

MONTANA EIGHTH JUDICIAL DISTRICT COURT
COUNTY OF CASCADE

SHAUNA YELLOW KIDNEY, as next friend of C.Y.K. and S.Y.K.; CAMMIE DUPUIS-PABLO and ROGER PABLO, as next friends of K.W.1, K.W.2, K.D., K.P.1, and K.P.2; HALEIGH THRALL and DURAN CAFERRO, as next friends of A.E., D.C., and C.C.; AMBER LAMB, as next friend of K.L.; RACHEL KANTOR, as next friend of M.K.1, and M.K.2; CRYSTAL AMUNDSON and TYLER AMUNDSON, as next friends of C.A. and Q.A.; JESSICA PETERSON, as next friend of A.C.; and DAWN SKERRITT, as next friend of S.S. and M.S; on behalf of themselves and all others similarly situated,

FORT BELKNAP INDIAN COMMUNITY OF THE FORT BELKNAP RESERVATION OF MONTANA; CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION; ASSINIBOINE AND SIOUX TRIBE OF THE FORT PECK INDIAN RESERVATION, MONTANA; NORTHERN CHEYENNE TRIBE OF THE NORTHERN CHEYENNE INDIAN RESERVATION, MONTANA; LITTLE SHELL TRIBE OF CHIPPEWA INDIANS OF MONTANA; and CROW TRIBE OF MONTANA,

Plaintiffs,

vs.

MONTANA OFFICE OF PUBLIC INSTRUCTION; and ELSIE ARNTZEN, in her official capacity as the Superintendent of Public Instruction. ,

Defendants.

Cause No. DDV-21-0398

Hon. Amy Eddy

**JOINT MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

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I. INTRODUCTION

Plaintiffs brought this action on behalf of themselves and all others similarly situated, seeking declaratory and injunctive relief for Defendants' alleged failure to implement, monitor, and enforce the guarantees of Montana's Constitution and statutes providing that every Montana public school student, whether Indigenous or non-Indigenous, will learn about the distinct and unique cultural heritage of Indigenous persons in a culturally responsive manner. The named individual Plaintiffs include parents of 18 Indigenous and non-Indigenous students attending Montana public schools in Missoula, Billings, Helena, and Great Falls school districts, who are members of the Blackfeet Tribe, Confederated Salish and Kootenai Tribes, Northern Cheyenne Tribe, and Assiniboiné and Sioux Tribe. The named Plaintiffs also include six Montana Tribes bringing claims on behalf of themselves and their citizens as *parens patriae*: Fort Belknap Indian Community (8,400+ citizens), Confederated Salish and Kootenai Tribes (8,020+ citizens), Assiniboiné and Sioux Tribe of Fort Peck (13,000+ citizens), Northern Cheyenne Tribe (11,275+ citizens), Little Shell Tribe of Chippewa Indians (5,400+ citizens), and Crow Tribe (11,000+ citizens). On October 25, 2023, this Court granted Plaintiffs' motion and certified a class under Montana Rule of Civil Procedure 23(b)(2) consisting of all Montana K-12 public school system enrolled students, now and in the future, appointed the named individual Plaintiffs as class representatives, and appointed the American Civil Liberties Union-Montana, the American Civil Liberties Union Foundation, and the Native American Rights Fund as Class Counsel. The Court found that Plaintiffs satisfied all Rule 23(a) prerequisites of numerosity, commonality, typicality, and adequacy of representation, as well as the Rule 23(b)(2) requirement that final injunctive relief or corresponding declaratory relief is appropriate to the class as a whole.

The parties have reached a settlement that resolves this action seeking declaratory and injunctive relief (the "Agreement"). This motion seeks preliminary approval, with final approval to follow notice to class members and a fairness hearing.

Plaintiffs respectfully request that this Court enter an order:

(1) preliminarily approving the parties' proposed Class Action Settlement Agreement providing comprehensive injunctive relief to ensure compliance with Montana's Indian Education for All constitutional provisions;

(2) approving the form and actual Notice of Proposed Class Action Settlement; and

(3) scheduling a hearing at which the Court will consider final approval of the settlement.

Thereafter, the parties request that the Court grant final approval of the settlement and dismiss the action with prejudice.

II. FACTUAL BACKGROUND

A. The Litigation

After Plaintiffs filed their original class action complaint on July 22, 2021 (Doc. 1), Defendants moved to dismiss (Doc. 23), prompting Plaintiffs to amend their pleading in December 2021 (Doc. 29). Defendants then renewed their motion to dismiss (Doc. 33), and the motion was fully briefed, with Plaintiffs filing an opposition (Doc. 38) and Defendants submitting a reply (Doc. 39). The court ultimately denied Defendants' motion to dismiss and allowed the case to proceed, issuing scheduling orders and setting the matter for further litigation. (Docs. 76–79). Defendants filed an answer to Plaintiffs' First Amended Class Action Complaint for Declaratory and Injunctive Relief on May 9, 2023. (Doc. 82).

Plaintiffs moved for class certification under Montana Rule of Civil Procedure 23, seeking certification of a class and appointment of class representatives and counsel. (Docs. 95, 96). Plaintiffs supported their motion with briefing and filed a reply in further support (Doc. 114), while Defendants opposed certification (Doc. 102). At the same time, Defendants moved to join additional parties—namely, school districts (Doc. 88)—which Plaintiffs and *amici* opposed. (Docs. 93, 97). The Court denied the joinder motion (Doc. 118) and, following briefing and oral argument (Doc. 121), granted certification of a class under Rule 23(b)(2) in an order addressing Plaintiffs' motion for class certification and related relief. (Doc. 120). The class is defined as “All

Montana K-12 public school system enrolled students, now and in the future.” (Doc. 120).

Following class certification, the case proceeded into merits discovery and expert development. The parties exchanged expert disclosures (Docs. 125, 130), engaged in extensive discovery, and litigated multiple disputes, including motions to compel and for protective orders (Docs. 149, 167, 169). In 2025, both sides filed cross-motions for summary judgment (Docs. 174, 210), and the case remained active with ongoing motion practice and scheduling adjustments as it moved toward negotiated resolution. The parties mediated the action and negotiations continued for a year before the Agreement was reached. (*See* Agreement, Ex. A).

On June 23, 2025, the parties (including counsel of record and plaintiff and defendant representatives) convened for an all-day mediation in Helena. Declaration of Alex Rate, attached Exhibit B. Retired District Court Judge Jeffrey Sherlock was retained as a neutral, third-party mediator. *Id.* Plaintiffs submitted a detailed settlement proposal in advance of the mediation and Defendants initiated the mediation by providing a detailed written response. *Id.* Over the course of the day the parties made substantial – if laborious – progress towards reaching agreement. *Id.* Upon conclusion of the day, the parties agreed to continue settlement negotiations without the assistance of a mediator. *Id.* Following extensive written correspondence, counsel for Plaintiffs and Defendants convened by Zoom on August 20, 2025. *Id.* Within two months, the parties were able to come to final agreement on the terms of the settlement agreement, and the Plaintiffs utilized the following months to secure formal approval of the Agreement from their Tribal clients. *Id.*

B. Summary of Key Settlement Terms

1. The Parties and Scope of Settlement

The Agreement resolves all claims in this case and is entered into between Plaintiffs, including individual and Tribal Plaintiffs, and the Montana Office of Public Instruction and Superintendent Hedalen¹ (collectively referred to as “OPI”). Ex. A at introductory paragraph, ¶¶ 1–3. In exchange for the commitments set forth in the Agreement, Plaintiffs agree to release OPI

¹ Plaintiffs had previously reached a separate settlement agreement with the Montana Board of Public Education (“BPE”). *See* BPE Settlement Agreement, attached Exhibit C. This Court dismissed the Montana Board of Public Education from this suit. (Doc. 173).

from all claims—monetary, injunctive, or otherwise—arising out of the subject matter of the lawsuit, contingent on OPI’s compliance with the settlement terms. *Id.* at ¶ 2. The Parties will jointly move to dismiss the action with prejudice, while requesting that the Court retain jurisdiction to enforce the Agreement. *Id.* at ¶ 3.

2. Relief and Programmatic Changes

a. Assessment, Accountability, and Enforcement Measures

OPI agrees to maintain and enhance oversight of Indian Education for All (“IEFA”) implementation through its accreditation system, including continuing to require evidence of IEFA integration and funding by school districts. Ex. A at §§ I.A–C. OPI will implement monitoring and enforcement mechanisms, including targeted follow-up for low-scoring schools, annual evaluation of at least seven schools’ IEFA expenditures for ten years, and potential funding reductions for noncompliance. *Id.* at § I.E.

b. Tribal Consultation and Compliance Measures

OPI will strengthen and formalize tribal consultation requirements, including adding accreditation prompts requiring evidence of consultation efforts and providing guidance, training, and follow-up where schools fall below expectations. Ex. A at §§ I.D, I.G, IV.A–D. OPI also agrees to annually invite all Montana tribes to an annual consultation meeting, document those interactions, and incorporate tribal feedback into IEFA implementation and planning. *Id.* at § IV.E.

c. Standards Development, Training, and Resources

OPI commits to continue to implement IEFA-related content standards through its negotiated rulemaking processes according to the current schedule, with required tribal representation. Ex. A at § II.A. OPI agrees to expand educator training, including collaborating with MACIE, BPE, and Montana tribes to identify and implement potential updates to IEFA coursework and developing new training modules. *Id.* §§ V.A–B. OPI will also create and maintain publicly available educational resources and expand professional development opportunities for teachers and districts. *Id.* §§ VI.A–B.

d. Financial Reporting and Public Accountability

OPI will enhance financial oversight and transparency, including requiring reporting of IEFA expenditures and publishing an annual list of noncompliant schools. Ex. A at §§ III.A–C. OPI will also prepare annual public reports summarizing IEFA compliance, spending, and program effectiveness. *Id.* at § VII.A.

