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## **HAVASUPAI STUDENTS SUE THE U.S. GOVERNMENT FOR FAILURE TO PROVIDE EQUAL EDUCATIONAL OPPORTUNITY**

**SUPAI, ARIZONA, January 12, 2017** – This morning, children of the Havasupai Tribe and the Native American Disability Law Center (“NADLC”) filed a federal civil-rights action against the United States government for failure to provide equal educational opportunities afforded to other students throughout the country. The 101-page complaint details a knowing failure by the federal Bureau of Indian Education (“BIE”) to enforce federal statutes and regulations to provide Native American children with a basic education, a system of special education, and necessary wellness and mental health services. The suit is the first federal civil rights action ever filed to address a wholesale denial of educational opportunities for both the general education and special education of Native American students. It was filed in U.S. District Court in Phoenix.

“The BIE has not provided my grandson with a decent education,” said **Frank C.**, grandfather of **Plaintiff Stephen C.** a member of the Havasupai Tribe. “My grandson has special needs, but the school is not even trying to help him. Instead, he is sent home from school almost every day. He is in sixth grade, but he can barely read or spell basic words.”

The Havasupai Tribe is a federally recognized Native American tribe located at the bottom of the Grand Canyon in Northern Arizona. The civil rights action is brought by attorneys from NADLC, Public Counsel, the law firms Munger, Tolles & Olson LLP and Sacks Tierney P.A., which are handling the case pro bono, and the ACLU of New Mexico.

The lawsuit challenges the federal government’s longstanding failure to provide equal education to Havasupai students, including:

- **Failure to provide general education:** The only subject areas at the Havasupai Elementary School (Grades K-8) are reading, writing, and math. There is no instruction in science, history, social studies, foreign language, art, or physical education. Nor does the school offer any culturally relevant instruction.
- **Teacher vacancies and chronic understaffing:** Due to insufficient numbers of teachers, the school regularly shuts down for weeks at a time. Classrooms have been run by non-certified personnel, such as a janitor and school secretary, or by temporary staff who rotate out every two weeks.

- **Denial of basic instructional materials:** The school does not have sufficient textbooks, a functioning library, or any extracurricular activities, such as athletics, arts, music, or clubs.
- **No system to provide special education and a full day of education to students with disabilities:** Because the school lacks the capacity and trained staff to deliver appropriate education and accommodations for children with disabilities, these students are routinely physically excluded from school and punitively disciplined on account of their disabilities.

“As NADLC learned long ago through our work with this community, the Havasupai school has been repeatedly neglected by the BIE,” said **Alexis DeLaCruz**, attorney at NADLC. “As a result of these shock-the-conscience deprivations, Havasupai children lack even a fighting chance at achieving academic success and reaching their full potential. This is an eminently fixable problem. It is time for the BIE to step up and fix the problems so that all Havasupai children, regardless of disability, are immediately provided the equal educational opportunities they rightfully deserve”

According to BIE data, children attending the BIE-operated school in Havasupai perform at only the 1<sup>st</sup> percentile in reading and the 3<sup>rd</sup> percentile in math (2012-13). BIE data also shows these children fall further behind the longer they attend the school.

“For years, the Havasupai Tribal Council has raised issues and concerns with BIE officials about the quality of the education being provided to our children,” said **Don Watahomigie**, chairman of the Havasupai Tribal Council. “And each time, we are given promises that are never delivered upon. These children are the Tribe’s future and their education is vital to our continued existence and success as a Tribe. The Tribe fully supports the efforts of the NADLC to bring about equal education justice for our children and we, as a Havasupai Nation, join our voice with theirs on behalf of our children’s education.”

“The U.S. government’s longstanding failure to provide even the most basic education to Native students is a stain on our national conscience,” said **Kathryn Eidmann**, staff attorney at Public Counsel. “Denying Havasupai students the tools to learn and fulfil their potential—tools that children throughout our country take for granted—communicates an unmistakable message that these children are disposable, that their education is a responsibility the federal government would rather wash its hands of.”

“The BIE’s failure to provide a real education for these children flagrantly violates one clear and specific federal law after another,” said **Bryan Heckenlively**, a partner in the law firm of Munger, Tolles & Olson LLP. “One set of regulations, for example, requires teaching science, social studies, arts, physical education, and foreign language, but the BIE does not teach any of those subjects at Havasupai Elementary School.”

