. Beginning in the mid-1980's, Supreme Court decisions started shifting against tribal interests. This negative shift continues today as the majority of the Supreme Court seems intent on limiting tribal sovereignty.

After the modern day tribal sovereignty movement, the field of Indian law is no longer considered an esoteric subject about ancient history. Due in part to NARF's existence – its tremendous successes in the courts as well as continued representation over the years in thousands of cases – the rights of America's Indians are now judiciously and routinely being advocated before the courts, administrative hearings, state legislatures and Congress. Officials and bureaucrats who either chose to ignore or had no information on the specific rights of America's Indians in the past are today held accountable for decisions relating to Native Americans, partly because of the rights defined and upheld in NARF's courtroom and legislative victories.

The initial goal for NARF's Indian law practitioners was to represent Native Americans in cases of major significance to a great number of Indian people. For the first time, Indian people were assured that a sustained, highly-trained Indian advocacy group was available to them to clarify treaty and constitutional rights guaranteed them – regardless of their ability to pay. NARF was directly involved as either counsel or co-counsel in practically all of the early precedent-setting cases of the 1970's.

The Native American Rights Fund has been at the forefront on advocating many of the major acts and reviews potentially affecting all Native Americans including the American Indian Religious Freedom Act, the Indian Child Welfare Act, the

American Indian Policy Review Commission, the Native American Graves Protection and Repatriation Act, the Voting Rights Act, the Indian Self-Determination Act, the Maine Indian Land Claims Settlement Act, the Religious Freedom Restoration Act and many others. NARF has also been instrumental in assisting vital new Indian organizations including the American Indian Higher Education Consortium, the Tribal Education Departments National Assembly, the Council on Energy Resource Tribes, the National Tribal Environmental Council and the Native Hawaiian Legal Corporation.

As an Indian-controlled organization, NARF's leadership has provided as many opportunities as possible to develop young Indian law graduates and students in the area of Indian law. An average of eight law interns and/or clerks are employed annually by NARF, most of them being Native American.

NARF's existence would not be possible without the efforts of the thousands of individuals who have offered their knowledge, courage and vision to help guide NARF on its quest. Of equal importance, NARF's financial contributors have graciously provided the resources to give our efforts life. Contributors such as the Ford Foundation have been with NARF since its inception. The Open Society Institute, the Bay and Paul Foundations and the Unger Foundation have also made long term funding commitments. Finally, the positive effects of NARF's work are reflected in the financial contributions by a growing number of tribal governments like the Yocha Dehe Wintun Nation, the Seminole Tribe of Florida, the Chickasaw Nation, the San Manuel Band of Mission Indians, the Muckleshoot Tribe, the Mississippi Band of Choctaw Indians and the Poarch Band of Creek Indians. United, these financial, moral, and intellectual gifts provide the framework for NARF to fulfill its goal of securing the right to self-determination to which all Native American peoples are entitled.

NARF strives to protect the most important rights of Indian people within the limit of available resources. To achieve this goal, NARF's Board of Directors defined five priority areas for NARF's work: (1) the preservation of tribal existence; (2) the protection of tribal natural resources; (3) the promotion of human rights; (4) the accountability of governments to Native Americans; and (5) the development of Indian law and educating the public about Indian rights, laws, and issues.

Requests for legal assistance should be addressed to the Litigation Management Committee at NARF's main office, 1506 Broadway, Boulder, Colorado 80302. NARF's clients are expected to pay whatever they can toward the costs of legal representation.

NARF Annual Report: This is NARF's major report on its programs and activities. The Annual Report is distributed to foundations, major contributors, certain federal and state agencies, tribal clients, Native American organizations, and to others upon request. Ray Ramirez Editor, ramirez@narf.org.

The NARF Legal Review is published biannually by the Native American Rights Fund. Third class postage paid at Boulder, Colorado. Ray Ramirez, Editor, ramirez@narf.org. There is no charge for subscriptions, however, contributions are appreciated.

Tax Status: The Native American Rights Fund is a nonprofit, charitable organization incorporated in 1971 under the laws of the District of Columbia. NARF is exempt from federal income tax under the provisions of Section 501 C (3) of the Internal Revenue Code, and contributions

to NARF are tax deductible. The Internal Revenue Service has ruled that NARF is not a "private foundation" as defined in Section 509(a) of the Internal Revenue Code.

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Alaska Office: Native American Rights Fund, 801 B Street, Suite 401, Anchorage, Alaska 99501 (907-276-0680) (FAX 907-276-2466).

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NARF LEGAL REVIEW • VOLUME 36, NO. 2 • SUMMER/FALL 2011