3. Enforcement, Release, and Fees

a. Enforcement Framework

The Agreement includes a structured enforcement process requiring Plaintiffs to provide written notice of alleged noncompliance, followed by a meet-and-confer process within 30 days. Ex. A at § VIII.B.i. If disputes remain unresolved, either party may seek enforcement in court, which retains jurisdiction over the Agreement. *Id.* at § VIII.B.ii; ¶ 3.

b. Release of Claims

Plaintiffs release all claims related to the litigation against OPI, conditioned on compliance with the Agreement, and the settlement expressly disclaims any admission of liability by Defendants. *Id.* ¶ 2.

c. Fees and Costs

Under the Agreement, each party agrees to bear its own attorneys’ fees and costs, subject to limited exceptions in enforcement proceedings. Ex. A. at § IX. In addition, a separate ancillary settlement agreement (the “Ancillary Agreement”) resolves all fee disputes arising from discovery, including motions to compel and for sanctions, pursuant to which Defendants agree to pay Plaintiffs’ counsel \$25,000. *See* Ancillary Settlement Agreement, Ex. D. This payment fully resolves all claims for attorneys’ fees and costs related to such discovery motions on both sides, with mutual releases of any further fee liability related to those disputes. *Id.* Defendants must make payment within 20 days of execution, and the Court retains jurisdiction to enforce this Ancillary Agreement. *Id.*

C. Proposed Notice Program

The content of the Notice of Proposed Class Action Settlement (the

“Notice”) alerts the class and the parents and legal guardians of class members of this lawsuit and the Agreement. *See* Notice, attached Exhibit E. The Notice provides information about the general terms of the Agreement as well as how to object to the Agreement. The Notice sets out the objection timeline, as well as the date for the fairness hearing. The Notice will be disseminated to the class through multiple methods: (1) OPI will provide its current list of district superintendent e-mails to Plaintiffs’ counsel so that Plaintiffs’ counsel can work with district superintendents to email the Notice and Agreement to parents or legal guardians of currently enrolled members of the class; (2) Plaintiffs’ counsel will ensure the Notice is posted in publicly accessible areas of each school where class members are enrolled; and (3) Utilizing the e-mail list of district superintendents provided by OPI, Counsel for Plaintiffs will request that the Notice be included in parent packets for distribution at the commencement of the 2026 school year. For those class members, parents, or legal guardians who view the Notice via option (2), they can access the full terms of the Agreement by requesting a copy via email.

III. LEGAL STANDARD

Montana Rule of Civil Procedure 23(e) requires that “claims, issues, or defenses of a certified class . . . be settled . . . only with the court’s approval.” The process involves the court directing notice to the class “in a reasonable manner to all class members who would be bound by the proposal,” and if the proposal is binding on class members, “the court may approve it only after a hearing on finding that it is fair, reasonable, and adequate.” M. R. Civ. P. 23(e)(1)-(2).

The Montana courts may look to federal law as instructive on issues relating to Montana’s Rule 23, because Montana’s Rule 23 is “identical to the corresponding federal rule.” *In re Blue Cross Blue Shield of Montana, Inc.*, 383 Mont. 404, 408 (2016); *Chipman v. Nw. Healthcare Corp.*, 366 Mont. 450, 464–65 (2012). There is a “strong judicial policy favoring class action settlements.” *Churchill Village, LLC v. General Electric*, 361 F.3d 566, 576 (9th Cir. 2004) (quoting *Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992)). A settlement

agreement in a class action proceeding must be approved by the trial court judge after a determination that the settlement is “fair, adequate and reasonable.” *Pallister v. Blue Cross & Blue Shield of Montana, Inc. (Pallister I)*, 366 Mont. 175, 183 (2012).

Approval of a proposed settlement is a two-step process. *See Pallister I*, 366 Mont. at 181–82; *Gendron v. Montana Univ. Sys.*, 299 Mont. 470, 473 (2000); *Burton v. Trinity Universal Ins. Co.*, No. CV 14-242-M-DWM, 2015 WL 11090362, at *2 (D. Mont. Nov. 17, 2015). First, at the preliminary approval stage, the Court determines whether the settlement is “within the range of possible approval” or “within the range of reasonableness,” and thus warrants directing notice to the class, inviting the class’s reaction, and scheduling a final fairness hearing. *In re High-Tech Employee Antitrust Litig.*, No. 11-CV-02509-LHK, 2014 WL 3917126, at *3 (N.D. Cal. Aug. 8, 2014) (quoting *In re Tableware Antitrust Litig.*, 484 F. Supp. 2d 1078, 1079 (N.D. Cal. 2007)); 4 Newberg and Rubenstein on Class Actions § 13:10 (6th ed. 2022). “Preliminary approval of a settlement and notice to the proposed class is appropriate if the proposed settlement appears to be the product of serious, informed, non-collusive negotiations, has no obvious deficiencies, does not improperly grant preferential treatment to class representatives or segments of the class, and falls with [sic] the range of possible approval.” *High-Tech Employee*, 2014 WL 3917126, at *3 (quoting *Cordy v. USS–Posco Indus.*, No. 12-CV-553-JST, 2013 WL 4028627, at *3 (N.D. Cal. Aug. 1, 2013) (internal quotation marks omitted)).

Consistent with Rule 23(e), the Court must then direct notice to the class in a “reasonable manner” to all class members so that members may evaluate the proposed settlement and provide feedback or objections before final approval. M. R. Civ. P. 23(e)(1), (5). Practically, that means the Court can approve several forms of notice that are reasonably calculated to reach the bound class members, convey all required information, and permit a reasonable amount of time to respond. *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950). Montana does not mandate any specific type of notification method. Thus, notices can include individually mailed notices, email or electronic notice, publication notice, websites, or a combined notice program using multiple methods as approved by the Court. *See, e.g., McAdams v. Robinson*, 26 F.4th 149,

158 (4th Cir. 2022).

The Court must direct notice to the class of a class action settlement to ascertain the reaction of the class so that the court may determine whether the settlement is fair, reasonable, and adequate. M. R. Civ. P. 23(e).

Second, at the final approval hearing, the Court determines whether the settlement is fair, reasonable, and adequate. M. R. Civ. P. 23(e)(2); *Burton*, 2015 WL 11090362, at *2. In *Pallister I*, the Montana Supreme Court directed the district court to analyze the factors set forth in *Jones v. GN Netcom, Inc. (a/k/a In re Bluetooth Headset Prods. Liab. Litig.)*, 654 F.3d 935, 946 (9th Cir. 2011), to determine whether the settlement was fair, reasonable, and adequate. *Pallister I*, 366 Mont. at 188–89. The *Jones* factors are the *Hanlon* factors. *Jones*, 654 F.3d at 946.

The *Hanlon* factors are: (1) the strength of the plaintiffs' case; (2) the risk, expense, complexity, and likely duration of further litigation; (3) the risk of maintaining class action status throughout the trial; (4) the amount offered in settlement; (5) the extent of discovery completed and the stage of the proceedings; (6) the experience and views of counsel; (7) the presence of a governmental participant; and (8) the reaction of the class members to the proposed settlement. *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998), *overruled on other grounds* as recognized by *Jones*, 654 F.3d at 946. In weighing these applicable factors, the Court's judgment is informed by the “strong judicial policy that favors settlements, particularly where complex class action litigation is concerned.” *In re Syncor ERISA Litig.*, 516 F.3d 1095, 1101 (9th Cir. 2008).

IV. ARGUMENT

A. The Settlement Is Within The Range Of Approval Because the Settlement is Fair, Adequate, and Reasonable

The Agreement merits preliminary approval because it falls squarely within the established standards for this stage. As the cases make clear, the Agreement even meets the higher standard required for final settlement approval – it is fair, adequate and reasonable.

1. Strength of the Class Plaintiffs' Case

An important consideration in judging the reasonableness of a settlement is the strength of plaintiffs' case balanced against the relief obtained. *Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 526 (C.D. Cal. 2004). Here, Plaintiffs asserted significant claims regarding OPI's alleged failure to adequately implement and monitor IEFA requirements statewide. (Doc. 29). While Plaintiffs developed substantial factual support—including evidence relating to accreditation practices, funding oversight, and tribal consultation deficiencies—the claims involved novel and complex questions of statutory compliance, agency discretion, and institutional reform.

The Agreement reflects a favorable compromise in light of these uncertainties. Rather than risking an adverse ruling or limited injunctive relief at trial, Plaintiffs secured comprehensive, forward-looking institutional reforms, including enhancements to accreditation oversight, mandated monitoring and auditing of IEFA expenditures, expanded tribal consultation requirements, and public accountability reporting mechanisms. Ex. A at §§ I.A–E, III.A–C, IV.A–E, VII.A. These reforms go directly to the core relief sought in the litigation and provide detailed, meaningful, enforceable benefits to the class, strongly supporting approval.

2. The Risk, Expense, Complexity, and Likely Duration of Further Litigation

Settlement is particularly appropriate here given the substantial risks, expense, and complexity of continued litigation. *Nat'l Rural Telecomms. Coop.*, 221 F.R.D. at 526 (citing Newberg on Class Actions § 11.50, at 155). This action involves statewide educational policy, compliance with constitutional and statutory mandates, and implementation of programmatic reforms across numerous school districts—issues that are factually and legally complex and would require extensive expert testimony and continued discovery.

Absent settlement, the parties would face protracted litigation involving dispositive motions, trial, and likely appeals, with no guarantee of securing relief of comparable breadth and detail. By contrast, the Agreement provides immediate and concrete relief, including enforceable accountability mechanisms, multi-year monitoring obligations, and structured tribal consultation

processes. Ex. A at §§ I.D–E, III.A–C, IV.A–E, VIII.B. Moreover, continued litigation would entail significant costs for all parties, including taxpayers, whereas the Agreement resolves the dispute efficiently while ensuring systemic improvements. This factor weighs strongly in favor of approval.

3. The Risk of Maintaining Class Action Status Throughout the Trial

The Court has certified the Class under Rule 23(b)(2), reflecting the appropriateness of injunctive relief on a classwide basis. However, even where certification is granted, there remains a risk that class status could be modified or revisited as the case progresses, particularly as factual development continues or as the nature of requested relief evolves. *Carlino v. CHG Medical Staffing, Inc.*, 634 F. Supp. 3d 895, 900–01 (E.D. Cal. 2022).

Here, continued litigation—particularly through trial and potential appeals—could present challenges relating to the scope of classwide relief or the manageability of statewide injunctive remedies affecting numerous districts and stakeholders. The Agreement eliminates these risks by securing classwide relief now and ensuring uniform implementation across the system. Because the Agreement guarantees relief without the risk of later decertification or limitation, this factor supports approval.

4. The Amount Offered in Settlement

In evaluating the adequacy of a settlement, the Court must consider the overall relief obtained, rather than focusing on isolated components. *Officers for Justice v. Civil Serv. Comm’n of City & Cnty. of San Francisco*, 688 F.2d 615, 628 (9th Cir. 1982). Here, although the Settlement does not create a traditional monetary fund for class members, it provides substantial non-monetary, programmatic relief that directly addresses the alleged harms—namely, systemic deficiencies in IEFA implementation. These are the same types of relief Plaintiffs sought in their initial Complaint.