“As a law firm that has represented Arizonans for the past 55 years, we are pleased to be part of the effort to secure access to meaningful education for Native students in Havasupai – quality education for all children within the state is vital to the future of Arizona,” stated **Judith Dworkin**, managing partner at Sacks Tierney P.A.

**Eliza Bechtold**, legal director of the ACLU of New Mexico, commented, “We are proud to be part of the legal team working to ensure educational opportunity for Havasupai students who attend the BIE school in Supai. This case is important for Native children throughout the country.”

The lawsuit seeks compensatory and remedial education on behalf of the Havasupai children, including the provision of a general-education curricula taught by fully certified teachers with access to appropriate instructional materials; special education and related services taught by appropriately trained teachers; as well as necessary wellness and mental health resources for Havasupai students.

For more information on the case, visit [www.uniteformativestudents.org](http://www.uniteformativestudents.org).

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**The Native American Disability Law Center** is a non-profit organization whose mission is to help protect the legal rights of Native Americans with disabilities living in the Four Corners of Arizona, Colorado, New Mexico, and Utah. Native Americans with disabilities face unique legal issues that require advocacy designed to enforce, strengthen and bring their legal rights into harmony with their communities. The Law Center strives to advocate with a generosity of spirit to ensure that Native Americans with disabilities have access to justice and are empowered and equal members of their communities and nations. The Law Center accomplishes its work by collaborating with tribal nations to advance the rights of persons with disabilities, providing direct legal services to individual clients, providing training and education to individuals with disabilities and their families and communities, and by bringing impact litigation to protect and promote the rights of Native Americans with disabilities. The Law Center has offices in Farmington and Gallup, New Mexico. Learn more at [www.nativedisabilitylaw.org](http://www.nativedisabilitylaw.org).

**Public Counsel** is the nation's largest pro bono law firm. Founded in 1970, Public Counsel strives to achieve three main goals: protect the legal rights of disadvantaged children; represent immigrants who have been the victims of torture, persecution, domestic violence, trafficking, and other crimes; and foster economic justice by providing individuals and institutions in underserved communities with access to quality legal representation. Through a pro bono model that leverages the talents and dedication of thousands of attorney and law student volunteers, along with an in-house staff of more than 75 attorneys and social workers, Public Counsel annually assists more than 30,000 families, children, immigrants, veterans, and nonprofit organizations and addresses systemic poverty and civil rights issues through impact litigation and policy advocacy. For more information, visit [www.publiccounsel.org](http://www.publiccounsel.org).

**Munger, Tolles & Olson LLP** is a full-service law firm that has been known for over fifty years for trying bet-the-company cases and negotiating deals that shape our corporate landscape. Our nearly 200 lawyers represent clients in a broad range of complex and high-profile matters in the areas of corporate, litigation, real estate and financial restructuring. The firm's lawyers include 14 former clerks for U.S. Supreme Court justices, 11 former federal prosecutors, four fellows in the American College of Trial Lawyers, and two former chairs of the American Bar Association Section of Litigation. Munger Tolles has been consistently ranked on The American Lawyer's A-List since its inception in 2004, including four years in the top spot.

**Sacks Tierney P.A.** is a widely respected mid-size law firm, where clients enjoy personal attention, performance that exceeds expectations, and uncompromising commitment to professionalism and innovation. Since its founding in 1960, Sacks Tierney has distinguished itself by its skill, energy, integrity, community leadership, pro bono volunteerism, and pioneering expertise in legal areas of special value including Indian Law and Tribal Relations. It is through these values, strong relationships with Indian Nations and attorneys' knowledge of pertinent federal laws that Sacks Tierney provides quality representation to Native American clients on tribal lands. Through its affiliation with MERITAS, a global network of law firms serving 230 markets, Sacks Tierney meets clients' needs locally, tribally and internationally. For more information, visit [www.sackstierney.com](http://www.sackstierney.com).

**The American Civil Liberties Union of New Mexico (ACLU-NM)** has worked since 1962 to preserve and advance the civil rights and legal freedoms guaranteed by the United States Constitution and the Bill of Rights. It is an affiliate of the national American Civil Liberties Union. ACLU-NM focuses on a host of civil and constitutional rights, including LGBT equality, freedom of speech, reproductive freedom, immigrants' rights, privacy concerns, police abuses, fair treatment of prisoners, and more. It is the largest civil liberties organization in New Mexico with over 6,000 members, working in the courts, the legislature and our communities to protect the rights of all people living in New Mexico.