

Press Conference Remarks of Bryan Heckenlively

“The BIE’s failure to provide a real education for Havasupai children is not only deeply upsetting, it is a clear violation of federal law. For decades, Congress has passed laws and the federal government has issued binding regulations explicitly telling the BIE that it must provide educational opportunities for Native children that ‘equal or exceed those for all other students in the United States.’ [20 USC § 2001(a)(1), cited in Complaint ¶ 68]

But the laws and regulations do not stop there. They also provide specific details about what the BIE must do to provide that education for Native children. One set of regulations, for example, requires teaching science, social studies, arts, physical education, and foreign language. Another one requires providing some instruction in the Havasupai language and incorporating Havasupai culture into the curriculum. And another one requires offering extracurricular activities, like sports, clubs, and student government. But the BIE does not do any of those things at Havasupai Elementary School. The only subjects taught are math, reading, and writing. The curriculum does not incorporate Havasupai language or culture. And there are no extracurricular activities at all.

These are just a few examples of the BIE’s flagrant disregard for binding federal law. There can be no doubt that the education offered at Havasupai Elementary School is nowhere close to what children elsewhere in the United States receive.

The BIE’s violation of federal law is equally clear in the area of special education. The Rehabilitation Act, a federal law that has been on the books for four decades, requires the BIE to set up a system to ensure that children with disabilities have access to appropriate education – in the same setting as other students, when possible. There is no system like that at Havasupai Elementary School. Instead, the BIE takes students with disabilities and excludes them from school, restricts their instructional hours, and refers them to law enforcement when they are disruptive for reasons related to their disability.

These violations are especially troubling because the federal government has what the Supreme Court has long described as a ‘trust’ obligation to protect the rights and well-being of Native tribes. That includes education for Native children. The BIE is certainly not living up to its trust obligation.”

- Bryan Heckenlively, Partner at Munger, Tolles & Olson LLP