The Agreement requires OPI to implement concrete and enforceable reforms, including accreditation-based oversight, annual audits and monitoring of IEFA funding, enhanced tribal consultation protocols, expanded educational standards, and public reporting obligations. Ex. A at

§§ I.A–E, II.A–B, III.A–C, IV.A–E, VII.A. These measures constitute significant structural relief benefiting all class members.

5. The Extent of Discovery Completed and the Stage of Proceedings

“A settlement following sufficient discovery and genuine arms-length negotiation is presumed fair.” *Nat’l Rural Telecomms. Coop.*, 221 F.R.D. at 528. This factor strongly favors approval because the Agreement was reached after extensive and hard-fought litigation, including significant motion practice, class certification, and protracted discovery. As reflected in the docket, the parties litigated motions to dismiss (Docs. 23, 33, 38, 39, 77), class certification (Docs. 95, 96, 102, 114, 120), a contested motion for joinder (Docs. 88, 93, 97, 103, 118), and multiple rounds of discovery, including the exchange of expert disclosures (Docs. 125, 130) and repeated notices of service of discovery. (Docs. 116, 126, 128, 145, 146, 148, 152, 159, 162, 204). The record further reflects substantial discovery disputes, including Plaintiffs’ motions to compel and supporting briefing (Docs. 149–154), Defendants’ motions for protective orders and motions to quash (Docs. 167, 169, 170, 180, 182, 188, 194), and additional motion practice concerning sanctions and discovery compliance. (Docs. 195, 196, 205, 209). Both parties took multiple depositions, including three Rule 30(b)(6) depositions of defendants’ corporate representatives by Plaintiffs. Discovery was sufficiently developed to permit the parties to file cross-motions for summary judgment. (Docs. 174, 210). These proceedings demonstrate that the parties vigorously tested their respective positions and developed a meaningful evidentiary record prior to settlement.

As a result, both sides possessed sufficient information to evaluate the strengths and weaknesses of their claims and defenses and to assess the risks of continued litigation. The Agreement is therefore the product of informed, adversarial negotiations reached at an advanced stage of the litigation, including after expert development and summary judgment briefing. (Docs. 125, 130, 174, 210). Given the breadth of motion practice and discovery, as well as the Court’s ongoing supervision of the case through scheduling, discovery rulings, and dispositive motions, the Court is well-positioned to evaluate the fairness of the Agreement. Accordingly, this factor weighs heavily in favor of approval.

6. The Experience and View of Counsel

Courts give significant weight to the judgment of experienced counsel who have litigated the case and are most familiar with its strengths and risks. *Churchill Village*, 361 F.3d at 576–77; *Nat’l Rural Telecomms. Coop.*, 221 F.R.D. at 528. Here, the Court formally appointed the American Civil Liberties Union–Montana, the American Civil Liberties Union Foundation, and the Native American Rights Fund as Class Counsel after finding they were “qualified and competent and able to conduct the litigation” and adequate to represent the interests of the certified class. (Doc. 120 at 9). The Court further determined that both counsel and the named class representatives adequately protect the interests of the class and that there was no antagonism between class representatives and absent class members. *Id.* at 7–8.

These Court-approved counsel have litigated this matter through extensive motion practice, class certification, and discovery, and are uniquely positioned to evaluate the risks, costs, and potential outcomes of continued litigation. Based on that informed assessment, Class Counsel has determined that the Agreement—which secures comprehensive, enforceable, forward-looking injunctive relief addressing the systemic deficiencies alleged in the litigation—represents a fair, adequate, and reasonable resolution of the claims.

The fact that experienced, Court-appointed Class Counsel supports the Agreement after vigorously prosecuting the case and with full knowledge of the record strongly supports approval. This factor therefore weighs heavily in favor of finding the Agreement fair, reasonable, and adequate.

7. The Presence of a Governmental Participant

The presence of a governmental defendant—here, OPI and Superintendent Hedalen—supports the reasonableness of the Agreement to the extent that it reflects negotiated institutional reforms implemented through official state mechanisms. While this factor is less significant in cases not involving federal enforcement agencies, the involvement of a state agency ensures that the agreed-upon reforms are capable of implementation at a systemic level.

Moreover, the Agreement was negotiated at arm’s length and entered into by authorized

government representatives, further supporting its legitimacy. This factor therefore modestly supports approval.

8. The Reaction of the Class Members to the Proposed Settlement

The reaction of class members is a critical factor, and courts recognize that a lack of substantial objections supports a presumption of fairness. *Churchill Village*, 361 F.3d at 577; *Nat'l Rural Telecomms. Coop.*, 221 F.R.D. at 528–29. At the preliminary approval stage, formal class reaction is not yet available; however, the structure of the Agreement—particularly its focus on forward-looking institutional reforms benefiting all class members—suggests that it is well-tailored to address the concerns underlying the litigation.

The class representatives, who have been actively involved in the litigation and settlement negotiations, support the Agreement, and their views are entitled to weight given their familiarity with the issues and stakes. Additionally, all Tribal clients have endorsed the Agreement through the Tribal counsel processes. *See* Ex. A at 11–22 (“Endorsements”). The Tribal clients represent many of the likely members of the class, which demonstrates likely positive reaction from the class itself. Following notice, the absence of significant objections would further confirm the Agreement’s fairness. Accordingly, this factor favors approval.

B. The Settlement Is The Product of Serious, Informed, Non-collusive Negotiations

As noted above, this case was intensely litigated. The Agreement is the product of mediation followed by a year of negotiations. In October of 2025, the parties were able to reach a final Agreement, and the Plaintiffs utilized the following months to secure formal approval of the Agreement from their Tribal clients. *See* Ex. A and B. The Agreement resulted from arm's-length negotiations between experienced counsel with an understanding of the strengths and weaknesses of their respective positions in this lawsuit. Ex. B. These circumstances weigh in favor of approval. *See, e.g., Pallister I.*, 366 Mont. 175, 184 (2012).

C. The Court Should Approve the Proposed Class Notice as It Comports with Rule

23

Under Rule 23(e)(1), “[t]he court must direct notice in a reasonable manner to all class

members who would be bound by the [settlement] proposal.” Under Rule 23(c)(2)(A), for classes certified under Rule 23(b)(2), the Court may direct appropriate notice to the class. Any class member may object to the proposal if it requires court approval. M. R. Civ. P. 23(e)(5).

The proposed Class Notice (Exhibit E) (the “Notice”) meets these requirements, and the notice program (Section II.C. above), using multiple methods to apprise class members and their parents or legal guardians, constitutes the best practicable notice under the circumstances of this case. The Notice uses “plain English” to inform class members of, among other things, the nature of the class claims, the essential terms of the settlement, how to object, the date, time and place of the Final Approval Hearing and the binding effect of the settlement on class members.

Thus, the notice satisfies the specific requirements of Montana Rule of Civil Procedure 23(c)(2)(A), sufficiently informs class members of the terms of the proposed settlement and their available options and is the best notice that is practicable under the circumstances.

D. The Court Should Schedule A Final Approval Hearing and Pertinent Deadlines

In connection with the preliminary approval of the Agreement and Notice to the class, Plaintiffs propose that the Court adopt the following schedule, which is set forth in the accompanying Proposed Order filed jointly herewith.

Event	Timing
Notice Deadline	[30-60 days following entry of Preliminary Approval Order]
Objection Deadline	[30 days after Notice Deadline]
Deadline for Plaintiffs to file motion for final approval of settlement and responses to any timely submitted Class member objections, which shall include a declaration from Class Counsel confirming execution of, and compliance with, the obligations under the Notice Program	[21 days prior to Final Approval Hearing]

Final Approval Hearing	[No earlier than 70 days after entry of the Preliminary Approval Order and at least 30 days after Objection Deadline]
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V. CONCLUSION

For the foregoing reasons, the parties respectfully request that the Court: (1) preliminarily approve the Agreement (attached hereto as Exhibit A); (2) approve the Notice Program, as described in Section II.C. of this motion; (3) approve the content of the Notice (attached hereto as Exhibit E); and (4) direct scheduling of appropriate deadlines including the date of a Final Approval Hearing.

DATED this 24th day of August, 2026.

/s/ Alex Rate
 Alex Rate (MT Bar #11226)
 ACLU of Montana
 P.O. Box 1968
 Missoula, MT 59806
 406-224-1447

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** Admitted Pro Hac Vice*

Austin Knudsen
Montana Attorney General

/s/ Thane Johnson

Thane Johnson
Assistant Attorney General

MONTANA DEPARTMENT OF JUSTICE

*Attorneys for Defendants Office of Public
Instruction and Superintendent Susie Hedalen*

EXHIBIT A

SETTLEMENT AGREEMENT

The following settlement agreement (“Agreement”) is entered into by and among all Plaintiffs and Defendants Montana Office of Public Instruction (“OPI”), Montana Superintendent of Public Instruction (“SPI”), collectively “the Parties,” in *DuPuis-Pablo, et al. v. Montana Office of Public Instruction, et al.*, DDV-21-0398 (the “Lawsuit”). The Parties have mutually resolved the issues raised in the Lawsuit. Therefore, it is hereby:

AGREED by and between the Parties as follows:

1. This Agreement is effective as of the date of execution. It may be executed in multiple counterparts, each of which shall be deemed an original, and all counterparts so executed shall constitute one agreement binding on the Parties hereto, notwithstanding that all of the Parties are not signatory to the same counterpart.
2. The Agreement is binding on the parties to it, their heirs, personal representatives, successors, assigns, agents, partners, employees, and attorneys. In exchange for the actions set forth in this agreement, Plaintiffs agree to release OPI from any and all claims—monetary, injunctive, or otherwise—related to the subject-matter of this lawsuit, so long as OPI complies with its requirements under this agreement. Plaintiffs agree that this settlement agreement is not considered an admission of liability.
3. The Parties will submit to the trial court within ten days of full execution of the Agreement a joint motion to dismiss the Lawsuit with prejudice, while requesting that the Montana Eighth District Court, County of Cascade, retain jurisdiction to enforce the terms of this Agreement. Plaintiff Tribes agree to a limited waiver of tribal sovereign immunity for the purposes of enforcing the terms of this Agreement. This limited waiver shall not be construed as a general waiver of sovereign immunity and applies only to this Agreement and no other proceedings, actions, or claims.
4. The Parties enter into this Agreement, respectively, as a free and voluntary act with full knowledge of its legal consequences.
5. This Agreement shall be construed, interpreted and enforced under the laws of the State of Montana. Any action brought to enforce this agreement shall be brought in the Eighth Judicial District Court, Cascade County.
6. This Agreement may not be changed, modified or assigned except by written agreement of the Parties, through their chosen counsel.

