

08-289 HORNE V. FLORES

DECISION BELOW: 516 F.3d 1140

LOWER COURT CASE NUMBER: 07-15603, 07-15605

QUESTION PRESENTED:

1. By interpreting the phrase "appropriate action" under Section 1703(f) of the Equal Education Opportunity Act as a requirement that the State of Arizona provide for a minimum amount of funding specifically allocated for English Language Learner programs statewide, did the Ninth Circuit violate the doctrine prohibiting federal courts from usurping the discretionary power of state governments to determine how to appropriately manage and fund their public education systems?
2. Should the phrase "appropriate action" as used in Section 1703(f) of the Equal Education Opportunity Act be interpreted consistently with the No Child Left Behind Act of 2001, where both Acts have the same purpose with respect to English Language Learners and the NCLB provides specific standards for the implementation of adequate English Language Learner programs, but the EEOA does not?

**CONSOLIDATED WITH 08-294 FOR ONE HOUR ORAL ARGUMENT.
EXPEDITED BRIEFING SCHEDULE.**

CERT. GRANTED 1/9/2009