I. Assessment & Accountability Measures:

- A. OPI agrees to continue to include measures of IEFA in accreditation determinations. In the event OPI transitions to a new system of expenditure monitoring, the provisions of this agreement shall apply to the new system.
- B. OPI agrees to and commits to continue to include guiding questions specifically related to Indian Education in the Accreditation Status Criteria Reference Guide for purposes of determining school and school district accreditation for all future academic years.
- C. OPI agrees to continue to obtain evidence of IEFA integration into school districts' education program through the ACCREDMT school accreditation system consistent with current practices.
 - i. "Consistent with current practices" means that OPI requires, and will continue to require, schools to provide assurances and evidence that they have allocated funding for specific IEFA supports including, but not limited to, IEFA instruction across their curriculum, in the same – or substantially similar – form currently employed by prompts "J", "K", and "M" in the 2025 ACCREDMT system.
- D. OPI will continue to comply with applicable Montana law concerning tribal consultation.
 - i. OPI will add a prompt to Rubric J in the ACCREDMT system to ask for evidence of schools' compliance with their obligation to consult with Montana tribes with respect to IEFA on an annual basis. Evidence of a school's tribal consultation efforts may include, but is not limited to:
 - a. Attendance at any Zoom IEFA conference conducted by the Tribes;
 - b. Agendas and sign-in sheets from meetings held with tribal representatives;
 - c. Minutes or notes documenting the substance of discussions with tribes;
 - d. Written correspondence (e.g., emails, letters) inviting tribal representatives to consultation meetings;
 - e. Tribal feedback forms or written comments received during the consultation process;
 - f. Memoranda of Understanding ("MOUs") or other formal agreements with tribes regarding education goals or programming;
 - g. Documentation of joint planning sessions or working groups that include tribal participation;
 - h. Evidence of tribal input being incorporated into school or district plans (e.g., Indian Education for All integration plans, school improvement plans);
 - i. Records of follow-up meetings or communications addressing tribal concerns raised during consultation;
 - j. Schedules showing regular, recurring consultation opportunities with tribal representatives, including opportunities provided by the tribes;

- k. Signed acknowledgment or confirmation from tribal education departments that consultation occurred (where feasible and appropriate);
 - l. Documentation of efforts to overcome barriers to tribal participation (e.g., providing interpretation, transportation support, or virtual meeting options);
 - m. Copies of consultation policies adopted by the school or district and evidence of implementation; and
 - n. Attendance at MACIE meeting(s) to the extent they include substantive conversations with authorized tribal representatives.
 - ii. OPI will follow up with schools scoring in the two lowest numerical weights (for example, a 0 or 1 on a rubric scoring from 0-3) based upon tribal consultation. OPI may consider the following non-exhaustive list of follow-up actions:
 - a. Providing targeted technical assistance to the school or district on tribal consultation requirements;
 - b. Offering professional development or training opportunities on effective tribal consultation practices;
 - c. Facilitating meetings between school officials and tribal representatives to support improved collaboration;
 - d. Requesting a written plan from the school describing steps to ensure compliance with consultation obligations;
 - e. Conducting periodic check-ins or progress reports to monitor implementation of improved consultation practices;
 - f. Sharing model policies, templates, or best practices with the school or district;
 - g. Referring persistent non-compliance concerns to appropriate oversight or administrative review within OPI;
 - h. Coordinating with tribal education departments to jointly support consultation improvements; and/or
 - i. Issuing written reminders or guidance clarifying legal obligations under applicable Montana law regarding tribal consultation.
 - iii. For purposes of evaluating a school's compliance with IEFA's tribal consultation requirement, OPI shall encourage schools to use publicly available contact information for a Tribe's government provided on that Tribe's website or other source maintained by the Tribe. For Tribes that do not specify a designated official for tribal consultation, the schools should be encouraged to contact the Tribal Chairperson directly.
- E. OPI shall implement the following enforcement mechanisms:
 - i. OPI shall continue to follow up with all schools scoring in the two lowest numerical weights on any IEFA-related prompts to work with them to create an IEFA plan and/or to spend IEFA-designated funding on eligible activities. OPI shall document all follow up conversations.
 - a. OPI will encourage schools receiving a score in one of the two lowest numerical weights in IEFA-related areas from the prior year to send staff to attend the IEFA Best Practices Conference. For

- b. OPI will ensure that IEFA funds are spent on IEFA-eligible activities, for example by continuing its current approach of requiring school reporting on IEFA expenditures, school certification of the same, and cross-checking expenditure reports. OPI will reduce funding for those schools that fail to meet this metric in the manner prescribed by House Bill 338.
- ii. OPI will require and conduct a thorough review of evidence (e.g., receipts, invoices) of all IEFA spending from at least seven schools per year for a period of ten years.
 - a. Schools receiving a score in the two lowest numerical weights on IEFA accreditation rubrics J or K, and / or schools receiving complaints regarding IEFA through the complaint portal will be eligible for this OPI evaluation. OPI will randomly select seven schools from this pool each year.
 - b. During the first ten years of implementation, seven schools will be evaluated per year even if no schools receive a score in the two lowest numerical weight or IEFA-related complaints.
 - c. OPI will not evaluate or request evidence as described in this section from the same school twice within a three-year period unless no other schools have received a score in the two lowest numerical weights on rubrics J or K. If OPI has already performed an evaluation of requested evidence as described in this section on one of the randomly selected schools, it will randomly select another school from the pool instead.
 - d. On request, OPI will provide the names of the evaluated schools, if the schools were chosen through method ii(a), above.
- iii. After ten years, OPI will only evaluate schools that score in the two lowest numerical weights on Rubric J or K, up to seven schools per year. If there are fewer than seven eligible schools, fewer evaluations will occur.

OPI will encourage school districts to engage with parents in assessing the school districts' IEFA implementation, including, but not limited to, through the IEFA complaint portal.

OPI will continue to provide guidance and training on tribal consultation via tribal consultation specialist, annual tribal consultation conference and any IEFA conferences, and learning hub courses. OPI will also engage in tribal consultation at an annual meeting in Helena discussed in Section IV.

OPI will comply with SB 181 and will refer complaints regarding IEFA implementation submitted to the portal required by SB 181 to the school districts for a response.

- i. OPI shall notify the Montana Advisory Council on Indian Education ("MACIE") and all Montana Tribes of the feedback portal annually.
- ii. OPI will feature the existence of the portal on its website.

- iii. OPI shall encourage school districts to notify all parents in their district of the complaint portal annually and encourage school districts to provide parents with hard copies of a feedback form to ensure access by communities with low internet connectivity.
- iv. OPI shall respond to any complaints that relate to OPI's role in implementing IEFA in writing within 60 days.

II. Creation of content standards, in conjunction with the requirements of the Montana Constitution, Montana Code Annotated, Administrative Rules of Montana, and HB 338:

A. IEFA-Specific Content Standard Update:

- i. OPI will continue to incorporate its essential understandings guidance that integrates IEFA across all curricula as it goes through Negotiated Rulemaking according to the current schedule.
- ii. OPI will continue to follow statutory requirements regarding the makeup of the Negotiated Rulemaking Committees (NRC), including those set forth in SB 181 and Mont. Code Ann. §§ 20-7-101 and 20-1-503. In addition to the statutory requirements:
 - a. Each Montana Tribe may nominate at least one potential member to apply for the NRCs within 60 days of being provided notice to the Tribal Chairperson, or Tribal Council Designee, or the Tribal Education Department by OPI of a vacancy. If fewer than three tribal members apply to sit on an NRC within 60 days of OPI's notification of a vacancy, this shall constitute a defense to any action to enforce this Agreement's requirement for tribal representation on the NRC.
 - b. OPI will select NRC positions according to Montana law.
 - c. OPI shall place a minimum of three tribal member representatives on the NRCs, so long as three qualified individuals apply pursuant to the process set forth in Section A(ii)(a). For NRCs that consist of greater than fifteen individuals with voting privileges, 25% of the committee must consist of tribal members, so long as enough qualified individuals apply pursuant to the process set forth in Section A(ii)(a).
 - d. The NRCs shall include teachers and curriculum development experts to help develop the standards in a realistic and approachable way for teachers to complete.

B. In addition to teaching Indian Education across different subject areas, OPI will encourage schools to offer standalone Indian Education courses through their Class 7 language and culture specialist and/or through the Digital Academy.

III. Financial Reporting & Monitoring:

A. Montana Automated Education Financial Accounting and Information Reporting System ("MAEFAIRS") reports for expenditure under the appropriate code shall

include, but not be limited to, the minimum following spending categories: books, field trips, supplies, training, professional development, honorariums, and salaries & benefits.

- B. OPI's IEFA division will continue to coordinate with its finance team in communicating with and assisting local school districts to comply with IEFA expenditure requirements.
- C. OPI shall publish the list of schools that are noncompliant with IEFA expenditure requirements annually online.

IV. Tribal Consultation:

- A. OPI will encourage all schools to consult with tribes in Montana as required by the Indian Education provisions (Mont. Const. Art. X, § 1(2); § 20-1-501 et seq.; HB 338 (2023); SB 181 (2025)). OPI will recommend that the school district document the attempts and keep them on file.
- B. OPI will encourage school districts to meaningfully consult with local tribes in developing their Indian Education plans as required by SB 181 and all applicable laws regarding tribal consultation. A Tribe's failure to provide input after two requests for engagement constitutes a defense to any action to enforce the consultation provision of this Agreement, provided those efforts are documented and otherwise supported by evidence.
- C. OPI will offer IEFA tribal consultation training at the IEFA Best Practice Conference annual conference and will continue to offer training online, do outreach to districts, and offer support.
- D. OPI shall provide all OPI staff who work on IEFA implementation with a 3-hour tribal consultation and cooperation training every 3 years and/or upon election/hiring.
 - i. OPI shall also encourage school/district personnel responsible for IEFA implementation to participate in this training if said school/ district does not provide sufficient evidence of tribal consultation to OPI.
- E. OPI shall continue to consult with Montana tribes as provided for by law, including, but not limited to:
 - A. On an annual basis, OPI shall extend a written invitation to each tribe in Montana to meet with OPI at their offices in Helena to discuss IEFA monitoring, professional development, resources, and survey and complaint responses. Such meetings will include a remote video option and will allow for presentation by Tribal representatives regarding IEFA concerns.
 - B. OPI shall create and retain, in accordance with its records retention schedules, records of any meetings between tribes and OPI resulting from the annual invitations, including how they communicated with the tribe (e.g., email, phone, in-person meeting, video meeting, etc.); the name(s) and position(s) of the person(s) who were involved from each tribe; and the substance of each consultation communication, including any significant

concerns expressed by tribes and how the consultation shaped OPI's IEFA implementation.

- C. OPI shall document what they learned from the process of inviting tribes to meet with OPI on an annual basis as well as the results of those meetings, including any significant concerns that were expressed; how that consultation shaped IEFA implementation; and OPI's plans for future and ongoing consultation with all Montana tribe(s).
- F. OPI shall continue to work with BPE to fund and support MACIE.
 - i. All MACIE requests/resolutions directed at OPI will be responded to in writing within 30 days.
 - ii. OPI shall provide to MACIE, on an annual basis, a summary of OPI's consultation with tribes separate from MACIE consultation.
- G. Following a MACIE vacancy, OPI and the Tribe in which the vacancy occurs shall work cooperatively with BPE and MACIE to appoint a new MACIE member within a reasonable amount of time.
- H. OPI will solicit recommended books/resources from Montana tribes and MACIE and will make the list available on the OPI website. This list shall be updated every three years.
- I. OPI will comply with federal law with respect to parent engagement.
- J. OPI shall continue to encourage each school district to afford parents the necessary information and the opportunity effectively to express their views concerning all aspects of Indian Education.

V. Teacher Training:

- A. OPI shall make the following changes to educator licensure:
 - i. Within the next two years, OPI will work with MACIE & BPE and will invite involvement of representatives from every Montana Tribe to determine if the Introduction to IEFA class requires updating, and if so, to complete that update. Beginning in 2029, every 5 years, OPI will work with MACIE, BPE, and Montana tribes to identify and make any necessary updates to the Introduction to IEFA class.
 - ii. Within the next three years, OPI will work with MACIE and will invite involvement of representatives from every Montana Tribe to create IEFA 2.0, a second class on IEFA implementation.
 - iii. In the event that micro-credentials are introduced into Montana's teacher licensing system, OPI will work with BPE, MACIE and Montana Tribes to create an IEFA micro-credential.
 - iv. For purposes of this Section V, a written invitation from OPI to the Tribal Chairperson, or Tribal Council Designee, or the Tribal Education Department shall constitute an invitation to the Tribe. A Tribe's failure to respond to that invitation and a follow-up contact within 30 days shall constitute a defense to any enforcement of this provision (Section V).

- B. OPI shall work with MACIE and invite the involvement of representatives from every Montana Tribe to create additional professional development trainings relevant to IEFA.

VI. Creation of new OPI resources:

- A. OPI will provide on its website historically accurate, culturally relevant, community-based, contemporary, and developmentally appropriate IEFA resources for educators and students that it shall present to MACIE for advice.
- B. Resources for students will continue to support all students in learning about the histories, languages, cultures, governments, and experiences of Montana tribes and their American Indian peers and neighbors. Resources to implement standards across content areas will continue to be developed to authentically engage all students and support successful learning.

VII. Annual Report:

- A. OPI will prepare an annual report for submission in July of every year to the BPE, every Montana Tribe, and to MACIE regarding implementation of IEFA and compliance with relevant statutes and this settlement. The report will be publicly available online through either OPI or BPE's website within 30 days of submission. Unless already published through existing, publicly available OPI reports, in which case OPI shall simply direct BPE, Tribes and MACIE to the publicly available material, at a minimum the report shall include:
 - i. Overall comparison of IEFA revenues with expenditures by schools and school districts;
 - ii. A list of schools that are noncompliant pursuant to the terms of HB 338 and SB 181;
 - iii. A list of schools that received the two lowest numerical weights on any IEFA-specific ACCREDMT prompts; and
 - iv. Examples of schools and school districts that are exemplars of IEFA implementation. OPI shall recognize the top 10 school and school district exemplars at its annual IEFA conference. OPI shall consult with MACIE about identification of exemplar schools prior to public disclosure.

VIII. Document Production and Monitoring:

- A. OPI will provide information to plaintiffs in accordance with state law.
- B. Enforcement:
 - i. Plaintiffs must alert OPI in writing as to any suspected deficiencies in OPI's compliance with the above provisions, and the parties must meet and confer within thirty (30) days of receiving written notice of alleged noncompliance;
 - ii. Plaintiffs and OPI may seek enforcement in Court if the meet & confer process fails.

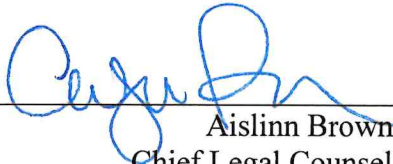
IX. Fees, Costs, and Remedies:

In this action, both parties shall be responsible for their own attorneys' fees and costs, apart from fees on all motions to compel and motions for sanctions, which will be separately resolved. In any action to enforce the terms of this Settlement Agreement, both parties shall be responsible for their own attorneys' fees and costs with the following exception: Should any party prevail in an enforcement motion, resulting in an order from the Court, and should the opposing party fail to comply with the Court's order by the applicable deadline, both parties retain the right to seek fees and costs on any subsequent motion practice to enforce the Court's order.

IX. Fees, Costs, and Remedies:

In this action, both parties shall be responsible for their own attorneys' fees, and costs, apart from fees on all motions to compel and motions for sanctions, which will be separately revolved. In any action to enforce the terms of this Settlement Agreement, both parties shall be responsible for their own attorneys' fees and costs with the following exception: Should any party prevail in an enforcement motion, resulting in an order from the Court, and should the opposing party fail to comply with the Court's order by the applicable deadline, both parties retain the right to see fees and costs on any subsequent motion practice to enforce the Court's order.

Reviewed for Legal Content by:


Aislinn Brown
Chief Legal Counsel
Office of Public Instruction

5/27/26
Date

Approved for OPI and the Superintendent of Public
Instruction by:


Susie Hedalen
Superintendent
Office of Public Instruction

5/27/26
Date

process fails.

IX. Fees, Costs, and Remedies:

In this action, both parties shall be responsible for their own attorneys' fees and costs, apart from fees on all motions to compel and motions for sanctions, which will be separately resolved. In any action to enforce the terms of this Settlement Agreement, both parties shall be responsible for their own attorneys' fees and costs with the following exception: Should any party prevail in an enforcement motion, resulting in an order from the Court, and should the opposing party fail to comply with the Court's order by the applicable deadline, both parties retain the right to seek fees and costs on any subsequent motion practice to enforce the Court's order.

Franco White Clay

3.15.2026

IX. Fees, Costs, and Remedies:

In this action, both parties shall be responsible for their own attorneys' fees and costs, apart from fees on all motions to compel and motions for sanctions, which will be separately resolved. In any action to enforce the terms of this Settlement Agreement, both parties shall be responsible for their own attorneys' fees and costs with the following exception: Should any party prevail in an enforcement motion, resulting in an order from the Court, and should the opposing party fail to comply with the Court's order by the applicable deadline, both parties retain the right to seek fees and costs on any subsequent motion practice to enforce the Court's order.



President Gene Small
Northern Cheyenne Tribe



Date

**RESOLUTION
OF THE GOVERNING BODY OF
THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD NATION**

**A RESOLUTION TO ENTER INTO A SETTLEMENT AGREEMENT IN
*DUPUIS-PABLO, ET AL V. MONTANA OFFICE OF PUBLIC INSTRUCTION, ET AL***

BE IT RESOLVED BY THE COUNCIL OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES THAT:

WHEREAS, on July 22, 2021, the Confederated Salish and Kootenai Tribes of the Flathead Reservation and other plaintiffs filed a lawsuit against the Montana Office of Public Instruction; Elsie Arntzen in her official capacity as the Superintendent of Public Instruction; the Montana Board of Public Instruction; and Darlene Schottle in her official capacity as Chairperson of the Montana Board of Public Education; and

WHEREAS, CSKT and the other plaintiffs sought declaratory and injunctive relief for their failure to implement, monitor, and enforce the guarantees of Montana's Constitution and statutes that provide that every Montana public school student, whether Indian or non-Indian, will learn about the distinct and unique cultural heritage of American Indians in a culturally responsive manner; and

WHEREAS, CSKT and the Montana Office of Public Instruction have mutually resolved the issues raised in the lawsuit through a settlement agreement that is acceptable to both parties; **NOW, THEREFORE**,

BE IT RESOLVED, that the Tribal Council approves entering into a settlement agreement with the Montana Office of Public Instruction in *DuPuis-Pablo, et al v. Montana Office of Public Instruction, et al*, case number DDV-21-0398.

C E R T I F I C A T I O N

The foregoing resolution was adopted by the Tribal Council on the 7th day of May, 2026, with a vote of 9 for, 0 opposed, and 1 not voting, pursuant to authority vested in it by Article VI, Section 1 (a), (b), (c), and (u) of the Tribes' Constitution and Bylaws; said Constitution adopted and approved under Section 16 of the Act of June 18, 1934 (48 Stat. 984), as amended.

ATTEST:


Tribal Secretary


Chairman, Tribal Council

Fort Belknap Indian Community

A RESOLUTION AMENDING FBIC RESOLUTION 211-2025 TO ENTER INTO REVISED SETTLEMENT AGREEMENT IN DUPUIS-PABLO V. OPI AND AUTHORIZING LIMITED WAIVER OF SOVEREIGN IMMUNITY FOR ENFORCEMENT PURPOSES

WHEREAS, the Fort Belknap Indian Community Council is the governing body of the Gros Ventre and Assiniboiné Tribes of the Fort Belknap Indian Community, Fort Belknap Indian Reservation, Montana, by the authority of the Constitution and By-Laws of the Fort Belknap Tribes approved on the 13th day of December 1935; and

WHEREAS, under the Constitution and By-Laws of the Fort Belknap Indian Community, the Community Council is charged with the duty of protecting the health, security and general welfare of the Fort Belknap Indian Community; and

WHEREAS, FBIC Resolution No. 211-2025 the Fort Belknap Indian Community Council approved involvement in the FBIC authorized litigation in *Dupuis-Pablo v. Montana Office of Public Instruction*, DDV-21-0398 to hold the State of Montana accountable for failing to fulfill its obligations under the Montana Constitution, Montana statutes, and administrative rules regarding Indian Education For All (“IEFA”); and

WHEREAS, FBIC participated as a Plaintiff in negotiations resulting in a comprehensive, enforceable settlement agreement that will significantly improve the State of Montana’s compliance with IEFA; and

WHEREAS, the settlement agreement includes a limited waiver of sovereign immunity exclusively for enforcement of the agreement in the Eighth Judicial District Court, Cascade County; and,

WHEREAS, Subsequent revisions were negotiated among the Parties, including edits proposed by the Confederated Salish and Kootenai Tribes, resulting in a final revised Settlement Agreement; and

WHEREAS, the final revisions include:

1. Clarification that consultation documentation must reflect engagement with an authorized tribal representative;
2. Clarification that OPI shall create and retain consultation records in accordance with its records retention schedules; and
3. Strengthened language requiring OPI to document what it learned from annual tribal consultation invitations and how consultation shaped IEFA implementation; and

WHEREAS, the revised Settlement Agreement provides enhanced accountability measures, including structured monitoring, accreditation enforcement mechanisms, financial reporting

requirements, educator training commitments, annual reporting obligations, and a ten-year evaluation framework; and

WHEREAS, the Agreement provides that the Montana Eighth Judicial District Court, Cascade County, shall retain jurisdiction solely to enforce the terms of the Settlement Agreement; and

WHEREAS, the Agreement requires a limited waiver of tribal sovereign immunity for the sole purpose of enforcing the Settlement Agreement in that Court, which waiver:

- Is expressly limited to enforcement of this specific Settlement Agreement;
- Does not constitute a general waiver of sovereign immunity;
- Does not apply to any other claims, proceedings, or matters; and
- Is limited to the Montana Eighth Judicial District Court, Cascade County; and

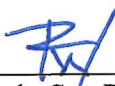
WHEREAS, the Tribal Council finds that the revised Settlement Agreement is in the best interests of the Fort Belknap Indian Community and provides meaningful and enforceable improvements to IEFA implementation statewide.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Fort Belknap Indian Community Tribal Council hereby approves the final revised Settlement Agreement in *DuPuis-Pablo, et al. v. Montana Office of Public Instruction*, DDV-21-0398.
2. The Tribal Council hereby approves a limited waiver of sovereign immunity solely for the purpose of enforcing the Settlement Agreement in the Montana Eighth Judicial District Court, Cascade County, consistent with the terms of the Agreement.
3. This limited waiver:
 - Applies only to enforcement of this specific Settlement Agreement;
 - Shall not be construed as a general waiver of sovereign immunity;
 - Shall not extend to any other party, purpose, claims, actions, or proceedings;
 - Shall not constitute consent to suit in any other court or jurisdiction.
4. Upon full execution of the Settlement Agreement, the Parties are authorized to submit a joint motion to dismiss the Lawsuit with prejudice while requesting that the Court retain jurisdiction for enforcement purposes.

BE IT FINALLY RESOLVED that the FBIC Council Officers are hereby delegated the authority and responsibility to sign any and all documents necessary to effect this action.

ATTEST:



 Randall Werk, Sr., President
 Fort Belknap Indian Community Council



 Audena Wing, Secretary/Treasurer
 Fort Belknap Indian Community Council

66-2026

CERTIFICATION

I, the undersigned, as Secretary of the Fort Belknap Indian Community Council of the Fort Belknap Indian Reservation, Montana, do hereby certify that the Fort Belknap Indian Community Council is comprised of ten (10) members of whom 10 members constituting a quorum were present at a meeting thereof, duly and regularly called, noticed, convened, and held this 2 day of March, 2026; and that the foregoing Resolution of the Fort Belknap Indian Community Council was duly adopted and approved the affirmative vote of 10 for; 0 opposed; 0 not voting; 0 temporary absent; 0 excused absent; and that the said Resolution has not been rescinded in any way.

WHEREAS, the Fort Peck Tribal Executive Board is the duly elected body representing the Assiniboiné and Sioux Tribes of the Fort Peck Reservation and is empowered to act on behalf of the Tribes. All actions shall be adherent to provisions set forth in the 1960 Constitution and By-Laws, and

WHEREAS, the Constitution of the State of Montana, Article X, Section 1(2), recognizes the distinct and unique cultural heritage of American Indians and commits the State to provide education that preserves that heritage through the Indian Education for All (IEFA) mandate; and

WHEREAS, the Fort Peck Tribes have a direct and substantial interest in ensuring that all Montana students receive accurate, meaningful, and tribally informed education regarding the history, culture, and contemporary contributions of the Assiniboiné and Sioux people; and

WHEREAS, the lawsuit commonly known as DuPuis-Pablo vs. Montana Office of Public, DDV-21-0398, to hold the State of Montana accountable for failing to fulfill its obligations under the Montana Constitution, Montana statutes, and administrative rules regarding IEFA; and

WHEREAS, the Fort Peck Tribes recognize that inadequate implementation of IEFA harms Fort Peck students, misrepresents Tribal histories, and undermines government-to-government consultation and the educational rights of Native children; and

WHEREAS, Participation in this action will assist in protecting Tribal sovereignty, ensuring accurate representation of Tribal knowledge, and securing accountability for funds and programs intended to benefit Indian students and significantly improve the state's compliance with IEFA; and

WHEREAS, the participation of the Assiniboiné and Sioux Tribes of the Fort Peck Indian Reservation as a party to the lawsuit challenging the Montana Office of Public Instruction regarding implementation of Indian Education for All; and

WHEREAS, the Tribes direct that participation in this action shall be guided by principles of Tribal sovereignty, government-to-government consultation, and the protection of Fort Peck students and Tribal knowledge; and

WHEREAS, the Tribes request regular updates from legal counsel and participating organizations regarding the status of the case and its impact on Fort Peck schools and students, now

THEREFORE BE IT RESOLVED, that the Fort Peck Tribal Executive Board hereby formally accepts and adopts the settlement agreement in DuPois Vs. Montana Office of Public Instruction and authorizes its execution and authorizes the Chairman or Vice Chairman to execute documents and take any action necessary to protect the interest in the Tribes in this litigation.

BE IT FURTHER RESOLVED, the Fort Peck Tribes waives its sovereign immunity only to the limited extent necessary to enforce the terms of the agreement in the Cascade County District Court, and not for any other purpose, claim, or party.

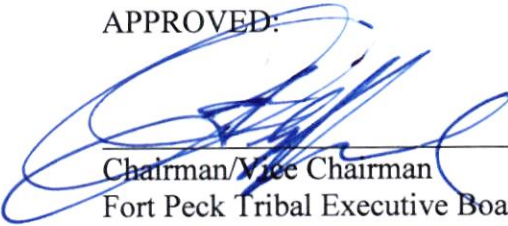
CERTIFICATION

I, the undersigned Secretary/Accountant of the Tribal Executive Board of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, hereby certify that the Tribal Executive Board is composed of 12 voting members of whom 12 constituting a quorum were present at a Special Board meeting duly convened this 9th day of February, 2026 and that the foregoing resolution was duly adopted at such meeting by the affirmative vote of 8 for, 4 opposed, and 0 absent.



Secretary Accountant/Secretary

APPROVED:



Chairman/Vice Chairman
Fort Peck Tribal Executive Board



**RESOLUTION
LS-2025-28**

**RESOLUTION DULY ADOPTED BY
THE LITTLE SHELL TRIBAL COUNCIL**

**RESOLUTION TO APPROVE OF THE DUPUIS-PABLO, ET AL. V.
MONTANA OFFICE OF PUBLIC INSTRUCTION, ET AL.
SETTLEMENT AGREEMENT**

WHEREAS, The Little Shell Tribe of Chippewa Indians is a federally recognized Indian tribe; and

WHEREAS, The Constitution of the Little Shell Tribe of Chippewa Indians secures the right of self-government and the administration of internal tribal affairs; and

WHEREAS, The Tribal Council is entrusted with providing for the health and safety of all Little Shell Tribal citizens; and

WHEREAS, Protection and promotion of the general welfare and health of tribal members, including those suffering from substance use disorder, is among the top priorities of the Tribal Council; and

WHEREAS, The Little Shell Tribe is a plaintiff in the *DuPuis-Pablo, et al. v. Montana Office of Public Instruction, et al.* case.

WHEREAS, The Little Shell Tribe has participated in the review process of the draft proposed settlement agreement; and

WHEREAS, The Tribal Council wishes to approve the proposed settlement agreement.

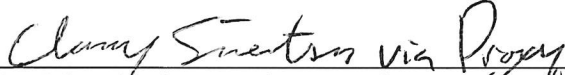
NOW THEREFORE, BE IT RESOLVED that the Tribal Council approves the *DuPuis-Pablo, et al. v. Montana Office of Public Instruction, et al.* proposed settlement agreement. **BE IT FURTHER RESOLVED** that the Chairman is authorized to execute the settlement agreement.

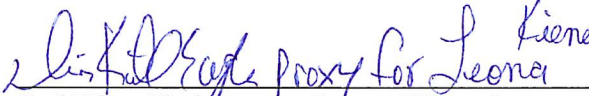
FINALLY, BE IT RESOLVED, that this resolution takes effect immediately upon Tribal Council signatures.

ATTESTATION

We, the undersigned Tribal Council members acting in our official capacities as the legal leadership of the Little Shell Tribe of Chippewa Indians of Montana certify that the above resolution is the true and accurate resolution adopted at a meeting called and conducted on **December 4, 2025**, with a quorum being present. Each signatory below indicates the vote by circling the choice on Resolution **LS-2025-28** as follows:

 FOR / AGAINST 12/4/25
Chairman Gerald Gray Date

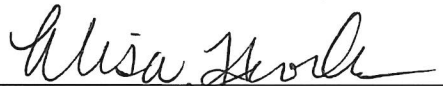
 FOR / AGAINST 12/4/25
1st Vice Chairman Clarence Sivertsen *Gerald Gray* Date

 FOR / AGAINST 12/04/2025
2nd Vice Chairwoman Leona Kienenberger Date

 FOR / AGAINST 12-04-2025
Secretary-Treasurer Colleen Hill Date

 FOR / AGAINST 12/4/2025
Council Member Daniel Boyer Date

 FOR / AGAINST 12/04/2025
Council Member Iris KillEagle Date

 FOR / AGAINST 12/4/25
Council Member Alisa Herodes Date

CERTIFICATION

I, Colleen Hill, the Secretary-Treasurer of the Tribal Council, or designated agent, hereby certify that a duly called meeting was held and that Resolution **LS-2025-28** was approved and enacted on **December 4, 2025**. The Tribal Council voted as follows:

7 in favor
opposed
abstain
absent

Colleen Hill, Secretary-Treasurer

By:



Signature

Colleen Hill

Printed Name

Title: Council Secretary/Treasurer

Date: 12-04-2025

APPROVED AS TO FORM AND CONTENT:

Date: 5/22/2024

By: 

Alex Rate

Attorney for Plaintiffs and the Settlement Class

Date: _____

By: _____

[Defense Counsel Name]

Attorney for Defendants

ORDER AND JUDGMENT:

PURSUANT TO THE FOREGOING, IT IS SO ORDERED.

Date: _____

By: _____

Honorable Amy Eddy

Montana 11th Judicial District Court Judge

EXHIBIT B

MONTANA EIGHTH JUDICIAL DISTRICT COURT
COUNTY OF CASCADE

SHAUNA YELLOW KIDNEY, as next friend of C.Y.K. and S.Y.K.; CAMMIE DUPUIS-PABLO and ROGER PABLO, as next friends of K.W.1, K.W.2, K.D., K.P.1, and K.P.2; HALEIGH THRALL and DURAN CAFERRO, as next friends of A.E., D.C., and C.C.; AMBER LAMB, as next friend of K.L.; RACHEL KANTOR, as next friend of M.K.1, and M.K.2; CRYSTAL AMUNDSON and TYLER AMUNDSON, as next friends of C.A. and Q.A.; JESSICA PETERSON, as next friend of A.C.; and DAWN SKERRITT, as next friend of S.S. and M.S; on behalf of themselves and all others similarly situated,

FORT BELKNAP INDIAN COMMUNITY OF THE FORT BELKNAP RESERVATION OF MONTANA; CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION; ASSINIBOINE AND SIOUX TRIBE OF THE FORT PECK INDIAN RESERVATION, MONTANA; NORTHERN CHEYENNE TRIBE OF THE NORTHERN CHEYENNE INDIAN RESERVATION, MONTANA; LITTLE SHELL TRIBE OF CHIPPEWA INDIANS OF MONTANA; and CROW TRIBE OF MONTANA,

Plaintiffs,

vs.

MONTANA OFFICE OF PUBLIC INSTRUCTION; and ELSIE ARNTZEN, in her official capacity as the Superintendent of Public Instruction,

Defendants.

Cause No. DDV-21-0398

Hon. Amy Eddy

**DECLARATION OF ALEX RATE IN
SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT
AGREEMENT**

I, Alex Rate, pursuant to § 1-6-105, MCA, state and affirm that the following facts are true and correct to the best of my knowledge and declare under the penalty of perjury and under the laws of the State of Montana that the following is true and correct.

1. If called upon to do so, I could and would testify competently to the facts set forth in this declaration.

2. I am the Deputy Director and Legal Director at the American Civil Liberties Union of Montana (“ACLU-MT”) and was appointed Class Counsel by this Court in the above-captioned litigation.

3. On June 23, 2025, the parties in the above-captioned matter, including counsel of record and representatives of Plaintiffs and Defendants, participated in an all-day mediation in Helena, Montana. Retired District Court Judge Jeffrey Sherlock served as a neutral third-party mediator.

4. Prior to the mediation, Plaintiffs submitted a detailed settlement proposal, and Defendants provided a detailed written response. During the mediation, the parties engaged in extensive negotiations and made substantial progress toward resolving the matter.

5. At the conclusion of the mediation, the parties agreed to continue settlement negotiations without the assistance of the mediator. Thereafter, counsel exchanged extensive written correspondence regarding settlement terms.

6. On August 20, 2025, counsel for Plaintiffs and Defendants met via Zoom to continue settlement discussions. Following further negotiations, the parties reached final agreement on the material terms of settlement.

7. After the parties reached agreement, Plaintiffs undertook the process of obtaining the necessary approvals of the settlement agreement from their respective Tribal clients.

I declare under penalty of perjury under the laws of the State of Montana that the foregoing information is true and correct.

Dated: August 7, 2026

/s/ Alex Rate

Alex Rate

EXHIBIT C

SETTLEMENT AGREEMENT

The following settlement agreement (“Agreement”) is entered into by and among all Plaintiffs and Defendant the Montana Board of Public Education (“BPE”), collectively “the Parties,” in *Yellow Kidney, et al v. Montana Office of Public Instruction, et al*, DDV-21-0398 (the “Lawsuit”). The Parties have mutually resolved the issues raised in the Lawsuit. Therefore, it is hereby:

AGREED by and between the Parties as follows:

1. This Agreement is effective as of the date of execution. It may be executed in multiple counterparts, each of which shall be deemed an original, and all counterparts so executed shall constitute one agreement binding on the Parties hereto, notwithstanding that all of the Parties are not signatory to the same counterpart.
2. The Agreement is binding on the parties to it, their heirs, personal representatives, successors, assigns, agents, partners, employees, and attorneys. In exchange for the actions set forth in this agreement, Plaintiffs agree to release BPE from any and all claims—monetary, injunctive, or otherwise—related to the subject-matter of this lawsuit, so long as BPE complies with its requirements under this agreement. Plaintiffs agree that this settlement agreement is not considered an admission of liability.
3. The Parties will submit to the trial court within ten days of full execution of the Agreement a joint motion to dismiss BPE with prejudice from the Lawsuit, while requesting that the Montana Eighth District Court, County of Cascade, retain jurisdiction over BPE to enforce the terms of this Agreement. Each party to this agreement will pay their own costs and fees.
4. The Parties enter into this Agreement, respectively, as a free and voluntary act with full knowledge of its legal consequences.
5. This Agreement shall be construed, interpreted and enforced under the laws of the State of Montana. Any action or proceeding relating to this Agreement shall be filed and proceed in the Montana Eighth District Court, County of Cascade.
6. This Agreement may not be changed, modified or assigned except by written agreement of the Parties, through their chosen counsel.

I. Assessment & Accountability Measures:

- A. BPE agrees to include meaningful measures of Indian Education for All (“IEFA”) implementation in accreditation determinations.
- B. BPE agrees to request that OPI submit an annual report: (1) identifying whether each school district has an IEFA plan in place, and (2) setting forth the extent to which each such plan is being implemented according to evidence submitted by the schools to OPI. BPE agrees to encourage OPI to ensure an IEFA plan is

implemented in each school district.

- C. BPE agrees that proper monitoring of IEFA implementation requires gathering and reviewing supporting evidence pertaining to (1) districts' proper expenditure of IEFA funds and (2) cooperation with Tribes, and will request the same from OPI.
- D. BPE will request that OPI annually report at a BPE meeting on schools/districts that have received a 1 or 2 on any TEACH MT IEFA-specific prompts along with the steps OPI is taking to address these deficiencies.
- E. To the extent of its legal authority, BPE agrees to ensure IEFA obligations will be properly monitored before approving any accreditation standards.

II. Creation of content standards, in conjunction with the requirements of the Montana Constitution, Montana Code Annotated, Administrative Rules of Montana and HB 338:

A. IEFA-Specific Content Standard Update:

- i. To the extent of its legal authority, BPE shall provide for a uniform and integrated creation and revision of Content Standards as set forth in ARM 10.53 and as provided in Article X, section 1(2) of the Constitution of the state of Montana, 20-1-501 and 20-9-309(2)(c) MCA, and HB 338, which collectively mandate curriculum and instruction of the content standards incorporating the cultural heritage and contemporary contributions of American Indians, with particular emphasis on Montana Indian tribal groups and governments.
- ii. BPE agrees to ensure that IEFA is incorporated across all content standards to the extent it has authority to do so.
- iii. BPE agrees that IEFA content standards must include American Indian studies as defined in Mont. Code Ann. § 20-1-502, and agrees to encourage school districts to incorporate these concepts into their curriculum using the Essential Understandings Regarding Montana Indians.

B. Incorporating IEFA Review into the Content Standard Review Process:

- i. BPE agrees to review and consider all comments and recommendations by MACIE and Montana tribes before approving a Notice of Proposed Rulemaking.

III. Tribal Cooperation and Parent Committees:

- A. BPE will encourage all schools/districts to reach out to and cooperate with tribes in Montana as required by the IEFA statutory provisions.
- B. BPE will encourage school districts to meaningfully consult with local tribes in developing their IEFA plans.
- C. BPE will provide all board members and staff with a 3-hour tribal consultation and cooperation training every 3 years and/or upon appointment/hiring.
- D. BPE will meet jointly with MACIE annually to discuss IEFA monitoring, professional development, resources and, if available, survey and complaint responses collected by OPI. BPE will extend a written invitation to each tribe in Montana to encourage community and family engagement in the process.

IV. Teacher Training:

- A. BPE will make the following changes to educator licensure:
 - i. BPE will require completion of an Introduction to IEFA course that includes training on tribal cooperation.

- ii. Within the next two years, BPE will work with MACIE and OPI and will invite involvement of representatives from every Montana Tribe to determine if the Introduction to IEFA class requires updating, and if so, to complete that update. Beginning in 2029, BPE will work with MACIE and OPI every 5 years to identify and make any necessary updates to the Introduction to IEFA class. Plaintiffs and BPE recognize that OPI is the entity that completes the updates, and therefore this subsection is limited to BPE's ability to participate in the revision process.
 - iii. BPE will encourage OPI to create a second IEFA course, IEFA 2.0. Upon receiving notification from OPI that the development of IEFA 2.0 is complete in the Teacher Learning HUB, BPE will initiate rulemaking to propose IEFA 2.0 as a requirement for educator licensure.
 - iv. BPE agrees to encourage IEFA coordinators and other relevant school personnel to participate in additional IEFA trainings throughout the year.
 - v. In the event that micro-credentials are introduced into Montana's teacher licensing system, BPE will recommend to the appropriate entity the creation of an IEFA micro-credential.
- B. BPE will make the following changes to ongoing professional development requirements:
- i. BPE will convene stakeholders to determine the feasibility of requiring 4 professional development units relevant to IEFA, of which 2 professional development units every 5 years must be relevant to tribal consultation. Should adequate trainings be available to meet these requirements, BPE will work with the Superintendent to amend the relevant administrative rules accordingly. If adequate trainings do not exist, BPE will encourage OPI to work with MACIE to create the same.
 - ii. BPE will work with MACIE and OPI and invite the involvement of representatives from every Montana Tribe to determine whether new IEFA professional development materials/courses are needed and to encourage MACIE and OPI to create the same.

V. Document Production and Monitoring:

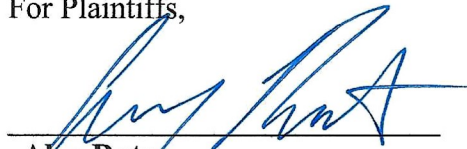
- A. The parties will engage in three fiscal years of monitoring, ending on June 30, 2028. The parties also agree that any disputes not resolved between the parties regarding this agreement will be brought to the court in the same forum as this action by June 30, 2028.
- B. Biannual Document Productions:
 - i. By October 15 of each monitoring year, BPE will produce to Plaintiffs and file with the Court a report summarizing its progress on each of the provisions set forth above.
 - ii. By October 15 of each monitoring year, BPE will produce to Plaintiffs any and all underlying documentation demonstrating or relating to implementation of the above provisions, including but not limited to documentation of all BPE / MACIE tribal cooperation efforts.
 - iii. Plaintiffs may request information in BPE's possession, no more than twice a year, if Plaintiffs believe such information is relevant to monitoring the settlement. This request must be in good faith and not unduly burdensome. BPE will produce documents responsive to such requests within 30 days.
- C. Enforcement:

- i. Plaintiffs must alert BPE in writing as to any suspected deficiencies in BPE compliance with the above provisions, and the parties must meet and confer in good faith to address the issue.
 - ii. Plaintiffs and BPE may seek enforcement in Court if the meet & confer process fails.
- D. Annual Review: In December of each monitoring year, counsel and the parties will convene to discuss the progress of this settlement.

VI. Timing: unless otherwise stated, all requirements of this agreement are to be put in place no later than the 2025-2026 school year. BPE will begin implementation of feasible reforms during the 2024-2025 school year.

The undersigned representatives of the parties certify that they are fully authorized by the party or parties whom they represent to enter into the terms and conditions of this Settlement Agreement and to legally bind the parties to it.

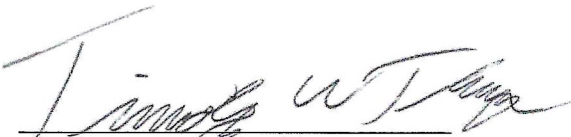
For Plaintiffs,



Alex Rate
Legal Director
ACLU of Montana

Dated: 4/10/2025

For Defendant Board of Public Education,



Dr. Tim Tharp
Board Chair
Montana Board of Public Education

Dated: 3/11/2025

EXHIBIT D

ANCILLARY SETTLEMENT AGREEMENT REGARDING FEES

The following ancillary settlement agreement ("Agreement") is entered into by and among all Plaintiffs and Defendants Montana Office of Public Instruction ("OPI"), Montana Superintendent of Public Instruction ("SPI"), collectively "the Parties," in *DuPuis-Pablo, et al. v. Montana Office of Public Instruction, et al.*, DDV-21-0398. This Agreement is in addition to the broader Settlement Agreement entered into by all parties pertaining to Indian Education for All Implementation. This Agreement pertains to attorney fees associated with all motions to compel and motions for sanctions.

The Parties have mutually resolved the issues of fees. Therefore, it is hereby:

AGREED by and between the Parties as follows:

1. Defendants hereby agree to pay Plaintiffs' counsel twenty-five thousand dollars (\$25,000) to settle fees regarding all Parties' motions to compel and motions for sanctions.
2. In consideration of Defendants' agreement to make the payment called for herein, Plaintiffs release Defendants from further liability for attorney fees or costs associated with Plaintiffs' motions to compel or related discovery disputes in this action through the date of this Agreement, and Defendants release Plaintiffs from further liability for attorney fees or any costs associated with Defendants' motion to compel and request for sanctions.
3. This Agreement is effective as of the date of execution. It may be executed in multiple counterparts, each of which shall be deemed an original, and all counterparts so executed shall constitute one agreement binding on the Parties hereto, notwithstanding that all of the Parties are not signatory to the same counterpart.
4. Defendants shall make payment within twenty (20) days of full execution of this Agreement. Payment shall be made by wire transfer pursuant to instructions to be provided by Plaintiffs' counsel following execution of this Agreement.
5. The Court shall retain jurisdiction to enforce the terms of this Ancillary Agreement.

The foregoing is agreed to by:

DATE: 6/15/2026 Aislinn Brown, OPI

DATE: 6/17/2026 Alex Rate, Plaintiffs

EXHIBIT E

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Cammie DuPuis-Pablo, et al. vs. Montana Office of Public Instruction, et al.

Case Number Dv-7-2021-0000398-OC, Montana Eighth Judicial District Court County of Cascade

To: Students and Parents or Legal Guardians of any Minor Currently Enrolled in Montana's Kindergarten through 12th Grade Public School System

A Court authorized this notice. This is **not** a lawsuit or solicitation from a lawyer. You are **not** being sued.

PLEASE READ THIS NOTICE CAREFULLY ABOUT YOUR LEGAL RIGHTS.

I. WHAT IS THIS NOTICE ABOUT?

This Notice is to inform you that a proposed settlement (the "Settlement") has been reached in a class action lawsuit (the "Action") against defendants Montana Office of Public Instruction and Montana Board of Public Education ("Defendants") brought on behalf of **all Montana K-12 public school system enrolled students, now and in the future** (the "Class") by 18 class representatives consisting of Indigenous and non-Indigenous students attending Montana public schools represented by their parents/guardians and six Montana Tribes (Fort Belknap Indian Community; Confederated Salish and Kootenai Tribes; Assiniboine and Sioux Tribe of Fort Peck; Northern Cheyenne Tribe; Little Shell Tribe of Chippewa Indians; and Crow Tribe). The Tribes are not members of the class. You have received this Notice because Defendants' records indicate that you are a member of the Class or a parent or legal guardian of a member of the Class. This Notice advises you about the terms of the Settlement and how you can object to the Settlement before it is approved, if you choose. If finally approved by the Court, the Settlement will be binding on you. If you are the parent or legal guardian of more than one student, you may receive this Notice multiple times.

II. WHAT IS THIS LAWSUIT ABOUT?

The Action alleges that Defendants did not implement, monitor, and enforce the guarantees of Montana's Constitution and statutes providing that every Montana public school student, whether Indigenous or non-Indigenous, will learn about the distinct and unique cultural heritage of Native Americans in a culturally responsive manner. The Action seeks a Court order requiring Defendants to alter the way they implement, monitor, and enforce public school instruction in the future, but it does not seek any monetary damages.

The Defendants deny that they violated the law in any respect but have agreed to the Settlement to avoid uncertainties and expenses associated with continuing the case. Under the terms of the Settlement, Defendants have agreed to: enhance oversight of Indian Education for All ("IEFA") implementation through school accreditation determinations, including by requiring evidence of IEFA instruction, expenditures, and tribal cooperation, following up with schools exhibiting deficiencies, and yearly audits of a small subset of schools; include a minimum of three tribal

member representatives on all Negotiated Rulemaking Committees; and require increased IEFA training for educator licensure. Defendants have also agreed to provide guidance and training on tribal consultation and increase their own tribal consultation practices, enhance financial oversight and transparency for IEFA funding, and to submit to three years of monitoring by Plaintiffs to improve future IEFA instruction in Montana’s K-12 public school system. Nothing in the Settlement entitles the Class to any monetary payments.

III. WHAT ARE MY RIGHTS AND OPTIONS?

If you or a minor for whom you have legal responsibility fits the description of a Class member (Section I., in bold), you may object to the Settlement and appear at a fairness hearing in Court. If you do not object to the terms of the Settlement, you need not do anything. **Nothing in the Settlement entitles any member of the Class to any monetary payment.** The table below describes your options and how you may exercise them.

Option	Overview	What To Do
1	Participate in the Settlement You are, or a minor for whom you have legal responsibility is, a member of the Class. The parties have reached a Settlement that resolves this Action seeking declaratory and injunctive relief. If the Settlement is finally approved by the Court, Defendants will make certain changes that impact public school instruction, as agreed by the terms of the Settlement.	There is no deadline for you to participate as a Class Member. You do not need to do anything.
2.	Object to the Settlement You are, or a minor for whom you have legal responsibility is, a member of the Class. You may object to the Settlement. Your objection is an opportunity to be heard and may persuade the Court to reject, modify, or condition approval of the Settlement. If the Court is not persuaded by your objection, it may approve the Settlement. If the Settlement is finally approved, it will impact the rights of all Class members. If you choose to object to the Settlement, you may do so yourself or through an attorney that you hire and pay for yourself.	To object to the Settlement, or any portion of it, you must file with the Court and serve on Class counsel a written objection on or before [DATE] and appear at the fairness hearing for final approval of the Settlement on [DATE]. See Sections V. and VI. below for details.

IV. WHAT EFFECT DOES THE SETTLEMENT HAVE FOR CLASS MEMBERS?

If the Court approves the Settlement, you or a minor for whom you have legal responsibility will be bound by the Court's orders and judgments and will release your claims relating to this Action. The claims raised in this Action will be resolved, and you will have no right to sue Defendants about the issues in this Action.

V. WHO REPRESENTS ME?

The Court has appointed the American Civil Liberties Union-Montana, the American Civil Liberties Union Foundation, and the Native American Rights Fund to represent the Class ("Class Counsel"). You do not need to pay these attorneys. If you want to be represented by your own lawyer, you may hire one at your own expense.

VI. WHAT HAPPENS NEXT?

The Court will hold a hearing, currently scheduled on [DATE] at [TIME], at the Montana Eighth Judicial District Court County of Cascade located at 415 2nd Avenue N, Great Falls, MT 59401, (406) 604-7796 to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. It is not necessary for you to appear at this hearing. If you have submitted an objection and indicated that you intend to appear at the hearing and be heard, you or your attorney may appear. The date and time of the hearing may change without further notice to the Class and/or the Court may order that this hearing be held remotely or telephonically. Check the Court's website for updates at <https://courts.mt.gov/CourtLocator/8thJudicialDistrict>.

VII. HOW DO I GET MORE INFORMATION?

The above is a summary of the basic terms of the Settlement. **You can read all the terms of the Settlement, enclosed in an email with this Notice or by emailing ratea@aclumontana.org to request a copy be sent to you.**

YOU MAY CONTACT CLASS COUNSEL AT RATEA@ACLUMONTANA.ORG FOR ADDITIONAL INFORMATION REGARDING THIS SETTLEMENT. PLEASE DO NOT CONTACT THE COURT.